

From: [REDACTED]
To: [Planning Policy](#)
Subject: Burpham Neighbourhood Forum
Date: 17 September 2012 17:04:01

Please note the Forum as submitted has my full support

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Burpham Neighbourhood Forum
Date: 30 September 2012 21:29:54

Dear [REDACTED]

Just a short email to register my support for the establishment of the Burpham Neighbourhood Forum. I have reviewed the consultation documents as available on the Council's website.

Regards,

[REDACTED]

[REDACTED]

From: [REDACTED]
To: [Planning Policy](#)
Subject: RE: Burpham Neighbourhood Area and forum - public consultation
Date: 14 September 2012 14:25:11
Attachments: [REDACTED]

Superb Excellent we're on our way!

From: [REDACTED]
Sent: 14 September 2012 13:13
To: [REDACTED]
Subject: Burpham Neighbourhood Area and forum - public consultation

I am writing to inform you that Guildford Borough Council has received proposals to designate a Neighbourhood Area for the community of Burpham and to designate the Burpham Neighbourhood Forum for the purpose of preparing a Neighbourhood Development Plan (NDP).

Proposals for a Neighbourhood Development Plan for Burpham

The proposals have come forward from a group of local volunteers in response to the opportunities provided by the Localism Act 2011 which is part of the Government's ambition for local communities to take responsibility for shaping the places where they live.

The proposed Burpham Neighbourhood Development Plan (NDP) will cover the electoral ward of Burpham.

Once adopted, the NDP will become part of the Development Plan for the area and will be taken into account in the determination of planning applications for proposals in the Burpham ward.

Designating the Burpham Neighbourhood Plan Area and Burpham Neighbourhood Forum

Before work on the NDP's preparation can formally get underway, the Council is required to agree the proposals that have been submitted for the extent of the area that will be covered by the Plan and the composition of the Forum that will be constituted to oversee its preparation.

If the Burpham Neighbourhood Forum is made, no other organisation or body may be designated for that neighbourhood area until that designation expires or is withdrawn.

Copies of the applications to designate the Burpham Neighbourhood Area and the Burpham Neighbourhood Forum which have been submitted to the Council for approval can be viewed on the Council's website at www.guildford.gov.uk/policyconsultations. A hard copy of the applications and the comments form are also available to view and complete at the Council's offices, Millmead House, Millmead, Guildford, Guildford Library, North Street, Guildford and the newsagents, Kingspost Parade, Burpham.

The applications include:

1. a map of the proposed Burpham Neighbourhood Area and statement as to why this area is considered appropriate

2. a copy of the written constitution of the proposed Burpham Neighbourhood Forum
3. a statement setting out how the proposed Burpham Neighbourhood Forum has been composed.

Making comments on the proposed Neighbourhood Area and Forum

The Council is inviting comments on the proposed Burpham Neighbourhood Area to be covered by the NDP and the Burpham Neighbourhood Forum.

If you would like to let the Council know what you think of these, please read the application and complete the comments form available to download from www.guildford.gov.uk/policyconsultations. If you require a paper copy please contact us by email at planningpolicy@guildford.gov.uk or by telephoning 01483 444471. A hard copy of the applications and the comments form are also available to view/complete at the Council's offices, Millmead House, Millmead Guildford and Guildford Library, North Street, Guildford and the newsagents, Kingspost Parade, Burpham.

Consultation on the proposed Burpham Neighbourhood Area and Burpham Neighbourhood Forum is open between 14 September 2012 and 26 October 2012. All responses should be returned to:

- email: planningpolicy@guildford.gov.uk
- post: The Planning Policy Team, Guildford Borough Council, Millmead House, Millmead, Guildford, Surrey, GU2 4BB.

Help Line

If you wish to know more about the proposed Forum and Neighbourhood Development Plan and cannot find the answers on the Council's website, please contact the Council's Planning Policy Team at planningpolicy@guildford.gov.uk or telephone 01483 444771.

Additional information on the Burpham Neighbourhood Development Plan can also be found on the website established by the proposed Neighbourhood Forum to help promote and raise awareness of the Plan - <http://www.burpham-surrey.co.uk/page56.html>

Future Consultations



As set out in the Government's Regulations^[1] that guide the preparation of a Neighbourhood Development Plan you are a consultee for this process and the Council has a duty to inform you.

Throughout the preparation of the NDP there will be various opportunities to comment on the draft proposals and, if designated, the Burpham Neighbourhood Form will be in contact with you directly.

If you do not feel it relevant for your organisation to be kept informed of the progress in preparing the NDP for Burpham, please inform us in writing and your details will be removed from the future correspondents list.

