

8 July 2022

**Delivered by email**

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Planning Policy Team,  
South Somerset District Council

Dear Policy Team

## **ILMINSTER NEIGHBOURHOOD PLAN REG 16 CONSULTATION**

On behalf of our clients CG Fry & Son Limited ["CG Fry"] and Dillington Estates we are instructed to submit the following comments following the publication of the Regulation 16 Neighbourhood Plan Document ('the Plan'/ 'the NP') and background documents for consultation.

As both the District Council and the Neighbourhood Plan Group will be aware, C G Fry has interests in the land at Shudrick Lane, Ilminster. A site location plan is provided as Appendix 1. The site is owned by the Dillington Estate, with whom C G Fry have an agreement to promote the land for development. Turley act as agents on behalf of C G Fry. The site is approximately 34.2 hectares and is capable of accommodating at least 220 new dwellings whilst also providing high quality publicly accessible open space. The site is suitable for development, available for development now and, given the involvement of C G Fry as a housebuilder, deliverable.

We support the Neighbourhood Plan Group in its aspirations to prepare a Neighbourhood Plan for Ilminster and welcome the opportunity to comment on the Submission version of the Plan. However, as set out in this letter, we have some concerns about the plan as currently drafted. On behalf of C G Fry, we have made comments to previous stages of the NP, and the evidence base it relies on (most recently in August 2021 on the Regulation 14 NP Document). For the most part, our concerns as previously set out remain, and we consider that there needs to be amendments to the plan before the Basic Conditions would be met.

### **Welcome to the Ilminster Neighbourhood Plan**

The beginning of the Plan provides some commentary to 'set the scene', including the following section:

*"Firstly, as a parish we are currently required to enable 839 new homes to be built by 2040. This number has been calculated by South Somerset District Council (SSDC) from the figures set by Central Government and through the Local Plan Review Preferred Options consultation, 2019. It was initially suggested that we insert a lower figure in the INP but the Plan must be in general*

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*accordance with the strategic policies of the adopted Local Plan and should take account of the policies in the emerging Local Plan Review.”*

We suggest that the above paragraph is removed from the NP as it is misleading to state that the parish is “currently required to enable 839 new homes to be built by 2040”. The current Local Plan is the South Somerset Local Plan which covers the plan period 2006-2028, and which was adopted in 2015. It is not clearly set out in the NP where the figure of 839 homes is derived from, or how it relates to the adopted Local Plan. If this figure relates to the previously emerging Local Plan Review, then that Review has been delayed following the decision to form a new unitary council for Somerset. An up to date housing need figure will need to be determined as part of the Local Plan Review (or its successor) and the NP will need to reflect those housing needs. We therefore propose that the above section is removed from the NP, particularly as it is not referred to later in the NP and is likely to change over the lifetime of the NP period, which is proposed to cover up to 2040.

### **Vision, Mission and Aims**

We support the overall vision for the plan to make Ilminster one of the most desirable market towns in South Somerset. We also broadly agree with the 11 Aims set out. However, we do have some concerns about the wording of some of Aim Two. This seeks to achieve “the highest design standards”, a sentiment that we support, but suggest is reworded to better reflect the language of the NPPF (Section 12, “Achieving well-designed places”) which refers to “high quality design”. This term retains the intent of the stated design aspiration, but removes the reference to “highest” standards, which is subjective and likely to provoke disagreement on what is meant.

We note the change in wording, which previously stated that all new development ‘will’ generate a portion of on-site energy, and now states the desire for each site “generating a portion of on-site energy”. As before, while we support the sentiment and agree that development should be sustainable we do not support this wording as it fails to understand that the context and proposed form of specific development sites do not always lend themselves to being able to accommodate on site energy generation. This is a rapidly evolving area of technology and regulation and in some instances, it could be less sustainable to install equipment to generate energy that fails to generate proportionate outputs (for example solar panels on units with poor orientation for solar hours). There are a number of approaches that can be taken to achieving low energy sustainable homes, and not just through the use of on-site renewable technologies, such as the use of fabric first principles. The aim should be amended to caveat on site generation ‘where possible and appropriate’.

### **Proposals Map**

We note that the NP no longer allocates land for development, as was the case in the previous Regulation 14 iteration. This matter is now to be left to the Local Plan Review that will be taken forwards when the new unitary council is established.

The Proposal Map has, however, retained features that we do not support.

