

IN THE MATTER OF QUENIBOROUGH NEIGHBOURHOOD PLAN
QUENIBOROUGH PARISH COUNCIL

Compliance with paragraph 14(b) of the NPPF

OPINION

Introduction and summary

1. We are instructed in this matter by Planit-X regarding an issue concerning the status of the Queniborough Neighbourhood Plan (“QNP”), which was “made” earlier this year on 10 June 2021, and prepared by Queniborough Parish Council (“the Parish Council”).
2. The issue arises in the context of planning application (Ref No P/20/2349/2) being recommended for approval at the Planning Committee of Charnwood Borough Council (“the LPA”) and (“the Borough Council”) despite it not being a site allocated within the QNP. The Borough Council cannot demonstrate a five-year supply of housing land. Our understanding is that it stands somewhere around 3.34 years.
3. We have been asked for our view on whether the requirements of paragraph 14(b) of the NPPF have been made out meaning that the neighbourhood plan does contain policies and allocations to meet its identified housing requirement.
4. The LPA agrees that the QNP is “made”, it contains a housing allocation (of some 132 dwellings), and is less than two years old. Notwithstanding this, the LPA consider that the QNP does not identify a local housing requirement. Accordingly, the LPA consider that it fails to fulfil the criteria of paragraph

14(b) on the basis that it does not contain policies and allocation which meet its identified housing requirement.

The legal and policy context.

5. Paragraph 11(d) of the NPPF provides as follows:

“d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date¹, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed²; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

6. Paragraph 12 of the NPPF reads as follows:

“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”

7. Paragraph 14 then goes on to state that:

¹ the footnote to this text, Footnote 8 reads that: “This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.”

² the footnote to this text, footnote 7 reads that: “The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.”

“14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply³:

a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;

c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and

d) the local planning authority’s housing delivery was at least 45% of that required⁴ over the previous three years.”

8. The Planning Practice Guidance (“PPG”)⁵ sets out the context for paragraph 14 of the NPPF and provides advice with regards to how ‘policies and allocations to meet its identified housing requirement’ should be interpreted. This advice states that:

“In order for a neighbourhood plan to meet the criteria set in paragraph 14b of the Framework, the ‘policies and allocations’ in the plan should meet the identified housing requirement in full, whether it is derived from the housing figure for the neighbourhood area set out in the relevant strategic policies, an indicative figure provided by the local planning authority, or where it has exceptionally been determined by the neighbourhood planning body....”

9. At paragraph 99,⁶ the PPG under the heading ‘Does a neighbourhood plan have to be updated every 2 years?’ then states:

“There is no timeframe within which neighbourhood plans are required to be reviewed or updated. However, when other policies in the development plan are

³ the footnote to this text, Footnote 9 reads that “Transitional arrangements are set out in Annex 1”.

⁴ the footnote to this text, Footnote 10 reads “Assessed against the Housing Delivery Test, from November 2018 onwards.”

⁵ Paragraph 097 Ref ID 41-097-2019059 of the PPG

⁶ Paragraph: 099 Reference ID: 41-099-20190509

updated, this may mean that existing neighbourhood plan policies become out-of-date, for example where they conflict with a strategic policy or where they are superseded by other local policies. This does not necessarily mean that the whole neighbourhood plan becomes out-of-date, but only those policies which are superseded by other development plan policies. The starting point for decision making is the development plan, and the National Planning Policy Framework sets out that permission should not usually be granted where a planning application conflicts with an up-to-date development plan (including any neighbourhood plan which forms part of the development plan).

The Framework also confers a degree of limited protection for those neighbourhood plans which satisfy all the criteria set out at paragraph 14(a) – (d). Paragraph 14(a) sets out that the protection can apply where the neighbourhood plan became part of the development plan 2 years or less before the date on which the decision is made. This includes circumstances in which the neighbourhood plan is updated by way of making a material modification to the plan, (provided the relevant criteria continue to be met including that the neighbourhood plan contains policies and allocations that meet the identified housing requirement for the neighbourhood area). In updating the neighbourhood plan, it will be important to ensure that sites identified for years 1-5 are deliverable in line with paragraph 67 of the National Planning Policy Framework.”

10. With regard to the determination of the housing requirement in the QNP, this is set out expressly in the QNP, including a clear explanation as to how that requirement has been derived for the purposes of the QNP, referring to the strategic policies in the Core Strategy:

“7.1 The Queniborough Neighbourhood Plan must support the strategic development needs set out in the Charnwood Local Plan (Core Strategy) including policies for housing development.

7.2 Policy CS1 of the Core Strategy makes provision for at least 13,940 homes in the Borough over the period 2011 to 2028. Most of this growth is to be provided for in the form of urban extensions on the edge of Leicester City and Loughborough and, to a lesser extent, development at seven Service Centres.

