

## **Quarndon Neighbourhood Plan (Submission Plan dated November 2018)**

As you are aware I have been appointed to conduct the Examination of the Quarndon Neighbourhood 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. I am sorry for the number of queries but 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 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 “provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency” (NPPF para 17\*). 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.

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 alongside the representations received during the Regulation 16 public consultation.

\*NB As you are aware a new National Planning Policy Framework (NPPF) was published in July 2018 but the transitional arrangements in para 214 Appendix 1 on Implementation apply and thus this Examination is unaffected by the changed NPPF; accordingly all references to the NPPF in this document (and in the final Examination Report) are to the original 2012 NPPF document, unless otherwise indicated.

### **Basic Condition (c)**

In paragraph 4.1.1.3 it is stated that the relevant local development plan is the Amber Valley Borough Council (AVBC) Submitted Local Plan (2018) but this is not the case as that Plan has yet to reach the point of adoption. The adopted Local Plan is the Amber Valley (saved) 2006 Local Plan and the Examination will consider whether the Neighbourhood Plan “is in general conformity with the strategic policies contained” within that Plan. Clearly it will be beneficial to the longevity of the Plan that it has been prepared with an awareness of the content of the Submission Local Plan 2016. In this regard the accompanying Basic Conditions Statement seems to be based on the correct understanding. However that Statement also says (page 11) that “it details the formal meetings between the Quarndon Neighbourhood Plan Steering Group and representatives of Amber Valley Borough Council's planning department to discuss and agree proposed content of the Plan”; in fact there is no such content although I do note that the Council has made a Regulation 16 representation. It is possible that neither of these errors will be material to my Examination work but I need to draw your attention to them as you may wish to comment to provide clarity.

### **Number of new dwellings required – Housing Needs Assessment (page 16)**

Planning Practice Guidance ([Paragraph: 040 Reference ID: 41-040-20160211](#)) says: “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. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making". The evidence from the local authority plan-making would seem to show that:

- the Green Belt constraint on Quarndon is acknowledged and is not likely to be compromised;
- allocations of housing land made within the Submission Local Plan will meet the housing requirement without reliance on any allocation within Quarndon;
- the Submission Local Plan does not look to individual Neighbourhood Plans for specific amounts of new housing.

Whilst it is commendable that the Plan sets out to adopt a positive approach, I am unconvinced that the exercise to arrive at a Quarndon housing requirement, taken as a whole, could be considered to be "objectively assessed" (NPPF para 14). I am also unconvinced that the scale of housing intended to be delivered without specific allocations is deliverable; [Planning Practice Guidance: 005 Reference ID: 41-005-20140306](#) says: "If the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable" but I do not see evidence that there is capacity within the inset area or opportunity within the Green Belt and related constraints to deliver housing to the extent envisaged. However this need be of no consequence since the Plan does not make any housing site allocations and, as noted above, there is no obligation on Neighbourhood Plans to do so. Accordingly I wonder whether the summary analysis in this section and the related Appendix 1 relate appropriately or helpfully to the housing policy position actually pursued. Your comments on this line of thought are invited.

#### **A general point on the Policies**

I note that the Policy criteria are written as bullet points but this makes for difficulties in referencing Policy elements within Committee Reports and Decision Notices. It is more helpful to use (a), (b) etc or (i), (ii) etc so that references can be readily understood.

#### **Introduction to the Policies (page 33)**

##### **Policies for the Spatial Strategy and Housing Need (pages 33 to 35)**

I wonder what purpose paragraphs 8.1.4 & 8.1.5 are designed to serve since they seem to be an incomplete summary of what section 7 has just noted and what just one of the subsequent policies will say. Similarly, having noted in paragraph 8.1.1 that policies will be applied as a whole, Policy QSS1 seems to perform no obvious function since it seems to say no more than the later individual policies, as referenced, will say in more appropriate detail; I am further unsure of the clarity or the purpose in making a distinction between "the [parts of the] Village of Quarndon in [the] Green Belt" – undefined – and "the open countryside/Green Belt areas of Quarndon Parish"; does this relate to the operation of Local Plan Policy H3 which refers simply to "the built framework" for Quarndon? Your comments on these lines of thought are invited.