Yours faithfully



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[1] Neighbourhood Planning Regulations 2012 –
<http://www.legislation.gov.uk/uksi/2012/637/contents/made>

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 19 September 2012 10:31
To: [REDACTED]
Subject: Burpham Neighbourhood Forum and Area Consultation

[REDACTED]
Planning Policy Team,
Guildford Borough Council

Further to the opening of the above consultation i would express my support for the designation of the Burpham Neighbourhood Forum on the terms applied for namely:

- the boundary applied for (the ward Boundary) is appropriate;
- the membership/composition of the Forum is appropriate;
- I support the aims of the Forum which are to improve the social, economic and environmental well-being of Burpham.

Please take my support for this new body into consideration as part of your consultation.

I am happy for you to pass my contact details to the Burpham Neighbourhood Forum for the purposes of keeping me informed of Forum and Plan related activity.

Regards,

[REDACTED]

From: [REDACTED]
To: [Planning Policy](#)
Subject: Burpham Neighbourhood Forum
Date: 25 September 2012 14:28:42

My name is [REDACTED] and my husband is [REDACTED] We are the
owners of [REDACTED] We would
like to register our support for the Burpham Neighbourhood Forum.
Your sincerely
[REDACTED]

From: [REDACTED]
To: [Planning Policy](#)
Subject: Burpham Neighbourhood Forum Area Consultation
Date: 30 September 2012 14:08:17

I write to express my support for the designation of the Burpham Neighbourhood Forum and Area on the terms applied for.

Specifically

The boundary applied for (The Ward Boundary) is appropriate

The membership/composition of the Forum is appropriate


I support the aims of the Forum, which are to improve social, economic and the environmental well-being of Burpham, by way of production of a neighbourhood development plan.

Please take my support for this new body into consideration as part of your consultation process.

I am happy for you to pass my contact details onto the Burpham Neighbourhood Forum for the purposes of keeping me informed of Forum and Plan related activity.

Thank You

[REDACTED]



24/09/2012

Tracey Haskins
Planning Policy Team
Guildford Borough Council
Millmead House
Guildford
GU2 4BB



Dear Tracey,

BURPHAM NEIGHBOURHOOD FORUM AND AREA CONSULTATION

Further to the opening of the above consultation, I write to express my support for the designation of the Burpham Neighbourhood Forum and Area on the terms applied for. Specifically:

- The Boundary applied for (The Ward Boundary) is appropriate;
- The membership/composition of the Forum is appropriate;
- I support the aims of the Forum, which are to improve the social, economic and environmental well-being of Burpham, by way of production of a neighbourhood development plan.

Please take my support for this new body into consideration as part of your consultation process.

I am happy for you to pass my contact details onto the Burpham Neighbourhood Forum for the purposes of keeping me informed of Forum and Plan related activity.

Yours Sincerely,



Planning Policy,
Guildford Borough Council,
Millmead House,
Millmead,
Guildford,
SURREY. GU2 4BB

21633/A3/AB/MK/dw

BY EMAIL & POST: planningpolicy@guildford.gov.uk

26th October, 2012

Dear Sir/Madam,

**BURPHAM NEIGHBOURHOOD AREA AND NEIGHBOURHOOD FORUM CONSULTATION
RESPONSE SUBMITTED ON BEHALF OF MARTIIN GRANT HOMES**

We write on behalf of our client, Martin Grant Homes, in response to the proposed designation of the Burpham Neighbourhood Area and Neighbourhood Forum.

As background, the proposed Burpham Neighbourhood Area includes land immediately to the east of Guildford, at Gosden Hill Farm, which is within the ownership of Martin Grant Homes. We note that Land at Gosden Hill Farm (North East Guildford) has repeatedly been recognised in successive strategic plans as the most suitable location for the expansion of Guildford if required to meet future development needs.

The accompanying report, enclosed, sets out our objections in more detail. In summary, we are seeking an amendment to the boundaries of the Neighbourhood Area designation so that the eastern boundary follows the boundary of the Guildford urban area and the Metropolitan Green Belt as shown on the Guildford Borough Council Local Plan Proposals Map (2003).

Following this consultation, please could we receive confirmation of the timing of any decision being taken by Guildford Borough Council in response to the application?

