

## **Rearsby Neighbourhood Plan (Submission Plan)**

As you are aware, I have been appointed to conduct the Examination of the Rearsby Neighbourhood Development Plan. I can see that considerable community effort has gone into developing the Plan; in order that I may progress the Examination I would be grateful for the Qualifying Body's response to the initial enquiries below; the local authority may also have comments. The responses will all contribute to the progressing of the Examination.

I still have considerable work to undertake in fully assessing the submitted Plan but my purpose here is to better understand the authors' intentions behind some of the policy content. Where representations have raised issues, I will aim to pick up below the most significant of these so that you may provide comments where you feel the need. In order to ensure transparency with the conduct of the Examination a copy of these queries is being sent to the Local Planning Authority in order that the exchange of emails can be published on the webpage relating to the Neighbourhood Plan alongside the representations received during the Regulation 16 public consultation.

### **Plan Period**

I note that the stated Plan period runs from 2018 but the Plan was not submitted until 2021; since the Plan cannot be backdated and the Policies are not dependent on data anchored in 2018, the Plan period ought to commence in 2021. Your comments are invited.

### **A general comment about the wording of Policies**

Paragraph 16 of the NPPF says (inter alia) that:

"Plans should:

b) be prepared positively, in a way that is aspirational but deliverable;.....

d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; .....

and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)."

I will raise issues in relation to these expectations below. In particular, policies should say what *is* wanted, not what *is not*. Sometimes this is a matter resolved through different wording, but sometimes the issue is deeper because clarity about what is positively being sought is unstated.

### **Creating a Plan for Rearsby Parish**

The Neighbourhood Plan is required to include a map of the designated "Neighbourhood Area". The correct title should therefore be used when referencing and titling the map – "Neighbourhood Plan area" is not correct.

### **Rearsby in the context of the Borough Council's 'Vision for Charnwood'**

Whilst this section sets out the relationship between the Neighbourhood Plan and the Borough Plans quite well, I perhaps need to explain that my Examination will assess "general conformity" (NPPF term) between the Neighbourhood Plan policies and the strategic policies of the adopted Core Strategy.

The local authority has made three points in relation to this section on which you may wish to comment (no action is required at this point):

“i) Para 2.22 – the Local Development Scheme ‘2021’ should be referenced

<https://www.charnwood.gov.uk/pages/localdevelopmentscheme>

ii) Para 2.29 – whilst draft Local Plan Policy LP3 proposes that 160 homes are identified in ‘other settlements’ through the neighbourhood planning process, this is not an adopted plan. CBC has not formally established a housing requirement for the neighbourhood area.

iii) Para 2.30 – The draft Local Plan did not allocate sites, rather it ‘consulted on proposed allocations’. This section should be clarified accordingly.”

#### **4.1 Design**

Paragraph 4.3 seems to say: “This [positive approach] includes working with” but it is unclear who is “working with” whom; it would seem that ‘joint working between’ would be a more appropriate choice of words?

#### **POLICY R1 DESIGN**

The local authority has noted: “Policy R1, 1st para – delete ‘Design’ or replace with ‘The design of’ to clarify this sentence”.

This Policy requires both “compliance, where appropriate” with the “principles” in the Rearsby Village Design Statement (VDS) 2002 and “regard for” “building design principles, drawn from the VDS, to a degree that is proportionate to the development”. In fact the VDS sets down “guidelines” rather than principles and it is unclear why the guidelines need to be restated in different words within the Policy. It is possible that a 2002 document has become dated over the intervening period, but there would be less scope for confusion if there were not two competing statements of what is expected of developers?

In a similar vein the local authority has commented: “the Village Design Statement is a lengthy document and it is supported that the key principles of it have been extracted and included into the policy wording. Some of the requirements in the Village Design Statement are not relevant to the determination of planning applications. It would provide a clearer framework for decision making if Appendix B was amended so that either (1) the requirements not relevant to decision making were removed or (2) the requirements relevant to decision making were highlighted as a different colour text to make them easily identifiable.”