We strongly disagree with the identification of the ‘Shudrick Valley Nature Trail’ Local Green Space (LGS) and the related “existing and proposed walking routes”. Further detail on these specific points is set out in more detail in our commentary on the relative policies and background documents below.

Also, it is not clear that the map is indicative and this should be stated on the map – the nature of the plan is that it is graphically stylised and does not reflect precise boundaries for the features shown (such as the exact alignment of proposed routes and the boundaries for the ‘walking routes’). We request that a caveat is added to the map to indicate the information shown is indicative/illustrative.

## **Policies**

Planning Practice Guidance (PPG) is clear that policies within neighbourhood plans should be clear, unambiguous and supported by appropriate evidence (Paragraph: 041 Reference ID: 41-041-20140306). Additional guidance states that proportionate, robust evidence should support the choices made and the approach taken. With this context in mind we will now set out our comments with regard to the detailed policy wording included in the NP.

### **Policy ILM1 Conserve and Enhance Ilminster's Historic Landscape Setting**

This policy seeks to protect important views, these are shown at Section 8.6 and on Figure 4. As explained in our submission to the Regulation 14 consultation, it is our view that these views cross the town in nearly all directions, some are short range and some are long distance and there is no apparent logic to how and why these viewpoints have been selected, or any clear explanation as to what is important about the views shown. There remain, in this version of the plan, several pictures which include private properties or road junctions. In particular views 11 and 17 (screenshots at Appendix 2) show 'glimpses' of Pretwood Hill that you would have to be in a very specific spot within the town to be able to see these fleeting incidental views.

Notwithstanding the reference to the Peripheral Landscape Study for Ilminster (Conservation and Design Unit, SSDC, November 2007), we remain of the view that there is no clear link established as to why protecting the views identified is crucial to protect the Landscape Setting. It is also not clear what 'protecting' the views means, and consider that as drafted the plan implies that any change in the images shown at 8.6 could cause harm to the landscape setting.

In order to address these concerns we suggest that the policy wording needs revisiting. The wording is overly restrictive by use of its assertion that all views must be 'preserved'. This is not consistent with section 15 of the NPPF which explains that valued landscapes should be protected, and done so in a manner commensurate with their statutory status or identified quality in the development plan (paragraph 174). The views shown are of the countryside surrounding Ilminster, and it should be recognised that the countryside has intrinsic beauty but this landscape is not subject to any protective landscape designations, and not a formal 'valued landscape'.

Clear justification needs to be given as to why the specific views shown are of particular relevance to Ilminster's Historic Landscape Setting, and secondly the wording needs to be caveated so as not to indicate that any amount change would necessarily be harmful. There needs to be growth and change at the town in order for other policy aspirations to be met, such as enhancing the local economy and ensuring that there is a vibrant, self-sufficient community. It would be more appropriate, once further justification has been given for the views identified, that the policy state that development needs to consider the impact on these views and, where possible, seek to protect and enhance, or consider mitigation if this is not possible. This should be done through the submission of site-specific evidence for individual sites that will enable an objective assessment to be carried out against relevant guidance and policies.

### **Policy ILM2 and ILM3 Local Green Spaces and the Green Corridor**

Firstly, with regard to the policy wording of ILM2, our previous comments still stand regarding the need to revisit the terminology in the draft policy. At present this requires at least one new tree to be planted per each new bedroom built, and every tree lost should be replaced with two. This is overly prescriptive and should be reworded. We do not disagree with the aspiration that existing trees should be protected where possible and replaced where lost, nor to the sentiment that new development should be accompanied with additional planting. However, the specifics of this policy wording risk causing issues for the application of this policy as it is overly specific and does not allow an appropriate degree of

flexibility. The same aim could be achieved by encouraging developments to secure a net increase in trees.

Similarly point 'd' of the policy states development will be required to 'Provide as a minimum, a 10-metre buffer zone adjacent to existing and new habitats'. This wording is imprecise and, arguably, impossible to comply with; if a 10m buffer is required from all existing habitats then no new development could be accommodated anywhere on any greenfield site as agricultural grassland is a 'habitat'.

We also object to the wording of point 'e' which seeks to retain all "significant trees and hedgerows, in addition to those with TPOs". It is not clear what is meant by significant, this term is not recognised in this context and is too ambiguous. The value of trees should be assessed objectively using, for example BS5837, which is the standard practice for assessing the condition and value of trees and allows categorisation from which an assessment can be made to inform any decisions to retain trees. We suggest the policy reflects that approach and avoids blanket and ambiguous approaches to policy wording.

