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20 June 2023

Local Plan Consultation  
Strategic Planning  
Crawley Borough Council  
Town Hall  
The Boulevard  
Crawley  
RH10 IUZ

By email

Dear Sir/Madam,

**Draft Crawley Borough Local Plan 2024-2040  
Regulation 19 Consultation May-June 2023**

**Representations on behalf of Muller Property Group**

**Consultation Reference: Policies CL6, HA5, and H5**

I write on behalf of Muller Property Group to formally respond to the Council's Local Plan Review Proposed Submission (Regulation 19) consultation.

Muller Property Group control a site at 1066 Balcombe Road Crawley on which they are progressing proposals for a new care home. A planning application was refused by Crawley Borough Council in April 2023 and a new application is being prepared which responds to the Council's reasons for refusal. At the same time they are considering their appeal position.

The representations are made in the context of a new care home on this site that lies within the Crawley built up area and which forms part of the Forge Wood 'Key Housing Site' for new residential development.

The focus of this response is with draft Polies CL6, HA5, and H5. These representations will deal with each Policy in turn.

**Policy CL6: Structural Landscaping**

The proposed wording states:

*Areas of trees and soft landscape that make an important contribution to the development of the town and its distinct neighbourhoods, in terms of character and appearance, structure, screening or softening, have been identified on the Local Plan Map as Structural Landscaping. Developments are required to respect and plan for the conservation of the landscape character of the town and should enhance the prominence, legibility and visibility of these natural assets through the orientation and layout of new development. Proposals should protect and/or enhance, including through extending and*

*connecting areas of structural landscaping where appropriate. The visual impact of proposals on structural landscaping should be demonstrated.*

*Where limited or weak structural landscaping can be identified as a negative factor in the attractiveness of an area, opportunities will be sought to deliver enhancements as part of development proposals, this may include improvements to biodiversity and habitat creation where multiple benefits can be achieved.*

It is unclear on what basis areas on the policies map have been selected as structural landscaping and the justification for doing so. There is no justification or analysis provided within the draft plan.

With regards to Balcombe Road where Muller's interest lies, the current Plan doesn't include this designation whereas the proposed policies map has structural landscaping abutting and directly opposite the site. The site is currently allocated for residential development and sits within the built up area of Crawley. The Forge Wood Key Housing Site and other nearby housing developments on the opposite side of Balcombe Road currently being built out mean that the area is undergoing significant change.

It is not clear what has changed from the current situation to warrant the Council to consider these "structural landscaping" designations. The trees are not the subject of a Tree Preservation Order and the site does not lie in a Conservation Area. The policy appears to be attempting to introduce a new layer of protection where none currently exists.

The change in this area is in the direction of growth and development. It is an area of mixed character and the new residential developments on either side of Balcombe Road will be experienced when in the area. A "structural landscaping" designation and draft policy wording is seemingly at odds with the changing character of the area, the site allocation, and developments being built out.

Many of the criteria set out within the draft Policy could easily be interpreted as development or change being inappropriate, it offers significant scope to object to a development affecting "structural landscaping" for highly subjective reasons.

There are already a suite of adopted development plan policies which deal with character and landscaping, and any potential impacts which may arise from development affecting such areas can be assessed and controlled under current policy which can be repeated in the new Local Plan.

The wording of the Policy and some of the areas which have been designated make it **unsound**. It is **not justified**, and the subjectivity of the wording makes it **not effective**.

### **Policy HA5: Locally Listed Buildings**

The proposed wording states:

*All development will seek to secure the retention of Locally Listed Buildings. Development should also maintain features of interest, and respect or preserve the character or setting of the building.*

*Development proposals affecting a Locally Listed Building must demonstrate in the Heritage Impact Assessment that the proposals take account of its heritage significance, including its setting and any heritage interest falling within the following categories:*

- i. Age;



- ii. *Authenticity;*
- iii. *Aesthetic/Architectural Value;*
- iv. *Historic Value;*
- v. *Social/communal Value;*
- vi. *Group Value;*
- vii. *Landmark/Townscape Value;*
- viii. *Archaeological Interest.*

*Proposals seeking the demolition or partial demolition of a Locally Listed Building may be acceptable in exceptional circumstances if the development proposals:*