Should you have any queries please do not hesitate to contact the writer on [REDACTED]

Yours faithfully,

[REDACTED]

Certificate No. FS 29837



Burpham Neighbourhood Area Consultation

Response to the Proposed Designation of
the Burpham Neighbourhood Area and Neighbourhood Forum

October 2012

**BARTON
WILLMORE**
Planning · Design · Delivery

Burpham Neighbourhood Area Consultation
Response to the Proposed Designation of the Burpham
Neighbourhood Area and Neighbourhood Forum
on behalf of
Martin Grant Homes

Beansheaf Farmhouse
Bourne Close
Calcot
Reading
Berkshire. RG31 7BW

Tel: 0118 943 0000
Fax: 0118 943 0001
Email: planningreading@bartonwillmore.co.uk

Ref: 21633/P1b/A5/AB/MK/dw
Date: October 2012

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APPENDICES

- Appendix 1 - Map of the proposed Burpham Neighbourhood Area

- Appendix 2 - Legal Opinion Prepared on behalf of Wycombe District Council in relation to the Daws Hill Neighbourhood Forum and Neighbourhood Area Application

1.0 INTRODUCTION

- 1.1 Barton Willmore LLP is instructed by Martin Grant Homes to submit the following objections to the Burpham Neighbourhood Area consultation. Our objections are predominately focused on the proposed boundaries of the designation of the Burpham Neighbourhood Area (**Appendix 1**). Our response also outlines additional concerns relating to the details provided within the Burpham Neighbourhood Forum's application.
- 1.2 For clarity, our objections to the proposed Neighbourhood Area application relate principally to the inclusion of land immediately to the east of the existing settlement boundary. This area of land is located outside the settlement boundary of Guildford and within the Green Belt.
- 1.3 The majority of this land, to the east of Merrow Lane, is within the ownership of Martin Grant Homes. Land to the North East of Guildford has repeatedly been recognised as the most suitable location for the expansion of Guildford if required to meet future development needs. This area is of potential strategic importance to the meeting the housing and other development needs in the area. There is insufficient justification for this area to be included in this application as it does not form part of the urban neighbourhood of Burpham.
- 1.4 For these reasons, which are explained in more detail below, land outside of the existing settlement and within the existing Green Belt boundaries should therefore be excluded from the Neighbourhood Plan area.

2.0 LAND AT GOSDEN HILL FARM

- 2.1 Land to the north-east of Guildford at Gosden Hill Farm is almost entirely within the ownership of our client, Martin Grant Homes. This land is included within the eastern part of the proposed Neighbourhood Area put forward by the Burpham Neighbourhood Forum. The land is currently used for agriculture, with a small number of private residential properties accessed from Merrow Lane. Gosden Hill Farm is contained to the north by the A3, existing woodland to the east and the existing built-up area of Guildford to the west and south.
- 2.2 We note that the site has long been considered as part of the future strategic growth for Guildford and has been considered in a wide range of policy documents and supporting technical evidence.

Surrey Structure Plan 2004

- 2.3 The purpose of the Surrey Structure Plan 2004 was to provide a strategic framework for land use planning in the county. The Structure Plan was 'saved' for a three year period from the date of adoption and continued to form part of the development plan for the county until it was superseded by the South East Plan. Furthermore, it provided the basis for the development of the first round of district Local Development Frameworks, which were required to be in place by 2007.
- 2.4 At paragraph 2.37, the Structure Plan outlined the general location of future development within Guildford. It stated that the dwelling allocation for Guildford is greater than the potential identified within the Surrey Housing Capacity Survey, reflecting the identification of this area as a centre of strategic importance. The additional housing provision should be provided primarily through the use of previously developed land within the urban area of Guildford. The potential to meet this allocation in this way was required to be demonstrated through a local housing capacity study and the allocation of suitable sites within the local development framework.
- 2.5 In the event that the proposed housing provision could not be met through the development of previously developed land within Guildford; the Structure Plan stated:

"If the capacity study fails to identify sufficient previously developed land within Guildford town, then the Borough Council should consider the need for a new community to the north-east of Guildford town."

- 2.6 This allocation was then specifically identified within Policy LO6 of the Surrey Structure Plan 2004; which states:

“In Guildford provision for a new community to the north east of the town will be made in the local development framework if sufficient capacity on previously developed land cannot be identified to meet the full housing allocation within the LDF period”

- 2.7 We note that the contents of the Surrey Structure Plan was then used to inform the preparation of the South East Plan.

Draft South East Plan Panel Report: August 2007

- 2.8 Following the Examination in Public of the draft South East Plan (November 2006 – March 2007), a Panel Report was produced in August 2007 to outline the issues raised within the examination.

- 2.9 With regards to Guildford, the Panel Report made the following comments at para 20.57:

“There are significant environmental constraints to the expansion of the town to the south, south-east or south-west. Expansion to the north is limited by SPA and other considerations but an area within the MGB to the north east of the town, as identified in Policy LO6 of the Surrey Structure Plan, could provide sustainable growth. This location was identified after extensive comparative studies [Shaping Surrey’s Future, Technical Paper 2] and we have found no evidence of a more suitable alternative direction for growth, if urban capacity in Guildford is insufficient to met housing requirement.”

