
BURBAGE NEIGHBOURHOOD PLAN SUBMISSION PLAN

WRITTEN STATEMENT ON BEHALF OF AVANT HOMES

Introduction

1. This Statement has been prepared by Marrons Planning on behalf of our client, Avant Homes. Avant Homes design and deliver outstanding homes that are sympathetic to their location. The statement responds specifically to the Questions for the Burbage Public Hearing, published as part of the Guidance Notes and Agenda by Examiner Slater, appointed to examine the Burbage Neighbourhood Plan.
2. Avant has recently taken over the interest in land at Lychgate Lane, Burbage and this statement should be read alongside the Representation submitted on behalf of Linden Homes to the Regulation 16 consultation on the Burbage Neighbourhood Plan.
3. Comments are provided below only to those questions that Marrons Planning have been invited to participate in by the Examiner.

Question 1 - Is it appropriate for the plan to have such a short plan time frame, until 2026 and does the commitment of the Parish Council to carry out an immediate review offer sufficient reassurance?

4. We note that Hinckley and Bosworth Borough Council, in their response to the Examiner's Initial Comments, has suggested to the Neighbourhood Plan Group that the plan should be amended to provide for a plan period between 2016 and 2036. We agree with that advice and note that the request was rejected by the Qualifying Body in November 2018.
5. The Examiner has already noted the tension between the Neighbourhood Plan end date of 2026 and the National Planning Policy Frameworks requirement for strategic policies to look ahead over a minimum 15 year period from adoption and to respond to long-term requirements and opportunities (paragraph 22). Making sufficient provision for housing is a strategic policy matter (paragraph 20). Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies (paragraph 29).

6. The issue of housing requirements for Neighbourhood Plans is helpfully considered within the National Planning Practice Guidance (PPG) which states that a Neighbourhood Planning Body may need to determine a housing requirement figure themselves, taking account of relevant policies, [including] the existing and emerging spatial strategy (paragraph: 105 Reference ID: 41-105-20190509).
7. We comment specifically on the housing requirement in response to question 3 below. It is relevant though, that in preparing the Neighbourhood Plan the Group should respond to long term requirements and opportunities to significantly boost housing supply (in the absence of a sufficient supply of land), take account of the emerging spatial strategy (which seeks to provide for the period to 2036) and, in so doing, draft a Neighbourhood Plan that looks ahead over a 15 year period in accordance with the NPPF.
8. The PPG notes that most plans are likely to require updating in whole or in part at least every 5 years and that plans may be found sound conditional upon a plan update in whole or in part within 5 years of the date of adoption (Paragraph: 062 Reference ID: 61-062-20190315). The PPG does not explain why soundness might be conditional upon a review. A 2015 Ministerial letter to the Planning Inspectorate suggests that 'early review may be used as a way of ensuring that a Local Plan is not unnecessarily delayed by seeking to resolve matters which are not critical to the plan's soundness or legal compliance as a whole' (emphasis added).
9. Housing requirements and delivery are critical matters for Hinckley and Bosworth and Burbage plays a central role for the wider local planning authority area, and indeed Leicester City-Region. For this reason, they are critical matters for the Burbage Neighbourhood Plan. Whilst this examination does not test the soundness of the Neighbourhood Plan it does need to ensure that the basic conditions are met as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. This includes:
 - a. *having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).*
10. The Neighbourhood Plan does not provide for a 15 year plan period. In arriving at that plan period it has not made sufficient provision for housing, significantly boosted housing supply or taken account of existing and emerging spatial strategies. These matters are critical to the plans soundness (ability to meet the basic conditions) as the Neighbourhood Plan has not had regard to the NPPF and PPG guidance in this regard. These failings are beyond the circumstances whereby a plan can be found sound conditional upon a review.

Question 2 - Does the decision of the plan not to allocate land for housing, beyond allowing development within the settlement boundary, ensure that the

plan is in general conformity with the strategic policies in the adopted development plan? How does the plan meet the other basic conditions, firstly regarding how it contributes to the achievement of sustainable development, particularly meeting the plan area's present and future housing needs and secondly how does it relate to Secretary of State policy and advice and in particular the objective of the planning system to be substantially boosting the supply of housing? Would delivering more housing than required under the 2009 Core Strategy be unsustainable? How relevant is the inability of the Borough Council to demonstrate a 5- year housing supply, to the neighbourhood plan?

