

# Report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Village at the former Wisley Airfield.

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July 2020

**NOTE:** This is a revised version of the report, produced by VWV at the request of the Council in February 2021 with the names of Council officers removed / redacted.

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## 1 **Executive Summary**

- 1.1 Cllr John Redpath, a Councillor at Guildford Borough Council ("the Council") raised certain issues with the Council that we were asked to look into.
- 1.2 These issues related to the former Wisley airfield development and the bid to Government submitted jointly by the Council and the private sector partners.
- 1.3 The investigation was carried out by Mark Heath who is a consultant with Veale Wasbrough Vizards (VWV). VWV is a full service commercial law firm, with 82 Partners and over 350 lawyers, working across offices in Watford, London, Bristol and Birmingham. VWV have been providing legal advice to local authorities for over twenty years and have a national reputation for public sector property work, acting for both central and local government clients.
- 1.4 Mark Heath is a solicitor with over 30 years of service within the public sector. He was until December 2016 working at Southampton City Council where he was Solicitor to the Council and Monitoring Officer for 20 years. Subsequent to that he held the positions of Director of Place and subsequently Chief Operating Officer at Southampton. He is highly experienced in all aspects of local government law, particularly standards and all aspects of local authority governance and decision making.
- 1.5 In conclusion we did not consider that the issues raised by Cllr Redpath raised any issues that needed any further action. We do however think there is some learning for the Council.

## 2 Scope of Investigation and Timeline

- 2.1 We were formally engaged in November 2019 by Guildford Borough Council's ("the Council") former Monitoring Officer to look into a number of issues that had been raised by Cllr John Redpath with the Council.
- 2.2 We subsequently arranged to interview Cllr Redpath in early December 2019. Cllr Redpath raised various matters with us during this interview which we considered were outside the scope of our investigation as set by the Council.
- 2.3 As a consequence we sought clarification from the Council as to the scope of our investigation in the light of that interview with the former Monitoring officer on 12 December 2019.
- 2.4 We received that clarification on 14 February 2020 which resulted in the Council amending the scope of our investigation.
- 2.5 The (amended) scope of our investigation was as follows:
  - 2.5.1 To examine, through a review of correspondence and such interviews as the reviewer considers expedient and desirable, the alleged utilisation by the Council of plans authored by Davis Landscape Architects (consultants to Wisley Property Investments Ltd) as part of the Council's submission of an application to the secretary of state for support in achieving garden village status for the former Wisley Airfield, as described more fully in the report to the Executive of 30 October 2019 and to recommend whether to:
    - (a) take no further action; or
    - (b) offer specific guidance for future reference, or to adopt a change in practice
  - 2.5.2 To provide a general description of how a Council may act as a promotor/supporter of a Garden Village application, with a private sector land owner (including what sort of project agreements would be expected, and how the Council is both an executive and a regulatory decision maker (in the planning context), and how the law provides a framework for this decision making (with express reference to the Council's "probity in planning" code :  
  
<http://www2.guildford.gov.uk/councilmeetings/documents/s11456/Part%205%20-%20Codes%20and%20Protocols.pdf> Page 22
  - 2.5.3 Also:
    - (a) Did the Council ask Davis Landscape Architects to produce the Garden Village proposal, or was it already prepared, and used in the bid?
    - (b) Did Council officers just cut and paste the Council logo or were they more involved in it?
    - (c) Who instructed them to employ the consultant, and did they know that Davis Landscape Architects also worked for Wisley Property Investments Ltd?
    - (d) What other Wisley related documents have the Council worked on jointly or otherwise with consultants that are also advising Wisley Property Investments Ltd?