- 2.10 For clarity, the ‘*extensive comparative studies*’ are set out within a footnote as the technical note ‘*Shaping Surrey’s Future, Technical Paper 2: Evaluation of Locations as New Communities*’, Surrey County Council, November 2002.

- 2.11 The purpose of this Technical Paper was to examine opportunities for new communities which could form part of the County Council’s approach to delivering the Government’s regional housing allocation for Surrey.

- 2.12 At Section 4.3, the Technical Paper outlines the opportunities for development to the North-East of Guildford. In particular, it establishes that the area has the potential capacity for 1,500 – 2,000 dwellings and is favourably evaluated against the following criteria: Employment opportunities, Access to the Town Centre, Transport, Environmental Constraints and Infrastructure.

South East Plan: Regional Spatial Strategy for the South East of England (May 2009)

- 2.13 Once the South East Plan was formally adopted, the proposed allocation at Gosden Hill Farm was specifically included within Policy LF5, which for ease of reference is highlighted below:

“At Guildford, a sustainable urban extension of 2000 dwellings is likely to be required to meet the housing allocation. This should be located to the north-east of the town and be brought forward in accordance with Policy SP5: Green Belts.”

- 2.14 However following the identification of the site through the South-East Plan, Guildford Borough Council successfully upheld a legal challenge to the housing targets contained within the Plan.
- 2.15 As a result, the overall South East Plan housing target and sub regional target for the London Fringe have been omitted from the Local Development Plan.
- 2.16 In its place Guildford Borough Council have agreed the adoption of an interim housing number of 322 homes per annum as a material consideration for development control decision-making and for monitoring purposes. The interim housing figure will therefore be in place until the Local Plan Strategy is adopted; which the Local Development Scheme anticipates to be in 2014.

3.0 DETAILS OF NON-COMPLIANCE WITH THE LOCALISM ACT 2011

Summary of the Applicant Submission

- 3.1 We note that the Council received an application on the 29th August 2012 for the designation of the Burpham Neighbourhood area and an application for the designation of the Burpham Neighbourhood Forum.
- 3.2 The application included:
1. A map of the proposed Burpham Neighbourhood Area and statement as to why this area is considered appropriate.
 2. A copy of the written consultation of the proposed Burpham Neighbourhood Forum.
 3. A statement setting out how the proposed Burpham Neighbourhood Forum has been composed.
- 3.3 From the information available, it is our understanding that the 'Burpham Neighbourhood Forum' (BNF) is made up of at least 21 individuals who either live or work in the neighbourhood area; therefore complying with criterion (c) of Section 61G of the Town and Country Planning Act – The Neighbourhood Planning (General Regulations) 2012. We have noted that the Burpham Neighbourhood Forum has not been formed by a Parish or Town Council with locally elected members.
- 3.4 Following a review of the local area, it is our understanding that the Burpham Neighbourhood Area has been chosen as it is the Burpham Ward administrative boundary.
- 3.5 Furthermore, as part of the application the Burpham Neighbourhood Forum has stated their intent to produce a neighbourhood plan in accordance with the Localism Act 2012. There is no information which states whether a neighbourhood development order will be created as part of the Forum's constitution.

Details of Non-Compliance with the Localism Act 2011

- 3.6 In light of the background evidence highlighted above, we consider the proposed Neighbourhood Forum Area to be non-compliant with the Localism Act 2011 for the reasons given below:

Non-Compliance with National Planning Policy Framework (NPPF)

- 3.7 The National Planning Policy Framework (NPPF) sets out how Neighbourhood Plans should fit into the Development Plan, and the level of information which they are expected to include (paragraphs 183-185). In particular, Neighbourhood Plans must align with the strategic needs and priorities of the area. Furthermore, paragraph 184 of the NPPF states:

“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.”

- 3.8 As set out above, land at North East Guildford was identified as the most suitable location for the future expansion of Guildford since the adoption of the Surrey Structure Plan in 2004. This positive support for development at North East Guildford was reaffirmed through to the adoption of the South-East Plan in May 2009.
- 3.9 Whilst the Council have successfully lodged a legal challenge to the housing requirements set out in the South East Plan, the need for a review of the Green Belt will need to be considered again through the preparation of the New Local Plan, which will be subject to early consultation at the start of 2013.
- 3.10 In the event that development on the edge of Guildford is confirmed, we consider that land at North East Guildford must be the first area of search for delivering this growth.