#### **Policy QSS2: Setting of Kedleston Hall, Park and Conservation Area**

There are a number of queries that arise from this Policy as worded:

- What is the "setting" referred to here? Is it the area defined by the map on page 20 but which will, "consistent with the (July 2018) NPPF", be absent from the new Local Plan when it is adopted, or is the looser NPPF definition being used, or is it in fact the (undefined) "Kedleston historic estate". If the term is open to interpretation by the Council's Planning Officer then it is open to interpretation also by a prospective developer. The setting of a Conservation Area is not specifically protected.

- Is the term “considered for approval” intended to mean something different from ‘supported’?
- How should “of limited scale” be interpreted – ‘appropriate to its setting’?
- I note that some of the area defined on page 20 is also within the Green Belt but the impact of Green Belt policies does not appear to be acknowledged within the Policy itself, unlike for example Policy QH1.
- Whilst the “Interpretation” acknowledges a “test of harm” (not a term used within the NPPF) the Policy itself does not and yet the Policy appears to provide a justification for a degree of harm.
- I note that it is intended that both criteria in the Policy are to be applied together and therefore the “uses” criteria are perhaps the more limiting; in relation to these uses the Policy says “or” whereas the “Interpretation” says “and/or”?
- How is one to interpret the terms “community uses of the landscape” and “historic estate” and, however defined, would these inevitably be consistent with Green Belt Policy?

### **Policy QSS3: Re-use of Redundant Buildings in the Open Countryside/Green Belt**

The heading here specifically says “Reuse of *Redundant* Buildings..” (*my emphasis*) but the preamble says “sites/buildings” and the Policy and the “Interpretation” do not actually use this term at all, potentially taking the Policy into conflict with the NPPF; further the NPPF requires (para 90) that within the Green Belt reused buildings should be of “permanent and substantial construction”. I am also doubtful that this Policy is in “general conformity” with Policy H6; certainly no evidence is provided to support the absence of an obligation to demonstrate that “employment or tourism uses would not be suitable or viable” prior to a residential use being considered. In relation to the criteria:

- The NPPF (para 55) requires that all reuses of existing buildings in the Green Belt should “lead to an enhancement to the immediate setting”, and so this is not optional.
- Since criterion 2 refers to the whole building(s) as proposed it is difficult to see why criterion 3 needs to single out “extensions or additions” although the NPPF does expect (para 89) that “the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building”.

Your comments on these lines of thought are invited.

### **Policy QSS4: Separation of Quarndon from Derby and Duffield**

The delineation of the Green Belt is a strategic policy for the Local Planning Authority to determine. Whilst it can be said that element 1 of Policy QSS4 is in “general conformity” with the Local Plan, the NPPF (para 16) says that Neighbourhood Plans should “plan positively to support local development, shaping and directing development in their area that is *outside the strategic elements of the Local Plan*” (*my emphasis*). Accordingly, whilst you may wish the text to acknowledge the concerns of the community and the Local Plan policies that address these concerns, Policy QSS4 seems neither needed nor appropriate. Do you have any comments on this line of thought?

### **Policy QH1: Housing Development within the Village of Quarndon**

Judgements may differ significantly on the meanings of “Appropriately designed”, “excessive urbanisation” and “part of an existing built frontage”; whilst more clarity could probably be added to the latter (is this about stopping backland or parallel development?) I doubt whether the first and second are needed when the criteria are designed to guide what is appropriate? The insertion of additional dwellings within the existing built form must inevitably involve some loss of parts of hedges and some trees; the Policy may therefore need to say: “the loss of hedgerows and mature

trees should be minimised and any unavoidable losses should be replaced like-for-like within the site”, or similar.

The question of what is the “village” within or washed over by the Green Belt has been addressed earlier. I presume that the absolute limit of “two dwellings” as infill derives from Local Plan Policy H4 with which it must show “general conformity” but it may need to be softened to show regard for the NPPF. However, what is the justification for a complete ban on new dwellings within the Conservation Area, albeit more care would be expected in designing for that location? Is the “not where there is currently green space on both sides of the road” criteria designed to stop linear extensions to the village or does it relate to what would otherwise be infill opportunities; if the latter then the basis for discriminating between sites of equal housing potential would seem to be rather random and its impact unexplored?

Your comments on these lines of thought are invited.