### 3 Garden Villages, Planning Strategy and the Prospectus

#### 3.1 Garden Villages

- 3.1.1 In recent years there has been a renewed interest in the idea of the Garden Cities, Town and Villages, and how the principles that underpin that idea can be used to inform the delivery of new communities. When planning for the supply of new homes local authorities are required by national policy to consider the Garden City approach, and many local authorities, developers and housing associations are exploring opportunities to address housing and growth needs through new communities at a range of scales.
- 3.1.2 A Garden City is defined as a town designed for industry and healthy living, of a size that makes possible a full measure of social life but not larger, surrounded by a permanent belt of rural land and the whole of the land is in public ownership or held in trust for the community.
- 3.1.3 Garden Villages are smaller projects of between 1,500 – 10,000 homes whilst Garden Towns have over 10,000 homes.
- 3.1.4 The principles of a Garden City/Town/Village in general encompass:
- strong vision, leadership and community engagement;
  - land value capture for the benefit of the community;
  - community ownership of land;
  - mixed-tenure homes and housing types that are affordable; and
  - employment opportunities, green space, strong leisure and retail facilities and integrated and accessible transport system.
- 3.1.5 The government sees the delivery of Garden Villages, Towns and Cities as a means of tackling the housing shortage. In 2017, the government allocated funding to 10 garden towns and 14 garden villages across England to help fast track those projects.
- 3.1.6 The National Planning Policy Framework highlights that new settlements can sometimes be best achieved by following those principles.
- 3.1.7 In August 2018 , the relevant Government Department, the Ministry of Housing, Communities and Local Government ("MHCLG") issued a Prospectus:
- [https://www.guildford.gov.uk/media/28911/MHCLG-Garden-Communities-Prospectus/pdf/MHCLG\\_Garden\\_Communities\\_Prospectus.pdf?m=636776362587670000](https://www.guildford.gov.uk/media/28911/MHCLG-Garden-Communities-Prospectus/pdf/MHCLG_Garden_Communities_Prospectus.pdf?m=636776362587670000)
- 3.1.8 In summary, this sought proposals for Garden Communities. Those that were successful would receive a bespoke package of Government assistance to deliver their proposal.
- 3.1.9 This Prospectus is addressed in more detail below.

#### 3.2 Planning Strategy

- 3.2.1 The position of Garden Communities within planning strategy sits at a national level.

- 3.2.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced.
- 3.2.3 The first NPPF was issued by the Department for Communities and Local Government in March 2012. Paragraph 52 stated

*"The supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities.*

*Working with the support of their communities, local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development. In doing so, they should consider whether it is appropriate to establish Green Belt around or adjoining any such new development."*

<https://www.gov.uk/government/publications/national-planning-policy-framework-2>

- 3.2.4 The NPPF was revised in February 2019, and now says this on this issue (paragraph 72):

*"The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities. Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way. In doing so, they should:*

*a) consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains;*

*b) ensure that their size and location will support a sustainable community, with sufficient access to services and employment opportunities within the development itself (without expecting an unrealistic level of self-containment), or in larger towns to which there is good access;*

*c) set clear expectations for the quality of the development and how this can be maintained (such as by following Garden City principles), and ensure that a variety of homes to meet the needs of different groups in the community will be provided;*

*d) make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites, and identify opportunities for supporting rapid implementation (such as through joint ventures or locally-led development corporations)<sup>35</sup>; and*

*e) consider whether it is appropriate to establish Green Belt around or adjoining new developments of significant size."*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

### 3.3 The Prospectus

- 3.3.1 In August 2018, the relevant Government Department, the Ministry of Housing, Communities and Local Government ("MHCLG") issued a Prospectus:

[https://www.guildford.gov.uk/media/28911/MHCLG-Garden-Communities-Prospectus/pdf/MHCLG\\_Garden\\_Communities\\_Prospectus.pdf?m=63677636258767000](https://www.guildford.gov.uk/media/28911/MHCLG-Garden-Communities-Prospectus/pdf/MHCLG_Garden_Communities_Prospectus.pdf?m=63677636258767000)

