

Sileby Neighbourhood Plan Review (Submission Plan dated May 2022)

As you are aware I have been appointed to conduct the Examination of the Sileby Neighbourhood Plan Review. 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. I have noted the initial comments from the Qualifying Body on the representations but there appear to be some gaps to be addressed and/or some further clarification required.

My purpose here is to better understand the intention behind the policy content from the authors and it is not to invite new content or policies that will not have been subjected to the public consultation process. In particular I need to be sure that the Plan policies meet the obligation to "contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" (NPPF para 16). It is an expectation of Neighbourhood Plans that they should address the issues that are identified through community consultation, set within the context of higher level planning policies. There is no prescribed content and no requirement that the robustness of proposals should be tested to the extent prescribed for Local Plans. Where there has been a failure by the Qualifying Body to address an issue in the round, leading to an inadequate statement of policy, it is part of my role wherever possible to see that the community's intent is sustained in an appropriately modified wording for the policy.

My initial view, subject to the responses to this request and a brief site visit, is that the Examination can be concluded on the basis of written representations alone since the matters for consideration have been expressed clearly by all parties.

In order to ensure transparency with the conduct of the Examination a copy of these queries is being sent to the Local Planning Authority with a request that the exchange of emails be published on the webpage relating to the Neighbourhood Plan Review alongside the representations received during the Regulation 16 public consultation. Where relevant, I have included below matters raised during that formal consultation.

Modifications

There are three types of modification which can be made to a Neighbourhood Plan. The process will depend on the degree of change which the modification involves:

- minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum; or
- material modifications which do not change the nature of the plan or order and which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan; or
- material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

My understanding from the material that I have read is that the Qualifying Body has made modifications that they believe fall within the second category above. Within the Plan documents I am told that the review is "to ensure that it remains relevant and shapes development within the Parish up to 2037, the timescale for the new Charnwood Local Plan". The NPPF was updated again in

2021 and it is against that version of the NPPF that I must conduct my Examination. From the Statement of Modifications and a comparison of the Review document and the 'made' Neighbourhood Plan I have identified the following matters – please advise if you identify instances where I have missed other areas of modification.

The QB is content with this recommendation.

The LPA would support the examiner's report making a specific recommendation as to whether it is considered that a referendum is required.

Foreword

It is appropriate for the Foreword to be updated to reflect the Review process. However, I would query the accuracy of some of the new content. Paragraph 3 suggests it relates to changes in Plan context "since the Neighbourhood Plan was Made". Whilst it is true that the UK has left the EU this had no immediate impact on the legislative context for neighbourhood planning. Whilst it is also true that the NPPF has been updated (and the Practice Guidance alongside this) only one such review has been undertaken since the Plan was Made. It is unclear to me where "These changes to the NPPF have strengthened the range of powers that Neighbourhood Plans have where they undertake residential site allocations", although I note the point about clarification through the Courts. Your further clarification would be helpful.

The Qualifying Body is content for changes to be made to this section if felt appropriate.

The reference to the increased powers is there to highlight the introduction of paragraph 14 which outlines circumstances where NPs which include a residential allocation can remain up to date where the Local Plan is unable to offer protection. Although this was introduced in the 2019 NPPF and the original NP was Made after this date, the NP was prepared from 2014 following the guidance from the first NPPF in 2012 which did not include this provision.

The LPA agrees that the introduction of NPPF Para 14 has enhanced consideration given to neighbourhood plans in situations where NPPF Para 11d applies – which is the current situation at Charnwood Borough Council.

What changes have been made?

From the Contents page this would appear to be Section 1, but the numbering has been omitted from the title here? The Policy shown as IR1 here is shown later within the Plan as Policy INF1? The content is helpful to the understanding of the way that the Plan has changed but may need further review in the light of any further modifications.

The section number was omitted in error. It can be reinstated. The Policy reference can be amended for consistency.

2. Introduction

Paragraphs 6 & 7 will need some amendment in view of the further progress made. In the absence of a Glossary the references in paragraph 5 on page 8 to "LCC" and "VAS" need some translation. The update on Community Actions is helpful content illustrating progress.