### **Policy QH2: Housing Development on Somme Road and Poppyfields Meadow**

I understand the intention of this Policy is to resist further extensions of these estates (albeit they may merge with a much larger estate depending on the outcome of a pending legal decision). However the Policy as written could/perhaps should be guidelines applied to extending existing housing throughout the Parish; it is difficult to see a reasonable justification for applying these requirements exclusively on Somme Road and Poppyfields Meadow. The “Interpretation” section goes further and suggests a rewriting of national permitted development which would certainly not equate with showing appropriate regard for national policy. The local authority further points out that in failing to distinguish between land either side of Somme Road and land south of Memorial Road this Policy is not compliant with the adopted Local Plan 2006 Policies EN2 & H4. I believe that the core content of this Policy is more appropriately located within Policy QH3. Your comments on these lines of thought are invited.

### **Policy QH3: Design and Built Character**

Although this is listed as a housing policy do the criteria not relate to construction of all types and should this not be the aim of the Policy?

In paragraph 8.3.1.4 it is said that “All new housing developments are expected to meet the Building for Life 12 principles” and this is picked up in Policy QH3; “to meet” principles might be a tall order but to ‘address’ the principles might more realistic? As noted earlier the wording often requires the exercise of judgement that may differ according to differing viewpoints; the terms “avoid the appearance of overdevelopment”, “isolating properties from the street scene” and “authentic materials” are not self-explanatory and yet applicants need know what is intended by their use. The use of a very specific ‘2 meters to the boundary’ rule exclusively within the village is neither explained nor justified. As also noted earlier, the loss of parts of hedgerows and walls is inevitable where a new access is being created and therefore “shall be retained” needs to be modified. The reference to Appendix 2 says that this ‘defines’ the character of areas – more realistically I believe that it ‘illustrates’?

On page 40 the Policy seeks to influence the planning application process but this is outside of the remit of Neighbourhood Plans which must address land use matters; the importance of this last criterion is that the impact of the proposal on the streetscene and views from neighbouring footpaths should be ‘assessed and addressed’.

Do you have any comments on my lines of thought here?

#### **Policy QH4: Housing mix for new development**

This Policy is worded to apply solely “within the Village of Quarndon” – but that will not be the sole location for new development and the supporting evidence appears to apply to the whole Parish? I note that the AECOM Housing Needs Assessment (HNA) (para 155) says “The increased provision of 2-3 bedroom homes, described by local estate agents as “few and far between” in Quarndon, has the advantage of potentially increasing the affordability of dwellings within the NPA, by virtue of reducing their average size, whilst simultaneously aiding the ‘right sizing’ of many ageing households”. Earlier however the report had noted (para 153): “the provision of one bedroom units in the Quarndon NPA is not perceived as appropriate”. It is a puzzle therefore that the Policy wording has expressed these findings through support for homes “with a maximum of 3 bedrooms”. Apart from this issue of detail, the HNA does not address the deliverability of such a very constrained development profile, although the fact that sites can be expected to be small is possibly helpful. The NPPF says (para 173): “the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened”. The “Interpretation” section acknowledges that there may need to instances where more flexibility must be applied but the Policy wording is rigid. I believe that a more appropriate wording would follow these lines:

‘Proposals for new dwellings within the Village of Quarndon will be expected to contribute to meeting the requirement for 2 & 3 bedroom dwellings; variation to this approach may be acceptable on the basis of substantiated evidence.’

Do you have any comments on my lines of thought here?

#### **Policy QH5: [Housing] Provision for the Elderly**

Whilst I acknowledge that the ageing population profile does indicate a need for accommodation appropriate for elderly persons, the HNA suggests that the numbers, even across a range of needs, are quite small; these numbers would be unlikely to make the traditional forms of “accommodation and care” viable and a site on a viable scale may not exist within the Parish. The HNA notes (para 165) that “This specialist dwelling need is likely therefore to be split between the parish and the rest of the borough”. Accordingly a more general term such as ‘supported housing’ may be more appropriate than “accommodation and care”. Your comments are invited.

#### **Policy QH6: Transport and Parking**

The local authority has pointed out an inconsistency between the wording regarding parking provision in paragraph 8.3.7.2 and the related Policy wording; “at least meeting the maximum standards” implies that the maximum level might be exceeded whereas, more appropriately, the Policy requires a “proportionate” provision. I believe that paragraph 8.3.7.2 should say “having regard to the parking standards of Derbyshire County Council” and these standards then need to be referenced. In relation to the Policy itself I believe that reference in bullet point 1 to “surrounding” pathways might be read to rule out most if not all sites whereas ‘adjacent’ would be more appropriate?

Your comments on all these lines of thought are invited.

