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**Ms S C Elliott and Mr A D Elliott**

**Representation to the Wickham Bishops  
Neighbourhood Plan Reg 16 Consultation**

## 1.0 INTRODUCTION

1.1 These representations are submitted by Aspbury Planning Ltd on behalf of Ms S C Elliott and Mr A D Elliott in response to the Wickham Bishops Neighbourhood Plan Reg 16 Consultation.

1.2 These representations are made in the context of our Client's interest in land surrounding Handley's Lane which is proposed for designation as Open Space and Local Green Space within the Wickham Bishops Neighbourhood Plan 2016-2029 Regulation 15 Submission. Our client owns the land in red on the plan (figure 1) below which lies within the proposed Open Space and Local Green Space designation.

1.3 A plan accompanies this representation which identifies the objection site in the context of the whole proposed Open Space and Local Green Space designations and clearly demonstrates our clients land is a very small part of these designations.

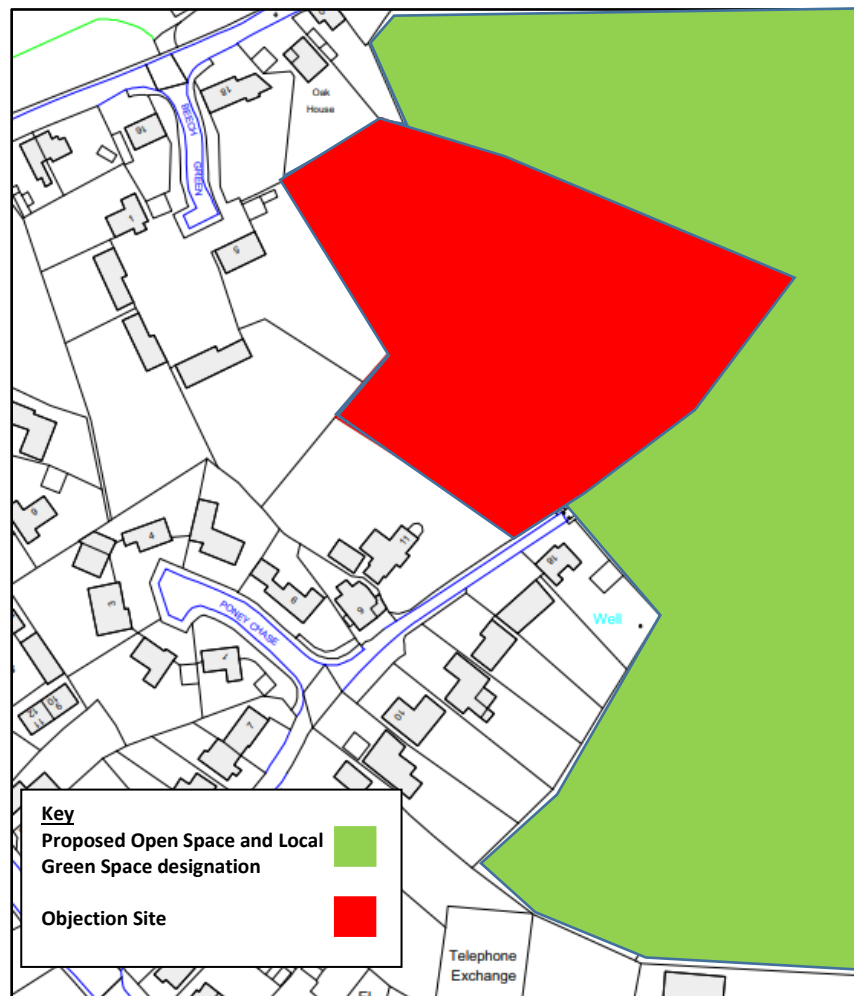


Figure 1 – Objection Site within the proposed designations

- 1.4 The photographs in the Figure's 2 and 3 below illustrate the objection site and shall be referred to in the representation.