- 3.3.2 The Prospectus set out a process. This process was designed to seek proposals from local authorities and private sector partners (such as developers or land owners) or directly from private sector partners which had to then be expressly supported by the local authority.
- 3.3.3 Those that were successful would receive a bespoke package of Government assistance to deliver their Garden Community proposal.
- 3.3.4 The contents of the Prospectus are important to understanding and analysing this issue. Amongst other things it said:
- (a) the Government ("HMG") encouraged local authorities and their private sector partners to come forward and set out how HMG could assist them in delivering their vision for new garden communities (foreword);
  - (b) the prospectus did not prescribe a single template for a garden community. Each garden community HMG chose to assist would have its own clear and distinct sense of identity(para 2);
  - (c) all proposals should have the backing of the local authorities in which they were situated, including the county council in two-tier areas (para 11);
  - (d) proposals should set out how the local community was being, or would be, engaged and involved at an early stage, and strategies for continued community engagement and involvement. HMG was clear that local communities – both current and future residents – must have a meaningful say in developing the proposal from design to delivery(para 12);
  - (e) HMG did not expect to see a detailed delivery plan at this stage, but did expect to see credible outline proposals which demonstrated consideration of:
    - (i) delivery models and timescales – including the strength of existing commitments and partnerships, such as with master developers and land owners;
    - (ii) infrastructure requirements – including access to road, rail, utility considerations (including high-speed broadband, flood, water supply, sewerage and waste), and plans for health, education, and other core social infrastructure;
    - (iii) opportunities to capture land value – including through land acquisition and assembly, to help fund the long-term delivery and management of the garden community; and
    - (iv) access to finance and private sector investment – including through direct investment, developer contributions, patient long-term finance and other opportunities attractive to investors(para 15).
  - (f) HMG stated that delivering a new garden community required long-term strategic thinking and robust delivery arrangements. There were many forms that this could take – from arrangements such as joint venture companies, to development corporations(para 21); and



- (g) proposals were invited from local authorities and private sector partners (such as master developers or land owners). Proposals submitted by private sector partners had to be expressly supported by the local authority. HMG particularly welcomed joint proposals from one or more local authorities, as well as proposals which demonstrated support from developers and / or landowners (para 28 and 29).

## 4 Evidence gathered

- 4.1 We interviewed Cllr John Redpath. He was given a chance to review and revise his statement prior to confirmation of its accuracy.
- 4.2 As already mentioned, we clarified the scope of our investigation with the Council after this as Cllr Redpath mentioned matters that were not within the initial scope we were set. That scope was subsequently amended by the Council to address the issues that Cllr Redpath raised that we were instructed to investigate. Our focus, in so far as what Cllr Redpath told us, has therefore been in relation to the matters within the Scope as set out in para 2.5 of this report.
- 4.3 We would draw out the following general points from what Cllr Redpath said to us about his concerns:
  - 4.3.1 he had been drawn into the issue from early January (2019) when he first considered running as a Borough Councillor. There was much concern, mainly from those opposed to any development of the Wisley site, with regard to the role of the Council and its role in relation to the bid document and relationship with other partners;
  - 4.3.2 some of the matters raised with him he decided were clearly without merit and he did not intend nor wish to raise or pursue them;
  - 4.3.3 a previous investigation had been carried out but only an executive summary of the findings published.
  - 4.3.4 the Councillor understood the reasons for the bid and the desire to make it successful; and
  - 4.3.5 it was the concerns around the bid document itself and how close the Council at least appeared to have become to the partners involved in that still needed answering as that had raised concerns.
- 4.4 We also spoke with [a Planning Officer] who subsequently supplied us with a written statement reflecting her position and that of her Department prior to her departure from the Council.
- 4.5 We followed this up by seeking clarification and elucidation from the Council on various points, particularly from officers in the planning department. .
- 4.6 We were also supplied with background documentation by the Council when we started our investigation.

## 5 Assessment and Analysis

5.1 This matter arises from concerns expressed by Cllr John Redpath. There is clearly local opposition to the substantive proposal of this development at Wisley. That opposition has amongst other things picked up on the Garden Village bid document and raised issues as to its production and the role of the Council in that.