11. We comment in response to question 1 above on the role the plan should play in significantly boosting housing supply and having regard to the existing and emerging spatial strategy and that these are strategic policy matters which are critical to the Neighbourhood Plan.
12. A made Neighbourhood Plan for Burbage would take precedence over the non-strategic policies contained in the Hinckley and Bosworth Core Strategy 2009 (Part 1 plan) and Site Allocations and Development Management Policies DPD 2016 (Part 2 plan). Limiting future development to only that windfall development that may, or may not, come forward within the settlement limit would be tantamount to a moratorium on growth in Burbage if the Neighbourhood Plan were to be made. This situation would only be reversed when the new Hinckley and Bosworth Local Plan is adopted (programmed for September 2021 in the Local Development Scheme [December 2018]) or paragraph 11d of the NPPF is engaged. Under the latter circumstance there is potential for a claim to be made that the Neighbourhood Plan contains policies and allocations to meet the identified housing requirement (a nil requirement according to paragraph 9.3 of the draft Neighbourhood Plan) and the land supply would have to be insufficient to provide a 3 year supply of land. Such a situation would not be tenable.
13. Hinckley and Bosworth Borough Council has quite correctly confirmed that the 2009 Core Strategy is out of date; it is not capable of delivering sustainable development. The Leicester and Leicestershire Strategic Growth Plan increases the housing requirement for Hinckley and Bosworth from 450 homes a year to 2026 to 471 homes a year to 2031 and 531 homes a year between 2031 and 2050. The emerging local plan review has to respond to this increased housing requirement over a plan period to 2036.
14. It is highly likely that additional growth will be directed to Burbage. Indeed, the Borough Council has confirmed as much in its letter to the Neighbourhood Plan examiner in response to the initial comments and questions. It is highly unlikely that a preferred strategy would limit growth at Burbage in the way promoted by the Burbage Neighbourhood Plan.

15. We refer at paragraph 6 of this Statement to the PPG guidance which says that Neighbourhood Planning Bodies may need to determine a housing requirement figure themselves. In our view, the circumstances which are present and provide the context for the preparation of the Burbage Neighbourhood Plan require a figure to be determined and an appropriate strategy to be prepared which meets the development needs of the area.
16. For these reasons, delivering more housing than the 2009 Core Strategy would not be unsustainable; quite the reverse, it is a requirement of the application of paragraph 11 of the NPPF. Failure to do so prevents the Neighbourhood Plan from meeting the basic conditions.

Question 3 - What are the implications for the preparation of the neighbourhood plan of the Borough Council being not in a position to provide the Qualifying Body with a figure for how much housing the neighbourhood plan should be making provision for?

17. As set out above, the National Planning Practice Guidance says that 'where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative figure to be provided to neighbourhood planning bodies on request. However, if a local planning authority is unable to do this, then the neighbourhood planning body may exceptionally need to determine a housing requirement figure themselves, taking account of relevant policies, [including] the existing and emerging spatial strategy (paragraph: 105 Reference ID: 41-105-20190509 – emphasis added).
18. The Burbage Neighbourhood Plan, as drafted, is seeking to limit the housing provision to windfall development within the settlement boundary. Housing requirements, the provision of housing land and housing land supply are intrinsically linked. For these reasons, the Neighbourhood Plan has engaged itself in strategic policy matters. Failure to consider those matters appropriately means that the Neighbourhood Plan has not been developed in accordance with paragraphs 20, 29 or 11 of the NPPF and does not meet the basic conditions as a consequence. Unless the Neighbourhood plan wishes to be silent on housing supply and the control of housing land then the implications of the Borough Council not providing a housing requirement are that the Neighbourhood Plan Group need to determine a housing requirement figure for themselves in accordance with the PPG.

Question 4 - Do the combined constraints imposed by the proposed neighbourhood plan policies actually restrict options for the Burbage plan area to be able to deliver its appropriate contribution towards meeting the objectively assessed housing needs of the Borough/ or to make allocations in the emerging Local Plan.

19. The Neighbourhood Plan claims to support windfall housing development and business growth in appropriate locations that do not impact on residential amenity (paragraph 9.3). The Plan limits those appropriate locations to land within the settlement boundary to 'avoid overloading transport infrastructure and impinging on local countryside' (paragraph 10.1). The development strategy to enable windfall development is provided by Policy 1: Settlement Boundary and Policy 2: Windfall Sites although some areas within the Settlement boundary are protected from development activity (paragraph 10.3).
20. We have seen no compelling evidence that windfalls expected from within the settlement boundary will provide a reliable source of supply. It follows that no realistic allowance has been made having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends as required by paragraph 70 of the NPPF. This disregard for any evidence points to a plan which has been written with the express intention of limiting development within Burbage to as little as possible.
21. Paragraph 69 of the NPPF says that neighbourhood planning groups should consider the opportunities for allocating small and medium-sized sites. We note that 18 developable sites, providing opportunities for some 4,005 dwellings have been provided to the Examiner (Appendix 1 of the Hinckley and Bosworth Borough Council response to the Examiners Initial comments) and that Hinckley and Bosworth Borough Council has recommended that the Neighbourhood Plan Group makes provision for new homes by allocating sites for housing. The Neighbourhood Plan Group has declined and says there is no requirement to allocate housing sites.
22. We have set out comments on the necessity for the plan to make sufficient provision for housing, significantly boost housing supply and take account of existing and emerging spatial strategies in response to other questions in this Statement. In our view this leads to a need to allocate sites rather than rely on windfall sites unless there is compelling evidence that windfalls alone are able to provide a reliable source of housing, sufficient to meet needs.
23. The PPG says that where a neighbourhood plan has been brought into force, the local planning authority should take its policies and proposals into account when preparing the local plan (Paragraph: 006 Reference ID: 61-006-20190723). We have provided our view that the Neighbourhood Plan has not appropriately considered matters of housing requirements and land supply. If made, the Neighbourhood Plan would restrict the delivery of growth at Burbage in the period prior to the adoption of the Hinckley and Bosworth Local Plan and, given the advice in the PPG restrict options for allocations being considered in the Hinckley and Bosworth Local Plan review.
24. Whilst there is a technical argument to say the local plan authority could ignore a Made Burbage Neighbourhood Plan which restricts growth when considering whether to direct growth to