**Figure 2 - Handley's Lane boundary hedge views  
*the byway is located outside the ownership of our client***



**Figure 3 - 360 degree views from just inside the gateway of our clients site**

- 1.5 These representations are structured to firstly provide planning policy context and to respond to the different sections of the consultation form.

## 2.0 PLANNING POLICY CONTEXT

### National Planning Policy Framework

2.1 The National Planning Policy Framework (NPPF) states the following in relation to open space and recreation within section 8.

2.2 *99. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.*

2.3 *100. The Local Green Space designation should only be used where the green space is:*

*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.*

*101. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.*

2.4 It's noted that to comply with para 100 as stated above the designation must comply with all tests not just one.

### Planning Practice Guidance

2.5 Further advice on the designation of Local Green Spaces is contained in the Planning Practice Guidance (PPG) as detailed below.

2.6 Paragraph: 007 Reference ID: 37-007-20140306 - *Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.*

- 2.7 Paragraph: 009 Reference ID: 37-009-20140306 - Local Green Spaces may be designated where those spaces are demonstrably special to the local community, whether in a village or in a neighbourhood in a town or city.
- 2.8 Paragraph: 014 Reference ID: 37-014-20140306 - *The proximity of a Local Green Space to the community it serves will depend on local circumstances, including why the green area is seen as special, but it must be reasonably close. For example, if public access is a key factor, then the site would normally be within easy walking distance of the community served.*
- 2.9 Paragraph: 015 Reference ID: 37-015-20140306 - *Makes it clear that Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. Consequently, blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a 'back door' way to try to achieve what would amount to a new area of Green Belt by another name.*
- 2.10 Paragraph: 017 Reference ID: 37-017-20140306 - *Some areas that may be considered for designation as Local Green Space may already have largely unrestricted public access, though even in places like parks there may be some restrictions. However, other land could be considered for designation even if there is no public access (e.g. green areas which are valued because of their wildlife, historic significance and/or beauty).*

*Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with landowners, whose legal rights must be respected.*

### 3.0 RESPONSE TO WBen 04 OPEN SPACES

3.1  Yes, the policy meets the Basic Conditions

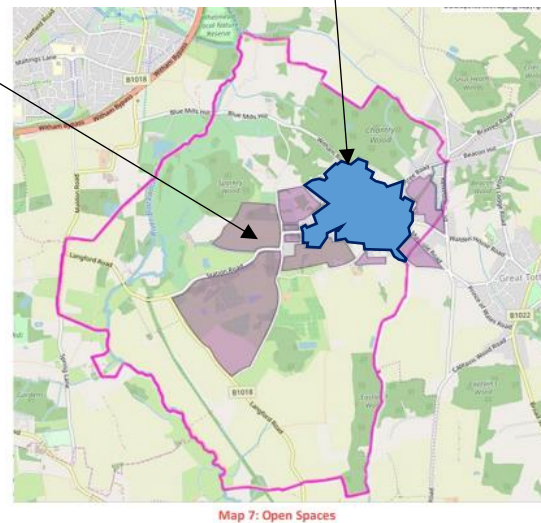
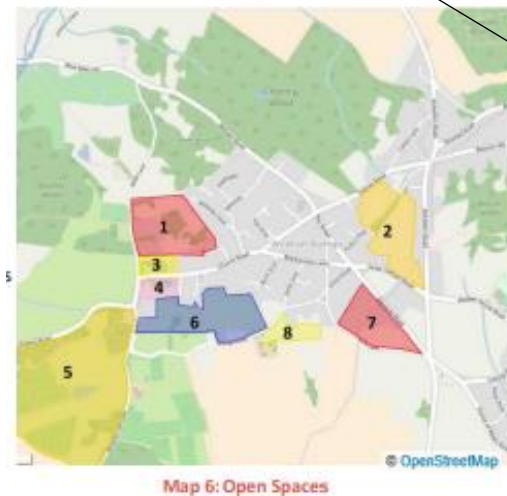
No, the policy does not meet the Basic Conditions

3.2 Policy WBen04 identifies several Open Spaces within the development boundary for Wickham Bishops. Whilst we do not dispute the importance of open space the rationale for designating the particular sites is not considered to meet the Basic Conditions on the basis of the grounds detailed below.

