

Berkswell Neighbourhood Development Plan (Submission Plan dated Autumn 2018)

As you are aware I have been appointed to conduct the Examination of the Berkswell Neighbourhood Development 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 queries are not extensive 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.

1. What is a Neighbourhood Development Plan

I feel this section has now served its purpose and it can be omitted for the Plan that will be a Development Plan document. Do you agree?

Planning Policies

5. Housing in Balsall Common

I note that at the foot of para 5.1 there is a reference to “Appendix 2” but I believe that this should be to Appendix 1 – is that correct?

Policy B1: New Housing – General Principles

A representation queries the wording of criterion 1; partly it is queried on the basis of comparison with the NPPF 2018 wording but, as noted above, I am Examining against the 2012 NPPF. The representation comments: “The 2012 NPPF states (Paragraph 111) that the re-use of brownfield land should be encouraged, not that development on brownfield land must come forward before greenfield land will be released”. I note that the Policy wording does not say “must” but instead says “should” but the thrust of the point is valid. Additionally I note that, given the location of the Parish within the Green Belt, the “release” of greenfield land is a strategic matter for Solihull MBC.

Accordingly, whilst a preference for the use of brownfield land is reasonable, the wording of criterion 1 needs to be tempered to have regard to national policy.

I am unclear how criteria 2b and 2c might operate together; are they not ultimately both about character? If Secured by Design (<http://www.securedbydesign.com/wp-content/uploads/2018/05/SBD-HOMES-2016.pdf>) is the source of the guidance on closes and culs-de-sac, what underpins the suggestion that “up to 20” dwellings is a beneficial scale – is that perhaps a proxy for short culs-de-sac? Additionally at least one representation notes that “A more flexible approach would reflect the need to design layouts to respond to site-specific context”.

Whilst I note that Riddings Hill is a development of 250 dwellings is there any evidence to suggest that this will invariably be an appropriate scale for character? Further whilst Riddings Hill is said to “demonstrate good practice” no real insight is provided within sections 2 or 7 as to what this might be – or is the feature that is valued the surrounding parkland?

In relation to criterion 2d Secured by Design says: “Whilst it is accepted that through routes will be included within development layouts, the designer must ensure that the security of the development is not compromised by excessive permeability”. Is this the basis of your expectation that “rat runs” (source and destination unspecified) can be designed out? Similarly with criterion 2e what is the related guidance on how to design out “parking on pavements and verges”?

For criterion 2g a representation comments that “this criterion should specify that children’s play areas are not necessarily required in all open spaces, only on those where the Borough’s guidance requires it”.

Within criterion 2j it is suggested that the 30m distance guide is in part designed “to support a lower density pattern of development” but this is not the case if this is the Solihull standard. A representation comments: “This could be overly restrictive and not relevant for all sites. It is also in conflict with the NPPF’s requirement for making effective use of land”. Is the use of the guide distance perhaps more about enabling retention of and encouraging the provision of more trees and planting? A representation comments that the application of the guideline could result in some fairly unusable spaces.

One representation suggests that “criteria b., c., j. and k. are deleted and replaced by a criterion that reads: Proposals should be supported by information explaining how the design and layout will facilitate social cohesion and community safety and security.” Would this meet your expectations for the Policy?

A representation comments: “Policy 3a should be amended to reflect that fact that not all mature trees and hedgerows are worthy of retention. The desirability of retaining trees on sites should be identified through the production of site specific tree surveys”. I note that the opening to the Landscape and Design section says “wherever possible” but you may have comments on the suggested revised approach.

With criterion 3d – as with 2j – a representation comments that “this criterion should ideally avoid being too prescriptive about the need for open space to be located between existing and proposed housing. This may not always deliver the best layout in terms of a site’s characteristics.”

The Environment Agency has recommended that an additional point is included within ‘Policy B1: New Housing – General Principles’ (presumably under section 3) “to state that all new development

should be located within Flood Zone 1 and where this is not viable, development must be steered to land at the lowest flood risk, following the application of the Sequential Test”.

In 4a the last sentence would appear to be a repeat of the second whilst lacking clarity on what “appropriate to the position proposed” might entail? On a point of detail, criterion 4c specifically says that charging points should allow “charging on driveways” but why would in-garage charging not be appropriate where possible – a point echoed within a representation?

