

Cossington Neighbourhood Plan Examination

14th July 2023

Dear Qualifying Body

Clarification Note from the Examiner to Cossington Parish Council

Further to reviewing the Cossington Neighbourhood Plan (referred to below as the Neighbourhood Plan) and supporting information, I am contacting Cossington Parish Council (as Qualifying Body) in respect of the matters set out below.

Having considered the submitted information, I am not calling for a public hearing as part of the examination process. However, Neighbourhood Planning Independent Referral Service (NPIERS) Guidance¹ Paragraph 1.11.4 states that:

“The Qualifying Body will normally be given the opportunity to comment on the representations made by other parties...The opportunity for the Qualifying Body to comment on representations could be incorporated within an independent examiner’s clarification note...”

Therefore, I confirm that there is an opportunity for Cossington Parish Council to respond to me in respect of the representations made during Regulation 16 (the Submission stage) consultation, should it wish to do so.

In addition to the above, I note that the examination of the Neighbourhood Plan has commenced. In this regard and in the interests of clarity, I would also be grateful for any assistance Cossington Parish Council can provide in respect of providing brief responses to a number of questions I set out in this letter.

In responding, when referring to evidence relating to the Neighbourhood Plan, please note that this should only comprise evidence that is already publicly available.

¹ NPIERS “Guidance to Service Users and Examiners.”

Thank you very much for your consideration of this Clarification Note. I am not imposing a deadline for responses, but your earliest consideration will enable the examination to be concluded in as timely a manner as possible. Thank you.

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Neighbourhood Area Designation

The Basic Conditions Statement states that the Neighbourhood Area was designated on 17 April 2020. The Charnwood Borough Council website states that the Neighbourhood Area was designated on 24 February 2020.

Please can you confirm the date of designation ?

The correct date is 24 February 2020

Public Consultation

The Consultation Statement states that the draft plan was consulted on between 3 May 2022 and 13 June 2022. It goes on to state (“*Cossington Neighbourhood Plan Pre-submission consultation responses*”) that consultation took place between 1 March 2022 and 12 April 2022.

Please can you confirm the dates of this draft plan consultation ?

The correct dates are March 1 – 12 April 2022

Policy H1. Planning permission relating to emerging Local Plan site allocation HA59 enables the Neighbourhood Area’s housing requirement, confirmed by Charnwood Borough Council (CBC) to comprise 124 dwellings plus 6.2 dwellings, to be met.

As worded, Policy H1 and supporting text states that the Neighbourhood Plan allocation is allocated to meet an identified housing requirement. Given that the Neighbourhood Plan relies upon draft allocation HA59, where there is now planning permission for up to 130 dwellings, the wording of Policy H1 appears to conflict with the evidence.

Please can you comment in this regard ?

This form of words was recommended by Charnwood Borough Council and was included on their suggestion, otherwise in their view the allocation would not secure the additional protections offered by para 14 of the NPPF.

When asked to provide a housing figure for the Parish, Charnwood BC responded by saying that the housing requirement was 130, representing the Local Plan allocation (124) plus a further 6.2 dwellings. The allocation therefore helps to meet the housing requirement for the Parish.

The housing requirement is a minimum figure, so perhaps amending the sentence to read 'This helps meet the minimum requirement for paragraph 14 of ...'

The proposed residential allocation in the Neighbourhood Plan is separated from Cossington village. Representations have pointed out limitations and flawed outcomes in relation to the residential allocation assessment process, along with issues related scrutiny and consultation. From the evidence submitted, the robustness and outcome of the assessment process does appear open to question.

At the time of the assessments, a further development was proposed which joined the allocation with the village of Cossington. When this site fell away the Qualifying Body continued to express a preference for the allocation site identified.

The assessments were conducted in a transparent manner. Each landowner/agent that submitted a site had the opportunity to comment on the initial assessments which were then amended where appropriate to take comments into account.

Please can you comment in this regard, with particular reference to why, in the light of representations and the evidenced existence of land with planning permission that meets the Neighbourhood Area's housing requirement, the Qualifying Body considers the proposed allocation to have emerged through a rigorous/robust assessment process, open to public scrutiny and to meet the basic conditions ?