Noted

3. How the Neighbourhood Plan fits into the Planning System

I note that this section has been appropriately updated to acknowledge the 2021 revision of the NPPF. However, the middle of paragraph 6 suffers from some drafting issues which need clarification.

Noted

4. The Plan, its vision, objectives and what we want it to achieve

This section appears to have been revised only to the extent that the differences in Policy content are acknowledged?

Correct.

5. How the Plan was prepared

I note that this section has been extended to accommodate the consultative process on the Review. Given the significant step of including a site for housing development it is perhaps surprising that no specific reference is made to the site selection process.

Appendix 3 describes the site selection process in detail.

6. Our Parish

I note that this section has needed no alteration.

Noted

7. Meeting the requirement for sustainable development

Given that sustainability was at the heart of the site selection process it is perhaps surprising that no reference to it is made here?

This can be added in for completeness.

8. Neighbourhood Plan Policies

A General policies

Limits to Development

Policy G1: Limits to Development

I note that Limits to Development are a policy tool used by Charnwood Borough Council in the adopted Local Plan with which the Neighbourhood Plan needs to be in general conformity. I also note that the "Methodology" has not altered from that stated in the Made Neighbourhood Plan except for an updating and the addition of a clarification that "Sites with an intention to permit but without a planning consent have been excluded". Over the period since the Plan was submitted it seems likely that such sites may have changed status, although the local authority's representation would appear to suggest that is not the case. I note that the local authority has suggested that the proposed allocation in the yet-to-be adopted Local Plan should be included within the Limits, but this would appear to be inconsistent with the Methodology and, as the Qualifying Body notes, would prejudice the assessment by the Planning Inspector. In the absence of further details I am unable to assess the issue of "consistency with the approach taken for the limit boundary for HA53". Would the Qualifying Body please address this issue.

This is an error in drafting. HA53 and HA54 both have the status 'intention to grant permission' but neither have signed 106 agreements so both should be omitted as this prejudices the final determination.

The LPA notes that HA53 and HA54 both have planning approvals subject to the signing of a S106 agreement. HA55 has an undetermined application P/21/1667/2 (the previous permission P/14/1590/2 has lapsed).

I cannot agree with the assertion within a representation that “If the settlement boundary is not to be redrawn, additional clarity is required within the policy wording itself to ensure that uses ancillary to committed development can be delivered outside of the defined Limits to Development”. The Limits to Development are drawn to follow the built form of the settlement and uses more rural in form are specifically addressed; planning consent modifications to the boundary are often picked up retrospectively.

Agreed

The LPA agrees with this.

The Policy wording matches that used in the Made Neighbourhood Plan.

Noted

Design Principles **Policy G2: Design**

The importance of good design has been further emphasised within the latest NPPF and I agree with the Qualifying Body that there is no reason to revisit this Policy.

Agreed.

B. Housing and the Built Environment

Introduction

This section is an important pre-amble to Policies H1 and H3. I note that in making its land allocation for housing the Qualifying Body is expecting to obtain the protection afforded by NPPF paragraph 14. However, paragraph 14(b) says that it is required that “(b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement”. The section “Setting a housing growth target for Sibleby” appears to say that the housing requirement is $363 - 49 - 60 = 254$ dwellings. The Local Plan allocation of 345 dwellings is only proposed, not committed, although I note that the Plan does not challenge the intention. There therefore appears to be a wide discrepancy between the Neighbourhood Plan allocation and the identified housing requirement. Planning Guidance (Paragraph: 009 Reference ID: 41-009-20190509) is clear that Neighbourhood Plans “can be developed before or at the same time as the local planning authority is producing its local plan”. However, a number of further expectations are then noted:

“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development”
“Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination.” I should further note here: “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.” (Planning Guidance Paragraph: 040 Reference ID: 41-040-20160211).