In relation to 4e a representation notes: “the criterion would be better reflecting the need for the provision of suitable storage of bins (and presumably cycles) rather than specifying it should be within the garden.”

Within section 5 the wording of criterion a suggests that all of the listed types of housing should be provided, including self-build and housing for older people on all sites. As a representation notes, this would be particularly difficult on smaller sites; therefore the Policy wording ought to include ‘where appropriate/required’, or similar.

The last bullet point of criterion 5a and criterion 5c would appear to be the same point?

Your comments on the above lines of thought are invited.

6. Housing in the Rural Area

I note that the definition of Affordable Housing referenced and included as Appendix 3 is not the 2018 definition. Given that there may be further updates it would probably be simpler to reference the NPPF Glossary at the foot of page 19?

Policy B2: Rural Exception Local Needs Housing in Berkswell Village

As I read this Policy it is intending to accommodate multiple developments of “1 to 2” homes should evidence of need be provided, thus making no presumption about the scale of needs that will come forward in the future. A slight doubt arises because “development” rather than ‘developments’ is used in the opening sentence. Is my reading correct?

7. Protecting Rural Area and Local Landscape Character

Green Belt and the Rural Area

Paragraph 7.5 is no longer appropriate for a Plan on the verge of being ‘made’ and therefore it should be deleted. Do you have any comment on this?

Local Landscape Character in the Rural Areas

In the first bullet point of paragraph 7.10 I presume that “boarded” should read ‘bordered’?

In a Plan that is generally well referenced it is surprising to find that the HER noted in paragraph 7.18 lacks a reference as does the Ecological Report noted in the following paragraph; what are the references? However it is pleasing to see that the representation from Historic England commends the approach as “exemplary”.

Policy B3: Protecting Local Landscape and Built Character

Unlike earlier Policies, the numbering of Policy B3 (and some subsequent Policies) involves numerous elements that are all numbered 1,2 or 3 etc; there needs to be a tiered numbering adopted to allow elements to be appropriately distinguished.

In relation to this Policy a representation comments: "In terms of criterion 1 of this Landscape Character policy, it is worth noting that the Balsall Common Eastern Fringe is a different landscape character area than the rest of the area to the north (Berkswell Landscape Character Area 4 Rural Centre, Sub Area 4D). The area to the east of Balsall Common (within the Eastern Fringe) is generally flat and is heavily influenced by the adjacent settlement, with the Landscape Character Guide (November 2016) stating:

"Being in close proximity to Balsall Common the area therefore is heavily influenced by the settlement bringing in strong elements of suburbia. This is particularly noticeable around Catchems Corner and Carol Green introducing manicured lanes, close mown grass verges, footways and overhead cables. The strong influence of Balsall Common on the rural character of the area has led to the loss of the definitive edge between the urban area and countryside beyond."

Landscape Character

Paragraph 2 of this Policy refers to "[landscape] features of identified local heritage interest such as ridge and furrow"; in saying "identified" and "such as" the question is begged as to how the prospective developer will know of the location of these and the other such features not mentioned but apparently identified. The paragraph goes on to consider "landscape features and wildlife habitats of identified value" and again uses "identified" and "such as" but fails to refer to the specifics in Map 2 whilst including the much more nebulous elements of "semi-natural grassland" and "river wetlands" which the text seems to acknowledge will not all be of equal interest/importance. Given that many of these features have been lost over time with agricultural change one must question whether it is realistic/reasonable for inevitably limited development (in the Green Belt) to "retain" all "such" features – as opposed to (say) 'have appropriate regard for the importance of' those specifically identified?

Paragraph 3 opens with "All developments" whereas I believe it should read 'Developments that may involve the loss of countryside, wildlife or the natural environment should...'. It would seem that there is significant overlap between paragraphs 2 & 3 and even some parts of the Heritage Assets section?

Built Character

I wonder how paragraphs 2 & 4 are to be read together and is the wording of 2 correct with two references "solar"?

Heritage Assets

Paragraph 2 seems to compact together a number of different ways that heritage assets might be harmed whilst implying that all will be considerations in every instance. I believe that the first two sentences, in conjunction with national and Local Plan policies, are sufficient. Further, a representation notes: "Criteria 2 should be amended to remove the reference to 'great' weight being applied to the conservation of [all] heritage assets. NPPF (2012) Paragraph 132 states that great weight should be given to the conservation of a 'designated heritage asset' and Policy B3 should reflect this."

