

IN THE MATTER OF LAND OFF BOONTON MEADOW WAY, QUENIBOROUGH

AND IN THE MATTER OF APPLICATION REFERENCE P/20/2349/2

**OPINION ON NATIONAL PLANNING POLICY FRAMEWORK PARAGRAPH 14
AND THE QUENIBOROUGH NEIGHBOURHOOD PLAN**

INTRODUCTION

1. I am asked to consider the Opinion of Ms Pindham and Ms Davies (dated 7th January 2022 – ‘the Opinion’) submitted on behalf of Queniborough Parish Council (‘QPC’) in relation to an application for planning permission (reference P/20/2349/2 – ‘the Application’) seeking permission for residential development at land off Boonton Meadow Way, Queniborough (‘the Site’). I understand that officers of Charnwood Borough Council (‘the LPA’) have previously recommended that the Application be granted planning permission, however further time was given to QPC to provide details of their objection to the approach taken by the LPA to the application of NPPF paragraph 14 and the Queniborough Neighbourhood Plan (‘the QNP’).
2. Put shortly, NPPF 14 sets out the circumstances in which a neighbourhood plan may affect the presumption at NPPF 11(d) arising from a lack of a five-year housing land supply. The LPA do not have a five-year supply of housing; I understand the current figure to be a little in excess of three years.

3. I understand the LPA to be of the view that the relevant point is that at NPPF 14(b) namely whether the QNP contains policies and allocations to meet its identified housing requirement. The LPA are of the view that the QNP does not meet that requirement. I agree with that conclusion. QPC dispute this and submit that the QNP does contain policies and allocations to meet its identified housing requirement. In my view QPC are wrong.
4. As the LPA are already aware, the approach to NPPF 14 has already (and recently) been addressed previously by an Inspector considering an appeal within the LPA's administrative area¹ in the *Melton Road* decision. There the Inspector (correctly) identified that a neighbourhood plan must contain both policies and allocations to meet an identified housing requirement in order to meet NPPF 14.

DOES THE QNP CONTAIN A HOUSING REQUIREMENT FOR THE QNP AREA?

5. In order to contain policies and allocations to *meet* a housing requirement for a neighbourhood plan area, there must first *be* a housing requirement for the neighbourhood plan area.
6. I note the Opinion identifies the explanatory text of the QNP at 7.1 to 7.3 but no policy text in support of its conclusion that the QNP contains a housing requirement:

"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,

¹ APP/X2410/W/20/3264488 – land at Melton Road, decision letter dated 24th June 2021

Rearsby, Thrussington, Thurcaston, Woodhouse Eaves and Wymeswold

7. These paragraphs form part of the explanatory text and are not policies of the QNP. Pertinently they do not identify a housing requirement for the QNP area. All these paragraphs do is repeat the LPA's Core Strategy figure for the entire Borough over the plan period (13,940) and identifies that "*at least 500*" of those must come from the listed twelve 'other' settlements. There is no identified housing requirement figure for the QNP area. The "*...at least 500 homes are to be provided in 12 'other settlements'...*" at policy CS1 is a *minimum* figure to be sourced from across all twelve identified 'other settlements' over the Core Strategy plan period. It is not a requirement for housing provision from the QNP neighbourhood area and there is no identification of how much of the 'at least 500' is the identified housing requirement of the QNP neighbourhood area. Policy CS1 identifies that the 'at least 500' will be addressed in a Site Allocations and Development Management Development Plan Document, however I understand that to date no such document has been prepared.
8. In accordance with Guidance² and the NPPF³ strategic policies should set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations. There is however no strategic policy within the QNP which sets out a housing requirement for the designated neighbourhood area. As noted above, the "*at least 500*" to come from twelve listed 'other settlements'" aspect of policy CS1 is not a housing requirement for the designated neighbourhood area, but rather it is a minimum figure to be sourced from across all twelve of the identified 'other settlements' over the Core Strategy plan period. There is (for example) no identified amount of the 'at least 500' that are to come forward from Queniborough, or any of the twelve 'other settlements'. Is it the case (for example) that the QNP area housing requirement is an equal $1/12$ share of the 'at least 500' (c.42 units)? If so, why, and where is this set out in policy? Or is the QNP are

² NPPG ID 41-009-20190509

³ NPPF 66 and 67

housing requirement actually 450 of the 'at least 500'? If so, what is the basis for asserting this, and where is this in policy? Or is the QNP housing requirement actually only 10 of the 'at least 500', with the remaining 490 to be met disproportionately by the other eleven settlements? If so, why? And where is this set out in policy? It is clear that the 'at least 500' cannot suffice as an identified housing requirement for the QNP area for the purposes of NPPF 14(b).