Policy ILM2 Conserve and Enhance Ilminster's Ecology, Species and Habitats, and Policy ILM3 Enhance and Connect Local Green Open Spaces with a 'Green Corridor' both set out details of the proposed 'Green Corridor' shown on the Proposals Map. This is described in ILM3 as well signposted 'Green Corridor' of designated local green spaces. The local green spaces listed under the policy include areas that cross the Shudrick Lane site along the Shudrick Valley Stream, and refer to the 'Shudrick Valley Nature Trail' as Green Space 'H'. We strongly object to both the terminology used in the policy wording and also to the route shown crossing our client's site.

A Local Green Space is a specific type of nationally recognised landscape designation intended for communities to identify and protect green areas of particular importance to them. The designation should only be used where the space meets the following criteria (para 102 of the NPPF):

- (a) in reasonably close proximity to the community it serves;
- (b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- (c) local in character and is not an extensive tract of land.

However, the NP proposes 18 (one more than the last iteration of the NP) new Local Green Spaces including the woodland on Pretwood Hill. Albeit on Figure 5 'Existing Access and Movement' the Pretwood Hill local Green Space designation, and the one for Herne Hill to the south west of the town, are not shown.

We do not consider that there has been sufficient evidence set out to demonstrate that 'Local Green Space' is the most appropriate designation for the NP to use in order to afford policy protection to these green areas. We suggest that an alternative term is used, such as 'informal green space'. The plan can still continue to seek an appropriate level of protection for these areas but they would not be afforded the disproportionately onerous level of protection established through Local Green Space Designation.

Furthermore, we request that the 'Proposed walking route' shown that crosses the Shudrick Lane site, both east to west along Shudrick Stream, and crossing the site southwards up the hill to Pretwood Copse is removed. There are statutory processes in place for seeking rights of access to land through the

establishment of a Public Right of Way. It is not appropriate for a NP to seek to establish a walking route over private land where there is no right to access. The route being shown along the Shudrick Stream is currently open to the public on an informal basis as a Permissive Path, and whilst there is no intention at present to remove this access and close off the route to the public, we object to a formalisation of this access through designation as a walking route in the NP.

With regard to the other path that crosses the site to the south, there is no right of any kind in place at present to allow the public to access this area. This is private land and it is wholly inappropriate for the NP to propose this link. That being said, if the true extent of the Shudrick Lane site were to be allocated for residential development in the Local Plan there would be scope for our clients to work with the NP group to establish links through the development site to the countryside beyond, and this could be secured as part of an allocation of the site for development.

There are inconsistencies within the plan around these footpath links and their proposed status. At Figures 3 and 4 it appears (given the green shading shown) that both the permissive path along the Shudrick Stream and also two further routes across the site (one linking to Pretwood Hill and one heading south east) are all proposed as linear Local Green Space. Whereas at Figure 5 just two routes are shown (the path along the stream and a route south to Pretwood Hill) and both are labelled as 'walking routes'. To be clear, we do not support the identification of any routes across the site as either Local Green Space or as walking routes in the NP.

The proposed route of the Ilminster Green Corridor (shown in orange on the proposals map) also crosses the Shudrick Lane site. Our comments with regards to objection of any formalised right to access being sought through the NP set out above in relation to the walking route is equally applicable to this designation. We also object to this route being shown across the site in this way.

### **Policy ILM7 Promote High Quality Design**

As explained in our previous submissions to this plan, we have no in principle objection to including policies that seek to ensure development is of a high quality and has consideration of the local context. However, our concerns remain that there is a lack of flexibility in the policy wording as drafted and that this requires amendment.

Caveats should be included so that development must demonstrate it has had regard to the local context and principles and design features included in the Design Guide rather than requiring strict accordance with it. The Design Guide is very detailed and sets out requirements that are not applicable to all potential new dwellings. The prescriptive nature of this policy needs to be addressed and caveated to allow for good design to come forward and to allow for freedom so that new buildings that are innovative, modern and designed to be suitable for the site specific context can come forward if suitably justified. Sufficient flexibility needs to be allowed to ensure that the most appropriate use of each site based on the site specific features can be achieved, avoiding the Design Guidance becoming a constraint to site specific design considerations.