Paragraph 5 is a matter that would be dealt with through Listed Building legislation which is not the same as that through which Local and Neighbourhood Plans are provided for. Accordingly, whilst you may wish to note the point in the supporting text, it should not form part of a land use Policy.

Your comments on the above lines of thought are invited.

Local Green Spaces

This section is very thoroughly presented. However, a significant number of representations reassert the point noted in the text in relation to the site named as “The Recreation Ground” (although I note the base map annotates it as “Playing Field”) that the proposed Space is private land. The text in paragraph 7.30 acknowledges that “public access is not one of the criteria in the NPPF”. But Planning Practice Guidance also notes: “Land could be considered for designation even if there is no public access (e.g. green areas which are valued because of their wildlife, historic significance and/or beauty). Designation does not in itself confer any rights of public access over what exists at present” (Ref: 37-017-20140306). Therefore there is no prospect that the land could be considered as public recreation space unless the owner agreed, access rights were established or the land was purchased for this purpose – one representation goes so far as to say that the land has previously been rented to the Parish Council. Was it the understanding upon which the designation as Local Green Space was proposed that no public right of access would be created; amongst those making representations there seems to be a belief that public access is at stake?

Representations also assert that the Plan assessment against the NPPF criteria overplays the claimed recreation, tranquillity and wildlife value of the land in question and that, as a consequence, the “demonstrably special” and “particular local significance” requirements are not established. Further comments suggest that these concerns have been ignored or inadequately addressed within the consultations.

I would comment that, as far as I can tell from an indistinct map within the Solihull MDC Local Plan 2013, the land in question is within the current Green Belt – there is no map within the Neighbourhood Plan that would confirm this. The NPPF establishes that (para 78) “Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts”. Therefore, if the Green Belt status of the land continues, there is no obvious benefit from the designation as Local Green Space since it will only confer the same protections as the land already has benefit from.

However, a number of representations note that the land has been identified by Solihull MBC as a site with housing potential that is actively being considered for inclusion within the new Local Plan the preparation of which is still in progress. I see that the current Solihull MBC Draft Local Plan Supplementary Consultation notes that “Some of the sites, in particular Barratt’s Farm, have multiple and potential complex land assembly issues. It is important that sites such as this are considered in a comprehensive manner to avoid piecemeal developments occurring.....Before being finally included in the plan, it will be necessary for the varied land interests to demonstrate to the Council that they are prepared to work on a collaborative and comprehensive basis to ensure a quality development is possible and can be satisfactorily delivered.” The related draft Concept Masterplan appears to have the land identified as having potential for “low density housing” whilst having a number of other sites identified for public open space.

Planning Practice Guidance says: “Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making” (Ref: 37-007-20140306). Given that the Neighbourhood Plan does not aim to allocate land for housing it cannot

conclude that local needs are capable of being met, although I appreciate that its stated preference is for the reuse of brownfield land. Do you (and the Council) have comments on this issue in the light of the representations and the current consultation?

8. Protecting Berkswell Conservation Area

Policy B5: Berkswell Conservation Area

New Buildings

I note that criterion 5 uses “traditional” twice but I doubt that this was intended?

Extensions

In criterion 2 “fully justifiable” may more appropriately be worded as ‘fully justified’ since this requires the design solution to be explained?

Conversions

It is unclear what “conversions” means here – it would appear that it probably means sub-division rather than change of use (such as with barns in the Policy that follows)?

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

9. Conversion of Former Agricultural Buildings

Policy B6: Conversions of Former Agricultural Buildings

Policy paragraph numbering appears to have been abandoned here?

I am unclear what “Existing access arrangements should be used” is intended to imply. In context it is apparently not about the position of a front door but rather vehicular access. Is the requirement that the existing access must be “suitable and adequate” before conversion will be supported or, if it is expected that accesses must be made “suitable and adequate” for connecting to the local road network, why can’t an altered access be appropriate?

I note that parking areas should ‘screened’ or ‘concealed’ depending on whether paragraph 4 or 5 is addressed; is this duplication?