- 3.11 Taking the above into account, it inappropriate to include the area of land outside of the settlement (and within the Green Belt) whilst the Local Plan is being formulated. This will allow the strategic priorities to be established through the proper Local Plan process and determine whether the land at Gosden Hill Farm will be required to meet development needs.
- 3.12 For reference we have attached the legal opinion prepared for Wycombe District Council in respect of the Daws Hill Neighbourhood Forum and Neighbourhood Area application (**Appendix 2**). The legal opinion was sought as the Daws Hill Neighbourhood Forum had included two areas of strategic importance (RAF Daws Hill and Wycombe Sports Centre) within their proposed Neighbourhood Area.
- 3.13 In particular paragraph 13 outlines whether the local authority can lawfully exclude an area from a proposed Neighbourhood Area; which in this case was considered due to the inclusion of strategic sites. In relation to the Burpham application, we consider the following section of the Wycombe report to be directly relevant:

**"I have considered the reasons given in the cabinet report for reducing the neighbourhood area. These centre around the strategic nature of the areas to be excluded and the likely timing of the consideration of those areas...It would seem that all relevant factors have been taken into account by the council and no irrelevant factors considered. The decision is not irrational. Therefore the council is entitled to reduce the proposed Neighbourhood Area for the reasons it gives."
(Paragraph 13)**

- 3.14 In light of this legal decision, we firstly consider it appropriate for the Council to reduce the extent of the proposed Neighbourhood Area as it includes land of strategic importance and secondly, the local authority is able to do so.

Insufficient Justification for Use of Ward Boundary as the Burpham Neighbourhood Area

- 3.15 As stated above, it appears that the Burpham Neighbourhood Forum have applied the administrative ward boundary of Burpham to outline the proposed Neighbourhood Area.
- 3.16 As shown in Figure 2 below, there is an area of woodland immediately to the east of the properties on Gosden Hill Road and west of Merrow Lane. This western edge of this woodland where it meets the urban edge of Guildford would be a more logical boundary for the Neighbourhood area. In our view, it is inappropriate for the Forum to include land outside of an existing residential area and within the current extent of the Green

Belt. We therefore consider that this area should similarly be excluded, with its future use and planning status to be considered through the Local Plan process.

Fig 2: Aerial Image of the parcel of land to the east of the proposed Neighbourhood Area



3.17 In light of the above, we would question the ability of the Burpham Neighbourhood Forum to meet the objects as set out in Appendix A of their supporting statement; in particular:

- (iii) To improve the area known as Burpham... for the benefit of the inhabitants of the immediate vicinity;
- (v) To encourage the goodwill and involvement of the wider community;
- (vi) To foster community spirit and encourage public Cohesion

3.18 Notwithstanding the above, we note that the application does not include a statement setting out why this particular area is considered appropriate to be designated as a neighbourhood area, as opposed to a wider or narrower area. This is in breach of regulation 5 (b) of The Neighbourhood Planning (General) Regulations 2012.