Whilst I note that the local authority has suggested the figure of 18 dwellings, and within the context of collaborative plan-making it might be said that the Basic Conditions are met, that is not the same as meeting the requirements of NPPF paragraph 14. It would seem the latter would need to follow the adoption of the Local Plan, at which point paragraph 11(d) of the NPPF is significantly less likely to apply to the local authority’s housing supply. Alternatively, the Neighbourhood Plan could allocate the site(s) identified in the Local Plan – or a smaller variant - but that would involve another round of

community consultation as the draft Plan would have significantly changed.

I note that the local authority has commented that “The importance that the Neighbourhood Plan places on meeting NPPF Paragraph 14 is supported and any modifications required to further enable this policy objective is (*sic*) supported”. I don’t believe that, say, extending the Limits to Development to include the Local Plan sites would be an adequate modification, and even that would require further community consultation. The conversion of the “reserve sites” into allocations would fail in similar ways, even if it could be established that the sites are immediately available.

The further comments of the Qualifying Body and the local authority are invited.

Para 11d applies where the LPA doesn't have an up to date LP. If it has an up to date LP then para 14 is not relevant - but would apply should the LP be delayed or should it fall foul of the 5 year land supply rule within 2-years post adoption.

All we can do is rely on the latest evidence of housing need which we have done, in conjunction with CBC and NPs are encouraged to come forward in advance of a LP

The LPA has provided, in the absence of a strategic policy setting a formal neighbourhood plan area housing requirement, an indicative housing requirement of 18 dwellings in accordance with NPPF Para 67. The LPA considers that the indicative figure takes account of the up-to-date reasoning and evidence of housing need that informs the emerging local plan, given that it is effectively a 5% uplift on the figure proposed in the emerging Charnwood Local Plan 2021-37.

In order to meet the requirements of NPPF Para 14 the NP has to meet criteria 14a-d. 14a, 14c and 14d can be clearly determined by future decision makers. 14b requires policies that meet the neighbourhood plan area housing requirement (not also the Local Plan’s requirement) which in this case the LPA has specified as 18. Allocations to meet this need are proposed. It is therefore the LPA’s view that NPPF para 14b would be satisfied and, if the examiner agrees, stating this within the neighbourhood plan would address any ambiguity for decision makers.

Policy H1: Residential Allocation

Whilst it would seem that the process adopted for the selection of a suitable and sustainable site to allocate, as set out in a separate Appendix 3e, is appropriate and proportionate:

- It is unclear whether Appendix 3 contains the final report since at a few points “REWORD” appears in the text, which might indicate that either a rewording is required or has been made.
- The document refers to a two-stage process, the second being “an active dialogue with the landowners, NBBC (*sic*) and possibly other agencies, the aim is to consider the complex issues involved in a potential allocation of a residential site in the NDP that is both developable and deliverable”. As far as I can identify, no details of this second stage have been provided. As the local authority notes, “it is the responsibility of the Qualifying Body to demonstrate that relevant consultees and landowners agree with the allocation”.

An initial call for sites letter was sent out by CBC to all landowners who had submitted sites through the SHELAA. Letters were then sent by CNBC to all landowners who expressed an interest in submitting their site and these two letters are on the PC website under the NP Review’ tab.

We will forward details of the correspondence with landowners, however this is not on the PC website as it is commercially sensitive.

The LPA will share correspondence forwarded by the QB, but will not publish this on the website given it is considered to be commercially sensitive.

- Little detail is provided about input from community consultation, for instance were there maps to indicate the location of sites?

Maps were provided of the sites that were allocated in the NP Review and these were on display at the consultation event and comments sought.

Further input is invited to address these points.

Reserve Sites

Policy H2: Reserve Sites

Whilst the identification of additional sites with housing potential evidently makes a positive contribution, the Local authority has noted that the present housing supply position is such that the Policy criteria are already met and therefore the sites are, in effect, allocated at the point that the Plan is 'made'. Since the sites are within the Limits to Development the sites are already acceptable in principle – I note that the previous Examination addressed potential conflict with Policy E1. As with Policy H1, because of the limited supporting material provided, it is unclear whether these sites are actually deliverable as intended. As noted by the local authority: "Although the sites do not conflict with a current strategic Local Plan policy, their allocation will result in discrepancies between the Local Plan and the Neighbourhood Plan" – is that what was intended? The local authority adds: "The policy should note that the 'de-designation' of these sites as protected employment sites will be in accordance with the Local Plan policy. Written confirmation should also be obtained from landowners that these sites may be available for residential development during the plan period". A response to these matters is requested.