9. Where it is not possible to provide a requirement figure for a neighbourhood area the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority. An indicative figure will need to be tested at examination of the neighbourhood plan. I note that no indicative figure appears in the QNP and that there was no purported testing of any indicative housing figure in the examination of the QNP. It seemingly remains unexplained as to why QPC did not seek an indicative figure from the LPA given the absence of an identifiable housing requirement for the QNP area.

10. Moreover Guidance is clear that where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make⁴. The Opinion appears to rest upon the point that the 'at least 500' from across twelve settlements constitutes an identifiable housing requirement for Queniborough and further that this requirement has already been met before the QNP was made. As set out above, there is a fallacy in seeking to equate '*at least 500' from across twelve settlements*' with '*this is the identifiable requirement from the QNP area*'. Notwithstanding that fallacy, if one accepts the faulty reasoning and follows this through to its logical conclusion, the purported allocation within the QNP (Queniborough Lodge, for 132 dwellings, to which see further below) *cannot* be

⁴ NPPG ID 41-103-20190509

an allocation to meet the identified requirement as is required by NPPF 14(b) and therefore NPPF 14(b) is not met on the reasoning within the Opinion.

11. If the reasoning within the Opinion is correct then at the point of the QNP being made there was no housing requirement remaining for the QNP area, since the Opinion rests on the position that the requirement for the QNP area had already been met. NPPF 14(b) requires neighbourhood plan allocations to meet an identified requirement. On the Opinion's reasoning, the purported allocation is not therefore an allocation to meet an identified requirement.
12. Drawing these points together, I am firmly of the view that the QNP does not have an identified housing requirement. Accordingly it fails the requirements of NPPF 14(b) since, in order to comply with the same, a neighbourhood plan must have an identified housing requirement.
13. I am reinforced in this view by consideration of other neighbourhood plans prepared within the LPA's area and 'made' before the QNP. For example I understand that the Quorn Neighbourhood Plan – made on 6th June 2019 and some considerable time *before* the QNP was made – contains housing requirements agreed in discussion with the LPA and based on provision of housing to meet (and exceed) the minimum housing requirement in the *emerging* Local Plan. I do not agree therefore with the conclusion in the Opinion that “...*the QNP has taken an eminently sensible approach to assessing the need in its area based on current policy*”.
14. Likewise the Sileby Neighbourhood Plan, also made before the QNP, bases its housing requirement on the Leicester and Leicestershire Housing and Economic Development Needs Assessment (January 2017) and is addressed towards housing figures up to 2036, aligned with the approach of the emerging Local Plan. Following discussions with the LPA the Sileby Neighbourhood Plan acknowledges that setting a housing requirement figure above the previous Local Plan's figures is a “...*more realistic and deliverable target*” which balances a number of matters

than would be the case if the Neighbourhood Plan sought only to meet a figure closer to the lower, historic, housing figures.

15. It is clear that other, earlier, neighbourhood plans were prepared in discussion with the LPA and utilised housing requirements from the emerging plan without issue (and in accordance with the Guidance's use of indicative figures where specific neighbourhood area requirements – as here – cannot be provided from current policy). The QNP was not so prepared.
16. It remains unclear as to why the QPC did not seek an indicative figure, as others did in preparation of their neighbourhood plans and as envisaged in Guidance where, as here, specific figures for a neighbourhood plan area are not available. That other neighbourhood plans have embraced the need for increased housing provision (and the concomitant increase in housing requirement figures) in the emerging Local Plan contrasts starkly against the approach adopted by the QNP in seeking resort to a lower, older housing figure which (as set out above) does not in any event relate in any identifiable way to the QNP area.
17. In my view the requirements of NPPF 14(b) are not met by the QNP in relation to housing requirements.