We consider these to be separate issues.

The housing requirement is a minimum figure which is likely to change over time. According to Charnwood BC the Local Plan allocation does not meet the housing requirement for the Parish. Also, it is considered good practice to 'future-proof' the NP by allocating a site for residential development in addition to this figure.

Site summaries were available for Regulation 14 consultation.

Further to the above, were maps of all of the sites assessed readily available for public consultation and comment ?

Site boundaries were not available. The sites were described in the assessment documentation.

The Neighbourhood Plan appears to take an unusual approach in respect of the the

planning permission for up to 130 dwellings. This site appears to clearly comprise the main development site in the Neighbourhood Area over the plan period.

Is there anything I should be made aware of in respect of the minimal information/references in the Neighbourhood Plan in respect of this important development site ?

This site was not able to be influenced by the NP. It was a proposed allocation in the Local Plan but had not passed examination and was not, therefore, taken as a commitment.

Policy H2. Please can you respond to the CBC's comments in relation to the proposed Settlement Boundary ?

We are content for the amendment proposed by CBC to be made and for the boundary to be removed from the allocation until it is built out.

Please can you point me to a definition of "*carefully managed*" and how this term should be treated by a decision maker ?

It could helpfully say in addition 'carefully managed ... in line with local and national planning policies' to confirm the different treatment between proposals inside and outside the settlement boundary. The phrase makes sense in this context.

Policy H3. Is the Policy meant to apply to just the proposed allocation in Policy H1 or to all housing development. If the latter, given that the Plan does not allocate any other land and generally restricts residential development to within the settlement boundary, it is likely that windfall residential sites will be small. How might the Policy requirements be deliverable for a development of one, or a small number of dwellings and why would such requirements be necessary/have regard to national policy ?

It is intended to apply to all housing development.

This has regard for national policy by helping ensure that new housing meets a local need. It is not intended to restrict development, but rather to shape that development around what is needed locally.

Under this policy, 4 bed or larger dwellings would only be acceptable where they were subservient to 1, 2 and 3 bed dwellings and therefore would not be supported in developments with a small number of dwellings.

Policy H4. Please can you point me to evidence justifying a requirement for all housing to be made available in perpetuity for people with a local connection ? Please can you provide evidence of the deliverability of what appears to be an onerous and far-reaching requirement ? Please can you provide evidence of the deliverability of such a requirement for all affordable housing ?

We are content for this policy to apply to Rural Exception Sites only where a similar obligation is provided through the Local plan Review.

Policy ENV2. Ref: 106 appears to comprise part of the line of a public right of way rather than relate to a defined open space. PROWs are already protected by law.

Given these factors, is there evidence that you can point me to, to demonstrate that the Policy meets the basic conditions?

The thinking was that, although this site is part of a statutorily protected PROW, it is only the legal right of way which is so protected; the character, biodiversity and heritage values of Polly Peggs are not so covered, meaning the PROW could be diverted (as part of a development proposal or for other reasons) and the other, equally important for the community, values lost. Policy ENV2 attends to this discrepancy.

Policy ENV4. Please can you point me to information in respect of which hedges are of arboricultural, biodiversity and landscape importance (as referred to in Policy) ?

Is the second part of the Policy meant to be relate specifically to the trees in Figure 8.2 ? If not, how might the Policy be deliverable or necessary ?

The intention is that all hedges of arboriculture, biodiversity and landscape importance should be so protected, and that judgement of the eligibility of a particular section of hedge (where affected by a development proposal) for consideration under ENV4 should be made using these criteria (on a case-by-case basis) as part of the proposal, consultation, scrutiny and decision-making process.

Because of the landscape history of the Plan Area (as for most of Leicestershire) almost all surviving hedges in and around Cossington are likely to be up to 200 years old, to include numerous tree and shrub species and to have at least local biodiversity significance. Specifying (by mapping them) a subset of individual hedges would risk opening all the others to loss of the protection afforded by ENV 4.

We can confirm that the second part of the policy refers only to the trees shown in figure 8. On reflection, we would be happy for this second part of the policy (from “Development proposals should be accompanied...”) to be moved to a separate paragraph to improve clarity and ease of application.

