

Tugby & Keythorpe Neighbourhood Plan (Submission Plan)

As you are aware, I have been appointed to conduct the Examination of the Tugby & Keythorpe 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. 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 authors' intentions behind some of the policy content. Where representations have raised issues, I will aim to pick up below the most significant of these so that you may provide comments where you feel the need. In order to ensure transparency with the conduct of the Examination a copy of these queries is being sent to the Local Planning Authority in order that the exchange of emails can be published on the webpage relating to the Neighbourhood Plan alongside the representations received during the Regulation 16 public consultation.

I am conducting this Examination against the content of the 2021 NPPF and the strategic policy content of the Harborough Local Plan adopted in April 2019.

A general comment about the wording of Policies

Paragraph 16 of the NPPF says (inter alia) that:

"Plans should:

b) be prepared positively, in a way that is aspirational but deliverable;.....

d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;

and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)."

I will raise issues in relation to these expectations below. In particular, policies should say what *is* wanted, not what *is not*. Sometimes this is a matter resolved through different wording, but sometimes the issue is deeper because clarity about what is positively being sought is unstated.

Forward

Although it may seem pedantic it is important that I point out that the Foreword is incorrect in saying that "Neighbourhood Plans are required to be in general conformity with the strategic policies of the Local Planning Authority and the Government's National Planning Policy Framework (NPPF) 2021." In fact, Neighbourhood Plans must "have regard to" national policy and guidance.

4 Housing and the Built Environment

Housing Provision

There seems to be a slight disparity between the Plan text and the supporting Sustainable Site Assessment (SSA); the former suggest that the housing requirement is 5 dwellings and the latter 6; is this a matter of the passage of time?

Residential Allocation

The SSA says (para 2.3) that a total of 11 sites have been evaluated, the Plan itself says that the number is 9; is that because the latter ignores the second versions of two sites? The paragraph immediately before Policy H1 says that the Plan is seeking to allocate a site for 8 units; the Policy that follows makes an allocation for “around eleven dwellings”. Is this the difference between aspiration and the actually assessed site capacity? Has the landowner agreed the capacity at 11?

There are a number of concerns with the presentation of the Sustainable Site Assessment (in addition to the strange paragraph numbering):

Executive Summary: this seems to suggest that the outcome from the first iteration of the process – described as objective – was not liked so the criteria were changed to alter the outcome. This might be said to result in a less-than-objective outcome; the basis of the change is not further explained? Similarly, the later reference to: “The presentation of findings to the local community resulted in refinements to the site proposals” is not further explained.

I note that the ‘raw data’ on how each site was ‘scored’ on the traffic light system is presented separately but there are no maps outlining the particular site under consideration. Presumably these were presented to the community as part of the consultative process?

Table 2 – SSA outcomes: before the table it is said that “The RAG Rating is obtained by deducting the “Red” scores from the “Green” scores”. There is no heading in the table for “RAG Rating”. After the table it is said that the outcome was the allocation of “the highest scoring green site” – this seems to suggest that red and amber scores were ultimately not counted (although I can see from the evaluation sheet it is the so-called RAG Rating that is used for the decision).

A concluding comment notes that “The two sites at Tugby house and the paddock adjoining Whiteacres will be dealt with under the windfall policy in the NDP”. This implies that, although these sites together totalled the number of dwellings initially sought, ultimately they are assumed to be added to the site allocated to make a total delivery of 19 units?

Your comments on these lines of thought are invited.

POLICY H1: Residential site allocation - Land is allocated at Harbrook Farm for residential development as shown in figure 2 below.

In relation to the wording of this Policy:

- i) Are you satisfied that 11 dwellings are deliverable on the site (this being the threshold for the delivery of affordable housing)? There appear to be (from the map) existing buildings on the site; no mention is made of whether these will be incorporated into the layout or demolished – the latter option being potentially sensitive in a Conservation Area.
- ii) There is no indication as to what the “existing green assets” might be.
- iii) Whilst I appreciate a concern for good design, having referenced Policy H5 there is no site-specific guidance as to what ‘good design’ might involve; the two further general references are duplication.

- iv) The Conservation Area and any specific guidance related to it is not explicitly mentioned.
- v) It is unclear what an “independently assessed” housing need, as required in element g, might entail.
- vi) Elements f and h appear to say the same the same thing in different words.
- vii) A representation comments: “It is unclear which footpath is being referred to here [element i], but it is assumed a vehicular access with an adjacent footway leading into the development.”
- viii) Is there any particular reason for element j?
- ix) Given that the site selected was originally offered as part of a larger site is it expected that a route through to the remainder of the site will be protected?

