

Planning Policy
The Hinckley Hub
Rugby Road
Hinckley
Leicestershire
LE10 0FR

By email only to: kirstie.rea@hinckley-bosworth.gov.uk

Dear Sir/Madam,

This letter provides Gladman Developments Ltd (Gladman) representations in response to the submission version of the Sheepy Neighbourhood Plan (SNP) under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012. Gladman requests to be added to the Council's consultation database and to be kept informed on the progress of the emerging neighbourhood plan. This letter seeks to highlight the issues with the plan as currently presented and its relationship with national and local planning policy.

Legal Requirements

Before a neighbourhood plan can proceed to referendum it must be tested against a set of basic conditions set out in paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended). The basic conditions that the SNP must meet are as follows:

- (a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.*
- (d) The making of the order contributes to the achievement of sustainable development.*
- (e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).*
- (f) The making of the order does not breach, and is otherwise compatible with, EU obligations.*

National Planning Policy Framework and Planning Practice Guidance

The National Planning Policy Framework (the Framework) sets out the Government's planning policies for England and how these are expected to be applied. In doing so it sets out the requirements for the preparation of neighbourhood plans to be in conformity with the strategic priorities for the wider area and the role in which they play in delivering sustainable development to meet development needs.

At the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread through both plan-making and decision-taking. For plan-making this means that plan makers should positively seek opportunities to meet the development needs of their area and Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change. This requirement is applicable to neighbourhood plans.

The recent Planning Practice Guidance (PPG) updates make clear that neighbourhood plans should conform to national policy requirements and take account the latest and most up-to-date evidence of housing needs in order to assist the Council in delivering sustainable development, a neighbourhood plan basic condition.

On the 24th July 2018, the government published a revised National Planning Policy Framework. The revised Framework states at paragraph 213 that 'the policies of the previous Framework will apply for the purposes of examining plans, where those plans are submitted on or before 24 January 2019.' As such the Parish Council will need to ensure that the policies contained within the SNP are consistent with the appropriate version of the NPPF. Further, the Parish Council will need to be aware that the revised NPPF is considered a material consideration which will need to be taken into account in dealing with any planning applications.

The application of the presumption in favour of sustainable development will have implications for how communities engage with neighbourhood planning. Paragraph 16 of the previous Framework makes clear that Qualifying Bodies preparing neighbourhood plans should develop plans that support strategic development needs set out in Local Plans, including policies for housing development and plan positively to support local development.

Paragraph 17 of the previous Framework further makes clear that neighbourhood plans should set out a clear and positive vision for the future of the area and policies contained in those plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. Neighbourhood plans should seek to proactively drive and support sustainable economic development to deliver the homes, jobs and thriving local places that the country needs, whilst responding positively to the wider opportunities for growth.

Paragraph 184 of the previous Framework makes clear that local planning authorities will need to clearly set out their strategic policies to ensure that an up-to-date Local Plan is in place as quickly as possible. The Neighbourhood Plan should ensure that it is aligned with the strategic needs and priorities of the wider area and plan positively to support the delivery of sustainable growth opportunities.

Planning Practice Guidance

It is clear from the requirements of the Framework that neighbourhood plans should be prepared in conformity with the strategic requirements for the wider area as confirmed in an adopted development plan. The requirements of the Framework have now been supplemented by the publication of Planning Practice Guidance (PPG).

On 11th February 2016, the Secretary of State (SoS) published a series of updates to the neighbourhood planning chapter of the PPG. In summary, these update a number of component parts of the evidence base that are required to support an emerging neighbourhood plan.

On 19th May 2016, the Secretary of State published a further set of updates to the neighbourhood planning PPG. These updates provide further clarity on what measures a qualifying body should take to review the contents of a neighbourhood plan where the evidence base for the plan policy becomes less robust. As such it is considered that where a qualifying body intends to undertake a review of the neighbourhood plan, it should include a policy relating to this intention which includes a detailed explanation outlining the qualifying bodies anticipated timescales in this regard.

Further, the PPG makes clear that neighbourhood plans should not contain policies restricting housing development in settlements or preventing other settlements from being expanded. It is with that in mind that Gladman has reservations regarding the SNP's ability to meet basic condition (a) and (d) and this will be discussed in greater detail throughout this response.