In relation to the individual elements of this Policy a representation has noted: “Whilst Gladman recognise the importance of high-quality design, in accordance with the requirements of the Framework [NPPF], design policies should not aim to be overly prescriptive. Policies require some flexibility in order for schemes to respond to site specifics and the character of the local area. In essence, there will not be a ‘one size fits all’ solution in relation to design and sites should be considered on a site by site basis with consideration given to various design principles.”

Looking at the elements in turn:

- a) Is this a building design principle?
- b) The specific identification of “particularly on the north side between Rearsby and Thrussington” is not explained?
- c) “Large scale” and “rural aspect” are not explanatory of what *is* expected – particularly where it is acknowledged that “Existing settlement patterns have grown incrementally over time”. The local authority has suggested: “replace ‘large scale’ with ‘major’ as this is defined for the purpose of decision making in Annex 2 of the NPPF” and “Should affecting the ‘rural aspect’ be interpreted as being a matter of the principle of any development taking place, or requiring development to incorporate features such as buffers/planting? The policy would provide a clearer framework for decision making if it included criteria defining rural aspect.”
- d) Is this a “building design principle” or applicable more widely?
- e) This addresses “inappropriate development” but what would characterise ‘appropriate development’? The local authority has suggested: “‘traditional spaces, shapes and styles’ is amended to read ‘historic open spaces and traditional design styles’ to better clarify this policy.”
- f) This element appears to use “spatial” and “spaces” a number of times without providing clarity on what would characterise ‘appropriate development’?
- h) What is “locally distinct” about reused materials?
- i) This element refers specifically to “redevelopment”? The local authority has suggested: “replace ‘large scale’ with ‘major’ as this is defined for the purpose of decision making in Annex 2 of the NPPF.” and “whilst the principle of distinctive style is supported, this section is negatively expressed and it could provide a more positive framework if expressed as ‘Major developments with modern architecture must respond to the distinctive... heritage of Rearsby’ (or similar).”
- j) The encouragement of “high red brick walls with varying types of coping” might be seen to be at odds with element b)?
- k) & l) These elements appear to be at odds with each other; the first expects style repetition whereas the second says that variety is key? How would the appropriately “incremental” growth of the village be characterised?
- m) The local authority has suggested: “after ‘sympathetic’ to include ‘to the scale, form and massing of surrounding buildings’ (or similar) to provide a clearer framework for decision making.”
- n) How might “careful siting” be characterised?

I note that the “principles” here do not make any specific mention of the Conservation Area whereas Policy R4B does.

Your comments are invited.

## **4.2 Promoting effective use of land: Area of Local Separation**

### **POLICY R2 PROMOTING EFFECTIVE USE OF LAND - AREA OF LOCAL SEPARATION**

It is noted in paragraph 4.14 that “The Borough Council’s March 2016 study entitled ‘Green Wedges, Urban Fringe Green Infrastructure Enhancement and Areas of Local Separation. Methodology and Assessment’ accordingly included a consideration of how the settlements of East Goscote and Rearsby are to be acknowledged as spatially distinct from each other.” It is not however explained on what basis, comparable or otherwise, an extension to the area of separation identified from that study has been defined and justified?

The local authority representation is not alone in commenting: “This neighbourhood plan policy proposes to extend the Area of Local Separation designation to the east of the settlement, as highlighted on Map 1 of the RNP. This proposed extension is not consistent with Charnwood Borough Council’s Local Plan evidence base in relation to Areas of Local Separation which assessed this area as site ‘ALS-N’ and does not propose an eastern extension. The neighbourhood plan evidence base does not appear to assess in detail the proposed eastern extension on its landscaping/ separation credentials, rather it refers to speculative planning applications in the area. It is suggested that the Area of Local Separation identified in the neighbourhood plan are [*sic*] amended to reflect the Council’s evidence base, or otherwise that a deviation from this evidence is proportionately justified. It is noted that the proposed east extension does not overlap a proposed housing allocation in the draft Local Plan.” The local authority has also commented: “Policy R2, second paragraph – policy text relating to impact on the floodplain may be best placed in Policy R9.”

I note from the related Policy Map in Appendix A that an area of open space and planting , partly outside the Neighbourhood Area, seems to assure a separation between the built up areas without any apparent need for a further policy intervention?