5.2 We have below set out the issues that we were tasked with addressing by the Council and our responses to them: .

5.2.1 **A general description of how a Council may act as a promotor/supporter of a Garden Village application, with a private sector land owner (including what sort of project agreements would be expected, and how the Council is both an executive and a regulatory decision maker (in the planning context), and how the law provides a framework for this decision making (with express reference to the Council's "probity in planning" code:**

<http://www2.guildford.gov.uk/councilmeetings/documents/s11456/Part%205%20-%20Codes%20and%20Protocols.pdf> page 22

5.2.2 Response:

- (a) In para 3.3.4 of this report we have set out some key points / extracts from MHCLG's Garden Communities prospectus (Aug 2018) regarding the process of bidding for garden community status. This stresses :
  - (i) the role of local planning authorities in leading /supporting this process;
  - (ii) that there is no one size fits all approach and no common template to follow;
  - (iii) it was for local authorities and their private sector partners to come forward and tell Government they can assist;
  - (iv) local authority support is needed either to a private sector bid or as part of a joint bid; and
  - (v) there are many examples across the country of bids submitted by local authorities.
- (b) At the point of submission of the bid, the Government did not expect to see a detailed delivery plan but credible outline proposals demonstrating consideration of the key issues. In due course, legal agreements between the Council, the private sector partners would be needed. The sort of legal agreements that might be needed include:
  - (i) land promotion agreement/option - tying in the landowner (if not the council) to deliver land at an agreed price. Usually capable of being drawn down in tranches by the promoter and immediately sub-sold or directly transferred to the developer;
  - (ii) s278 Highways Act 1980 agreements (the legal mechanism required to carry out highway alterations on the existing network);

- (iii) s38 Highways Act 1980 agreements (agreements to secure new road adoption by the highway authority);
- (iv) S106 Town and Country Planning Act 1980 (these agreements contain planning obligations, these are private agreements made between local authorities and developers and can be attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms. They are often focused on site specific mitigation of the impact of development along with highway contributions and the Community Infrastructure Levy);
- (v) depending on the risk exposure of the promoter, there may also already be development contracts in place with developers so that the promoter knows it can get the early phases out of the way. There may be separate contracts in place with Registered Providers for affordable housing and specialist uses like schools and nurseries. Some of these might be contracts with other public sector bodies like the county council. It would depend how much risk and/or proof for funding the development needed to demonstrate to enable progression;
- (vi) there may need to be a suite of documents dealing with one or more CPOs on top of the documents above if all the landowners are not on board;
- (vii) potentially, depending upon the site, there may be additional agreements to do with utilities and diversion of assets that are in the way. This could include highways improvements (agreements with Highways England) and rail improvements or works at rail crossings (Network Rail agreements);
- (viii) the development of a Garden Village is often underpinned by a masterplan which can be adopted as part of the local plan;
- (ix) some have looked at the European model. In this the Council acquires the village site and puts in the infrastructure (main/side roads & utilities), selling off the development plots (which may be large) with the developer then putting in the estate roads etc. That arrangement requires some sort of framework agreement underpinned by a s106 agreement backing up recovery of costs for infrastructure. If a developer wanted a site, they would then need to go through the Council to acquire it and sign up to the framework agreement;
- (x) some promoters have attempted to tie a Garden Community together with a s106 agreements. However, the disadvantage of that is that each developer negotiates their own s106 agreements with the Council who are trying to hold the line on consistency. A major issue comes when one developer needs to provide a school, another retail, another open space and so forth each to make the other's development acceptable in planning terms;
- (xi) in summary, as a minimum you would want: (1) the landowners tied up with option agreements or a viable plan for CPO, (2) housing demand in the housing need assessment, (3) some evidence of

demand for this site from developers if not early phases already subject to development agreements. That means that the garden Village could progress upon grant of planning.