Your comments are invited on the above to help ensure clarity with the Policy.

Limits to development

I note that it is stated that “The Harborough Local Plan has removed LTD in favour of criteria-based policies”. In what way has the Qualifying Body therefore satisfied itself that defining a LTD meets the Basic Condition requiring “general conformity with the strategic policies of the Plan for the area”? I note that the Basic Conditions Statements says: “The Neighbourhood Plan satisfies the requirement of policy GD1 of a ‘presumption in favour of sustainable development’ and adds limits to development as a matter of local detail to help determine the most appropriate locations for development” but the “presumption” and “limits” may not always be seen as compatible. Was the stated methodology agreed with the local authority? Was any check made that all extant planning consents would be delivered?

In relation to the wording of Policy H2, strictly speaking the last part of the second element should be: ‘the strategic policies of the Local Plan and national policies’.

Windfall development

The phrase at the end of the opening paragraph – “and apart from in only exceptional circumstances” – might be regarded as an overstatement of what Local Plan Policy GD1 provides? In relation to the Policy H3 wording:

- i) Element a expects the retention of gardens whereas element c acknowledges, appropriately, that some/most development will involve development on existing garden space; the two elements need to be compatible.
- ii) A representation comments: “Is the last sentence needed as it already refers to this in criterion d)? If it is [needed] it should also say ‘4 or more bedrooms’ rather than ‘4+ bedroomed’ for the avoidance of confusion as 4+ means 5 or more. Does criterion d) mean that larger homes can only be delivered on sites of at least 3 dwellings as sites would have to be able to accommodate at least 3 for large homes to be in a minority?”

Affordable Housing

Given that Policy H1 has provided for affordable housing (subject to the actual planning application and consent), and Policy H2 does not expect the delivery of affordable housing

at the scale of development envisaged, does Policy H4 add anything (or is it needed to add anything) to the existing Local Plan requirements?

Design

Policy H5 is clearly an important one in relation to the new NPPF emphasis on good design and how it should be achieved. However, the Policy sets down “design principles” and references the Appendix “Design Guide”. The latter at paragraph 3.1.2 sets down “building design principles” and paragraph 3.3 sets down “Design Guidelines”. The basis of the relationship between the Policy “principles” and the Guide’s “principles” and “guidelines” is unclear and a prospective developer would be forgiven for wondering, where differences of wording occur, which version should be followed. As the Guide is part of the Plan document then cannot that be relied upon to provide the clarity, including images, that is required with the local and national policies providing ‘general principles’ applying across the District? The Policy as written goes beyond what are stated to be ‘general principles’. Within the “Guide” it is unclear how the “Parking Standards” relate to those prevailing in the District and how/why any variation, if any, has been justified.

5. The Environment

5.2 Environmental inventory

The approach to identifying Local Green Spaces is an interesting one and, subject to a visit to the two sites identified, I do not disagree with the sites selected. However, there are a few general comments that I should make:

- i) The categories used – tranquillity, historical significance, etc – are used in the NPPF as examples only, what is critical is whether a space is “*demonstrably* special to a local community *and* holds a *particular* local significance” [my emphases]. The narrative might have better related to this requirement.
- ii) Planning Guidance contains a few other checks – such as whether the LGS designation can endure beyond the plan period.
- iii) You have not declared how a cut-off point was selected making the division between LGS and not LGS.

5.4 Historic environment

5.4.1 Sites of historic environment significance

Whilst the inventory approach is an interesting one, I cannot see that “The features for which the identified sites have been selected and notified are listed in the environmental inventory”. Taking two examples:

The site that straddles sites 074 and 012 scores 0 & 1 respectively for history (for selection it is said that the score should be 3/5) and the only written reference is “Old Lime Kiln?”.

Site 112 scores 0 and all the written references are to wildlife.

It would appear that not only is the data unreliable but no clue is provided as to the basis on which the assessment of “at least local significance” has been reached. This Policy could only be useful if the prospective developer is able to understand exactly what is being protected and its significance. HER references would probably be appropriate.

5.4.3 Local heritage assets

The Policy ENV 3 and its supporting information seem appropriately presented. However, “Rosemary Cottage, Main Street” is shown both as a property about which there is too little information and as a property addressed within the Policy.

5.4.4 Ridge and furrow

Whilst I acknowledge the heritage asset value of ridge and furrow evidence, since planning cannot prevent the ploughing of fields there is a significant limit to what a Policy like ENV 4 can achieve. The Policy will need to be realistic about the quantum of ridge and furrow evidence that can be recognised. I note the suggestion that ridge and furrow may be regarded as “comparable in significance to that of surviving medieval buildings” but there is no source reference provided to support that. I will look at the evidence on the ground when I visit the Neighbourhood Area.

