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From: [REDACTED]

Sent: Thu, 21 Jan 2021 20:29:57 +0000ARC

To:

Subject: Scottish Borders draft LDP 2020 - Consultation

Sensitivity: Normal

Attachments:

[REDACTED]

CAUTION: External Email

Dear Sirs

On behalf of my client Middlemede Properties Ltd, I am pleased to attach a representation. I would be grateful if you can please confirm receipt,

Thank you

[REDACTED]

Director

[REDACTED]

T: [REDACTED]



DAVID BELL
PLANNING
CHARTERED TOWN PLANNERS



Planning Department
Scottish Borders Council
Newtown St Boswells
Melrose TD6 0SA

21 January 2021

By email localplan@scotborders.gov.uk

Dear Sirs

Scottish Borders Draft Local Development Plan (2020) - Consultation Response

I act as planning consultant to Middlemede Properties Ltd (MPL) who own the riparian title to the section of the River Tweed known as the 'Upper Pavilion Fishings' that adjoins the Lowood site at Tweedbank.

This is a formal consultation response with regard to the proposed Local Development Plan (PLDP) 2020.

It should also be noted that this submission raises specific material planning policy provisions regarding the proposed LDP and also related matters to be taken into account with regard to the Council's preparation of the Supplementary Planning Guidance related to the Supplementary Guidance (SG) allocation for the Tweedbank/Lowood site - allocated as reference MTWEE002. The two matters are considered to be inter-linked.

It is considered that new material considerations have come into play which underline the matters previously raised with regard to the site – namely that it is unsuitable for the scale of development sought. The publication of the Scottish Government's National Planning Framework 4 (NPF4) sets a clear 'direction of travel' of policy. The housing allocation at Lowood, Tweedbank is directly at odds with that direction of travel, for the reasons set out below. This is considered to be such that the Council should consider de-allocation of the site.

Scotland's Fourth National Planning Framework (NPF4) – Position Statement (November 2020)

NPF4 sets out policy direction for "future places" and identifies that the key opportunity is shifting future development "away from greenfield land including by actively enabling the redevelopment of vacant and derelict land". A further key opportunity is identified as expanding green infrastructure "by diverting natural spaces to make our places greener, healthier and more resilient to the impact of climate change". As concluded below the major urban development of the extensive Lowood site would undermine that clear policy direction.

The Position Statement also refers to "outcomes" for 2050 including net zero omissions and better, greener places. As has been raised in previous representations with regard to the Lowood site and indeed as clearly acknowledged in the Council's proposed SPG, is the matter of infrastructure constraints at this location. The Position Statement sets out (page 12) that there is to be a new "infrastructure first approach" and that this means there is a need to consider and address the impact of new development on local infrastructure including schools, healthcare, transport, green space and other community facilities.

Furthermore, on page 15 of the Statement there is reference to the need to prioritise “*sustainable and accessible locations, prioritising new homes and brownfield land where appropriate*”. There is further emphasis on the need for “shovel ready” land and that the infrastructure first approach is to play “*an essential role when ensuring allocated sites are a viable proposition to be built out in line with the plan’s delivery programme*”. On that key point it is evident that the Lowood site has failed the effectiveness test and has not been deliverable within the set SG timeframe for the allocation.

Page 16 of the Statement provides more detail on the promotion of an infrastructure first approach to community development and there is clear emphasis (page 17) on the need for successful place making and for development to contribute to climate and biodiversity goals. Whilst the train station at Tweedbank provides rail accessibility, it is clear from the draft SPG that the predominant mode of access will be by way of car and other motor vehicles. The Lowood site is effectively “cut off” from the remainder of the settlement necessitating pedestrian over-bridges etc. to enable fundamental access provision for non-motorised movement. This cuts across the sustainability and place making objectives currently being set out by the Government. The clear objective of the Government is a significant shift away from the private car and the development as proposed by way of the SPG would not deliver that.

In so far as the Statement sets out potential policy changes (page 18 of the Statement) there is a clear reference to the need to prioritise areas “*where there is existing capacity*” for infrastructure and that this needs to be supported by clearer and more consistent framework for developer contributions.

Page 19 of the Statement makes reference to the need to guide development to places “*which can currently be sustainably accessed or have the ability to become so with minimal cost to the public and private sectors*”. On this point, one of the fundamental factors raised consistently over the last few years with regard to the Lowood allocation at Tweedbank is the problem with development viability relative to the considerable infrastructure constraints that exist.

Our previous representations have raised this (see for example the detailed representation dated 15 May 2020 with regard to the Draft SPG) and there has been a failure to address a delivery mechanism given the considerable infrastructure requirements: namely the cost obligations needed regarding:

- Extension of primary school;
- Full drainage impact assessment;
- No capacity of wastewater treatment works to accommodate development;
- Local wastewater treatment network issues;
- The need for incorporation of affordable housing; and
- Assessment for environmental impact and provision of necessary mitigation.
- Flood risk assessment and appropriate flood prevention measures;
- Transportation infrastructure including pedestrian over-bridges; and
- Extensive high quality public realm contributions.

These considerable constraints illustrate why the Government is setting out a clear direction of travel to prioritise areas with existing capacity and which have sustainable access. Furthermore, the clear agenda set out in the Statement to attain net zero by 2050, with challenging interim targets is a significant shift away from simply moving to a “low carbon” society and economy. This will mean added cost for development as space heating and transport moves to net zero emissions and away from conventional gas boilers within homes together with appropriate electricity charging infrastructure. This will all add development cost.

