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Response to MIQs for Stage 3 **Tunbridge Wells Local Plan Examination**

CLIENT: GALLAGHER GROUP

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JB/33005



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Appendix 1 – Committee Report Extract

1 INTRODUCTION

1.1 PURPOSE OF THIS STATEMENT

- 1.1.1 This Statement has been prepared by DHA Planning on behalf of Gallagher Properties Ltd in response to the Inspector's Questions on Matter 4. These representations relate to land at Swatlands Farm, which Gallagher is promoting for employment-generating development.
- 1.1.2 It should be read alongside our previous representations, in particular our response to the consultation which took place earlier in 2024 in relation to the Proposed Changes to the emerging Local Plan.

1.2 BACKGROUND

- 1.2.1 We will not repeat our previous representations in full, but the key points can be summarised as follows.

Extant permission

- 1.2.2 Gallagher is promoting land at Swatlands Farm, Lucks Lane, Paddock Wood, which is shown in Figure 1.1 below.



FIGURE 1.1: SITE LOCATION

- 1.2.3 The site benefits from an extant outline planning permission originally granted in January 2023 for just over 18,000 sqm of new employment floorspace (Class E, B2, and B8 uses).¹ This was in accordance with the Submission draft Local Plan as part of a mix of employment sites to the north and south of Lucks Lane in strategic policy STR/SS1.
- 1.2.4 Gallagher remain committed to progressing the development and are in the process of discharging pre-commencement conditions.
- 1.2.5 The permission was granted on 12 January 2023. The first application for the approval of reserved matters must be made no later than 12 January 2026, and the development shall be begun no later than the expiration of 2 years from the approval of the last of the reserved matters to be approved. Gallagher expects to submit reserved matters and commence development within the required timescales.

Revised Employment Land Allocations

- 1.2.6 The proposed Revised Development Strategy and full response to the Inspector's Findings Letter is set out in the Council's Development Strategy Topic Paper Addendum [PS_054].
- 1.2.7 Paragraphs 4.17-4.29 of PS_054 explain that the August 2022 updates to the Planning Practice Guidance (PPG) introduced a requirement to consider climate change impacts as part of the Sequential Test. The Council has undertaken further modelling as a result.
- 1.2.8 The updated modelling showed a greater extent of Flood Zone 2 and 3 land to the western side of Paddock Wood. The extent of flooding in this area was more significant and extends significantly further south as a result of the updated base data together with the climate change allowance.
- 1.2.9 Based on this modelling, Swatlands Farm is now expected to be wholly within Flood Zone 3 by the end of the plan period.
- 1.2.10 The Council is now proposing that Swatlands Farm should be "highlighted as a 'commitment' but not allocated" in recognition of its extant permission. However, it is excluded from the proposed Northern Development Parcel (E) (i.e. the development boundary of Paddock Wood).

¹ Ref. 22/01929/OUT, as varied by 23/01259/FULL

2 RESPONSES TO MIQS: MATTER 4 – STRATEGY FOR PADDOCK WOOD

2.1 ISSUE 1: FLOODING AND FLOOD RISK

Q2: Do the changes suggested by the Council in the Paddock Wood Strategic Sites Master Planning Addendum address the soundness issues raised in the Inspector’s Initial Findings?

- 2.1.1 Gallagher has concerns about the strategy as explained further in our response to the Issue 6 questions below.

Q3: If not, what Main Modifications are required to make the Plan sound?

- 2.1.2 Swatlands Farm should be identified as an employment allocation within the Northern development parcel in Paddock Wood. This is discussed further in our response to Issue 6 below.

2.2 ISSUE 6: EMPLOYMENT LAND

Q1: What is the justification for the suggested changes to the Plan? As suggested to be modified, will the strategy for employment be justified and consistent with national planning policy?

Q2: What are the implications for the provision of employment land? Will the Plan provide sufficient sites to meet needs over the plan period?

- 2.2.1 We have taken these two questions together below.
- 2.2.2 In short, the changes as they relate to Swatlands Farm have not been fully justified and will lead to uncertainty and confusion. Swatlands Farm forms an important part of employment land delivery in Paddock Wood and the Local Plan should properly recognise this fact.
- 2.2.3 Gallagher supports the proposal to retain Swatlands Farm within the Key Employment Area (though greater clarity is required on this as set out further below). Gallagher also supports the recognition that the site represents a committed scheme.
- 2.2.4 However, the proposal to exclude Swatlands Farm as an allocated site within the Northern Parcel is not justified, or consistent with national policy for the following reasons.

