Our Ref: 1123/JS/AH

15 May 2019

The Local Plan Team,
Magdalen House,
30 Trinity Road,
Bootle,
L20 3NJ

Dear Sir or Madam,

Formby and Little Altcar: Consultation on Submission Neighbourhood Plan

Avison Young has been instructed by Taylor Wimpey UK ("TW") to submit representations to the Formby and Little Altcar Submission Draft Neighbourhood Plan 2012-2030 (hereafter referred to as the "NP").

TW welcomes the opportunity to provide comment on the NP and makes representations in relation to the fundamental principles and general policies of the plan, with specific reference to site MN2.12: Land at Brackenway ("the site") which is allocated for residential development in the Sefton Local Plan ("SLP").

Background

The Site

The 'Brackenway' site is located on the northern edge of the built-up area of Formby and is situated to the north of Brackenway and to the west of the A656 'Formby Bypass'. The site represents a parcel on the northern edge of Formby's built up area. The site is 21.7 hectares in size and currently comprises land used for agricultural and grazing purposes and is occupied by horse stables, with ancillary facilities and a riding school. A plan of the site is attached at Appendix 1.

The site is 1.6 km to the north of Formby Town Centre which is a key town in the Borough providing a full range of shops, services, employment and amenities for its residents and those in the surrounding areas. The site is also well served by the existing public transport network. Bus stops are located approximately 460 metres...
from the site on the B5425 'Southport Road' which provide services to Formby Town Centre, Southport and Liverpool City Centre. In addition, Freshfield Station is approximately 1.3km from the edge of the site which operates up to four services to Southport and Liverpool. As such, the site is in a highly sustainable location with good access to local services, amenities and existing public transport links.

**Sefton Local Plan**

The SLP was adopted in April 2017 and covers the period 2015 - 2030. The site is partially allocated for housing in the SLP under Policy MN2 (housing, employment and mixed-use allocations). It is partially allocated for 286 dwellings in its southern portion and allocated as Green Belt in its northern portion. The whole site is allocated as a nature site of local, national and international importance. Policy MN6 (Land at Brackenway), Formby provides the site-specific planning policy requirements.

**Planning Application ref: DC/2018/00093**

In the context of the residential allocation in the SLP, Avison Young submitted an outline planning application on behalf of TW in January 2018 for the following development:

“Outline application for the demolition of existing structures and construction of up to 286 dwellings including flood alleviation measures, extension of nature reserve, public open space, ground re-profiling and associated works. All matters are reserved except for access from the A565 and a new emergency vehicular/pedestrian/cycling access from Paradise Lane (layout, scale, appearance and landscaping are reserved for future consideration).”

The application (Ref: DC/2018/00093) was considered at Sefton’s planning committee on the 6th March 2019. Members resolved to grant planning permission subject to the completion of a Section 106 legal agreement. The Officers Report recommended the application for approval, concluding that the proposal complied with adopted local and national planning policy subject to conditions and the Section 106.

**Previous Representations**

Avison Young (formerly HOW Planning) made representations on behalf of TW to the Formby and Little Altcar Draft Neighbourhood Plan 2012-2030 in December 2016. At this stage, the draft of the NP included site-specific policy requirements for the site. TW’s overarching comment relating to the site in the 2016 NP draft was that it should fully reflect and be consistent with strategic policies MN2.12 and MN6 in the then emerging SLP.

The Submission draft NP to which these representations relate no longer includes the site-specific requirements for the site that were included in the previous consultation draft. TW strongly supports this approach as the strategic policies, including the amount and location
of housing in the Borough and in Formby is set in the SLP, which the NP must be in general conformity with in order to meet the basic condition tests in national planning policy.

Basic Conditions

Only a draft Neighbourhood Plan or Order that meets ‘Basic Conditions’ can be put to a referendum and become a ‘made’ Neighbourhood Plan. The basic conditions are set out at paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990. The basic conditions are also set out in Planning Practice Guidance (“PPG”) on Neighbourhood Planning and include:

a) “Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).

b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.

c) Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.

d) The making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.

e) The making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).

f) The making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with EU obligations.

g) Prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan)”

These representations assess the NP and its specific policies against the relevant Basic Conditions: namely a) and e).