As noted, a further key aspect of the Statement is the plan for what is termed “better, greener places”. The clear policy direction is seeking to strengthen policy designed to protect and restore Scotland’s biodiversity and natural assets and this is linked to the “brownfield first” approach. Again, it is considered that these policy objectives would be undermined as a result of the impact that the proposed development at Lowood would have on the ‘natural capital’ of the Lowood Estate as it fringes the River Tweed.

The PLDP will presumably still be subjected to a post Brexit Strategic Environmental Assessment (SEA), and as has been previously raised, it is considered that the Council has failed to carry out a proper Appropriate Assessment of the potential impact of this development (MTWEE002) on the River Tweed SAC because it had not considered what mitigation measures it proposes to apply. To reiterate, the Council needs to carry out a proper HRA as part of this exercise involved in the promotion of the proposed SGP for this site. This is because of the impact of the Sweetman decision which expects the measures that are intended to be applied to mitigate the impact of a development on a European site, such as the River Tweed SAC, have to be properly identified. It is no longer sufficient for the Council to state that policies are in place which are designed to ensure that no adverse impact would occur. The Council needs to identify now what mitigation measures they propose to apply. These measures will need to be costed too as part of any viability appraisal given the Council is promoting this site (as part of the effective land supply).

Integral to this exercise and indeed to our client's interests in the River will be the need for a new bridge and flood protection works to be considered and costed. The work involved in the creation of a new bridge at Lowood (which is referenced in the PLDP) is the work that has the potential to create the greatest adverse impact on the habitat so this needs to be established at this stage as part of the overall planning process.

Changes to SPP (December 2020)

On 18 December 2020 the Scottish Government published an amended version of Scottish Planning Policy (SPP), which should be taken into account in the next version of the LDP. The key changes are:

- SPP paragraph 27 now refers to a presumption in favour of sustainable development.
- SPP paragraph 29 – minor changes to the introductory sentences; no change to the principles.
- Paragraph 30 sets out the key requirements for Development Plans including:
 - that they should be consistent “*with the policies set out in this SPP, including the presumption in favour of sustainable development*”;
 - that Development Plans “*should positively seek opportunities to meet the development needs of the plan area in a way which is flexible enough to adapt to changing circumstances over time*”; and
 - they should “*set out a spatial strategy which is both sustainable and deliverable, providing confidence to stakeholders that the outcomes can be achieved*”.

The PLDP at present does not meet these requirements, for the reasons set out above. This should be addressed in the interim and that does not take away from the need to take into account the clear direction of travel of policy in the NPF4 documentation.

Reliance of SESplan

It is noted that the Council seeks to rely on SESplan 2 namely the Strategic Development Plan (SDP) which is widely regarded as being out of date. It is accepted that that legal position is out of the Council's control, however, SESplan 2 was rejected relating to transport impact and there was no endorsement by the Scottish Ministers of any other aspects of the draft plan including housing. The Council will be aware that there are subsequent decisions by Ministers and Scottish Government Reporters that support the position that SESplan 2 and supporting documents are now of limited assistance. It is considered that SBC has placed undue weight on SESplan 2 supporting documentation which is clearly now dated. In short, the approach of wholesale adoption of SESplan 2 documentation is not considered appropriate and SBC should set out a proper and up to date evidence base that is capable of supporting housing policies in the draft LDP.

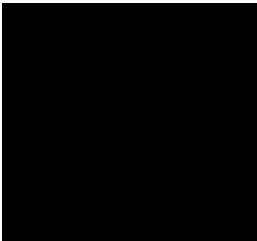
In this regard, the clear direction of policy travel set out by the Scottish Government in the NPF4 Position Statement is an important material consideration and whilst the housing supply numbers will need to be re-examined, it would also be appropriate to re-examine the effectiveness and deliverability of certain key sites. The evidence points to the Lowood allocation being unsuitable, not simply because it has proven to be undeliverable over the plan period in which it was intended to come forward, but greenfield development on the site clearly cuts across and would be contrary to the clear direction of travel of policy now set by the Scottish Government.

A further matter recognised in the draft LDP is the impact of the COVID-19 pandemic on housing delivery and the overall operation of the housing market. There has been a negative effect as a result of the slowdown in the economy and this again underlines the adverse impact that will result on sites such as Lowood where there are considerable costs for infrastructure shortfalls and evident problematic viability issues.

Overall, the Scottish Government has signalled through its NPF4 Position Statement, major changes as to how housing is to be delivered - measuring housing delivery with a greater emphasis on net zero, sustainability and an infrastructure first approach. This is coupled with a renewed focus on the use of brownfield and vacant land. Arguably, greenfield release which requires significant new infrastructure, and which would adversely impact 'natural capital' is entirely at odds with that direction of travel.

Some of the matters raised in this representation refer specifically to the proposed LDP and housing delivery and others are supplementary points with regard to the matters already raised by Middlemede Properties Limited with regard to the draft SPG for Lowood. As noted the specific points raised with regard to the SPG were set out in our letter of 15 May 2020. These matters still stand but are now reinforced by the points made above and it is considered that they are material and should be taken into account, not only as part of the next LDP preparation, but with regard to the finalisation of the SPG if it is decided to continue to advance the Lowood site for housing development.

Yours faithfully

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Director

cc 