3.3 The Regulation 14 Consultation Draft document identified 8 Open Spaces, as shown by figure 4 below. Figure 5 identifies the Open Spaces designated in the Regulation 15 Submission following consultation which amounts to 9 with the addition of land to adjacent to Station Road as highlighted with all 8 of the previously identified Open Spaces remaining.

Land adjacent to Station Road

Wickham Bishops Settlement Boundary



**Figure 4 – Open Spaces identified in the Regulation 14 Consultation Draft**

**Figure 5 – Open Spaces identified in the Regulation 15 Submission**

3.4 The current consultation is supported by an Audit Record of Changes to Draft Plan following responses through Regulation-14 Consultation as agreed at NHP Meeting 24/02/2020 however the evidence and justification for this addition is not apparent which raises significant questions regarding the rationale behind the additional proposed designation.

3.5 Figures 4 and 5 above clearly demonstrate the village is surrounded by proposed Open Space designations which appears to be an attempt to prevent development rather than to protect open space on its own merits.

#### 4.0 RESPONSE TO WBEN 05 LOCAL GREEN SPACE

- Yes, the policy meets the Basic Conditions
- No, the policy does not meet the Basic Conditions

4.1 This representation is submitted on behalf of our client, Ms S C Elliott and Mr A D Elliott owners of the land shown in red in Figure 1 above which is located within the proposed Local Green Space designation Site 2 - Land surrounding Handley's Lane.

4.2 We do not consider policy WBen 05 meets the Basic Conditions based on the grounds detailed below.

4.3 The land within the ownership of our client is roughly triangular in shape on the eastern edge of the village between Handley's Lane on the south side and houses fronting Tiptree Road to the north. It is a visually well-contained space with built development on two sides and dense hedgerow and trees on the other two sides.

4.4 The Wickham Bishops settlement inset in the Maldon Local Plan locates our clients land on the outside of the Settlement Boundary. The Settlement Boundary is defined and under Policy S8 of the Local Plan the Council will support sustainable developments within the defined Settlement Boundary. Land located outside of the Settlement Boundary is regarded as countryside and therefore development is restricted to ensure the intrinsic character and beauty of the countryside is not adversely impacted upon. Accordingly, development is concentrated within the Settlement Boundary therefore raising the question how our clients land can be considered 'Local' and intrinsic to the village. If this was the case the land would be included within the Settlement Boundary.

4.5 Furthermore, as detailed above Local Plan policy S8 restricts development on the site due its countryside designation and therefore no further designation is required to control development. This is clearly demonstrated by the planning history of the site.

4.6 Planning permission was refused by the Council in April 2017 for the redevelopment of the site to provide 5 residential units including (5x5 bed units) with associated soft landscaping and shared access form Handley's Lane, application reference FUL/MAL/16/01495. The decision was subsequently appealed, appeal ref: APP/X1545/W/17/3186253, the appeal was dismissed by the Inspector with the Inspector concluding:

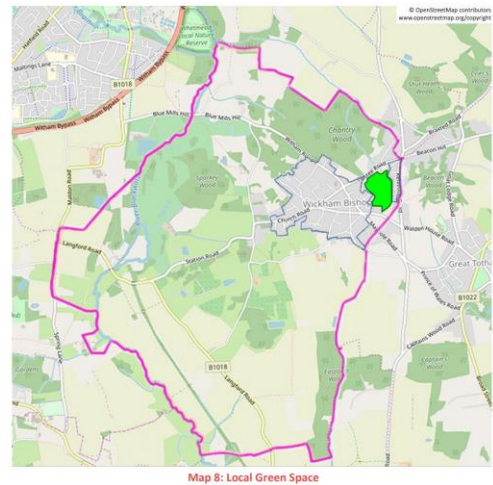
*"The appeal scheme would be contrary to the development plan and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, for this*

reason, the reasons given above, and having regard to all matters raised, I conclude the appeal should be dismissed.”