- a) *reflect or retain the key features of the original building; and*
- b) *significantly outweigh the merit of retaining of the original building with regard to social, economic and environmental benefit to the wider area.*

*If demolition is seen to be acceptable, the building must first be recorded according to an agreed scheme of investigation which is proportionate to the importance of the Locally Listed Building and the impact of the proposal. The record must be submitted to the Historic Environment Record in consultation with the Local Authority.*

The wording of the Policy is at odds with the National Planning Policy Framework, and goes far beyond what is required of a policy concerning locally listed buildings. Locally listed buildings are non-designated heritage assets which are addressed at paragraph 203 of the NPPF. This states that “*the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing up applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset*”.

The threshold and tests for acceptable development involving non-designated heritage assets as proposed by draft Policy HA5 is what is expected of works affecting listed buildings, not locally listed buildings. There is already statutory protection for all grades of listed buildings, and a building not meeting the criteria for full listing should not be subject to the same protection as listed buildings.

The proposed wording is therefore not consistent with national policy, and the level of protection afforded to locally listed buildings is not justified.

Many of the criteria set out above for development affecting locally listed buildings could easily be interpreted as being inappropriate, it offers significant (if not total) scope to object to a development affecting a locally listed building for highly subjective reasons. It is a policy that is not fit for purpose and is unsound in its wording, and represents a significant overstep on what a policy for locally listed building should be.

Clearly, 1066 Balcombe Road is not statutorily listed and therefore should not be subject to the same policy requirements as a listed building.

Furthermore, we consider the approach to designating locally listed buildings unsound. We have previously made representations to the Council in respect of the proposed local listing of 1066 Balcombe Road, however we have not formally heard from the Council and there has been no opportunity for any further dialogue. It is unclear what the consultation or selection process is, it is far from transparent, however the committee report for the refused application alluded to the potential local listing of the building in the future.



The process is fundamentally flawed and unsound for this reason.

The draft wording of Policy HA5 is therefore **unsound**. The reach of the Policy is **not justified**, and the wording of the policy is **not consistent with national policy**. The process by which buildings are selected for inclusion on a local list is **not positively prepared**.

## **Strategic Policy H5: Affordable Housing**

The draft text states:

*40% affordable housing will be required from all residential development, including those providing care regardless of whether it falls into Use Class C2 or C3, resulting in a net increase of at least one new housing unit across the borough which fall outside the Town Centre.*

*The council will expect a minimum of 75% of the affordable housing to be Social Rent and/or Affordable Rent and up to 25% as First Homes. This equates to 30% of the total scheme for Affordable/Social Rent and 10% of the total scheme as First Homes, resulting in a 75/25 tenure split.*

*For sites of 10 dwellings or less, a commuted sum towards off-site affordable housing provision will be sought, unless on-site provision is preferred, with the on-site tenure mix to be agreed as appropriate.*

### *Crawley Town Centre*

*For residential development resulting in a net increase of at least one new housing unit within the Town Centre, including those providing care regardless of whether it falls into Use Class C2 or C3, 25% affordable housing will be required.*

*The council will expect 60% of the affordable housing in the Town Centre to be Social Rent and/or Affordable Rent, and up to 40% as Intermediate Tenure. The Intermediate element will be expected to comprise at least 25% in the form of First Homes, with the other 15% to comprise First Homes or other Intermediate products, including Shared Ownership, Shared-Equity or other Affordable Home Ownership tenures. This equates to 15% of the total scheme for Social Rent and/or Affordable Rent and 10% of the total scheme as Intermediate Tenure, resulting in a 60/40 tenure split.*

*In the event of withdrawal of national policy requiring 25% of affordable housing secured through developer contributions to be First Homes, this minimum proportion will be expected to be provided in the form of Shared Ownership homes.*

### *Affordable Care*

*This Policy applies to all new residential developments, including those providing care, regardless of whether it falls under Use Class C2 or C3. Affordable provision for such schemes should be met on-site and equate to:*

- *Borough-Wide: 40% affordable provision (tenure to be determined);*
- *Town Centre: 25% affordable provision (tenure to be determined).*