Policy ENV5. Figure 9 creates a “wildlife corridor,” elements of which appear arbitrary. Please can you point me to the evidence-base underpinning its definition, including information setting out the habitat connectivity currently provided across the corridor, including within the built-up area covered by it ?

The question reflects an intrinsic challenge in the mapping of wildlife corridors for planning decision-making purposes. The effective boundaries of WLCs are naturally fuzzy because of the way habitat site connectivity is manifested by individual organisms: birds and insects fly, mammals and reptiles walk, aquatic life swims, and on a slower timescale plant pollen and seeds are distributed by wind or by animals.

None of these methods is constrained by land parcels or other hard mappable boundaries – while some routes do follow mappable features, others take more of a ‘bee-line’, meaning that while most movements will be concentrated along the centre, there will be some traffic at the corridor edges, blending outwards to areas where connectivity is too insignificant to be reasonably protected by a WLC designation.

In the case of the Cossington WLCs, the lines are ‘centred’ on linear natural features (watercourses and their vegetated banks and buffer zones, and the vegetated sides and bounding hedges of the railway line) that connect the mapped habitat sites but provide for the edge fuzziness necessary for the policy to have the desired objective of protecting biodiversity connectivity without being unduly restrictive on development.

WLCs can be effective in built-up areas because gardens, paddocks, hedges, trees etc. within these areas do not block (and may facilitate) wildlife connectivity.

Policy ENV7. How might “*features and setting be protected wherever possible*” and please can you point me to evidence justifying such an approach to non-designated heritage assets that is different to and considerably more onerous than that set out in national policy.

We agree that the reference to the ‘setting’ of non-designated heritage assets exceeds national policy and should be deleted.

Policy ENV8 – the approach set out in the first part of the Policy requirement appears to contradict that set out in the second part. Please could you point me to information in respect of how a decision maker might apply this Policy ?

We agree that the parts of this policy should be reversed to enable decision-making to produce the desired result of protecting the features unless the benefits of a proposed development can be shown to outweigh the significance (intrinsic and cultural) of the ridge and furrow. We would be happy for the policy to be amended as follows:

The areas of ridge and furrow earthworks mapped in figure 13.3 are non-designated heritage assets.

Any loss or damage arising from a development proposal (or a change of land use requiring planning permission) is to be avoided; the significance of the ridge and furrow features as heritage assets must be balanced against the local benefits of a proposed development.

Policy ENV9. Respecting a view is different to protecting a view. When will it be *possible* to protect a view or not protect a view – this part of the Policy appears vague and open to wide interpretation ? Please can you point me to information in respect of what “*an adverse impact on a view*” is and the basis upon which the Plan

requires this to be judged ?

The word 'respect' was used here following an examiner's comment in an earlier neighbourhood plan (see North Kilworth). We would be content for the policy narrative to 'protect' rather than 'respect' the views identified. The intention is to require the layout, design, height, etc. of a new development to avoid blocking or spoiling the defined views. 'Adverse impact' would be for the buildings and structures encroaching into the line of a view so that it would be fully or partly blocked, or the view's character changed for the worse.

Policy ENV11. Please can you point me to any evidence in support of the unusual "benefits outweigh harm" approach set out in the Policy to, say, development in Flood Zone 3; and to why floodwater management infrastructure works should in all cases *reduce* flood risk for residents, as opposed to say, continue to manage floodwater infrastructure ? Please can you point me to evidence that such an approach does not run the risk of hindering ongoing or necessary infrastructure management works ?

The overall Policy appears a little confusing. Notwithstanding this, please can you point me to evidence that justifies the inclusion of a Policy at neighbourhood level that provides no more detail in respect of managing flood risk than national/local policy? In this regard, I am also mindful that the emerging Local Plan policy appears considerably clearer and more detailed than Policy ENV11; and that Policy ENV11 does not appear to provide a neighbourhood-level perspective.