TW’s Comments on the NP

TW is supportive of the NP in principle, which it considers is generally consistent with the SLP and the NPPF, with some exceptions, set out in further detail in the following sections. It is acknowledged that Formby Parish Council has taken on board the consultation responses received in relation to the previous version of the NP, including a number of recommendations made within TW’s previous representations submitted in December 2016. The site-specific requirements for allocated sites which were included in the 2016 draft have been removed and the NP now focuses primarily on development management policies that are applicable to developments design and technical considerations.
The following section provides comment on the key policies that will ultimately influence how the Brackenway site is brought forward for development.

Policy GP1

Policy GP1 establishes the key spatial priority for the Formby and Little Altcar NP, within which context all its other policies are based, and defines a Formby and Little Altcar Settlement Boundary.

TW supports the purpose of the NP which is to direct future housing, economic and community related development in the Parish, to the town of Formby and Little Altcar and provide for sustainable growth. TW also supports the inclusion of the Brackenway site within the NP Settlement Boundary which reflects the site’s proximity to the existing urban area and its strategic importance. TW notes that Flood Zone 3 is included on Map 11 on page 44 which shows the settlement boundary. TW does not object to this provided that the Flood Zone is accurately shown.

Furthermore, Policy GP1 at bullet point 3 refers to “taken together with the housing allocations below”. There are no housing allocations included within the policy therefore TW consider that this reference is an error and should be removed from the policy.

Policy H1

TW supports Policy H1 which seeks to ensure that proposals for new housing are well connected both within the site and with the wider town.

The site at Brackenway is situated on the edge of Formby within close proximity to a wide range of shops and services which are accessible for pedestrians and cyclists via the existing footways on Southport Road and Paradise Lane. The site is also connected to public transport links allowing for reduced reliance on private motor vehicles. Notwithstanding that the proposed development at the site has already received a resolution to grant planning permission.

Policy H3

Policy H3 states that proposals for residential development should, where appropriate, demonstrate that they have taken the Formby Delivery Strategy into account. This is an evidence document which supports the NP. TW does not support the inclusion of Policy H3 as the Delivery Strategy referred to in the policy is out-of-date. The Delivery Strategy at Section 4 (Delivery Mechanisms) refers to design briefs for allocated sites and states that “The requirements for Design Briefs are set out in Section 5 of the Formby and Little Altcar Neighbourhood Plan.” This is incorrect. Design briefs are not a requirement of site-specific policies in the SLP, nor are they set out in the NP. In order for Policy H3 to be acceptable
would be necessary to update and reconult on the Delivery Strategy, otherwise the policy should be removed.

Policy H4

Policy H4 relates to affordable housing provision and states that:

a) Affordable housing should be provided onsite and should be fully integrated with the market housing throughout the development. Affordable housing should be visually indistinguishable from the market housing.

b) Affordable housing should be of a type, size and tenure that meets the local needs in Formby and Little Altcar.

c) Planning applications for residential development where there is a net gain of 25 or more homes should be accompanied by an Affordable Housing and Dwelling Mix Strategy.

TW is not opposed to Policy H4 in principle; however, it must be made clear how it should be applied practically and should be in general conformity with the adopted SLP. The policy does not set out or demonstrate the type and size of housing that is required in the NP area. Moreover, the NP evidence base document: ‘Housing Needs Assessment for Formby and Little Altcar’s Neighbourhood Plan’ (ref: EB6) does not set out specific recommendations in terms of quantifying this. The NP should look towards and conform with the SLP (Policy HC2) and the underlying Strategic Housing Market Assessment (“SHMA”) as a basis for evidencing its affordable housing policy.

The NP should also consider exceptions in the provision of affordable housing, as set out in Policy HC1 of the SLP. SLP Policy HC1 states that affordable and/or special needs housing will be provided in accordance with policy unless an “assessment of a scheme’s economic viability confirms that this cannot be achieved”.

The failure of Policy H4 to be in general conformity with Policy HC2 of the SLP could lead to the NP not meeting the basic conditions for NPs set out in national planning policy.

Policy H5

Policy H5 states that in order to address Formby’s affordable housing needs, 30% of new dwellings on all developments of 15 or more dwellings should be affordable. It also states that the provision of Starter Homes (as defined by the Government) in Formby is strongly supported.

TW are supportive, in principle, of providing affordable housing and note that Policy H5 aligns with the affordable housing requirement set out in Policy HC1 of the SLP.

As part of the proposed development at Brackenway, TW has committed to providing 30% of the total scheme (measured by bed spaces) as affordable housing, in accordance with Policy HC1 (Affordable and Special Needs Housing) of the SLP. 80% of these are social
rented/affordable with the remaining 20% intermediate housing, to be secured by S206 legal agreement.