At least one other representation suggests that “Areas of Separation” are a strategic matter for the Local Plan. I am however not persuaded that concepts, such as “Areas of Separation”, cannot be applied more locally at an appropriate scale. However, as with all such policy approaches, proportionate evidence in justification of the approach and/or boundary will be required.

Referring back to the NPPF expectation that a Neighbourhood Plan should “Plan positively”, your comments are invited on the nature of and justification for Policy R2.

#### **4.3 Promoting effective use of land: Limits to Development and Open Countryside POLICY R3 PROMOTING EFFECTIVE USE OF LAND - LIMITS TO DEVELOPMENT**

It is unclear from the text whether the “proposed” Limits to Development are exactly as proposed in the draft Local Plan or a variation from that; however, the local authority has confirmed that the proposed boundaries “are consistent with those proposed in the emerging Local Plan”. If the latter is the case, then the Policy Map at Appendix A needs to indicate the source of the boundary line.

In what ways is it intended that Policy R3 should “reinforce” the existing Charnwood policies? I note that Policy R3 supports “development proposals for new uses and for the conversion of existing buildings”; is this wording intended to rule out new buildings? The local authority has suggested “deleting text ‘for new uses and for the conversion of existing buildings’ in order to clarify that the policy always applies and prevent any future ambiguities.” The local authority has also commented: “Policy R3 (b) - policy text relating to impact on flooding may be best placed in Policy R9.”

Some representations note that Limits have been tightly drawn around the existing settlement. One representation comments: “This approach is clearly contrary to the very vision and objectives of the Plan which are to secure appropriate levels of housing to meet the community’s needs. Moreover, it is contrary to guidance contained in paragraph 29 of the NPPF which states that “neighbourhood plans should not promote less development than set out in strategic policies, or undermine strategic policies”. Another representation

specifically suggests that “Map 2. Limits to Development and the wording of Policy R3 should be amended to include [emerging Local Plan referenced site] HS72 Land off Gaddesby Lane. The suggested amendments would also ensure that Rearsby could benefit from the extra protection Paragraph 14 of the National Planning Policy Framework offers. This states the following: “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 apply: 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 73); and d) the local planning authority’s housing delivery was at least 45% of that required over the previous three years”.”

A separate representation contends that Policy R3 “should be worded more flexibly in accordance with Paragraphs 11 and 16(b) of the NPPF (2019) and the requirement for policies to be sufficiently flexible to adapt to rapid change and prepared positively. It is suggested that Policy R3 should support development proposals adjacent to the limits to development provided that any adverse impacts do not significantly and demonstrably outweigh the benefits of development alongside according with other policies of the [Rearsby Neighbourhood Plan] and other development plan policies.” And yet one more representation suggests a site for development that is bordered on three sides by existing development.

In relation to the representations that suggest a significant reformulation of Policy R3, I would comment that adopting their proposals would almost certainly involve a further round of public consultation, but you may either have been unaware of the issues raised or feel that the benefits suggested accord well with the Plan’s vision and objectives.

A representation from the occupiers of Rearsby House notes that the Limits to Development boundary runs inside their garden. They comment: “We would point out that there is already a building within that area and the [Limits’ line] needs to run outside the garden and building”. It is probable that this alignment was selected by Charnwood BC rather the Neighbourhood Plan but you may have thoughts on this issue.

Your comments are invited.

#### **4.4 Housing Mix**

##### **POLICY R4A HOUSING MIX**

I note that development of smaller dwellings is “encouraged” whereas provision by a community-led organisation is “supported”. I would suggest that the use of these terms should be swapped; there is some evidence to support the inclusion of smaller dwellings but, in the absence of specific proposals, the originators of a development proposal may be an immaterial consideration as to the acceptability or otherwise of a scheme?

A representation comments: “It is noted that Policy R4A states that housing development proposals should take into account the “most up to date assessment of housing need”. For

the avoidance of doubt, it is considered that the policy text should be updated to confirm that the most up to date assessment of housing need can also be that, prepared at Borough level, not just by the Parish Council.” Was that your intention?

Your comments are invited.

