

Enquiry from Swinford NDP Examiner to QB – 21/1/2018

Sent: Sunday, 21 January, 2018 1:11pm

To: clerk@swinfordparishcouncil.gov.uk

Subject: Swinford Neighbourhood Plan

Dear Ms Clarke,

As you are aware I have been appointed to conduct the Examination of the Swinford Neighbourhood Plan. I can see that considerable community effort has gone into progressing 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 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 I am copying in the Local Planning Authority with a request that this exchange of emails be published on the webpage relating to the Neighbourhood Plan alongside the representations received during the Regulation 16 public consultation. I should add that I am not addressing matters raised in representations about the conduct of the Parish Council as the Qualifying Body and its Advisory Committee where these are not within the scope of the Basic Conditions and my remit as Examiner; I presume that the Parish Council will use their Complaints Procedure to address such matters.

Policy S1: As I read it, this Policy is designed to extend the village Limits to Development to accommodate growth? It is difficult to evidence support for this extension without a prior understanding of Policies H2 & H3; accordingly I believe that these three Policies need to be brought together, or at least closer together, so that the logic of their content is apparent. Do you have any comment on my line of thinking here?

Policy H1: I am unclear why this Policy has been restricted to residential developments; the Neighbourhood Plan encourages other forms of development and I think only the last bullet point need apply exclusively to housing? The Policy reads as more a checklist - sometimes repetitive - of matters to be addressed than a set of principles particular to Swinford. Phrases such as "impact negatively" and "positive improvement" are difficult to interpret consistently both by developers and Planning Officers. NPPF para 60 says (with my emphasis added in italics): "Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not

stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles". The core of the Policy seems to be that "proposals should clearly show how [their] general character, scale, mass, density and layout [fit in with] the surrounding area, [street scene, Conservation Area (where appropriate) and wider landscape]". There may be other incidental matters worth incorporating here but would you agree that I have correctly identified the core issue?

Policy H3:

- Area 1 enlarges between Map 3 and Map 4; this seems partly to be explained by the comment that "The Berries" obtained a planning consent prior to or during the site analysis. However my research suggests that it is not the SHLAA site but the southerly extension that has permission for 9 dwellings (Harborough reference 16/01285/FUL). Because there are no site outlines attached to the Site Sustainability Analyses it is unclear whether the whole site or only part of the site was included in the Analysis. I raise this point partly because the Plan text needs to be accurate but also because, on the face of it, part or all of Area 1 might have been excluded from consideration in August 2016? I raise it also because I need suitably scaled maps of each site on which the boundaries are clear and unambiguous.
- At the foot of page 34 it is asserted that the selected sites "are considered deliverable [and] achievable"; whilst I can see that several of the factors included in the site analyses might contribute to this conclusion, and the fact that the sites were volunteered by their owners also suggests it, I wonder whether there has been some confirmation by the site owners that their sites are indeed "deliverable" within the terms now set out in the Plan.
- The Policy itself notes for each site that developments should "maintain a similar density to adjacent existing dwellings" but two of the sites do not have any obvious neighbouring comparators; further, as others have noted, if the Plan's encouragement for the provision of smaller dwellings is to be taken seriously, then adjacent comparators may be unhelpful if they are predominantly larger dwellings. A developer looking for further guidance would not find any within the Site Analyses where a simple comparative approach based on 3 bed dwellings has been used and they would then perhaps be confused by the noted decision to reduce densities in the Policy below that assessed for 3 bed dwellings (albeit the dwelling numbers shown are declared to be "around" the expected numbers). The NPPF generally says that over-prescription is inappropriate, but the representation from Harborough DC wisely comments that, if there are known, specific constraints to which developers should have regard, then the Policy is the place to reflect these, rather than use vagueries; see also Policy ENV7 below. Your comments on my lines of thinking here would be appreciated.

Policy H4: The restriction within this Policy to sites of "1 to 3 dwellings" is not explained or justified. The emerging Local Plan is more generous in allowing up to 4 dwellings in the countryside (in certain circumstances - Policy GD4). Given the physical constraints that restrict opportunities for new construction within the proposed Limits to Development and the other policy constraints listed, it is difficult to see what a relatively arbitrary restraint on the number of dwellings per site might achieve. This is particularly so since 4 two bed dwellings (non-compliant) might be fitted onto the footprint of 2 four bed dwellings (compliant). Your comments on my line of thinking here would be appreciated.