The landowners of the reserve sites are in agreement that their sites should be put forward as reserve sites in the NP.

The two reserve sites in the Review NP were also included in the Made NP as reserve sites, so in this case this is not a newly identified policy. The QB is content to add into the policy a reference to the de-designation of these sites.

Windfall development

Policy H3: Windfall Development

I note that this Policy has been altered to better define the scale of development that is acceptable. I note that the Examiner of the now Made Neighbourhood Plan commented: "No justification is given for the limitation of such developments to 9 dwellings. While it is likely that most such developments would be relatively small scale, and the reserve sites that have been identified in Policy H1 could accommodate more dwellings, in terms of sustainable development, I can see no clear reason why, if a site which could accommodate a larger development and met the other criteria in the policy came forward it should not be accepted. The limitation to sites of 9 or less dwellings could also prevent the provision of affordable housing which can only be required on sites of more than 10 dwellings. Sibley is a relatively large village where developments of more than 9 dwellings are unlikely to appear out of place provided, they meet the required design standards." I cannot see that I am presented with persuasive evidence that the 9 dwelling limit should now be reinstated; what evidence does the Qualifying Body rely on? The local authority seems to interpret this Policy differently: "Policy H3 proposes to amend Limits to Development boundaries to include local plan allocations that exceed 9 dwellings in size" but the local authority will need to explain their reading of the Policy.

The justification is as outlined in the narrative above the policy. It says 'The NPPF recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area (paragraph 69) and that local planning authorities should support the development of windfall sites through their policies and decisions.

Appendix 2 of the NPPF notes that 'major developments' are those which consist of ten dwellings or

more. It is reasonable therefore to conclude that 'small and medium' size developments include developments up to and including 9 dwellings.'

This was a position agreed with CBC and is felt to be appropriate by the QB.

The LPA notes that Policy G1 proposes to amend Limits to Development boundaries to include emerging Local Plan allocations (such as HA53 which is allocated for 228 dwellings with a subsequent permission subject to signing a S106). The issue here is that Policy H3 of the neighbourhood plan should acknowledge that Local Plan allocations within the Limits to Development boundary will not be applicable to the 9-dwelling threshold.

Housing Mix

Policy H4: Housing Mix

Unaltered.

Affordable Housing

Policy H5: Affordable Housing

I note that the amendment to refer to "clusters" of social housing is supported by the local authority. As the Qualifying Body notes, the Policy is expressed as a "should" rather than a "must" and, in response to a representation, I cannot see that the expressed preference for clusters could inhibit the successful delivery of mixed housing.

Agreed.

C. The Natural and Historic Environment

Policy ENV1: Protection of Local Green Space

Unaltered. I don't consider it appropriate to open this part of the Plan on the basis of the input from Severn Trent.

Agreed.

Policy ENV2: Protection of Sites of Environmental Significance

Unaltered.

Policy ENV3: Important Open Spaces

The local authority has pointed out that the amendment to this Policy has not been noted in the summary. It would appear that the amendment does not significantly alter the intended operation of the Policy but I invite the Qualifying Body to comment on whether the omission from the summary may have been misleading within the context of the public consultation.

Site OOS10 (Cossington Road Allotments) was listed and mapped with this policy in the original NP because it was then audited as such by CBC and shown on the Adopted Core Strategy policies map.

The site was even then not operational as allotments and was no longer required by residents, but the Qualifying Body on that occasion chose not to challenge the CBC designation. The emerging Local Plan CBC Open Spaces audit and policies map now omit the site, so the QB made this relatively insignificant change to remove the site to bring the NP into conformity with the latest evidence base for the emerging Local Plan 2021-37 policy EV9 and with the verifiable situation on the ground.

The change from the Made NP is not considered sufficiently significant to require further consultation as it reflects the updated LP evidence base.