#### **4.5 Exception site development**

##### **POLICY R4B DELIVERING SUFFICIENT HOMES - ‘EXCEPTION’ SITE DEVELOPMENT**

Within paragraph 4.34 the text seems to have gone awry with “of homes has been recognised as a village priority.” having been stranded, perhaps from a previous edit? Similarly, the local authority comments: “Para 4.36 – the sentence as drafted is incomplete and its intentions unclear. Para 4.37 – suggest the text ‘any incursion by’ is deleted as this is not a positive way to express this policy.”

It is unclear from where the expectation (element (a)) that “a single development will not exceed 9 dwellings” has arisen. The local authority has commented: “it is not justified why a threshold of 9 dwellings has been used. The supporting housing needs assessment (March 2018) establishes a cumulative need for 12 dwellings (8 market / 4 affordable) and therefore a threshold of 12 may be more appropriate to the neighbourhood area.” However, a representation comments: “the ‘exception’ site policy is informed by local need for a five year period only and not the 18 year period it should be planning for.” There therefore seem to be multiple sources of confusion.

In relation to subsequent Policy elements the local authority has commented: “Policy R4B (b) – it may be more appropriate to define affordable housing as ‘in perpetuity and as set out in Annex 2 of the NPPF’ in order to maintain consistency of definition. Policy R4B (b) – suggest the text ‘in accord with the stated requirements in line with current policies of the Planning Authority for affordable housing’ is deleted as it is confusing and appears to duplicate the Local Plan policy.

Policy R4B (c) – The ‘Charnwood Rural Housing Guide’ and ‘Housing Allocations Policy’ set out CBCs approach in relation to affordable housing on rural exception sites and criteria for establishing a local connection. It is requested that these documents are referred to within the supporting text of the policy to ensure that information in relation to assessing local connection is referenced within the RNP. This would ensure that the policy provides a clear framework for decision making.

R4B (d) - it is not justified why a threshold of 25% has been used. Would the use of the text ‘a proportion where essential’ be more appropriate and consistent with the NPPF Annex 2 definition of Rural Exception Sites?”

By their juxtaposition, it seems to be an expectation that affordable housing will only be provided through Policy R4B and not through Policy R4A?

Your comments are invited.

Taking the Plan housing Policies together a representation has commented: “It’s starting point is wholly inaccurate, planning for growth based on an untested and now out of date housing need figure. This in turn begs the question as to whether the policies around settlement boundaries are meaningful or indeed sustainable. Another common theme is

that the RNP is clearly designed to restrict any development from coming forward, being completely at odds with the requirements of national policy, legislation and guidance.” You may wish to comment on this characterisation of the Plan approach.

## **Building a Strong and Competitive Economy**

### **4.6 Existing employment opportunities**

#### **POLICY R5A EXISTING EMPLOYMENT OPPORTUNITIES**

Whilst I can see that there is a basis for seeking to retain employment uses in a “protected” employment area – I note that protection is afforded through the Core Strategy – I am doubtful that it would be reasonable or realistic to be equally restrictive for *every* other existing employment base; Policy R3 appears to be based in part on the presumption that building conversion opportunities will become available; some residential premises/areas may be improved by the loss of commercial premises; changes in what is allowed nationally through “permitted development” already facilitate some conversions without the need for a planning consent. What is the thinking behind this Policy?

### **4.7 New Business Opportunities**

#### **POLICY R5B NEW EMPLOYMENT OPPORTUNITIES**

Contrary to the suggestion in paragraph 4.43, the local authority has pointed out that the emerging Local Plan does not propose to allocate a new employment site/ expansion of the existing protected employment site in Rearsby. I note that the text references Core Strategy Policy CS10 (Rural Economic Development) which looks “to maximise the potential of our rural economy [..... by] supporting the sustainable growth and expansion of businesses in rural areas”. However, Policy R5B appears to start from an assumption that any location within the Neighbourhood Area will be a “sustainable” location, but I don’t believe that is the case. The concentration of expansion opportunities within a Protected Employment Area has a purpose, and that purpose could be undermined if employment development is seen to be encouraged across the countryside. What is the thinking behind this Policy and what is the source of the map in Appendix A?