- (c) The local planning authority ("LPA") is a term that refers to the planning department of the district or borough council and the functions that flow from that. It is not however legally a separate entity from the local authority concerned, but the term does reflect the fact that the function must be exercised by all - officers and members - within the constraints imposed by the law and policy.
- (d) The National Planning Policy Framework (NPPF) defines an LPA as, 'the public authority whose duty it is to carry out specific planning functions for a particular area. All references to local planning authority apply to the district council, London borough council, county council, Broads Authority, National Park Authority and the Greater London Authority, to the extent appropriate to their responsibilities.'
- (e) This also then reflect the functional and hence decision making framework for officers and members of the LPA. Very broadly, those responsibilities include:
  - (i) producing a local plan: This is a framework for the future development of an area defining strategic policies, the framework for neighbourhood plans, land allocations, infrastructure requirements housing needs, requirements for safeguarding the environment, measures for adapting to climate change and so on. Local plans are also the starting-point for considering whether planning applications should be approved. The framework states that if a plan is absent, silent or out of date, permission should be granted, unless there are significant and demonstrable reasons not to grant permission;
  - (ii) determining planning applications. Decisions about straight-forward applications will be made under powers delegated to planning officers. More significant or contentious applications will be decided by a planning committee, made up of local councillors. In determining planning applications the LPA will consult with the local community, statutory consultees and non-statutory consultees;
  - (iii) enforcement: Acting proportionately in response to suspected breaches of planning control; and
  - (iv) supporting neighbourhood planning.
- (f) In terms of how the Council is both an executive and a regulatory decision maker (in the planning context), and how the law provides a framework for this decision making, the LGA's Guidance on probity in planning is helpful and we have quoted a few extracts below:
  - (i) *"Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development. The planning system works best when officers and councillors involved in planning*

*understand their roles and responsibilities, and the context and constraints in which they operate. Planning decisions involve balancing many competing interests. In doing this, decision makers need an ethos of decision-making in the wider public interest on what can be controversial proposals".*

- (ii) *"Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework".*
  - (iii) *"Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent".*
  - (iv) *"Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code".*
- (g) in brief the division of roles in relation to planning within a local authority is this. The Council's Executive is responsible leading on policy, but Full Council adopts the Local Plan. The non-executive planning committee will determine some of the planning applications, with officers generally having delegated authority to determine less controversial matters. Members of the Planning Committee, when determining planning applications, must have regard to the Council's policies contained in the NPPF, Development plan, NPPGs and material considerations such as Supplementary Planning Guidance adopted by the Council together with other material considerations. Applications must be determined in accordance with the Local Plan unless material considerations indicate otherwise;
- (h) in general terms, to ensure the highest standards of probity throughout the process:
- (i) the Council's Code of Conduct for Members must be complied with throughout the decision making process, which includes mandatory requirements with regard to interests;
  - (ii) members of the planning committee have to retain a neutral position on any application for the very fact that they are a part of the decision making process, and cannot be seen to side with either the applicant or the objector/s, prior to the start of the meeting to determine the application, and before all the relevant facts and other material considerations are known. This ensures confidence in the Committee (Council) is maintained and also serves to minimise the prospect of non-planning related matters affecting the judgment of Committee Members;

- (iii) members of the committee need to be alert to the need to declare interests, some of which may debar them from participating in the debate and vote on a certain matter;
  - (iv) lobbying (perceived or actual) of members of the planning committee is a matter that members must be mindful of; and
  - (v) it is important that these and other matters are drawn to the committee members and that they are reminded of them on a regular basis. Many will also apply to all members as they may substitute for a committee member or attend planning committee to speak on an application.
- (i) to assist members in achieving that high standard of probity, it is recommended good practice that Councils provide their members with guidance on this issue. The Council has done this by adopting a "planning" code: -  
<http://www2.guildford.gov.uk/councilmeetings/documents/s11456/Part%205%20-%20Codes%20and%20Protocols>
  - (j) we also noted that members have a Councillor's planning handbook prepared for them that addresses this and a broader range of issues:-  
<https://www2.guildford.gov.uk/councilmeetings/ecsddisplayclassic.aspx?name=sd288&id=288&rpId=0&path=13341>
  - (k) we felt both were appropriate and clear and set out the limitations of members role (in the LPA process) robustly;
  - (l) in relation to the Wisley Garden Village, it was important to note that the making of the bid / submission did NOT mean that successful bidders would as a consequence get planning consent; and
  - (m) these arrangements relating to probity including the documents are crucial to that decision making process to ensure that the Council's LPA functions are not prejudiced, as will be the advice from the Monitoring Officer.