Policy H5: The preamble to this Policy says the community is seeking "a mix of one and two bedroomed units or [which I think should read 'and'] bungalows" but the Policy wording then requires that "more than 50% of the units" should be delivered "as 3 bed or fewer" dwellings. I would be grateful for some clarification on the disparity on size of dwellings between the text and the Policy.

Affordable Homes and Policy H6: The text on pages 37 and 38 seems confused. The term "affordable" is not shorthand for 'rented'; it can be applied to both rented and owned dwellings. At the top of page 37 it is noted that the Housing Needs Report identified "a low number of [existing] affordable homes (9)" but at the top of page 38 it is noted that there are now "only 9 properties available for rent" from social landlords; these must presumably be the same nine? Meanwhile, at the foot of page 37 it is noted that "affordable housing and starter homes were provided as part of the Simon's Close and Whitethorns Close developments since 2000". The confusing use of terms does not help build a case for a specific policy for Swinford. Application of the Local Planning Authority policy in the emerging Local Plan (Policy H2) would provide 14 affordable dwellings with an indicative split of 10 for rent and 4 for low-cost ownership. That would appear to more than meet the known demand indicated on page 37? Your comments on my line of thinking here would be appreciated.

Policy H7: Since this Policy states a commitment from the Parish Council about a financial matter I believe it should be shown as a 'Community Action'? - see also Policy T1 below.

Local Green Spaces and Policy ENV1: As is noted in the opening paragraph of this section, the NPPF sets down very specific criteria for the designation of Local Green Spaces (LGS). Whilst I can see that the Environmental Inventory (devised for multiple purposes) uses criteria that are suggested to derive from the NPPF, in fact the consideration of whether a space is "local in character and not an extensive tract of land" is omitted. And whilst it is noted (as per the Planning Guidance) that an LGS designation for the All Saints Churchyard would be an inappropriate duplication of protections, no equivalent consideration has apparently been given to the spaces titled 'Stanford Estate Avenue and the Quicks/Holmfield' and the Parish Cemetery. The impressive supporting document on Swinford Local Green Spaces does provide a descriptive guide to each space but frustratingly does not assure a complete coverage of NPPF designation criteria either through a tabular or sub-headings format. For it to be the source of the required evidence I believe that a reformatting as suggested is needed to assure complete coverage of the NPPF criteria and I would be pleased to receive an amended version to aid my deliberations. I would add that I am presently unconvinced that the 'Stanford Estate Avenue and the Quicks/Holmfield' space meets the NPPF criteria; the space is extensive and a natural part of a much larger Estate, and the areas of it not within the Grade II Historic England protection appear to be of interest because of their well-preserved ridges and furrows, but that is the subject of Policy ENV5. Your comments on my lines of thinking here would be appreciated.

Map 7: As also suggested by the local authority, I am doubtful that Map 7 has a place in a statutory planning document that might be effective to 2031; it is essentially part of the historical record that has informed the plan making?

Maps 8 and 9 and Policies ENV3 to ENV5: I am experiencing difficulties in evaluating this content because the paper and PDF versions of the Environmental Inventory that I have do not identify the referenced sites with any colour coding and I cannot manipulate the table into a numerical sequence

to ease the reading across from the maps. I would be grateful if a non-PDF version could be emailed across to overcome this problem. From a brief perusal of some of the content it is apparent to me that the reasons for the identification of the particular sites now selected is not obvious. Therefore when Policy ENV2 refers to "identified features" would it be readily understood what specifically these are and why the additional, general Policies ENV3 & 4 are also required; and when the preamble to Policy ENV5 says that it "seeks to protect the best remaining ridge and furrow fields" how do I ascertain where has the line been drawn between "the best" and the rest and how was this justified?

Policy ENV6: The title here is misleading because "local listing" is the preserve of the Local Planning Authority (although I understand that Harborough has not used this provision). However the Neighbourhood Plan may indeed identify non-designated heritage assets but there must be absolute clarity as to what is being designated and how each designation has been justified. Bearing in mind that all bar one of the properties identified here are already substantially protected within the Conservation Area, the justification ought to go further than the reasoning included in the Conservation Area designation report (which I note has been extensively quoted on pages 25 & 26). The format adopted in the Plan suggests that properties (bar 1?) are being singled out for their group value; in which case the tightly drawn boundary of each group of buildings ought to be identified on a map and the supporting text ought briefly to describe the features that are distinctive and worthy of protection (this may already have been addressed in the 'Draft Criteria for Identifying Local Heritage Assets' - but I cannot access that on the Neighbourhood Plan website - or if there is an authoritative source on the historic buildings of Swinford then the content there might be used and referenced). If you wish to retain this Policy - beyond the Conservation Area designation - then I need to receive the appropriate supporting details.