### **4.8 Promoting Healthy and Safe Communities**

#### **Local Green Spaces**

#### **POLICY R6A – LOCAL GREEN SPACES**

In paragraph 4.49 the reference to ‘Appendix F’ should, I believe, read ‘Appendix E’?

Whilst I might take issue with some aspects of the marking scheme – which uses examples of characteristics instead of assessing *particular* merits – I am persuaded by the descriptive material provided that the Local Green Space designation is appropriate for the three identified spaces (subject to the context and boundaries of these being viewed on the ground). However, the numbering on the related map may give rise to some confusion and, at the map scale, the boundaries for each site may not be unambiguously clear. The reuse of the map from Appendix E may not be appropriate?

The local authority has suggested: “Policy R6A – the text ‘or have an adverse effect on’ does not provide a clear framework for decision making and it is suggested this text is deleted. Appendix E – note that for the benefit of policies R6A and R6B, Appendix E should be attached to the final version of the plan for completeness.”

Your comments are invited.

### **Open Space, Sport and Recreation POLICY R6B IMPORTANT OPEN SPACES**

A representation has commented: "Sport England is concerned that the plan refers to the "Open Spaces, Sport and Recreation Study, 2010" and the "Open Spaces Strategy 2013-2028" but not the most up to date studies and strategies the studies used are out of date and therefore the plan is not sound. Open Spaces and Assessment Study 2017 Indoor Built Sports Facilities Strategy 2018 Playing Pitch Strategy 2018 - It is understood that the above studies have informed the Open Spaces Strategy 2019, it appears therefore that the plan should be reviewed and updated to take account of the updated evidence."

Some confusion arises from the read-across between the Policy and the related map. "Brookside" is identified as LGS at Policy R6A; within Policy R6B I believe it is the "Brookside recreation ground and play area" that is being protected – area 12 on the map? I am unclear as to why area 9 is being identified on the "proposals" map? The supporting text says that the areas identified here are "regarded as qualifying (within the CBC typologies) as Open Space, Sport and Recreation (OSSR) sites" but Appendix E does not seem to evidence this? Your comments are invited.

### **Important Views POLICY R6C IMPORTANT VIEWS**

A representation comments: "The identification of the 'Important Views' provided in Appendix C to the Neighbourhood Plan do not appear to have been sufficiently evidenced and justified. It is considered that further detail needs to be provided in respect of the importance of these views." It is evident that Appendix C merely provides a description of the views included on the map.

Whilst I appreciate that views are best appreciated on the ground and photos are rarely likely to do them justice, it seems improbable that the photos in Appendix C are all taken from the indicated viewpoints, particularly photo 4? The Policy is clear that views cannot be "protected" in absolute terms and I wonder whether the expectation of this Policy might have a clearer context within Policy R1, partly to be illustrative of considerations of the landscape setting?

Your comments on these lines of thought are invited.

### **Community Facilities and Amenities POLICY R6D COMMUNITY FACILITIES AND AMENITIES**

I believe that the reference under "Community Action" to "Right to Acquire" should in fact refer to the designation of buildings as "Assets of Community Value"?

It is helpful that this Policy identifies the community amenities (the term "facilities" is only used in the title and not within the body of the Policy) but, within a land use plan, the inclusion of "Public bus route" is inappropriate; this might instead be a Community Action.

Your comments on this line of thought are invited.

#### **4.9 Conserving and Enhancing the Natural Environment**

##### **POLICY R7 CONSERVING AND ENHANCING THE NATURAL ENVIRONMENT**

I believe that the opening sentence here should more properly read:

‘To be supported development proposals should, appropriately to their scale:’

The Council’s Ecology Officer has made a number of comments on the detail of this Policy:

“Policy R7 (a) – the examples of tree and hedgerow planting relate to habitat creation rather than enhancement.

[The Environment Agency has added: “We welcome the commitments within the Policy but consider it could be strengthened by adding the following wording at the end of bullet point ‘b’: “and provide biodiversity net gain””]

Policy R7 (c) – the text ‘in conjunction with landowners’ is an unclear policy provision which could be better expressed as ‘across different land ownerships’ (or similar). Also the text ‘establish effective wildlife corridors’ is vague and potentially limiting as it is unclear how effectiveness would be tested and habitat corridors are only one part of the concept of ecological connectivity. It is suggested the wording is amended to read “which improve ecological connectivity between important habitat features in the wider landscape” (or similar).