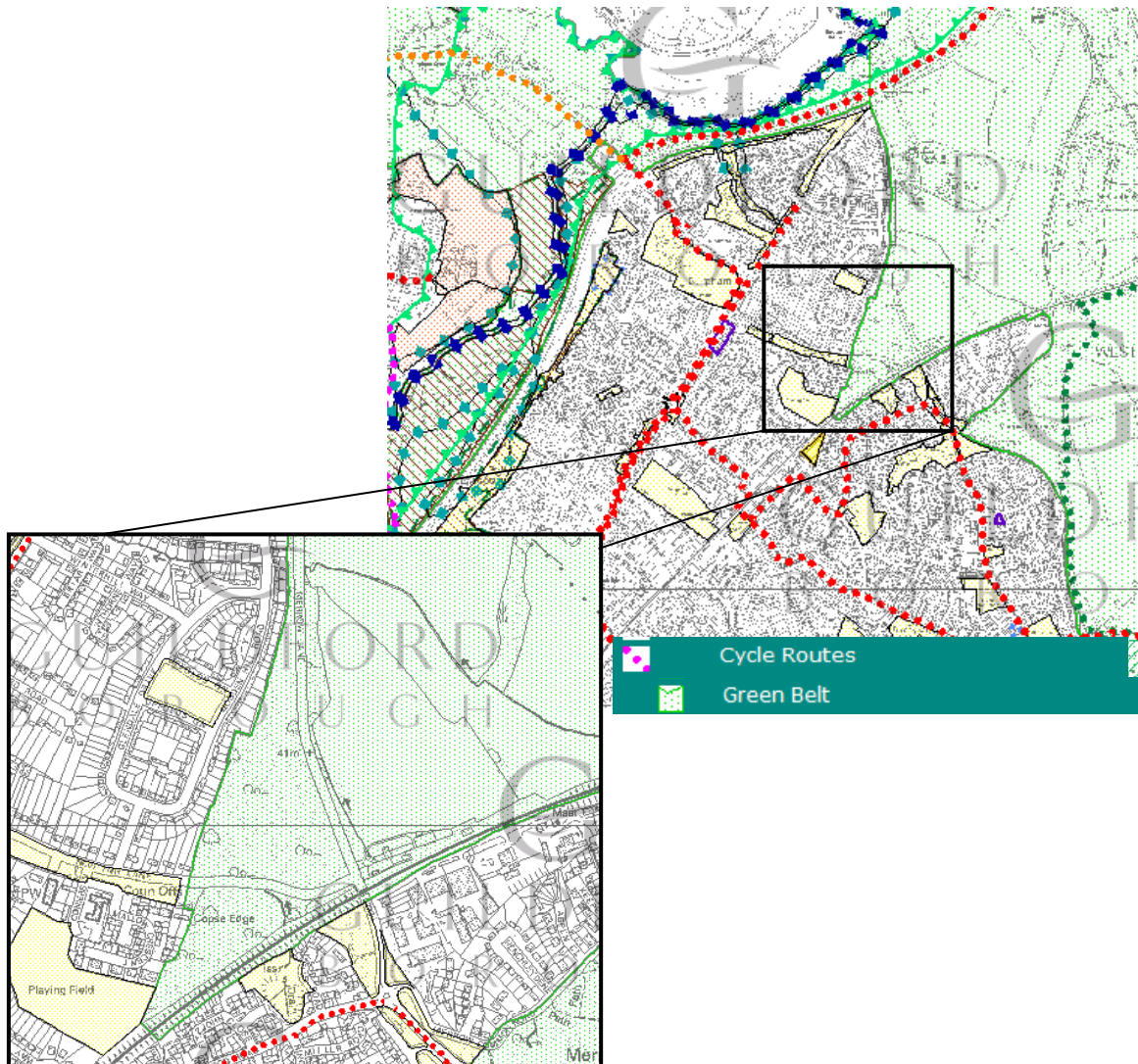
Additional Legal Considerations

- 3.19 Despite what is said under paragraph (a) on page 2 of the application the Constitution of the Forum does not state the objectives of promoting or improving the social, economic and environmental wellbeing of the area. 'The Objects' (para 2 of the Constitution) and 'the Powers' (para 4 of the Constitution) focus upon environmental and some social issues but not economic. This is contrary to section 61F (5)(a) of the Town and Country Planning Act 1990.
- 3.20 Section 61F (7) (a)(ii) of the Town and Country Planning Act 1990 requires the membership to be drawn from different places in the neighbourhood area and from different sections of the community. It appears from the details provided within the application that the Forum's members are disproportionately represented by older people. We are therefore concerned that that publicity efforts were insufficient to attract a wider diversity of people and that membership of the Forum does not satisfy the legal requirements.

4.0 RECOMMENDED AMENDMENTS TO THE NEIGHBOURHOOD AREA

- 4.1 In light of our objections set out above, it is appropriate to remove the eastern part of the proposed Neighbourhood Area outside of the existing residential area of Burpham and within the extent of the Green Belt as currently defined – Fig 3.

Fig 3: Extract of the Guildford Borough Council Local Plan 2003 Proposals Map



- 4.2 The boundaries of any Neighbourhood Plan area should be amended so that the eastern boundary follows the boundary of Guildford urban area and the Metropolitan Green Belt as currently shown on the Guildford Borough Council Local Plan Proposals Map (2003).

5.0 CONCLUSIONS

- 5.1 Barton Willmore LLP is instructed by Martin Grant Homes to provide an objection to the Burpham Neighbourhood Area Consultation. Our objections are predominately focused on the proposed designation of the Burpham Neighbourhood Area, however we have additional concerns relating to the details contained within the Burpham Neighbourhood Forum's application.
- 5.2 Our objections relate primarily to the inclusion of land immediately to the east of the existing settlement boundary. This area of land is located outside the settlement boundary of Guildford and within the Green Belt. The majority of this land, to the east of Merrow Lane, is within the ownership of Martin Grant Homes. In our view, a more logical boundary for the Neighbourhood Area would be the existing settlement boundary of Guildford.
- 5.3 Land to the North East of Guildford has repeatedly been recognised as the most suitable location for the expansion of Guildford if required to meet future development needs. This area is of potential strategic importance to the meeting the housing and other development needs in the area and it should not be for a Neighbourhood Forum to prejudge these matters.
- 5.4 For these reasons, there is insufficient justification for this area to be included in this application as it does not form part of the urban neighbourhood of Burpham.
- 5.5 We therefore consider the proposed boundaries of any Neighbourhood Plan area should be amended so that the eastern boundary follows the boundary of Guildford urban area and the Metropolitan Green Belt as currently shown on the Guildford Borough Council Local Plan Proposals Map (2003).