10. Accessibility and Infrastructure

Policy B7: Improving Car Parking Facilities at Berkswell Station

In their representation the Environment Agency “noted that in paragraph 10.7 [it says] that there is ‘a narrow strip of land in Flood Zone 3’ to the West side of the West Coast Main Line. Within the policy text, it states that ‘development of a two storey car park building and / or an extension to the current car park to the West of the West Coast Main Line’. Development within Flood Zone 3 should be avoided and the extension of the car park should take place within Flood Zone 1. We would recommend including this within the Policy wording.” Do you have any comments on such an addition?

Policy B8: Car Parking and Cycle Storage

Government policy on provision for car parking starts from a different place to that apparent in the Berkswell Plan. Whilst I am examining against the NPPF 2012 the most up-to-date indication of policy is provided by the NPPF 2018 which says (para 102) “patterns of movement, streets, parking

and other transport considerations are integral to the design of schemes, and contribute to making high quality places” and (para 105) “If setting local parking standards for residential and non-residential development, policies should take into account: a) the accessibility of the development; b) the type, mix and use of development; c) the availability of and opportunities for public transport; d) local car ownership levels; and e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles” and (para 106) “**Maximum** [my emphasis] parking standards for residential and non-residential development should only be set where there is a clear and compelling justification **that they are necessary for managing the local road network** [my emphasis] or for optimising the density of development in city and town centres and other locations that are well served by public transport”. The pre-ambule to Policy B8 is therefore confused and it certainly should not read as a rehearsed argument with the Local Planning Authority; current parking issues cannot be resolved via new development.

Whilst there may be a basis for requiring developers to address the criteria set down in the NPPF para 105 the Policy does not actually seem to require anything to be done with the “evaluation” (and the evaluation factors do not all seem to relate to the “number of spaces)? A representation comments: “The emerging Local Plan Policy P8 (Managing Travel Demand and Reducing Congestion) states that the Council will support development proposals which: ‘take an evidence-based approach to demonstrate appropriate car parking provision, taking account of location, trip rates and, where relevant, travel plan targets and forecast levels of car ownership’. It is considered that the evidence-based approach would be more appropriate than seeking to apply specific parking standards through the NP.”

I am not convinced that there is a basis for some of the more extreme measures:

- Requiring all roads, whatever their likely usage, to allow for on-street parking on both sides despite the thrust of the Policy to require off-street parking provision would have a significant impact on design/densities achievable.
- “1 additional car parking space per bedroom” excluding the garage whatever its size – surely no development could meet this standard **and** meet the requirements of Policy B3?
- “Unless the developer can demonstrate that the garage provision will actually be used for parking” – no indication is provided on how this might be achieved and it is surely a matter outside of the control of a developer?

Doesn't paragraph 8 summarise realistically what is being sought (although I believe the intended reference is to 'Secured by Design')?

Policy B9: Improving Accessibility for All

Whilst the purpose of this Policy is generally clear:

- Paragraph 1 applies to all “development proposals” but not all will be close or adjacent to the identified routes; therefore a “where applicable” needs to be included.
- I note that Secured by Design specifically discourages “segregated” footpaths but encourages “integrated” networks (paras 8.6 – 8.8); paragraph 2 would appear to be at odds with that advice?

Your comments on all these lines of thought are invited.

11 Business

Businesses in the Rural Area

Policy B10: Supporting Local Businesses

As written the three criteria for the first paragraph of the Policy read as 1 “and” (implicitly) 2 “and” (explicitly) 3 but the third element is surely not intended to be a requirement of every business proposal, particularly if the Policy is partly about supporting existing businesses?

Your comments on this line of thought are invited.

12 Next Steps

The content here is no longer relevant but might usefully be replaced with a commitment to keep the Plan under review? This point is also made within a representation.

Appendices

A representation has commented: “As there is so much uncertainty over the likely housing allocations within Balsall Common the strategic sites referred to, and shown in Appendix A to the NP, should be removed from the Plan and it should be explicitly stated that the NP is not making any housing allocations”. Whilst I appreciate that the Appendix will have been informative to many participating in the consultations, given that there is continuing uncertainty over the extent of allocations that will be made in the Local Plan I tend to agree that the detail of Appendix 1 will cause confusion once the Plan has become part of the Development Plan.

Appendices 3 & 4 are evidently not part of the land use Neighbourhood Plan. It would probably be clearer if these two Appendices and their related text were brought together to form an Appendix or Annex of the non-land use content. Planning Practice 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” (Paragraph: 004 Reference ID: 41-004-20170728).