*For traditional Care Homes, the requirement will be for the provision of the equivalent percentage in affordable care beds in order to meet the Policy.*



## Exceptions

*Except for sites of 10 dwellings or less, payments in lieu will only be accepted in exceptional circumstances where it can be demonstrated that there are robust planning reasons for doing so and provided that the contribution is of equivalent financial value.*

*For high density schemes, as defined in Policy CL4 (i), falling outside the Town Centre, should viability evidence be provided to justify similar levels of affordable housing to that required in the town centre, this will be considered along with claw-back mechanisms to secure higher levels of affordable housing provision, up to the Policy level of 40%, should viability improve during the period of development construction. In exceptional circumstances an off-site commuted payment in lieu may be considered.*

*The council will only consider relaxing this affordable housing requirement, in part or in full, in exceptional circumstances, where a scheme is clearly subject to abnormal costs, not including land costs, and not otherwise envisaged by the Local Plan Viability Assessment. This must be evidenced by robustly assessed viability appraising various permutations of affordable housing provisions to best address local affordable housing needs which will be independently assessed. Should concessions be agreed by the council then claw-back mechanisms will be expected to be put in place and independently monitored. The scheme must also evidence that it addresses a demonstrative and immediate housing need.*

*Build to Rent will also be considered as an exception while all units remain for rent. This is further detailed in Policy H6, which will revert back to Policy H5 should such schemes cease to be predominantly private rental.*

*Rent to Buy is considered as an exceptional Intermediate Tenure that may be considered only in exceptional circumstances where it can be evidenced to address local housing needs, and will not be considered as a rental tenure.*

These representations relate to the 'affordable care' subsection set out above.

The proposed requirement of a care home to provide affordable housing and affordable care will stymie development and make care homes unviable. It is not the purpose of the planning system to place barriers in the way of development which addresses a specific identified need.

There is a strong need for new purpose built care homes within Crawley and this need will only get more acute over time with an ageing population and ageing care home stock. The Policy risks failing to take into account future trends and future need, and instead places a significant obstacle in the way of development.

It is impractical and unrealistic to expect a new care home to provide affordable care on site, operators simply do not want this as it causes operational issues and will affect their ability to deliver new care homes within the District. **[Note to Muller: we could do with some more operational arguments here]**

It would fail to realise the potential of individual sites. It is important that future policies allow a site-by-site assessment rather than the application of a broad-brush 'one size fits all' policy. Failure to take account of individual site circumstances including development costs and viability would be contrary to the objectives of the NPPF.



It will be important for future draft policies to have flexibility built into them and avoid an overly prescriptive approach to planning and development control across the District, policies should have sufficient scope to allow the decision taker to have regard to potential of sites on an individual basis, both now and in the future over the course of the Plan period.

Policies need to be able to be agile and respond to changes in market conditions and/or situations where supply has been affected, for example sites not coming forward leaving the Council's housing delivery targets at risk.

Draft Strategic Policy H5 is therefore **unsound**. It is **not justified**, it will **not be effective**, and it is **not consistent with national policy**.

## Summary

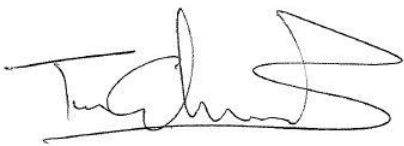
Policies must avoid being subjective or overly restrictive, and which would undermine the objectives of the NPPF for development plans to support mixed and balanced communities, support economic development, and be responsive to changing trends and demands. The planning system should be a tool to unlock the potential of sites rather than restrict or hamper them.

In summary, for the reasons set out above:

- We do not support the proposed designation of structural landscaping along Balcombe Road, and Policy CL6 in general as being too subjective in its wording and unsound.
- We do not support the wording of Policy HA5. It oversteps the mark and is inconsistent with national policy, the criteria set out is what is used to assess listed buildings.
- We do not support Policy H5 and the proposed inclusion of care homes as being required to contribute towards affordable housing and affordable care. This will place a barrier to development, risk care home proposals becoming unviable, and pass on further costs to the developer.

We reserve the right to comment on any policy in any future consultation document and if appropriate take part in an Examination in Public.

Yours faithfully,



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