The LPA agrees that the inclusion of five sites OOS10 – OOS14 do not require further consultation. The additional sites are supported and are consistent with the emerging Local Plan 2021-37.

Policy ENV4: Built Environment: Non-designated Heritage Assets

Unaltered.

Policy ENV5: Ridge and Furrow

Unaltered.

Policy ENV6: Biodiversity, Hedges and Habitat Connectivity

The local authority has pointed out that the amendment to this Policy has not been noted in the summary. It would appear that the amendment does not significantly alter the intended operation of the Policy but I invite the Qualifying Body to comment on whether the omission from the summary may have been misleading within the context of the public consultation.

The change only relates to an updating of the policy to include the new requirement to provide biodiversity net gain of at least 10%. As this is a statutory requirement there are no consultation responses that could have required a change to the policy.

The LPA agrees that this amendment does not require further consultation, as it is consistent with policy EV6 the emerging Local Plan 2021-37 and relevant legislation.

Policy ENV7: Protection of Important Views

Unaltered.

Policy ENV8: Biodiversity Protection in New Development

The local authority has pointed out that the amendment to this Policy has not been noted in the summary. It would appear that the amendment does not significantly alter the intended operation of the Policy but I invite the Qualifying Body to comment on whether the omission from the summary may have been misleading within the context of the public consultation. I don't believe that the Policy needs strengthening on the basis of comments from the Environment Agency.

The change only relates to an updating of the policy to include the new requirement to provide biodiversity net gain of at least 10%. As this is a statutory requirement there are no consultation responses that could have required a change to the policy.

The LPA agrees that this amendment does not require further consultation, as it is consistent with policy EV6 the emerging Local Plan 2021-37 and relevant legislation.

Policy ENV9: Footpaths and Bridleways

Unaltered.

Policy ENV10: Flood Risk and Brownfield Sites

Unaltered. I don't consider it appropriate to open this part of the Plan on the basis of the input from Severn Trent.

Agreed

Policy ENV11: Renewable Energy Generation Infrastructure

Unaltered.

D. Community Facilities and Amenities

Unaltered

E Transport and Road Safety

Parking

Unaltered. I don't consider it appropriate to open this part of the Plan on the basis of the input from Severn Trent.

Agreed

Sileby Roads and Traffic issues

Policy T2: Highway Issues

Whilst I note that this Policy has now been written with a local focus it is not, on the basis of the Policy wording, "evident how a decision maker should react to development proposals" (NPPF paragraph 16). In what ways can a development scheme be designed "to minimise additional traffic generation and movement through the Village"? Location would surely play the most significant part in determining impacts? Mitigation measures cannot be used to address existing shortcomings in the road network – as the local authority comments, these are Highway Authority matters. Further comments are requested.

This may include directional signs or requirements to turn away from the village. This policy wording has passed examination in neighbourhood plans at Ryton in Dunsmore, Saddington, Clawson, Hose and Harby and Arnesby.

Rail

Policy T3: Sileby Railway Station

Unaltered

Bus Service

Policy T4: Bus Transport

Unaltered

Walking and Cycling

Policy T5: Walking and Cycling

Unaltered.

Canal

Policy T6: Canal

Unaltered.

F Business and Employment

Unaltered

9. Infrastructure Requirements

Policy INF1: Developer Contributions

On the face of it, this is another Policy within Section 8 rather than a new Section to itself?

The preamble to the Policy explains the source of funds, albeit only a portion of any funds is likely to be passed to the Parish Council for spending. The preamble need not be repeated in the Policy. I am unsure that (a) is an expenditure but rather a design issue – the cost of any footpath diversion would

be met by the applicant? Your comments are invited.

The purpose of criteria a) is to ensure that the character of any diverted footpath is retained. It is considered that this may well have a cost implication as well as being a design issue.

If felt appropriate to move the location of this policy the QB has no objection.

The LPA is supportive of INF1 (content and format location) as drafted.

10. Monitoring and Review

Updated only.

Appendices

I agree with the local authority that Appendices that are referred to in the interpretation of policies should be attached to the final document, rather than lost in the generality of supporting documents. Your comments are invited.

The QB is content with this suggestion.