The employment strategy is reliant on delivery of Swatlands Farm

- 2.2.5 Swatlands Farm benefits from an extant permission which will deliver 18,150sqm of class E, B2 and B8 employment floorspace. The site has an area of 8.22 hectares and will result in the delivery of around 4.27ha of developable employment land, with the remaining land being green space and woodland.
- 2.2.6 It is clear from the analysis contained in the Council's 2023 Employment Land at Paddock Wood Topic Paper [PS_045] that Swatlands Farm is taken to be a commitment and forms an important part of the employment land provision at Paddock Wood.

Gallagher has already demonstrated that the scheme is acceptable in flood risk terms, taking into account the effects of climate change

- 2.2.7 At the request of the local lead flood authority, Kent County Council (KCC), the planning application was accompanied by updated calculations and additional simulations to show the effects of a 1 in 100 year flood event plus a **40%** allowance for climate change.

This position is accepted by the relevant flood risk authorities

- 2.2.8 On receipt and review of this information, KCC confirmed that it had no objection to planning permission being granted subject to conditions which were subsequently applied to the planning permission.
- 2.2.9 The Upper Medway Internal Drainage Board and the Environment Agency also both confirmed that they had no objections to planning permission being granted.
- 2.2.10 This is summarised in the Committee Report for the Swatlands Farm application, an extract of which is provided as **Appendix 1**.
- 2.2.11 As a result, none of the relevant flood risk authorities objected to planning permission being granted at Swatlands Farm. They did so having taken into account a robust climate change allowance of 40%, rather than the 37% allowance considered in the updates to the Local Plan.

There is uncertainty over whether Swatlands Farm falls within the Provisional Limits to Built Development

- 2.2.12 Policy ST/STR1, as proposed to be reworded, states that provisional Limits to Built Development for Paddock Wood are shown on the Policies Map, at Inset Map 4.
- 2.2.13 We have not been able to find revised Policies Maps and any changes to the Provisional Limits to Built Development do not appear to have been set out in either documents PS_054 or PS_063.

- 2.2.14 It is clear from Revised Map 27 in PS_054 that Swatlands Farm falls outside the proposed Masterplan areas for Paddock Wood.
- 2.2.15 Swatlands is shown as a commitment on Revised Map 28, but falls outside the red-edged Potential Area for Strategic Growth.
- 2.2.16 Swatlands Farm is also excluded from the Northern development parcel at Paddock Wood, as shown in Figure 2.1.

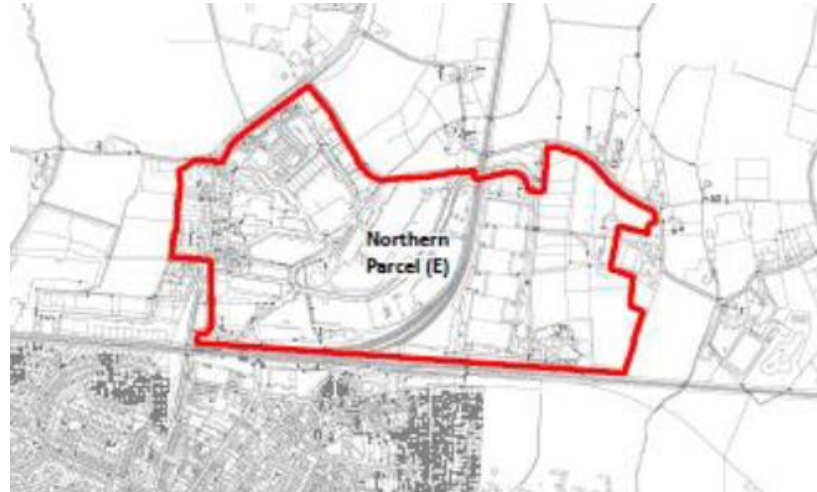


FIGURE 2.1: NORTHERN DEVELOPMENT PARCEL

- 2.2.17 Whilst there is currently some uncertainty, it therefore appears that Swatlands is being shown as being outside the provisional Limits to Built Development, which would be at odds with its recognition as a committed employment site.
- 2.2.18 **Swatlands Farm should be shown as forming part of Northern Parcel (E) and within the Limits to Built Development.**

The current proposal will lead to uncertainty and a lack of clarity

- 2.2.19 Gallagher is confident that there is strong demand for the proposed employment uses in Paddock Wood, having received interest from several potential occupiers. It is already progressing to discharge pre-commencement conditions to allow enabling works to commence, and is progressing a Section 278 agreement for the off-site highways works.
- 2.2.20 Gallagher is also confident of delivering the development within the required time period. Once the relevant conditions are discharged and s278 is in place, it intends to proceed with the enabling works which will include the required works to upgrade a stretch of Lucks Lane to create the site access.