Your comments on the above lines of thought are invited.

5.5 Natural environment and biodiversity

5.5.1 Sites of natural environment significance

Whilst the mapping is impressive and the descriptive part of the inventory is more useful than the historic environment content (as noted earlier), I am unconvinced that there is any difference of significance between Policies ENV 5 & ENV 6. The NPPF (paragraph 179) says that plans should: “promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.” Whilst the latter element is not addressed within the Neighbourhood Plan, both ENV 5 & ENV 6 seem to repeat the NPPF content, with the benefit of the local mapping as a background. Your comments are invited.

5.5.3 Notable trees and hedges

The wording for Policy ENV 7 makes a distinction between “valued” and “notable” trees and hedges. Whilst the latter are identified in pictures and a location, the “valued” set are not. In neither instance are the selection criteria declared. Some further clarification is therefore required.

5.6 Important Open Spaces

I note that it is proposed that sites 032 and A/B/C be removed as IOS sites if the designation as LGS is approved. It is also said that “[other sites than those identified by HDC] have demonstrable community value and can be classified in HDC OSSR typologies and are included here for similar treatment in the Planning system”. No evidence is provided as to how the classification in HDC OSSR typologies was determined. The Basic Conditions Statement says there is “general conformity with the overarching principles contained in [policy] G12 ‘open space sport and recreation’”. Policy ENV 8 does not appear to be a complete equivalent to element 2 in Policy G12 and confusion may arise from unexplained disparities. Your comments are invited.

5.7 Important views

Planning policies cannot “protect” views from change. Policy ENV 9 can perhaps require that views are respected by integrating new buildings within the landscape and ensuring that sightlines to significant landmarks/features are not obscured. A positive expression of what is being sought is required so that what is “unacceptable” has clarity. Your comments are invited.

5.8 Footpaths and bridleways

Since footpaths and bridleways are afforded statutory protection, the primary value of Policy ENV 10 is that the network is defined for clarity. It is doubtful that a policy is required but, if a particular importance is attached to it – and I note that the County Council “strongly affirm and support draft Policy ENV10” - then a positive expression would be along the lines of: ‘To be supported development proposals should retain public footpaths and bridleways (see Figure 14) that are within their site; where there is an adverse impact on the value of the footpath/bridleway then appropriate mitigation is required.’

5.9 Flood risk resilience

The NPPF provides for a very specific approach to flood risks with the use of a Sequential Test and Exception Test as appropriate. Local Plan Policy CC3 is a local expression of the approach. It is not the purpose of Neighbourhood Plan policies to rewrite national policies but rather it is to give local expression to them according to evidenced requirements. My initial assessment is that Policy ENV 11 does not need to duplicate Local Plan Policy CC3 and, in the absence of Neighbourhood Area content supported with evidence, it is not appropriate. What is the justification for a single dwelling within the LTD, as per Policy H2, being required to undertake a hydrological study? Your comments are invited.

5.10 Renewable energy generation infrastructure

In all essentials Policy ENV 12 says no more than Local Plan Policy CC2, which it references. Perhaps the intended difference is in the emphasis with ENV 12 being worded more encouragingly of smaller scale turbines?

6. Community Sustainability

Community facilities and amenities

The particular contribution made by Policy CFA 1 is that it identifies the local properties that are regraded as “community facilities”. In other respects, the Policy is a negatively worded equivalent of Local Plan Policy HC2, but there are other differences. For instance, why in Tugby is it not expected that a replacement facility “is to be made available before the closure of the existing facility”. Similarly, Policy CFA 2 parallels other parts of Local Plan Policy HC2. Would anything be lost if a single Policy replaced two, this designating which properties are recognised as being community facilities? Local Plan Policy HC2 would then guide their replacement or improvement. Your comments are invited.

Community Action CFA1: Maintenance of existing community assets

Planning Policy Guidance says: “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, [but] actions dealing with non land use matters should be clearly identifiable. For example, set out in a companion document or annex.” (Planning Policy Guidance Paragraph: 004 Reference ID: 41-004-20170728). In this instance I consider it sufficient for the Community Action title and colour to be different from the main Policy content, but to retain the clarity of that distinction for black and white printing I suggest that the Community Action is also italicised.

Tugby Church of England School

It is appropriate that the Plan should address the needs of community facilities. Since it would appear that there has been no particular assessment of the School site’s ability to accommodate replacement or extended buildings, the Policy should only provide ‘in principle’ support. I note that the School building is historic in character but the Policy invites its “replacement”, implying loss of the original building – is that what was intended? Element b of the Policy is ambiguous – is there a concern about the loss of open space per se or only a loss of open space which affects the immediate neighbours?