Policy ENV7: Views are always a subjective issue and, since the allocated housing sites will infringe the listed long-distance views, it is apparent that no policy can (nor should) aim to provide an absolute protection. Accordingly I believe that views 1 & 3 must be deleted or modified if the stated purpose of the Policy is not to be undermined; similarly view 2 is difficult to understand as illustrated (is it that the map boundary has been drawn too tightly?). With the internal village views there appears to me to be some overlap with Policy ENV6 and the designated Conservation Area. Since there is unlikely to be a loss of the open roadway I need your guidance on what protection is being sought in these instances. As you note elsewhere, the settings of statutorily listed buildings are already afforded some protections within the planning system. Your comments on my lines of thinking here would be appreciated.

Policy ENV8: In what ways do you envisage that statutory protections may be extended by this Policy?

Policy ENV9: As I read this Policy it is aiming to encourage the integration of design features addressing issues of sustainability into new buildings; this has been addressed - more appropriately - within (a renumbered) Policy H1?

Policy ENV10: The sequential test is an obligation reserved in national planning policy for instances where development is being proposed within areas of highest risk of fluvial flooding. As you acknowledge these only exist in the rural southern extremities of the Parish. It would be unreasonable (and no evidenced justification has been provided) for all development proposals, of

whatever scale, to be obliged to carry out the sequential and other tests exclusively within Swinford. As noted in the representation from Leicestershire County Council, "All development will be required to restrict the discharge [of surface water] and retain surface water on site in line with current government policies". Your comments are invited on my line of thinking here.

Policy T1: By their nature traffic management issues are rarely suitable for addressing within a land use plan. I do appreciate that land use decisions do give rise to traffic issues and that is why the highway authority is a statutory consultee within the planning system. Most of the issues raised here would seem to have been included already under the umbrella provisions of Policy H7 (redesignated) and I doubt that the extra detail is appropriate for a Plan to 2031. Community Action would seem more appropriate for any further content. Your comments are invited on my line of thinking here.

Policy E1: I note that para 6.5.9 of the emerging Local Plan says: "Outside KEAs [Key Employment Areas] and GEAs [General Employment Areas], employment land does not warrant protection and its release for alternative uses will be considered flexibly and in accordance with the general development policies of this plan". Because there is no indication of the extent of current employment uses - other than it is said they are limited - it is difficult to gauge the potential impact of Policy E1 but arguably, employers may be deterred from locating in Swinford because they may not be facilitated to use their sites flexibly. There may also be environmental consequences of buildings standing empty for at least 12 months. The Local Plan, in line with NPPF expectations, provides a positive encouragement to new employment opportunities, as is the approach adopted for Policy E2 and E3. Your comments on my lines of thinking here would be appreciated.

Policies E2 & E3: The E2 Policy heading says that it applies to "the village of Swinford" but within the detail it notes the possibility of "exceptional circumstances" for other locations and then offers support for "small-scale expansion of existing employment premises across the Parish". Given that these policies parallel equivalent policies in the Core Strategy/Local Plan perhaps there is potential for greater clarity if the local policies are briefer and combined or alternatively if the in-village and in-countryside aspects are separated more assiduously? Your comments are invited on my line of thinking here.

Policy E4: There is a framework of national and local planning policies that is glossed over in arriving at this Policy; limits to local discretion are not acknowledged. Since the emerging Local Plan Policy IN3 is quite detailed in addressing the identified issues, perhaps Policy E4 would be better expressed as a non-land-use Community Action to sustain pressure on the telecoms providers to extend/improve their network. Your comments are invited on my line of thinking here.

Policy E5: Permitted development rights generally facilitate much home working. From the way this Policy is written I wonder whether there is experience within Swinford of home working being obstructed by the planning system and in particular in what circumstances a light industrial use of part of a dwelling has been/might be sought. Further clarification would be appreciated.

I appreciate that it may take a while for your responses to be compiled but if you anticipate significant delay perhaps you could indicate a timescale so that I can suitably programme the remaining work on the Examination. Many thanks in anticipation.

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Kind regards

Andrew Matheson

Independent Examiner