**5.2.3 Did the Council ask Davis Landscape Associates ("DLA") to produce the Garden Village proposal, or was it already prepared, and used in the bid?**

**5.2.4 Response:**

- (a) It was agreed at an early / initial meeting between the Council and Wisley airfield development promoters that Wisley Property Investments Ltd (WPIL) would lead on producing the draft bid document which would then be passed to the Council for comment.
- (b) In terms of that meeting, [a Planning Officer] was invited to the meeting verbally on the morning of the meeting by [the then Director]. We cannot confirm when the meeting was scheduled but the meeting was held on 19 October 2018. There were no agreed minutes arising from the meeting. In attendance were:
  - Charlie Collins (Savills)
  - Ruth Bryan (Savills)
  - Mike Murray (Causeway Land)

- Cllr Paul Spooner (Leader and Portfolio Holder for Planning)
- Cllr Matt Furniss (Deputy Leader)
- [a Planning Officer]
- [a Planning Officer]

5.2.5 **Did Council officers just cut and paste the Council logo or were they more involved in it?**

5.2.6 Response:

- (a) There were two rounds of comments provided by the Council in agreeing the final form of the bid document. The contents of the bid document were therefore agreed with the Council and therefore entirely appropriate to include the Council logo on the back of it.
- (b) Savills circulated the first draft document on 31 October 2018. This email included the following people:
  - From - Ruth Bryan (Savills)
  - To - [a Planning Officer]
  - Cc - Charlie Collins (Savills), Mike Murray (Causeway Land)
- (c) [A Planning Officer] circulated this internally on 1 November 2018 to Council officers asking for comments.
- (d) [A Planning Officer] replied with some comments on 2 November to feed into [a Planning Officer's] comments – sent 2 November (see below).
- (e) [a Planning Officer] sent back the Council's comments to the draft document on 2 November 2018 using the same email circulation as the draft document was sent to.
- (f) Charlie Collins circulated a further round of the document incorporating the Council's initial comments on 5 November 2018. This email was sent to [two Planning Officers], cc'ed to Ruth Bryan.
- (g) An Email was sent from [a Planning Officer] to Charlie Collins on 5 November confirming that the Council would not share that version with Cllr Paul Spooner but would await the version with graphics included. This email also confirmed that '[a Planning Officer] *is happy for the suggested changes and has no further comments.*'
- (h) A further draft of the document was recirculated now with graphics. This was sent by Charlie Collins on 7 November 2018 and sent to [2 Planning Officers]. CC'ed Ruth Bryan, Mike Davies (DLA) and Mike Murray.
- (i) A reply was sent on 7 November from [a Planning Officer] to Charlie Collins to confirm that the document had been sent to Cllr Paul Spooner for review and that [a Planning Officer] would also review the document. [A Planning Officer] then sent an email on 7 November 2018 to Charlie Collins, cc'ing [several Planning Officers], Mike Davies (DLA), Ruth Bryan (Savills) and Mike Murray (Causeway Land) with further comments on the latest draft saying: '*Please find below officer's further/repeated comments. There will be a few*



*more tomorrow morning (I will send first thing) but I thought I would send these in the meantime.'*

- (j) Replies to all on the circulation list were received from Charlie Collins on 7 November 2018 with a few questions/comments, from Mike Murray on 8 November 2018 with some comments on Charlie Collin's questions/comments, from [a Planning Officer] on 8 November 2018 confirming she was happy with Mike Murray's comments with one suggested change. Email also contained the additional comments that [a Planning Officer] promised to send in her email on 7 Nov – to the same circulation list but also cc [a Planning Officer].
- (k) [A Planning Officer] emailed on 8 November confirming that Cllr Paul Spooner had no comments and added one comment by Cllr Matt Furniss – same circulation list as previous email.
- (l) [A Planning Officer] emailed on 9 November 2018 with a few final comments – same circulation as previous email.
- (m) An email was then received from Nicola Preen (DLA) on 9 November 2018 with the final document for submission. This was sent to Ruth Bryan, cc [a Planning Officer], Mike Davies, Charlie Collins and Mike Murray.

**5.3 Who instructed them to employ the consultant, and did they know that DLA also worked for WPIL?**

**5.4 Response:**

5.4.1 WPIL instructed DLA to produce the document as it had been agreed that WPIL would lead on drafting the bid document.

5.4.2 In terms of how and when agreement was reached that WPIL would lead on drafting the bid, it was agreed at the meeting on 19 October (referred to previously) that WPIL would lead in producing the document. It was not discussed who specifically within the WPIL team would produce it, just that they would provide the resources to produce the document.