Traffic Management

Given that Neighbourhood Plan policies must “relate to the development and use of land” (Section 38A of the Planning and Compulsory Purchase Act 2004) traffic management is a difficult topic outside of the context of particular sites. Community Action TR1 is therefore the appropriate way to go. In relation to the wording of Policy TR1, it is difficult to envisage what design features would “minimise additional traffic generation and movement through the village”. A representation points out that the selected site for development will assure some additional traffic at the heart of the village – as would any development to varying degrees. Another representation points out that “a new development should only mitigate its own residual impact; it cannot be expected for developers to mitigate existing concerns”. Other aspects of the design expectations of Policy TR1 are already addressed, contextually more appropriately perhaps, within the Design Guide.

Your comments are invited on the above lines of thought.

Electric Vehicles

Again, this design expectation is already addressed, contextually more appropriately perhaps, within the Design Guide. A land-use planning policy is not the place to set down technical standards, particularly since they may date very quickly.

Footpaths, Bridleways and Cycleways

Footpaths and bridleways were already the subject of Policy ENV 10 – cycleways could be incorporated. Policy TR 3 would seem to be more appropriately a Community Action. No planning consent would be involved in the maintenance or upgrading of footpaths etc..

Businesses and employment

I note some tension between Policies BE1 & BE2 and their equivalent Local Plan Policies. Local Plan Policy BE3 says: "Development of starter homes on industrial and commercial land that is considered under-used or unviable for future commercial uses and suitable for housing will be permitted providing that: a. any such provision does not prejudice the use of other well-used or viable employment land or premises; and b. the development would not result in unsatisfactory residential amenity for future residents." Local Plan Policy BE1 supports "on sites within or *well related to* [my emphasis] Rural Centres and Selected Rural Villages, sustainable development which delivers local employment opportunities, supports and diversifies the rural economy or enables the expansion of business and enterprise will be permitted" subject to criteria indicating a preference for re-use of buildings or land. Where differences of policy wording or emphasis arise, it is difficult to appreciate whether this is unintended or deliberate. Significant differences of approach need to be justified by evidence. Your comments are invited.

Home working

Where homeworking is incidental to the residential use of a dwelling, no planning consent is likely to be required; a personal office is indistinguishable from a study, internet-based work may merely temporarily repurpose some parts of the home eg a demonstration kitchen. A distinct difference however arises when a business employs other people and they work from someone else's home and/or when delivery and collection of goods/materials becomes more dominant than the residential use. As written, Policy BE3 does not appear to acknowledge that a policy is not needed for incidental uses or that light industrial and employment generating uses within residential areas are unlikely to involve "No significant and adverse impact". The Policy should not mislead; what barriers is it aimed at overcoming?

Farming

Again, Policy BE4 does not appear to recognise that a range of diversification uses may be achieved within permitted development or prior approval rights. One reading of the Policy might be that the loss of an agricultural site to residential use would be acceptable if that supported another business on another site – was that intended? Local Plan Policy GD3 'Development in the countryside' suggests that new uses from diversification will be related to the rural economy but Policy GD3 appears to be more widely drawn, raising possible general conformity issues. Your comments are invited.

Broadband and mobile infrastructure

Whilst I note the intention for mobile phone infrastructure and upgrades to be encouraged, the last element in the Policy seems to present a high bar for a predominantly rural Parish. Comparison with Local Plan Policy IN3 shows that it adopts a more nuanced approach and range of considerations. Is a Neighbourhood Area Policy required?

7. Infrastructure

This would appear more appropriately to be a Community Action Policy. S106 monies are restricted to items that ensure that a development proposal can be policy compliant, and CIL payments relate to a range of infrastructure investments identified when setting the CIL tariff. However, a proportion of CIL funds generated by development will be passed to the relevant Parish Council and Policy INF 1 would appear to be committing the Parish Council to a particular pattern of spending from those funds. Your comments are invited.

7. Monitoring and Review

This commitment is appropriate.

Appendices

The Contents page shows a number of Appendices but I would regard two of these as vital to the implementation of the Neighbourhood Plan – the Design Guide and the Environmental Inventory (subject to improvements in some content as noted above). The others I regard as supporting documents, helping to justify or explain policies but not likely to be called upon in the application of the policy. Accordingly, I would suggest that Appendices F & H (suitably renumbered) are included with the Plan text whereas the other Appendices are listed as ‘Supporting Documents’ with a hyperlink to their location. Your comments are invited.