- 2.2.21 However, it is easy to imagine a scenario where my client has invested in highways works, the development has commenced, and the site is partly built out, but where some sort of new or additional planning consent is required. For example, this might be to accommodate the particular needs of an individual occupier which do not fall squarely within the parameters of the outline planning permission, and necessitate a new application to be made.
- 2.2.22 In such a scenario, the position could be that the site remains an important employment commitment, yet is not allocated for development and falls outside the limits to built development for Paddock Wood, notwithstanding the extant planning permission. This would lead to unnecessary uncertainty and confusion, both for the landowners, businesses, local residents and other stakeholders.
- 2.2.23 Furthermore, whilst this is not expected to be the case, in the event that the outline planning permission expired without being implemented for whatever reason, the same complication would apply.
- 2.2.24 It is difficult to see what is being gained from such an approach. Since the site is a clear commitment, and the effects of climate change on flood risk have been taken fully into account, it would be clearer for everyone if the site was formally allocated and included within the limits to built development within Northern Parcel E.
- 2.2.25 In accordance with NPPF para 35, this approach would clearly be:
- Positively prepared – helping to meet the area’s objectively assessed need for employment land;
 - Justified – an appropriate strategy taking into account the specific circumstances of the case, and based on proportionate evidence;
 - Effective – by helping to ensure the delivery of committed employment development; and
 - Consistent with national policy – see below.

The sequential test has been passed

- 2.2.26 The NPPF does not prevent the development of employment land within flood zones 2 and 3 where the sequential test has been passed.
- 2.2.27 Whilst the test directs development to flood zone 1 as the first priority, it does not prevent development in flood zones 2 and 3 where there are no reasonable alternatives.
- 2.2.28 The Council has not identified any sequentially preferable sites. Furthermore, Swatlands Farm has already been proven to be acceptable in flood risk terms, even when considering climate change effects with an allowance of 40%.

2.2.29 The effects of climate change on flood risk have clearly been taken into account in relation to Swatlands Farm. The development will have been made safe for its lifetime in a scenario where there are no reasonable alternatives, in accordance with the relevant requirements of the NPPF.

The Key Employment Area proposals, in particular, lack clarity

2.2.30 The commentary on the changes to the Development Strategy as set out in the Topic Paper Addendum [PS_054] clearly states at paragraph 4.34:

*"The revised employment allocations would mean that **the proposed expanded Key Employment Area** would be drawn back to exclude Keylands Farm, but **would include Swatlands Farm as a committed scheme** and allocation of revised land to the east of Transfesa Road."*

2.2.31 However, the revised policy wording for Policy SS/STR1 as set out in the summary of Proposed Modifications [PS_063] does not provide any clear reference to Swatlands Farm continuing to form part of the Key Employment Area.

2.2.32 The relevant part of the policy, as proposed to be amended, states:

Policy SS/STR 1(E) - Northern Parcel Requirements

i. A mix of employment uses on sites to the east of Transfesa Road to provide approximately 4.25 hectares of Class E (g), B2 and B8 employment uses. (these are Key Employment Areas and shall comply with paragraphs 4(c) to (f) and (h) to (j) policy ED 1.

ii. The development allocation SS/STR 1(E) is in addition to the delivery of 4.27 hectares at Swatlands Farm that has Outline Planning Permission (ref: 22/01929/OUT)

2.2.33 As can be seen from the above, there is no direct reference to Swatlands Farm forming part of the Key Employment Area, notwithstanding the reference in PS_045.

2.2.34 **Policy SS/STR1 should be amended to clarify that Swatlands Farm forms part of the Key Employment Area.**

2.3 SUMMARY OF MODIFICATIONS REQUIRED TO MAKE THE PLAN SOUND

- Swatlands Farm should be confirmed to be shown within the Limits to Built Development.
- The Northern development parcel boundary should be redrawn to include the committed employment site at Swatlands Farm.

- SS/STR1 to be amended to clarify that Swatlands Farm is within the Key Employment Area