The thinking here, bearing in mind that flooding is an acknowledged problem across much of the Plan Area including the village and local roads, is that new proposals to manage existing floodwater infrastructure would only be needed if risk had increased because of greater water volumes from overbank rivers or from surface water (otherwise the proposal would just be for maintenance/repair of worn-out structures). New work of this type should be expected not just to maintain the current unsatisfactory situation but to result in a net reduction in flood risk. [Benefit outweighs harm, etc.] We believe that the onus for justifying permission to build in areas with existing high flood risk (irrespective of mitigation measures, which still risk a net worsening of flood risk to third parties etc.) should be on the development proposer rather than on the Local Authority or local residents; in other words, can the proposer show that the local need for housing outweighs the local disbenefits of building on land potentially susceptible to flooding as opposed to building somewhere else?

The emerging Local Plan Policy CC1 says in the final paragraph "We will support neighbourhood plans in identifying suitable flood risk mitigation measures appropriate for their area". To do this, the NP adds local detail to CC1 by mapping the areas within which Policy ENV11 should apply. It also refers explicitly to surface water because local experience (and Leicestershire County Council practice) shows that it is as much of a risk factor for residents and to properties as that from the river and watercourses. For information, we also note that some of the policy wording and coverage has been guided by wording suggested by the Environment

Agency.

Policy ENV12. The zone of separation appears to include land with residential planning permission for 130 dwellings, in addition to the area of separation in the emerging Local Plan. Please can you point me to information in justification of this additional land, including information in respect of how its designation as an area of separation will contribute to the achievement of sustainable development ?

The part of the (extended) Area of Separation within the permitted site coincides with the area earmarked as open space in the developer’s masterplan. This open space satisfies CBC OSSR requirements at the appropriate scale and typologies for the size of the development, avoids building on land with potential flood risk issues, and coincidentally makes it possible (after appropriate landscaping and habitat creation) for the developer to deliver 10% biodiversity net gain. The intention of ENV12 is to both safeguard this unbuilt area (as open space with direct connection into open countryside) from future development proposals, and to maintain the separation between (prevent the coalescence of) Cossington (including the new development) and Sibley (new development towards Cossington).

Policy CF1. The Policy includes part of a public right of way. PROWS are subject to statute. There are provisions for PROWS to be altered, subject to due process. I note that I will be recommending the removal of “Polly Peggs” from the Policy.

Please can you point me to plans showing the boundaries of each designated site.

For example, what area of land is covered by Derry’s Nursery ? The remaining nursery area is adjacent to the Neighbourhood Area’s main development site and it is important that hurdles are not placed in the way of the achievement of sustainable development, as this would result in a plan that failed to meet the basic conditions. Please could you also provide information in respect of why charities – as opposed to land or buildings - are listed as assets and why this is relevant to land use planning. In this regard, please can you confirm the specific sites the Policy seeks to include (see plans point above) ?

Crabtree Lane is listed in the Policy, but no information is provided to justify its inclusion.

Please can you re-check Policy CF1 and supporting information and clarify in respect of all of the above ?

On reflection, Crabtree Lane, Platts Lane Recreation Ground and Polly Peggs can be removed from the policy.

The policy is intended to relate to the provision of a facility, amenity and asset and as such the continuation of a service from the building in question is key rather than its boundary.

Policy T2. Please note the CBC comment re: this Policy.

Policy BE2. Please could you comment on reps by CBC, Mulberry Land, Carbide Properties in respect of this Policy ?

We are content to accept CBC's comments and those of Mulberry Land to make the policy less restrictive. We could not find Carbide Properties comments in this regard but if they are similar then that is OK.

Policy BE3. Planning permission is not required for home working. Please can you point me to the definition of a "small scale" free-standing building ? What proposed planning use class would this new form of supported development fit into ? As set out, the Policy appears vague and open to wide interpretation, which may result in unwitting support for inappropriate forms of development. Is such flexibility the intention of the Policy ?

'Small-scale' is to be considered in the context of the main building to which it relates.

The purpose of the policy is to allow for property extensions where to do so would help facilitate home working where the various conditions are met, which are included to prevent inappropriate development. The class use would be for a dwelling house.

Thank you for your consideration of all of the above.

Please note that the purpose of the above is not to criticise the Neighbourhood Plan but to help my understanding of the Policies and to help to support the Neighbourhood Plan's positive examination against the basic conditions.

Thank you.