7.3 The Core Strategy requires that at least 500 homes are to be provided in 12 ‘other settlements’- Barkby, Burton on the Wolds, Cossington, East Goscote, Hathern, Newtown Linford, Queniborough, Rearsby, Thrussington, Thurcaston, Woodhouse Eaves and Wymeswold.”

11. It notes that over the plan period some 580 dwellings have been constructed in these 12 settlements (not just consented: paragraph 7.4).

12. Against that backdrop, Policy Q10 of the QNP nonetheless goes on to allocate land for housing for some 132 dwellings. The QNP Examiner confirmed the QNP did not allocate less development than set out in the local plan, having regard to the local plan requirements, at paragraph 54 of his report:

“(...) The plan must not deliver less development than set out in the local plan. I do not consider that there is a need for the neighbourhood plan to be allocating additional sites for development based on the existing local plan requirements for the village, despite the representations of other landowners. It is for the new local plan to address those matters.”

13. Informing the QNP, the Basic Conditions Statement provides further detail on how that position was reached:

“2.13 NPPF paragraph 65 expects Charnwood Borough Council to establish a housing requirement figure for their whole area and, within this requirement, set out a housing requirement for Queniborough Neighbourhood Areas. However, the Draft Charnwood Local Plan 2019-36 does not set out a housing requirement for Queniborough Neighbourhood Area.

2.14 Representatives of the Qualifying Body and local planning authority met in February 2020 prior to the submission of the Queniborough Neighbourhood Plan (2011 – 2028) to discuss the proposed housing provision for the neighbourhood area. The minimum housing provision set by the Core Strategy has been met and although there is no specific requirement to allocate additional housing sites at this time, the Neighbourhood Plan does support the development of Queniborough Lodge, for some 132 dwellings. The Qualifying Body recognises that once the new Local Plan is adopted, it may have to review the Neighbourhood Plan to make sure it is in general conformity. However, at the present time, the Draft Charnwood Local Plan 2019-36 carries little weight.”

14. Charnwood Local Plan 2021 – 2037 Pre-Submission Draft 2021-2037, Policy DS1 sets out the Development Strategy. Queniborough is one of 14 ‘other settlements’ with a collective housing requirement of 934 homes. I understand that, again, there is no specific requirement for Queniborough. There are however housing allocations for Queniborough (HA64 & HA65) in Policy DS3.

I understand that HA4 is within the Queniborough Neighbourhood Area but is attributed to Syston. The Plan remains subject to examination, and has not yet been adopted.

Analysis and Discussion

15. It is relevant to note that Neighbourhood Plans are not required to contain policies to address all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of the latest and up-to-date evidence of housing need.
16. The QNP does not set its own housing requirement figure nor does it use the housing figure for '*Other Settlements*' in the draft Local Plan, given that is not yet adopted policy. Instead, the QNP supports the strategic development needs set out in the Charnwood Local Plan (Core Strategy) including policies for housing development - most notably Policy CS1.
17. Notwithstanding the absence of a need to provide further housing allocations, the relevant identified need already having been satisfied, the positive approach taken by QNP resulted in an allocation (Q10) being proposed which provides for some 132 dwellings. The Neighbourhood Plan Inspector found that there was no need for the neighbourhood plan to be allocating additional sites for development based on the existing local plan requirements for the village. He rightly considered that it was for the new Local Plan to address those matters.
18. We have also considered the position on whether this is an exceptional case where the neighbourhood planning body should, instead, determine that need on the basis that the Core Strategy was time-expired. We consider that would be unreasonable. QNP was entitled to rely on the present local plan, and should not be penalised for the Borough Council's failure to promptly produce a replacement. It is plain that the future housing need requirement, and, if

necessary, allocated sites will be met through the revised local plan process. When the new Local Plan is adopted, there is likely to be a need to review the QNP to ensure its general conformity. Until then, there is no need for the QNP to address a putative greater need which is not yet policy. It may wait, in other words, until the final position is known on housing numbers and allocations at the borough level. That is a prudent course of action.

19. Finally, it is the Borough Council's responsibility to establish a housing requirement for the whole area, and within this requirement to set out a housing requirement for the Queniborough Neighbourhood Area. Our understanding is that this has not yet been produced.

20. Against that backdrop, we consider that the QNP has taken an eminently sensible approach to assessing the need in its area based on current policy, and providing for well in excess of that need through an allocation in the QNP. Given that the identified housing requirement used in the QNP was derived from the best available housing figure for the neighbourhood area set out in the relevant strategic policies in the present local plan (the Core Strategy), we conclude that the QNP does satisfy the requirements of paragraph 14(b) of the NPPF.

21. If those instructing require any clarification on matters raised herein, please do not hesitate to contact us in Chambers.

Nina Pindham
Sioned Davies
No5 Chambers
7 January 2022