TW are also supportive of Starter Homes as an important contributor to supporting first time buyers that are stepping onto the housing ladder in Formby. The NP refers to the Government definition of Starter Homes which TW are supportive of, however Policy H5 is not in general conformity with Policy HC1 of the SLP which doesn’t define or make reference to Starter Homes. Policy H5 therefore fails to meet basic conditions a) and e) set out in national planning policy.

**Policy H6**

Policy H6 relates to housing mix within new housing developments. The policy states that schemes of 15 or more dwellings should provide Starter Homes and demonstrate provision of homes suitable for elderly people. Major developments comprising dwellings of uniform type and size will not be supported. To meet the Neighbourhood Area’s need for smaller homes, as demonstrated through the plan making process, new developments of 15 or more dwellings should be based around the following mix:

a) 1 and 2 bed properties, no less than 33% of the total;  
b) 4 or more bed properties, no more than 15% of the total.

TW objects to the part of the policy which states that schemes of 15 or more dwellings should provide Starter Homes. Whilst TW generally supports Starter Homes as a type of affordable housing, as defined in the NPPF, Starter Homes are not referenced in Policy HC1 of the SLP and it is therefore not appropriate for this to be introduced through a NP and doing so fails to meet the basic conditions set out in national planning policy.

TW also objects to the proposed housing mix which is not in conformity with Policy HC2 of the SLP which states:

“1. In developments of 25 or more dwellings, the mix of new properties provided must be as follows unless precluded by site specific constraints, economic viability or prevailing neighbourhood characteristics:

• A minimum of 25% of market dwellings must be 1 or 2 bedroom properties  
• A minimum of 40% of market dwellings must be 3 bedroom properties”

In order for the NP to meet the basic conditions in national policy, the mix of new housing in Policy H6 of the emerging NP should be amended to reflect the mix set out in Policy HC2 of the adopted SLP. It should also be amended to provide a level of flexibility that reflects local characteristics and individual site circumstances. In addition, the requirement for Starter Homes should also be removed from Policy H6. TW suggests the following amendments to the policy wording:

“New housing developments should provide a mix of different housing types. Schemes of 15 or more dwellings should provide Starter Homes and demonstrate provision of homes suitable for elderly people. Major developments comprising dwellings of uniform type and size will not be supported. To meet the Neighbourhood Area’s need for smaller homes, as
demonstrated through the plan making process, new developments of 15 or more dwellings should be based around the following mix, unless precluded by site specific constraints, economic viability or prevailing neighbourhood characteristics:

a) 1 and 2 bed properties, no less than 25\% 33\% of the total;
b) 4 or more bed properties, no more than 40\% 15\% of the total."

Policy H7

Policy H7 states that to prevent harmful incursions into Formby’s very flat, low-lying landscape, development above 2.5 storeys and/or the raising of the land surface significantly above its natural level will not be supported unless it can be demonstrated that such development is appropriate in its context and that no harm to local character or residential amenity will arise.

TW supports the NP objective to prevent harmful landscape incursions however the inclusion of a specific limit of 2.5 storeys and the restriction of “raising the land surface significantly above its natural level" does not appear to be based on any succinct or robust evidence, nor is it reflected in the adopted SLP and associated evidence base upon which the policies of a NP should be informed. TW consider that the wording of the policy or supporting justification should ensure that flexibility is built into the NP. Whilst TW agrees that a limit on height is appropriate in parts of Formby, there should be flexibility that relates to individual site circumstances, or increased densities/heights in appropriate locations. Policy H7 should be drafted in a flexible way that ensures that individual sites can be judged on their specific merits, including the site location, the character of the area, site sensitivities and the local landscape. With regards to the raising of land significantly above its natural level, it is wholly appropriate for the levels of sites to be reduced or increased in order to facilitate development, provided that individual proposals are supported by a robust assessment of ground conditions, landscape etc.

Policy H10

Policy H10 relates to the density of development. It states that density should maintain the prevailing character of the immediate area which is characterised by low density housing i.e. between 25 – 30 dwellings per hectare. However, acceptable density will also be assessed against a number of other factors including size, shape, topography and trees.

The proposed development at Brackenway is supported by a condition to ensure that any reserved matters submission achieves 30 dwellings per hectare of the net developable area to ensure that land is being used efficiently and so minimise pressure for other sites to be released for development in compliance with SLP Policy HC3 (Primarily Residential Areas).

TW recognises that the area is characterised by low density housing, however objects to the reference to 25 – 30 dwellings per hectare in Policy H10 as a benchmark for acceptable density. Given that Formby is tightly constrained by the Green Belt, it is critical that available
land is used as efficiently as possible through higher density development, where appropriate.