Relationship to Local Plan

To meet the requirements of the Framework and the Neighbourhood Plan Basic Conditions, neighbourhood plans should be prepared to conform to the strategic policy requirements set out in the adopted Development Plan. The adopted Development Plan relevant to the preparation of the SNP is the Hinckley and Bosworth Local Plan, which is made up of the Core Strategy DPD and the Site Allocations & Development Management Policies DPD. The Core Strategy determined that Hinckley & Bosworth would be required to deliver 9,000 homes between 2006 and 2026.

To meet the requirements of the Framework the Council is currently reviewing the Core Strategy and the Council is still in the early stages of plan preparation. It is therefore important that the SNP provides flexibility to ensure that the policies contained in the SNP are not overridden upon the adoption of any future Local Plan; as section 38(5) of the Planning and Compulsory Purchase Act 2004 states:

'if to any extent, a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approached, or published (as the case may be).'

Policy S1: Countryside

Policy S1 states that land outside of the defined settlement boundaries will be protected for the sake of its intrinsic character, beauty, heritage and wildlife. The policy seeks to limited development outside the settlement boundary to that which accords with a narrow list of criteria.

Gladman do not consider the use of development limits to be an effective response to future development proposals if they would act to preclude the delivery of otherwise sustainable development opportunities, as indicated in the policy. The Framework is clear that development which is sustainable should go ahead without delay. The use of settlement limits to arbitrarily restrict suitable development from coming forward on the edge of settlements does not accord with the positive approach to growth required by the Framework and is contrary to basic condition (a). Beyond, this, Gladman consider it necessary that the policy recognises, that within the plan period, it may be necessary for greenfield development, outside the development limits, to come forward to assist with meeting local housing needs. As such, we recommend that sufficient flexibility is established in the policy so as to ensure that the plan can adjust to any local changes.

Policy S3: Locally Important Views

Policy S3 identified 14 'important' views and vistas, which development should safeguard and where possible enhance.

We submit that new development can often be located in areas without eroding the views considered to be important to the local community and can be appropriately designed to take into consideration the wider landscape features of a surrounding area to provide new vistas and views.

In addition, as set out in case law, to be valued, a view would need to have some form of physical attribute. This policy must allow a decision maker to come to a view as to whether particular locations contains physical attributes that would 'take it out of the ordinary' rather than selecting views which may not have any landscape significance and are based solely on community support.

Opinions on landscape are highly subjective, therefore, without much more robust evidence to demonstrate why these views and landscape areas are considered special, the policy in its current form will likely lead to inconsistencies in the decision-making process.

Policy S5: Ecology and Biodiversity

Policy S5 states that development should not harm the network or ecological features and habitats within the Neighbourhood Plan Area.

Paragraph 113 of the Framework 2012 refers to the need for criteria-based policies in relation to proposals affecting protected wildlife or biodiversity or landscape areas, and that protection should be commensurate with their status which gives appropriate weight to their importance and contributions to wider networks. As currently drafted, Gladman do not believe this policy fully aligns with the Framework. The policy fails to make a distinction and recognise that there are two separate balancing exercises which need to be undertaken for national and local designated sites

and their settings. We therefore suggest that the policy is revisited to ensure that it is consistent with the approach set out within the Framework

Policy S7: Features of Local Heritage Interest

Policy S7 states that in determining planning applications, decision makers will need to balance the need for development, and the public benefit, against the significance of any heritage feature that may be harmed by development.

Paragraph 132 of the Framework makes it clear that great weight should be given to a heritage asset's conservation and that 'the more important the asset, the greater the weight should be'.

With reference to designated heritage assets, the Parish Council should refer specifically to paragraphs 133 and 134 of the Framework which sets out that Councils should assess the significance of the designated heritage asset and where there is less than substantial harm, this should be weighed in the planning balance against the public benefits of the proposal. Where there is deemed to be substantial harm, then the proposal would need to achieve substantial public benefits to outweigh that harm.

For non-designated heritage assets, the policy must reflect the guidance set out within paragraph 135 of the Framework. This states that the policy test that should be applied in these cases is that a balanced judgement should be reached having regard to the scale of any harm and the significance of the heritage asset.

Gladman believe that this policy needs to be redrafted in order to ensure that it conforms with the guidance and requirements set through national policy.

Policy S9: Local Green Space

Policy S9 identifies 7 sites that are proposed as Local Green Space Designations.

In order to designate land as LGS the Parish Council must ensure that it is able to demonstrate robust evidence to meet national policy requirements set out in the Framework. The Framework 2012 makes clear at §76 that the role of local communities seeking to designate land as LGS should be consistent with the local planning of sustainable development for the wider area. Paragraph 76 states that:

'Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.'