- 4.7 The decision of the Inspector is clear evidence that the proposed policy designation of the site as Open Space and Local Green Space in the Neighbourhood Plan is not required to control development on the site. NPPF and PPG policy as detailed in Section 2 is clear Local Green Space designation should not be used as a blanket designation of open countryside adjacent to settlements and should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name. This is not the proper use of the designation.
- 4.8 The number of sites proposed for designation as Local Green Space between the Regulation 14 Consultation Draft stage and the current consultation Regulation 15 Submission document has been halved from 2 sites to 1. Notably the site removed (Site 1) is located within the Settlement Boundary. Figures 6 and 7 below illustrate.



**Figure 6 – Local Green Spaces identified in the Regulation 14 Consultation Draft**



**Figure 7 – Local Green Spaces identified in the Regulation 15 Submission**

- 4.9 The accompanying plan illustrates our clients land within the context of the proposed Local Green Space which clearly demonstrates that this land is a very small part of the proposed designation,
- 4.10 The Regulation 14 Consultation Draft document included ‘*Land including and behind Church Yard towards Mope Lane as (Site 1)*’. Comments regarding this change are identified ‘Audit Record of Changes to Draft Plan following Responses through Regulation-14 Consultation as agreed at NHP Meeting 24/02/2020’ document as being:

*'Landscape Character Assessment confirms the need to preserve the remaining fields and open spaces in their undeveloped form, as they are important in retaining the rural character of the area and setting of the village.'*

*Review land behind the graveyard and cemetery designation as Local Green Space – changed to an Open Space (map 7) designation (as agreed February 2020)'*

- 4.11 As detailed above Site 2 - Land surrounding Handley's Lane remains designated as Local Green Space whilst Site 1 has been removed. There is no justification for the removal of site 1. It should be noted that Site 1 is located in the Settlement Boundary whilst Site 2 is located outside of this boundary. The two sites are similar distances from the village centre however Site 1 is located within the boundary and is accordingly more suited for a Local Green Space Designation than our clients' site.
- 4.12 We strongly object to this designation on behalf of our client (Ms S C Elliott and Mr A D Elliott) owner of the land shown in red in Figure 1 above which is a very small part of the 'Site 2' proposed designation.
- 4.13 The justification for the sole Local Green Space designation is cited as being:

*'The Handleys Lane Local Green Space is identified as valuable to maintain the green lung of the village and its rural character; to maintain the rural feel of the village and to prevent the sense of overdevelopment and urbanisation which so many residents wish to resist. The Local Green Space adjacent to the byway on Handley's Lane is seen as a valuable calm relaxing haven within the centre of the village. The byway is a much-used pedestrian route through the village avoiding roads and providing linkages to the shop, doctors surgery and facilities in the village. The byway has trees and shrubs either side but there are views to both sides across the fields and beyond. The benefits of Handley's Lane are supported by data used by runners and cyclists. STRAVA is an app used by runners and cyclists to record and share performance data. A comparison of the use of Handley's Lane and a nearby public footpath of similar length over the 10 years in which the app has been available shows that Handley's Lane had 6 times more runners with 10 times more runs than the other footpath. Whilst the data may not be conclusive, it is indicative of the merits of this by-way to local people.'*

*Historic maps of the village (dating back to 1874) show Handley's Lane as a route connecting the Beacon Hill settlement (mostly in Gt. Totham) and the newer part of the village and, at least anecdotally, it formed part of the route across Tiptree Heath, of which this area of the village formed a part. The Landscape Character Analysis refers to this historic route along the ridge from Tiptree Heath. The field boundaries are also a defining historic feature still evident today. A*

*photograph taken in 1918 showed one of the two properties backing on to the by-way at its northern end as the village workhouse. The property is largely unchanged now.'*