DOES THE QNP CONTAIN ALLOCATIONS TO MEET AN IDENTIFIED HOUSING REQUIREMENT?

18. This consideration is somewhat otiose in circumstances where a neighbourhood plan does not contain a housing requirement, since it fails to meet the requirements of NPPF 14 through failure to have a housing requirement. Nonetheless, I am of the view that not only does the QNP not contain a housing requirement, it also does not contain allocations to meet an identified housing requirement.

19. The first (somewhat trite) point is that if there is no identified housing requirement within the QNP then *by definition* the QNP cannot contain allocations to meet that identified housing requirement in full, as is required by Guidance⁵.
20. The Opinion concludes that policy Q10 does make such an allocation in relation to the Queniborough Lodge site, in relation to “*some 132 dwellings*”.
21. In my view policy Q10 falls short of identifying Queniborough Lodge as an allocated site for residential development; the examination of the QNP did not purport to test any matter or evidence that would ordinarily sit beneath a site allocation; there is (for example) no examination of constraints of a proposed allocation, the sustainability of a proposed allocation, or the deliverability of the same. There is no indicative delivery timetable nor any allocated reserve site(s) (*cf.* NPPG ID 41-00920190509). There appears to have been no appraisal of options and an assessment of individual sites against clearly identified criteria as is required by NPPG ID 41-042-20170728, and no consideration of viability in relation to any identified site(s). There appears to have been no consideration of the likely impacts of any proposed ‘site allocation’ on physical infrastructure and the capacity of existing services (as required by NPPG ID 41-045-20190509) and no consideration of whether bringing the Queniborough Lodge site forward is central to achieving the vision and aspirations of the plan (see NPPG ID 41-076-20190509). The purported ‘allocation’ under QNP policy Q10 does not meet any of these requirements.
22. Moreover, as noted above, based on the reasoning within the Opinion, the purported allocation at QNP policy Q10 is not an allocation to meet an identified housing requirement (as is required by NPPF 14(b)) since, on the Opinion’s basis and reasoning, there is no housing requirement to be met. On the Opinion’s own reasoning, NPPF 14(b) is not met.

⁵ NPPG ID 41-097-20190509

23. The QNP itself is clear that the expression of support for residential development in policy Q10 rests on the previous grants of permission (now lapsed⁶) for such development; it does not identify any other basis for policy Q10's expression of support.
24. Omitted from the Opinion is QPC's formal objection to the allocation of development for 132 dwellings at Queniborough Lodge in the emerging Local Plan. It remains unclear as to how QPC can simultaneously claim that Queniborough Lodge is an allocated site under QNP policy Q10 for 132 dwellings whilst maintaining a formal objection to the emerging Local Plan's provisional allocation of 132 dwellings at Queniborough Lodge.
25. In summary the required processes for the making of an allocation appear not to have been followed, there has been no testing of any purported 'allocation' in the examination process, the QNP itself claims only to rest on lapsed previous permissions and the QPC (who drafted and promoted the QNP) have themselves objected to the allocation of Queniborough Lodge for 132 dwellings in the draft Local Plan. In my view there is no 'allocation' of the Queniborough Lodge site so as to fulfil the requirements of NPPF 14(b).

CONCLUSIONS

26. For the reasons set out above I disagree with the Opinion and am of the view that the QNP does not contain an identified housing requirement, nor does it contain allocations to meet an identified housing requirement. The requirements of NPPF 14(b) are not met and accordingly, given the c.3-year supply of housing, the presumption at NPPF 11(d) applies as officers of the LPA have previously (correctly) concluded.

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⁶ The QNP identifies two permissions, one for 125 dwellings and another for 7 dwellings comprising various conversions, extensions and new builds. Both are however given the reference P/13/1696/2 which I assume to be in error; I presume that P/13/1696/2 refers to either the 125-unit scheme or the 7-unit scheme and that there is a different reference for the 'other'

10th January 2022

No5 Chambers

LONDON - BIRMINGHAM - BRISTOL - LEICESTER