Burbage, this would risk ignoring the advice in the PPG, may not be politically palatable and would undermine public confidence in the Neighbourhood Plan making process. There is also a distinct possibility that the Neighbourhood Plan Group would not have the appetite and confidence to undertake a review (see response to question 1) in these circumstances.

Question 6 - Is the identification of other important green spaces justified on the basis of robust evidence? To what extent does their designation rule out development rather than identify features that warrant protection? Could the various policies that protect green spaces be rationalised?

25. The Neighbourhood Plan as drafted seeks protection of open areas through a number of policies. It is our view that such designations should be limited to Local Green Space in accordance with paragraph 99 of the NPPF and local designations that are in conformity with a recognised policy approach from the strategic policies set out in the Hinckley and Bosworth Local Plan (i.e. Core Strategy Policy 20 Green Wedges).
26. As drafted, the Neighbourhood Plan introduces a hierarchical set of designations for the countryside. This results in a cumbersome policy set and how a decision maker should react to development proposals is not evident to them beyond an awareness that the overlying ambition is to prevent development.
27. The myriad of policies could be rationalised into a single natural environment policy. However, the proposed policies do not add to the policy set established by the development plan (Policy 20 Green Infrastructure, DM4 Safeguarding the Countryside and Settlement Separation, DM6 Enhancement of Biodiversity and Geological Interest, DM8 Safeguarding Open Space, Sport and Recreational Facilities, DM9 Safeguarding Natural Semi-Natural Open Spaces, DM11 Protecting and Enhancing the Historic Environment, DM12 Heritage Assets and DM13 Preserving the Borough's Archaeology).
28. The Neighbourhood Plan should also not be repetitious of paragraph 170 NPPF (recognition that valued landscapes should be protected and enhanced and that the intrinsic character and beauty of the countryside should be recognised in decisions). In this regard, the plan should take care to identify assets only and not simply look to set policy wording which 'protects' or 'avoids' and in effect turns its back on the ability to enhance the natural environment through sensitive development proposals. We are concerned that the policies do not include balancing clauses.
29. Clearly the evidence upon which the myriad environmental assets are identified needs to be proportionate and robust. We are concerned that the Neighbourhood Plan is based upon local opinion rather than robust assessments of character that have regard to a clear and appropriate methodology.

Question 7 - If the ridge and furrow features were to be identified as non-designated heritage assets, what should be the level of protection that the policy should offer? Would the sites be better identified on the Local Heritage Assets Map?

30. Paragraph 197 of the NPPF advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In the first instance we are concerned that at best Policy 8: Ridge and Furrow Fields is repetitious of the framework and the Hinckley and Bosworth Local Plan (Policies DM4 Safeguarding the Countryside and Settlement Separation, DM11 Protecting and Enhancing the Historic Environment and DM12 Heritage Assets) but at worst it seeks to introduce a level of protection which is myopic in its requirement to prevent harm and has not had regard to the tests for substantial or less than substantial harm in the Framework (Paragraphs 195 and 196 respectively).
31. We have not seen any evidence which assesses the significance of the various areas of ridge and furrow that the Neighbourhood Plan seeks to protect. If the Neighbourhood Plan wishes to protect these assets then such a robust assessment would be required; a blanket protection is not appropriate.
32. In simple terms, it would be appropriate to recognise the areas of ridge and furrow as non-designated heritage assets and enable a judgement to be made on applications which directly or indirectly affect those non-designated assets by taking a balanced judgement that has regard to the scale of any harm or loss and the significance of the specific area of ridge and furrow.

Summary

33. Whilst a number of remedies are suggested in the comments above, we consider that these are so significant or substantial that they would change the nature of the plan at this late stage. Whilst it is regrettable, the Neighbourhood Plan fails to meet the basic conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004) and as a consequence cannot be recommended to proceed to referendum.