- 4.14 The above justification refers to a byway, it should be noted that this byway is not within our client's site and does not require protection through this designation. Figure 2 above clearly demonstrates that there are no panoramic views from the byway. The views from the byway are limited by the hedgerows and are into the site which is in private use as a paddock there is no public use of the site. Again, this use a private paddock is demonstrated by Figures 2 and 3 above.
- 4.15 The Landscape Character Assessment identifies Handley's Lane as within the Tiptree Ridgetop area. The landscape guidelines state the need to '*protect the quiet nature of the lanes in this area from increases in traffic*'. It also states that '*urbanising features should not be introduced such as street lighting, kerbs or pavements which would change the character of the lanes*'. It refers to the need to protect existing hedgerows and existing footpaths. Accordingly, we reiterate that the byway is located outside of our client's site as and the Local Green Space designation for this land isn't required to protect the byway.
- 4.16 We do not agree with the above justification for the designation to include our clients' site. The site cannot be considered as a being '*valuable calm relaxing haven within the centre of the village*'. This is founded by the clear evidence that the site is not in the centre of the village, which is clearly evidenced in Figure 6. The site is located outside of the Settlement Boundary and as detailed above Site 1 previously designated is located within the Settlement Boundary. Furthermore, our client's site is in private use as paddock and there is no public access.
- 4.17 As identified above in relation to policy WBen 04 Open Spaces there are a significant number of Open Spaces which have been discounted for Local Green Space without explanation or evidence.
- 4.18 With regard to the NPPF and PPG for a site to be designated the land must be considered demonstrably special to the local community and hold particular local significance. As detailed above, our client's land comprises of small paddock on the eastern edge of the village. Whilst its recognised that the southern and eastern boundary of this land is formed by dense trees and hedgerow, the western and northern boundaries of the site are formed by established residential development namely properties of Beech Green and Tiptree Road and therefore influenced by the urban character of this immediately adjacent residential area. This is demonstrated by the photographs in Figures 2 and 3 above.

4.19 The land within the ownership of our client is not considered to be of ‘*special beauty*’ and given its context does not make a significant contribution to the village or the characteristics of the area sufficient to be designated as ‘*Local Green Space*’ and accordingly fails to comply with the NPPF and PPG. The photographs provided above in Figures 2 and 3 clearly demonstrate that the land is not of special landscape quality, is in private use as paddock and has no unique or distinctive aesthetic qualities that mark it out from other land around the perimeter of the village.

4.20 Turning to the Neighbourhood Plan Landscape Character Analysis which forms part of the evidence base in the description of the Tiptree Ridge – Ridgetop is stated as being (Aspbury Planning emphasis):

*‘This area consists of former heathland which has been **subsequently enclosed and is now extensively developed**. The settlement has expanded significantly in the C20, though the original street pattern and many of the old buildings remain.’*

4.21 The identified key characteristics in the landscape assessment include:

*‘**Residential development extends across much of this area**. Ancient woodland, pastures and playing fields are also present. **Much of the land around the settlement is occupied by large gardens and paddocks** and is no longer in agricultural use.’*

4.22 With regards to view the landscape assessment states:

*‘**Most views in and around the settlement are contained by buildings and vegetation**. Occasional longer distance views are, however, available from the ridgetop over the surrounding countryside from Grange Road and Station Road for example.’*

4.23 Notably the longer distance views identified are not within the Handley’s Lane proposed designation. The landscape assessment goes on to comment on the strength and character and condition stating:

*‘**The areas around the village are influenced by the proximity of the settlement and have an urban fringe character**. Much of the land is no longer used for agriculture but provides other uses such as recreation. The original field boundaries are often intact and contain mature trees that contribute to the character of the area. Most of the land is actively managed, but there are occasional parcels of vacant land around the periphery of the settlement. The landscape performs a number of functions by providing separation from neighbouring villages, creating a green setting for the village, and offering opportunities for leisure and recreation.’*