### **ILM9 – Safe, Interesting Walking and Cycling Routes**

We do not object to the principle of having a policy on walking and cycling routes and support the aim of achieving improved pedestrian and cycle connectivity. However, this policy references the proposed Green Corridor routes shown on the policy map and, as set out above, we do not support the identification of these routes across our client's site.

### **Policy ILM12 Types of New Homes**

The principle of this policy seeks to ensure new housing developments deliver an adequate mix of dwellings, an aspiration we agree with and support. This draft policy now seeks 25% of new homes to be

Building Regulations M4(2) compliant, meeting Lifetime Home Standards (up from 20% in the previous version of the plan). Whilst we agree provision should be made for M4(2) homes on all major new development sites; 25% of units is a disproportionately high quantum. Based on our experience elsewhere, 10% would be more in line with what has been established as a reasonable level of provision. In addition, provision needs to be made in the policy that it is acceptable to provide 'adaptable' M4(2) units rather than fully 'accessible' from the outset. There is clear logic in ensuring units can be adapted to meet the needs of end users but it makes less sense to kit out units so they are full accessible from the outset without knowing what the actual needs of the end user are. The policy wording should be caveated to allow M4(2) units to be 'adaptable'.

## **Final Comments**

We have some serious concerns about the wording of several policies in the draft Neighbourhood Plan and consider that amendment is needed to the proposed wording in order for the plan to pass the Basic Conditions. The proposed Walking routes and areas of Local Green Space shown crossing the Shudrick Lane site should be removed from the Plan. Whilst there is a permissive path crossing the site at present, this is an informal arrangement and there are no Public Rights of Way or other rights of access to the general public into the site. The draft plan is seeking to formalise routes across private land and this is not supported.

As both the District Council and the NP Group are aware, the Shudrick Lane site was subject to a planning application in 2014 (ref: 14/02474/OUT). The application was refused planning permission on 19 May 2016 and was then dismissed at appeal (reference: 3152932) on 10 April 2017. Although the site was dismissed, the Inspector found that the impact of the setting on the heritage assets would be less than substantial and that the harm identified would not outweigh the public benefits of the proposal. The Inspector also found that, whilst the development would result in adverse effects on the character and appearance of the area, these effects were not, on their own, sufficient to significantly and demonstrably outweigh the benefits of the proposal.

It was only when these adverse effects were considered alongside the identified conflict with the Council's housing strategy policies in its current local plan that the appeal was dismissed. In this respect, were the Council to identify additional housing need (as it will need to do so in the emerging Local Plan) and were to conclude that land at Shudrick Lane, Ilminster should be allocated for development in order to contribute to meeting that need, then the identified policy conflict (the overriding issue that led to the dismissal of the appeal) would clearly be removed.

Whilst landscape and heritage matters would still need to be carefully considered in any subsequent proposal, these matters should not preclude an appropriate form of development from coming forward on the site. In fact, the historic appeal decision on the site confirmed that there were no grounds on landscape, heritage, ecology or highways on which to justify refusal of the proposals. The reasons for dismissal centred on conflict with the Local Plan Strategy at that time.

Although the NP no longer allocates any area of the Shudrick Lane site for development, we remain of the view that the site is a suitable location to accommodate sustainable development going forwards. South Somerset will need to identify sites to meet its housing need over the upcoming plan period and Ilminster will need to deliver a portion of that growth.

We would welcome the opportunity to engage further with the Neighbourhood Plan process in due course. Should the Neighbourhood Plan Group wish to discuss any of the comments in this letter with regard to the suitability of the Shudrick Lane site for development we would be open to work together on this.

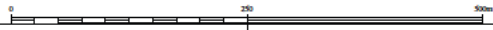
Yours sincerely

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## Appendix 1

Site Location Plan





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| 3 | 000000000000 | 12/2014 |

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| <b>Project</b>  | SHUDRICK LANE<br>ILMINSTER |                   |    |
| <b>Title</b>  | EXISTING<br>LOCATION PLAN  |                   |    |
| <b>Drawn No</b>   | I. 100                     | <b>Rev No</b>     | B  |
| <b>Scale</b>  | 1:2000@A1<br>1:4000@A3     | <b>Drawn by</b>   | RI |
| <b>Date</b>   | 05/14                      | <b>Checked by</b> | BP |
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