APPENDIX 1

Map of the proposed Burpham Neighbourhood Area

Burpham Neighbourhood Forum – Participants location 16/06/2012



APPENDIX 2

Legal Opinion Prepared on behalf of Wycombe District Council in
relation to the Daws Hill Neighbourhood Forum and
Neighbourhood Area Application

**IN THE MATTER OF WYCOMBE DISTRICT COUNCIL AND THE DAWS HILL
NEIGHBOURHOOD FORUM AND NEIGHBOURHOOD AREA APPLICATION**

ADVICE

1. I am asked to advise Wycombe District Council (“the Council”) whether it has acted in accordance with the requirements of the Localism Act 2011 (“the Localism Act”) now incorporated into the Town and Country Planning Act (“the 1990 Act”) and the Neighbourhood Planning (General) Regulations 2012 (“the regulations”) in respect of an application made to the Council by the Daws Hill Residents’ Association (“DHRA”) for it to be designated as a Neighbourhood Forum and for an area to be designated as a Neighbourhood Area.
2. The critical documents I have been provided with are as follows:
 - a. The Daws Hill Neighbourhood Forum Terms of Reference dated 21 March 2012;
 - b. A letter dated 16 July 2012 to the Council from the DHRA;
 - c. The report to Cabinet Members considered on 31 July 2012;
 - d. A letter dated 31 July 2012 to the Council from the DHRA.
3. I have not been provided with a copy of the actual application that was made by DHRA on 10 April 2012. However I understand that this was a covering letter and that the application consists of the Terms of Reference. I have therefore proceeded on that basis.

Requirements for designation as a Neighbourhood Forum and Neighbourhood Area

Neighbourhood Forum

4. The requirements for an application for designation of a Neighbourhood Forum are contained in regulation 8 of the regulations and section 61F of the 1990 Act. Regulation 8 states that where an organisation or body submits a Neighbourhood Forum application it “must” include:
 - a. The name of the proposed forum;
 - b. A copy of the written constitution of the proposed Neighbourhood Forum;
 - c. The name of the Neighbourhood Area to which the application relates and a map which identifies the area;
 - d. The contact details of at least one member of the proposed Neighbourhood Forum which are to be made public;

- e. A statement setting out how the proposed Neighbourhood Forum meets the conditions contained in section 61F(5) of the 1990 Act.
5. Section 61F(5) sets out the conditions that the Council must be satisfied on before it “may” designate a Neighbourhood Forum. These conditions are that the Neighbourhood Forum:-
- a. Is established for the express purpose of promoting or improving the social economic and environmental wellbeing of an area that includes the neighbourhood area concerned;
 - b. Membership is open to individuals who live or work in the neighbourhood concerned and who are elected members of the County or District Council;
 - c. Its membership includes a minimum of 21 individuals, each of whom live or work in the Neighbourhood Area or are elected members of the County or District Council;
 - d. It has a written constitution.
6. Section 61F(7) states that a council in determining whether or not to designate an organisation or body as a Neighbourhood Forum for a Neighbourhood Area it “must” have regard to the desirability of designating an organisation or body:-
- a. Which has secured or taken reasonable steps to secure that its membership includes at least one member from each of the three categories i.e. three members should either live, or work or be an elected councillor;
 - b. Whose membership is drawn from different places in the Neighbourhood Area and from different sections of the community from within that area;
 - c. Whose purpose reflects (in general terms) the character of that area.

Neighbourhood Area

7. The requirements for an application for designation of a Neighbourhood Area are set out in regulation 5 of the regulations and in section 61G of the 1990 Act.
8. Regulation 8 states that an application to the Council for designation of a Neighbourhood Area “must” include:
- a. A map which identifies the area to which the application relates;
 - b. A statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
 - c. A statement that the organisation is the relevant body for the purposes of section 61G of the 1990 Act.
9. Section 61G states that if:-
- a. A valid application is made to the Council;
 - b. Some or all of the area applied for has not been designated as a neighbourhood area; and

- c. The authority refuse the application “because they consider that the specified area is not an appropriate are to be designated as a neighbourhood area” then they must exercise their power of designation so as to secure some or all of the specified area as a Neighbourhood Area.