Policy GA2

Policy GA2 states that all proposals for major development are required to provide a travel statement. It is TW’s understanding that this refers to a travel plan, however clarity is sought on the definition and scope of a ‘travel statement’.

Policy ESD2

Policy ESD2 relates to the design of new development. The policy states that development should demonstrate consideration of the following:

a) Scale, density, height, landscape, layout, materials, access, frontages, and residential amenity.
b) Retaining or creating good quality boundary and gateway features.
c) Safety of movement and circulation of walkers, cyclists, vehicles and people with limited mobility/disability, both within and to/from the site.
d) The outlook towards, within and from the site.
e) The delivery of high quality green infrastructure including accessible open space commensurable with the scale of the development and consistent with SLP E(Q)9.

TW is supportive, in principle of Policy EDS2 which aligns with Policy EQ2 (Design) and EQ9 (Provision of Public Open Space, Strategic Paths and Trees) of the SLP.

Policy CLW1

Policy CLW1 states that developer contributions will be sought from all new homes towards the funding of community facilities within Formby and Little Altcar using the Community Infrastructure Levy and Section 106.

The Community Infrastructure Levy (CIL) is not currently in place in Sefton Borough. TW therefore respects that reference to CIL is removed from the policy. TW also proposes additional wording to reflect viability considerations.

TW respectfully requests that the policy is amended as follows:

“Developer contributions will be sought from all new homes towards the funding of community facilities within Formby and Little Altcar using the Community Infrastructure Levy and through section 106, subject to viability.”
Policy ESD7

Policy ESD7 relates to trees and landscape. It states that new development should not result in the loss of trees or woodlands or significant landscaping during or as a result of development. TW consider that this aspect of the policy is too restrictive and is not reflective of the wording in Policy EQ9 (Provision of Public Open Space, Strategic Paths and Trees) of the SLP.

In addition, Policy ESD7 states that expert advice should be sought over the choice of plant species with a view to encouraging wildlife. TW does not support this aspect of the policy and requests that this is amended to state that plant species should be of native origin. The policy also states that hedgerows should be preserved and enhanced with a view to achieving a soft transition between the urban area and the countryside. TW considers that this part of the policy should be amended to provide greater flexibility.

TW respectfully requests that the policy is amended as follows:

“New development should not result in the unacceptable loss of trees or woodlands or significant landscaping during or as a result of development…

Expert advice should be sought over the choice of plant species with a view to encouraging wildlife.” The use of plant species of native origin will be supported, where possible.

“Hedgerows should be preserved and enhanced where possible with a view to achieving a soft transition between the urban area and the countryside.”

Flooding Policies

The NP places a significant emphasis on flood risk when compared to other equally important issues in the NP area. The NP approach to its flooding policies and supporting text is overly onerous, does not comply with national guidance and is not based on any succinct or robust evidence.

Ultimately, policy that relates to flood risk and the mechanisms for a robust assessment of flood risk when sites come forward for development are contained in the SLP and the NPPF, which should take precedence and form the basis of planning decisions in this regard. These policies and the SLP proposed site allocations, including the site at Brackenway have undergone rigorous technical and professional assessment to assess the impacts of flooding and to provide the policy mechanisms to ensure that the impacts of flooding will assessed in full and suitably mitigated as part of the planning process. For example, the site MN2.12 has been subject to a rigorous Flood Risk Assessment that has been peer reviewed by an independent consultant and approved by the Environment Agency. In addition, the flood risk impacts and mitigation measures proposed as part of planning application ref: DC/2018/00093 have been deemed by Officers and Members to be acceptable,
demonstrated by the planning committee’s decision to grant planning permission for the development.

TW recognises the importance of flood risk and drainage policy in both the NPPF and the SLP and is committed to ensuring flood risk issues are fully assessed and addressed based on the existing planning framework. However, there is a danger that onerous NP policies could ultimately delay or, worse, restrict the delivery of housing allocations in the SLP and NP; contrary to national and local strategic housing policies. In this regard, TW therefore considers that the NP, as currently drafted in relation to flood risk and drainage, does not meet the basic conditions a) and e) which require NPs to have regard to national policies and guidance and be in general conformity with the strategic development plan for the area.

Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

TW’s comments in relation to the specific flood risk policies within the NP are set out below.

**Policy FLD1**

Policy FLD1 states that all development that impacts on flood risk should demonstrate that it does not increase flood risk within Formby or Little Altcar or neighbouring area.