**5.5 What other Wisley related documents have the Council worked on jointly or otherwise with consultants that are also advising WPIL?**

**5.6 Response:**

5.6.1 Officers have responded to us that they are not aware of any (other) Wisley related documents worked on jointly with consultants that are advising WPIL other than those referred to in this report and a S106 agreement entered into with WPIL as part of the planning process.

**5.7 In addition, these points warrant addressing:**

5.7.1 The bid was submitted on 9th November 2018, the deadline for submitting bids to Government. The document is time stamped 15:13:40 on 9/11/18:

**(a) When was the document sent to the Council from DLA to and to whom?**

Response: The final bid document was submitted on 9th November 2018, the deadline for submitting bids to Government. The final bid document as agreed by both parties was circulated on 9 November 2018 at 15:19. Those who saw the bid are as listed above, but only [a Planning Officer] was sent it

at that point. (This was as it was sent by an individual who had not been involved in the various emails setting out those who agreed the final wording (also see above)).

(b) **Who sent it on to MHCLG and at what time was this?**

Response: It was submitted at approx. 15:50 on 9 November 2018. [A Planning Officer] submitted the bid on behalf of the Council. The bid was submitted online via the Delta Portal but this was followed up with an email attaching the supplementary evidence that supported the bid (i.e. the bid document and letters of support from SCC, LEP and all three landowners). The email was sent to 'gardencommunities@communities.gsi.gov.uk' and cc'ed to: Cllr Paul Spooner [and Council Officers].

(c) **Who attached the Council logos and when?**

Response: The Council logos were inserted by DLA in finalising the document. This was a joint document agreed by both parties and it had been agreed that this would be done once the Council had signed the document off (which it had done). This was as agreed at the meeting on 19 October 2018 that the Council would submit the bid in their name, with the support of landowners, rather than have a bid submitted by WPIL with Council support. As part of the meeting it was agreed that both logo's would be put on the back of the bid document. DLA in compiling the document put everyone's logo on the back page. In [a Planning Officer's] email on 7 November (distribution list identified above), one of the comments was:

*'Back cover*

*Can you make [the Council] logo bigger (as the lead for the submission) and the others smaller'*

- 5.8 Finally our attention was drawn by Council officers to an incident where the developer wanted to include within the bid document during its drafting phase a reference to the fact that the site could be expanded in the future. Officers responded for the Council saying that the Council could not and would not support that and wanted the reference removed. It would have been contrary to the local plan. The next iteration of the document came back with this reference still in it, and the officers repeated the Council's position only more strongly and the reference was subsequently removed.
- 5.9 Our attention was also drawn to the fact that there was a very short period of time to make the bid. At the same time, there was consultation on the Local Plan which made it a very busy period.
- 5.10 The following points should also be noted:
- 5.10.1 a local authority would not have all the information needed to make a bid such as this on its own. Delivery of the bid therefore had to be a collaboration between all parties;
  - 5.10.2 the bid process was not prescribed, but it was not possible to make a bid unless all parties work together as this is a voluntary approach. The purpose of the bid was to increase the quality of the development within the garden village principles; and
  - 5.10.3 making the bid did not mean that successful bidders would get planning consent. A number of successful bid sites have failed during the local plan process or application stage.

- 5.11 In conclusion, taking account of the issues we were asked to consider, we have investigated them , and considered the responses that we received, seeking clarification where necessary. We consider that those responses are sound and appropriate.
- 5.12 Accordingly we do not consider that the issues we were asked to look into raise issues that warrant further action by the Council.

## 6 **Other Points**

- 6.1 Given the nature of the information that we have set out in this report, we do feel that much of this could have been made public if not immediately, certainly later as and when concerns were raised.
- 6.2 Doing so may well have removed the (albeit misconceived) perception that there were substantive issues underpinning the production of the bid document arising from an inappropriate relationship between the Council and the promoters of the Wisley Garden Village.

## 7 **Conclusion and Finding**

- 7.1 We have concluded that the issues raised do not require any further action to be taken by the Council.