#### **Policy QH7: Larger Housing Developments**

Major or large-scale housing developments are normally defined as sites with an area of 0.5 hectares or more but I can see that in the draft Local Plan 2016 0.5 hectares is equated with 15 dwellings. It is not explained how the higher gradation used within Policy QH7 has been arrived at but I believe that becomes unnecessary when one considers the specifics of the content – see below.

I note that the 30% level of affordable housing is at the upper end of the range provided for in Local Plan Policy H10 and the draft Local Plan 2016 uses “up to 30%” – accordingly “up to” needs to be added to the wording in Policy QH7. No evidence has been provided to support or justify or demonstrate the viability of the very specific level of bungalow/accessible housing; the more general policy position of the Borough Council should therefore apply.

I note that the “reserve matters” in the planning consent granted after Appeals APP/M1005/WE/15/3132791 & APP/M1005/W/16/3147743 relate to “the appearance, landscaping, layout, and scale” and these therefore are the only matters that Policy QH7 can influence for that development and then confidently only after the Neighbourhood Plan is “made”.

The requirement for a Health Impact Assessment is not a land-use matter and is therefore beyond the scope of a Neighbourhood Plan. I note that a Section 106 Agreement was executed as part of the Appeal process and therefore the matter of planning obligations cannot be reopened for that site.

In summary and assuming that the bullet points are numbered as a single sequence, it would seem that only bullet points 3,4,5,6 and 8 should be retained.

Your comments on these lines of thought are invited.

#### **Policy QCLE1: Local Green Space**

The purpose of this Policy is to designate a Local Green Space rather than detail the implication of designation which is already set down within the NPPF. The Policy wording must include the detailing of the Space and an adjacent map must unambiguously delineate the boundary of the site; the map presently within Appendix 4 is insufficiently large for this purpose. It would be helpful if the description of the site (presently within Appendix 4) more explicitly related to the NPPF criteria and it was included within the preamble to the Policy. As noted in the Planning Practice Guidance (Ref: 37-017-20140306) public access need not be a condition for or expected from a Local Green Space designation

Your comments on these lines of thought are invited.

#### **Policy QCLE2: Community Facilities**

This Policy as written rather begs four questions:

- Why is there support for “new community facilities” when none has been identified as absent-but-required – is like-for-like replacement implied?
- Would the design points not be more appropriately and comprehensively addressed by Policy QH3 if that was released from its housing Policy location?
- What determines that a facility is “active” – if an owner closes a facility against the wishes of the community has that ceased to be “active”?
- How does one determine “the community value of [a] facility”? – Local Plan Policy LC11 uses the phrase: “there is insufficient local demand to justify or sustain their existing use”.

Alternative wording might follow these lines:

‘Proposals that ensure the retention, improvement or expansion of key local facilities will be supported. Any redevelopment will only be supported if the facility affected is replaced by an equivalent or better provision in an equally suitable location or non-viability is established with appropriate evidence. These key facilities (as at 2018) are: .....’

In relation to the provision for electric charging points I wonder how it might be that staff or the public are precluded from using these?

Your comments on these lines of thought are invited.

#### **Policy QCLE4: Retail and Rural Services**

Is it appreciated that the Policy as worded would allow the pub to close provided it included a tea room within its replacement, etc? Presumably this Policy actually seeks to assure retention of each of these services? When considering the possibility that any of these services might become unviable, the replacements would not seem to be subject to the same test of neighbourliness and road safety as the other two elements of the Policy? A restructuring of the Policy may be the appropriate way to remove ambiguity and repetition.

Your comments on this line of thought are invited.

#### **Policy QCLE4: Re-use of Buildings for Employment Purposes**

The pre-amble to this Policy says: “given the limited sites on which new dwelling houses may be built, the policy recognises this [type of] redevelopment should not be to the significant detriment of the availability of living accommodation in the Parish”. However, the Policy wording presents something of a conundrum since it says it relates solely to existing dwelling houses, whether vacant or occupied (and from the cross-reference to Policy QSS3 these houses are within the core of the village despite the reference to “existing agricultural activities”), and would not allow these to be substantially extended whilst encouraging the new employment use to coexist with the residential use. In theory the village could lose as many houses to employment as are gained through infill construction. In practice, whilst I can see a benefit from better balancing employment and housing, I am wondering why Policy QSS3 was regarded as insufficient. Also I am wondering whether there are any employment uses that might afford to displace a residential use. Further, solely within this Policy, there is an obligation to retrofit SuDS which would surely make most such schemes unviable if not unfeasible? I am left wondering what is the identified, unmet need that underpins this Policy.