Further guidance is provided at §77 which sets out three tests that must be met for the designation of Local Green Spaces. Paragraph 77 states that:

The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- Where the green space is in reasonably close proximity to the community it serves;
- Where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreation value (including as a playing field), tranquillity or richness of its wildlife; and
- Where the green area concerned is local in character and is not an extensive tract of land.'

Gladman suggest that the evidence that has been produced to support the designations of LGS is not considered robust or detailed enough and instead demonstrates how at least 3 of the parcels of land are considered extensive tracts of land and therefore do not meet the requirements of the Framework.

The issues surrounding LGS designations have been considered in a number of other Examiner's reports across the country and we highlight the following decisions:

- The Seldlescombe Neighbourhood Plan Examiner's Report¹ recommended the deletion of a LGS measuring approximately 4.5ha as it was found to be an extensive tract of land.
- The Oakley and Deane Neighbourhood Plan Examiners Report² recommended the deletion of a LGS measuring approximately 5ha and also found this area to be not local in character. Thereby failing to meet 2 of the 3 tests for LGS designation.
- The Alrewas Neighbourhood Plan Examiner's Report³ identifies that both sites proposed as LGS in the neighbourhood plan '*in relation to the overall size of the Alrewas Village*' to be extensive tracts of land. The Examiner in this instance recommended the deletion of the proposed LGSs which measured approximately 2.4ha and 3.7ha.
- The Freshford and Limpley Neighbourhood Plan Examiner's Report⁴ identified that the six LGS proposed did not meet the criteria required by the Framework either collectively or individually. Indeed, the Examiner identified that the combination of sites comprised of an extensive tract of land. The Examiner also considered that the protection of fields to 'prevent agglomeration between the settlement areas... is not the purpose of Local Green Space designation'.
- The Eastington Neighbourhood Plan Examiner's Report⁵ recommended the deletion of three LGS (16ha and 2ha) considered to be extensive tracts of land. The third proposed LGS was deleted due to the lack of evidence demonstrating its importance and significance to the local community.

¹ <http://www.rother.gov.uk/CHttpHandler.ashx?id=22996&p=0>

² <https://www.basingstoke.gov.uk/content/doclib/1382.pdf>

³ (Web page is no longer available)

⁵ <https://www.stroud.gov.uk/media/2596/2016-04-28-eastington-examiners-report-final.pdf>

- The Tattenhill and Rangemore Neighbourhood Plan Examiner's Report⁶ recommended the deletion of 2 LGS comprising of 4.3ha and 9.4ha.
- The Norley Examiner's Report⁷ identified a total of 13 parcels of land to be designated as LGS. The Examiner recommended at §4.98 that the identification of these extensive tracts of agricultural land was contrary to NPPF policy and recommended that the policy should be deleted. The proposed LGS measured in the range of 1ha – 4.3ha.

Policy S10: Housing Development

Policy S10 states that infill housing development within the defined settlement boundaries will be supported. Outside the settlement boundary, the policy states that permission for housing will be limited to that which meets a defined list of criteria.

Gladman would like to remind the Council that it is not within the remit of a Parish Council to determine planning applications and as such where reference is made to 'permissions for housing' being limited, we recommend that the policy wording is amended to 'support for housing'.

Conclusions

Gladman recognises the role of neighbourhood plans as a tool for local people to shape the development of their local community. However, it is clear from national guidance that these must be consistent with national planning policy and the strategic requirements for the wider authority area. Through this consultation response, Gladman has sought to clarify the relation of the SNP as currently proposed with the requirements of national planning policy and the wider strategic policies for the wider area.

Gladman is concerned that the plan in its current form does not comply with basic conditions (a), (d) and (e). The plan does not conform with national policy and guidance and in its current form does not contribute to the achievement of sustainable development.

Gladman hopes you have found these representations helpful and constructive. If you have any questions do not hesitate to contact me or one of the Gladman team.

[REDACTED]

[REDACTED]

[REDACTED] Pashley

[REDACTED]

Gladman Developments Ltd.

⁶<http://www.eaststaffsbc.gov.uk/sites/default/files/docs/planning/planningpolicy/neighplanning/tatenhill/02%20Tatenhill%20Neighbourhood%20Plan%202015.pdf>
⁷ <http://consult.cheshirewestandchester.gov.uk/file/3626372>