Policy R7 (d) – clarification as to what enhanced access is required for would be useful. Suggest the text ‘enhance access to biodiversity assets where appropriate’ (or similar) is included.

Policy R7 (e) – this is missing.

Policy R7 (f) – it would provide a clearer framework for decision making if these areas were identified on a map that was referenced in the policy. [I would add that the punctuation does not help me to understand element (f)(i); it is implied that there is a single “woodland area” already protected by a group TPO, but then (apparently) three areas are listed that do not appear to be contiguous? Also, in relation to (f)(ii), from the map it would appear that there is a road to the “southern side” of Brookside?]

Policy R7, last sentence – it is unclear when it would be appropriate to require an ecological survey. Suggest ‘where appropriate’ is replaced with ‘where a proposal impacts an identified biodiversity site’ (or similar) to provide a clear framework for decision making.”

Some explanation or comments please.

#### **4.10 Conserving and Enhancing the Historic Environment**

##### **POLICY R8 CONSERVING AND ENHANCING THE HISTORIC ENVIRONMENT – LOCAL HERITAGE ASSETS**

Conservation Areas and Listed Buildings are designated separately from Local Plans and the NPPF, albeit their protection is noted in these, and therefore paragraph 4.75 will need some amendment. It would be useful if a source reference was provided for the 2010 Appraisal of the Conservation Area.

Paragraph 4.76 suggests that there are 7 properties identified as non-designated heritage assets. The Policy itself lists 10 properties and 2 ridge and furrow fields and these are all identified on the supporting map, which identifies one field as very extensive. Appendix D provides an appropriate amount of detail to explain the significance of the heritage properties but not the 2 fields.

The last sentence of the opening paragraph is essentially repeated in the last sentence, but neither provides unambiguous guidance to the prospective planning applicant. I believe that the wording need only be stated once and should read along the lines of:

‘Development proposals affecting a non-designated heritage asset or its setting will need to balance the community benefits of the proposal against the impact on the heritage significance of the asset.’ The local authority has also noted the need for the Policy to reference “significance”.

Your comments are invited.

#### **4.11 Flood Risk**

##### **POLICY R9 FLOOD RISK**

The local authority has commented: “Policy R9 – this policy as drafted largely duplicates Local Plan policies and the NPPF, albeit in less detail.” This Policy would not appear to say anything particular about the Neighbourhood Area and therefore may not “serve a clear purpose” and amount to “unnecessary duplication of policies”. Do you agree?

#### **4.12 Promoting Sustainable Transport**

##### **POLICY R10: PROMOTING SUSTAINABLE TRANSPORT**

I believe that the opening sentence here should more properly read:

‘To be supported development proposals should, appropriately to their scale:’

### **5. THE IMPLEMENTATION AND MONITORING OF THE REARSBY NEIGHBOURHOOD PLAN**

This is a helpful note of the approach to be adopted by the Parish Council, although it is puzzling why the monitoring in paragraph 5.7 relates to the Village Design Statement rather than Policy R1? A representation suggests that there should be a Policy commitment to a review of the Plan, especially in the light of the housing needs data informing the new Local Plan when adopted; however, there is no national policy expectation of such a review.

#### **APPENDIX A: POLICY MAPS**

Comments noted above, albeit it is unclear why these maps are not co-located with the Policy where they are referenced?

#### **APPENDIX B: Guidelines from ‘Rearsby Village Design Statement’.**

Comments noted above.

#### **APPENDIX C: Important Views**

Comments as noted above.

#### **APPENDIX D: Local Heritage Assets**

It is apparent that the illustrations of building from the LCC Historic Environment Record is incomplete whereas those for the second list appear to have a surfeit?

**APPENDIX E: LOCAL GREEN SPACE ASSESSMENT**

This is marked as Appendix X on my copy and it is unclear why this is not included as part of the Plan document?