TW supports this policy in principle, however respectfully requests that the wording is amended as follows in order to ensure that the policy has regard to the wording in the NPPF and is in general conformity with the SLP:

“All development that impacts on flood risk should demonstrate that it does not increase flood risk elsewhere within Formby or Little Altcar or neighbouring area.”

**Policy FLD2**

Policy FLD2 states that:

“A Flood Risk Assessment SHOULD DEMONSTRATE that there will be no additional flood risk or flooding to either the proposed development or elsewhere Formby or elsewhere within Formby or Little Altcar or neighbouring area. Having regard to Formby’s susceptibility to flooding, where possible, developers Flood Risk Assessments will be expected to demonstrate that there will be a tangible, definite, measurable, improvement in flood risk and actual flooding.”

TW considers that this policy is overly prescriptive and fails to meet the basic conditions in national policy i.e. to have regard to national policies and advice and be in general conformity with the SLP. TW respectfully requests that the wording of the policy is amended as follows:
“A Flood Risk Assessment where required SHOULd BE proportionate and DEMONSTRATE that the development should be made safe for its lifetime without increasing flood risk elsewhere. there will be no additional flood risk or flooding to either the proposed development or elsewhere Formby or elsewhere within Formby or Little Altcar or neighbouring area. Having regard to Formby's susceptibility to flooding, where possible, developers Flood Risk Assessments will be expected to demonstrate that there will be a tangible, definite, measurable, improvement in flood risk and actual flooding. Measures should be proportionate and appropriate to the scale of the proposed development.”

Policy FLD6

Policy FLD6 relates to development in flood sensitive areas. TW considers that this policy should be simplified and amended in order to meet the basic conditions as follows:

“All development in flood sensitive areas, including new green spaces/landscaping must be made safe for its lifetime without increasing flood risk elsewhere. not increase risk of flooding elsewhere, and SHOULD be designed and constructed to reduce the overall level of flood risk when compared to the pre-development state.”

Policy FLD9

Policy FLD9 sets out a number of provisions in relation to development proposals and flood risk. TW does not object in principle to Policy FLD9 as this is an exact duplicate of Policy EQ9 of the SLP and therefore conforms with basic condition e) which requires the NP to be in general conformity with the strategic policies contained within the development plan.

Summary and recommendations

In summary, TW generally supports the NP however, as set out in these representations, it is considered that the NP as drafted fails to fully align with certain aspects of national and local policy. The NP should not be a document that is ambiguous, prescriptive and overly restrictive; and should provide a level of clarity on how it will be applied and implemented. A NP provides an opportunity for the local community to guide development in their area and should not be restrictive in assisting the development of key sites in the area.

Based on a review of the draft NP, TW makes the following comments and recommendations:

1. The NP should, in its entirety, align with national policy and be in general conformity with the SLP in order to meet the basic conditions;
2. The NP should be presented in a clear and structured manner, with clear and unambiguous policies;
3. The NP should be underpinned by a robust evidence base and it should be made clear how new policies or obligations are supported by ‘proportionate and robust’ evidence.

4. TW does not object to the principle of Policy H4 and Policy H5 which relate to affordable housing; however, it must be precise, clear how they should be applied practically and should demonstrate general conformity with the adopted SLP in relation to Starter Homes in order to meet the basic conditions.

5. TW objects to the housing mix set out in Policy H6 which does not meet the basic conditions as it is not in conformity with Policy HC2 of the SLP. It proposes a different housing mix and fails to build in sufficient flexibility.

6. TW considers that the application of a 2.5 storey height limit and restriction on development that significantly raises site levels in Policy H7 should be reworded to provide flexibility that reflects individual site circumstances.

7. TW considers that Policy ESD7 relating to trees and landscape should be reworded to be less restrictive and to better align with Policy ESD7 of the SLP.

8. The NP places significant emphasis on flood risk policies which is considered unnecessary, prescriptive and unjustified. The policies and the supporting text create the risk of preventing key allocations from coming forward. Amendments are suggested to the proposed flooding policies to ensure that the NP accords with the basic conditions.

We respectfully request that these representations are taken into account in the preparation of the Neighbourhood Plan moving forward. I would be grateful if you could confirm safe receipt of these representations and if you have any specific comments or queries, please don’t hesitate to contact me on the details below.

Yours faithfully

Senior Director

For and on behalf of
GVA Grimley Limited t/a Avison Young
Appendix 1 – Site Location Plan