#### **Policy QRE1: Renewable Energy**

Outside of Conservation Areas roof-mounted PV or solar energy panels are likely to be permitted development, subject to certain considerations not mentioned in Policy QRE1. In relation to the criteria for a permission in the Conservation Areas you do not evidence the need for a particular approach for Quarndon; I note that Local Plan Policy EN35 says: “Planning permission for renewable energy developments will be granted provided that..... b) in nationally designated sites, including SSSIs, Conservation Areas, Registered Historic Parks and Gardens, Listed Buildings and Scheduled Ancient Monuments, the objectives of designating the site will not be compromised .....”. This seems to be a more comprehensive approach than implied by Policy QRE1.

I note that the pre-amble to the Policy says that landscape and heritage considerations “are likely to rule out most renewable energy installations larger than domestic scale”. The NPPF states (para 97) that local planning authorities should have a positive strategy to promote energy from renewable and low carbon sources and to design their policies to maximise renewable and carbon energy development, whilst ensuring that any adverse visual, landscape or other environmental impacts are

satisfactorily addressed. Since the Neighbourhood Plan does not, perhaps could not, positively identify sites suitable for installations and the draft Local Plan 2016 includes Policy R1 which comprehensively covers the criteria that should apply to identifying locations, I wonder whether the related parts of Policy QRE1 have a useful purpose? The text may adequately detail the community issues.

Your comments on these lines of thought are invited.

#### **Policy QEN1: Natural Features**

Whilst the first element of this Policy, including the criteria, shows explicit regard for the special features within the Neighbourhood Area, the second element appears to be a more generalised duplication. I therefore wonder whether the second element adds anything for Quarndon?

#### **Policy QEN2: Historical/Heritage Assets**

Whilst I appreciate that the “community has expressed a desire to preserve or enhance these assets” the Policy itself says nothing specific to Quarndon and, potentially, by adopting different wording from the related national and Local Plan policies, there is the opportunity for confusion. For example the NPPF (para 134) says: “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use” whereas the third element of your Policy has no mention of “less than substantial harm”.

I note that the draft Local Plan has 10 Policies (EN23 – EN33) that address heritage matters and it is inevitable that compression into a single Policy will lose subtleties as well as mislead – settings of Conservation Area are not specifically protected in the legislation. Would anything be lost if Policy QEN2 said: “Heritage assets in Quarndon will be conserved in a manner appropriate to their significance”?

Your comments on this line of thought are invited.

#### **Policies QEN3: Views**

Any assessment of what “detracts from the significant views” will inevitably be subjective. The core of this Policy is perhaps the requirement that proposals assess and address their impact on views; the judgement is then about the extent to which proposals succeed (after the principle of development has been established against other policies). Arguably the “high sensitivity” designation in the referenced 2016 Study achieves the same end, but I can see that community consultation is the basis for the Neighbourhood Plan approach.

The views in Appendix 5 are an integral part of the Policy but the map illustrations extend beyond the Neighbourhood Area boundary whereas of course the Plan can only influence development activity within the Neighbourhood Area; therefore the views need to be truncated at the boundary. The second element of Policy QEN3 seems to delve into the detail that is more properly the subject of Policy QH1?

Your comments on these lines of thought are invited.

#### **Policy QEN4: Dark Skies**

Most domestic installations of lighting will not require a planning consent; therefore “Any proposals” would need to be modified to ‘Proposals requiring a planning consent’ or similar. The Local Authority has queried the source of the definition of “Dark at Night” and it would be helpful to know this.

### **Policies for Infrastructure**

I wonder whether this content should more appropriately be located in Section 9; they are not land use issues per se. It seems improbable that a developer will apply for consent to provide a public footpath within the existing village. Very specifically the Plan cannot make policy for a location outside of the Parish as included within Policy QIN1. Existing footpaths are well protected already (although the Parish may well monitor their maintenance). Non-planning national policy is driving the distribution of high speed internet connectivity. The core issue here is perhaps the priorities for funds that may be passed from the local authority to the Parish Council under national policy as a result of development within the Parish; this is a financial not a land use matter. The character of the roadside footpaths could already be a heritage issue according to location.

Your comments on this line of thought are invited.

### **Non-planning issues**

As these are not land use issues they are generally beyond the scope of the Examination; however I would question the purpose of 9.1 since the Parish Council has no jurisdiction in the matter.