Application of legal requirements to application by DHRA

Neighbourhood Forum

10. From the information I have been provided with it does not appear that the following requirements have been met in respect of the application for a Neighbourhood Forum:-

- a. Written Constitution

The proposed Neighbourhood Forum has provided various requirements that will regulate its processes in the Terms of Reference document however this is not a constitution. It does not therefore appear that the requirement to submit a written constitution with the application has been complied with.

- b. Application area clearly defined on a map

Presently it is difficult to understand precisely the Neighbourhood Area to which the application for Neighbourhood Forum status has been applied for. No map has been provided as required by the regulations only an aerial photograph with a line around it. This has changed over the course of the application. Initially it was two areas, one of which was described as a “secondary area”. In a letter dated 16 July 2012 this was further amended by DHRA by the removal of the secondary area and parts of the primary area. No map was provided but again an aerial photograph was produced. In a further letter, dated 31 July 2012, DHRA sought to re-establish within the proposed Neighbourhood Area, areas previously excluded in the letter dated 16 July 2012. No photograph or map appears to have been provided on this occasion. There is no provision within the legislative framework for an application for an Neighbourhood Area to be amended. This is understandable given the need for the Neighbourhood Forum to be reflective of the area applied for. If the Neighbourhood Area changes this potentially has implications for the membership of the Neighbourhood Forum and the considerations that relate to that. The officer’s report is also somewhat confused as to the areas applied for. Paragraph 17 refers to the amended application being that contained in the letter dated 16 July 2012. However paragraph 18 describes that as an “alternative option to the original application”. The matter is further complicated by the letter dated 31 July 2012 which the officer’s report could not have considered due to the timing of the letter.

c. Contact details of one member for publication

This does not appear, on the information I have, to have been complied with, although the Terms of Reference does give an email address for the Chairman. No other contact details are provided and it is unclear whether the Chairman is the contact for the purposes of the regulations.

d. Statement how the application meets the requirements of section 61F5 of the 1990 Act

The application does not appear to have included this statement.

e. Membership open to the three specified categories

There is no statement that the membership of the Neighbourhood Forum is open to all three specified categories. Rather strangely the Terms of Reference deem everyone in the Neighbourhood Area who lives and works in the area as a member, whether they wish to be one or not.

f. Minimum of 21 individuals as members

This was not included with the application although I understand from the information provided to me that this was subsequently produced by the applicant.

Neighbourhood Area

11. The following requirements do not appear to have been met:

a. Map identifying the area

For the reasons given there does not appear to be a map clearly identifying the area applied for.

b. Statement explaining why this area is considered appropriate for designation as a Neighbourhood Area

No statement to this effect appears to exist. This requirement is important as it helps inform the decision that the council must make as to whether the area is an appropriate area to be designated as a Neighbourhood Area or whether a lesser area should be designated.

Application of requirements to the Council's considerations

12. It is asserted in the cabinet report that the requirements for designation as a Neighbourhood Forum and Neighbourhood Area have been met although why this is so is not explained. For the reasons set out above it is likely that the application is not valid and the requirements have not in fact been met. Furthermore it is unclear how or when consideration was given by the council to the requirements set out in section 61F(7) set out above.

Whether lawful to exclude areas from proposed Neighbourhood Area for reasons given in officer's report

13. I have considered the reasons given in the cabinet report for reducing the neighbourhood area. These centre around the strategic nature of the areas to be excluded and the likely timing of the consideration of those areas. Whilst the Localism Act 2011 is un-chartered waters in my view the discretion given to local authorities to consider whether or not the Neighbourhood Area is appropriate under section 61G(5)(c) is a wide one. It would seem that all relevant factors have been taken into account by the council and no irrelevant factors considered. The decision is not irrational. Therefore the council is entitled to reduce the proposed Neighbourhood Area for the reasons it gives.

14. However I am concerned about the process adopted by the applicant and the council up to this point for the reasons I have explained above. It may be better for the applicant to produce a fresh application and for the council to consider this anew. One application area must be applied for in accordance with the requirements. The council must satisfy itself that the requirements are met. Once it has done so then it is for the council to decide whether to designate the Neighbourhood Forum and the Neighbourhood Area applied for or refuse to do so. If it refuses then it must decide what area it will designate and then so designate it. This is in accordance with section 61G(5) which requires that if an authority refuses to designate the area applied for by the proposed neighbourhood forum it must designate at least some of the area sought. I have been provided with a copy of the article in Planning Magazine dealing with this particular application and the comments within that article that the proposed designation of only part of the area applied for by the council would be unlawful. I disagree and consider that the council's proposed course of action is within the terms of the section 61G(5), subject to the other issues of legality that I have drawn attention to.

SUZANNE ORNSBY Q.C.
FRANCIS TAYLOR BUILDING
16 AUGUST 2012