- 4.24 From the evidence above taken from the landscape assessment it's clear that the land within our client's ownership is subject to a strong urban influence due to the proximity of established built development. We dispute that this land provides separation from neighbouring villages given that existing built form extends along Tiptree Road beyond the north eastern boundary of the site in question. Furthermore, our clients land is a very small part of the proposed designation and there are other areas which are far less enclosed and visually contained by existing development, this is demonstrated by the attached plan.
- 4.25 We consider the site to fail all tests of NPPF para 100. Given that the site is located outside of the Settlement Boundary we consider it to fail test a) of NPPF para 100, a site within the boundary and ideally centrally located would be considered to meet this test.
- 4.26 As detailed above we also consider the proposed Local Green Space designation of the site does not meet the requirements of NPPF para 100 part b), because it is not demonstrably special and holds no particular significance. This is clearly demonstrated by the photographs contained in Figures 2 and 3 and the evidence provided above.
- 4.27 Turning to NPPF para 100 part c) whilst our client owns part of the proposed Local Green Space designation, the designation as a whole is an extensive tract of land surrounding Handley's Lane. The land identified comprise two field parcels to the north-west of Handley's Lane towards Tiptree Road, and playing fields and recreation facilities to the east and south toward Great Totham Road and Kelvedon Road. This is clearly contrary to NPPF para 100 part c) and PPG para 15.
- 4.28 As identified above, the designation in question is located outside of the Settlement Boundary and is designated in the Maldon District Local Development Plan as countryside. This is clear evidence that the designation is contrary to the PPG guidance which does not allow the blanket designation of countryside adjacent to settlements.
- 4.29 At para 101 the NPPF states policies for managing development within a Local Green Space should be consistent with those for Green Belts. This proposed designation is evidently contrary to the Maldon District Local Development Plan given that the designation is countryside and not Green Belt this is clearly a breach of the PPG guidance para 15 and is evidently an attempt to achieve 'Green Belt' status by another name.
- 4.30 Notwithstanding the above the designation is evidently an attempt to sterilise land for development which is contrary to planning policy.

## 5.0 CONCLUSIONS

5.1 To summarise, we strongly contend that policies WBE04 Open Spaces and WBE05 Local Green Space do not meet the Basic Conditions for the following reasons:

- There is no objective justification or evidence for the inclusion of our client's land (as part of Site 2) uniquely as the only Local Green Space designation in and around the village.
- The proposed allocations appear to be an obvious attempt to sterilise the land and prevent future development, contrary to planning policy contained in the NPPF and PPG.
- The land is not demonstrably special and not of particular local significance as required by the NPPF and PPG.
- The site is not accessible to the public and notably the byway is located outside of our client's ownership. The dense hedgerows and existing residential development enclose the site and accordingly there are no views beyond the site.
- The proposed designation in question is located outside of the Settlement Boundary and is designated in the Maldon District Local Development Plan as countryside. This is clear evidence that the designation is contrary to the PPG guidance which does not allow the blanket designation of countryside adjacent to settlements.
- The inclusion of our client's land within the proposed designations is not required to prevent development. There are other planning policies in place to restrict development this is clearly evidence by the refusal of planning permission by the Council and the dismissal of the subsequent appeal by the Inspector.
- The NPPF states policies for managing development within a Local Green Space should be consistent with those for Green Belts. This proposed designation is evidently contrary to the Maldon District Local Development Plan given that the designation is countryside and not Green Belt this is clearly a breach of the PPG guidance para 15 and is evidently an attempt to achieve 'Green Belt' status by another name.
- The Wickham Bishops Neighbourhood Plan is not consistent with national policy (NPPF and PPG) and accordingly does not meet the Basic Conditions tests. Subsequently the plan would ultimately fail if it were to go forward for examination in its current form.

5.2 In view of the above the land (illustrated in Figure 1) within the ownership of our client should accordingly be removed from the area proposed for Open Space and Local Green Space designations in the Regulation 15 Submission Draft of the Wickham Bishops Neighbourhood Plan.



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