

Question 1 Should Policy H1 be setting the figure of 78 as a “target” or should it be set as a “minimum” figure, particularly having regard to the fact that Policy SS2 in the emerging Melton Local Plan is referring to a “minimum” figure of 6,125 new units to be built? Would the setting of the figure as a “target” artificially limit the supply of new homes that could be built in the village, perhaps even within the allocation sites themselves. Does having a target figure mean that the allocation sites would not be making the most efficient use of land, particularly having regard to the Government’s desire that the planning system should be looking to “boost significantly the supply of housing”?

It is our understanding that through the focused changes being suggested ahead of the Examination of the Melton Local Plan the proposed figure for Frisby on the Wreake is proposed to be dropped to 68 dwellings. However, notwithstanding this, Richborough Estates’ view is that, in the context of the NPPF and the requirement to significantly boost the supply of housing and the presumption in favour of sustainable development, such figures should always be worded as a minimum.

This is even more the case in this scenario as, as noted in this question, the Melton Local Plan is still emerging and as such has not been subject to independent Examination. Experience would suggest that the total housing requirement for Melton Borough may increase through the Examination process and subsequently the target for individual settlements may increase – and the spatial strategy has clearly been part of the Plan that already changed numerous times during its production.

In terms of the efficient use of land, Richborough Estates consider that the consented site and Phase 2 site, as identified in the Neighbourhood Plan, represents the efficient use of land and would deliver a development that responds to the opportunities and constraints offered by the site whilst providing a mix of housing for new and existing residents.

Question 2 Planning permission has been granted for the phase 1 of the Great Lane site and a resolution to approve planning application 16/00704/OUT has been passed in respect of the Cook land. I would wish to hear views as to how much weight I should be giving that resolution, bearing in mind the request made to the Secretary of State to use his “call in powers”. Should the Secretary of State not intervene and the planning permission is issued, would it still be appropriate for the extension to the Great Lane site (FRIS1A) to be allocated in Policy H2, as there would be planning consent under that scenario to 96 new homes in the village?

We consider that limited weight should be given to the resolution, particularly in light of the Secretary of State continuing to have a Holding Direction against the determination of the application.

Furthermore, it is clear that any progress of the Neighbourhood Plan is a material consideration. A recent appeal decision in Long Crendon demonstrates that – even before a Neighbourhood Plan is ‘made’ it’s progress is a material consideration to the determination of applications – with the Inspector stating at paragraph 71 that, **‘Whilst I accept the emerging LCPNP has not yet been made and therefore paragraphs 185 and 198 of the Framework are not directly applicable I consider that the guidance they provide as to how to judge the weight to be given to the policies of a neighbourhood plan are relevant to this appeal. Given the very advanced stage that the plan has reached and the strong level of local support and the fact that date for the referendum has now been set I consider that the LCPNP has a very good prospect of being made. Furthermore, it provides a clear picture as to how the local community consider that the village should be allowed to develop. As a consequence I consider that the LCPNP is a material consideration to which I must attach very significant weight.’ (our emphasis)**

Whilst we acknowledge that the above Neighbourhood Plan had been through the Examination process, it is clear that Frisby should also be in this position in early 2018. And since the Committee for the above application on 7th September 2017 there has been important progress in terms of the setting of dates for the Examination of the Neighbourhood Plan.

We would point to 'Kides, R (on the application of) v South Cambridgeshire District Council & Ors [2002] EWCA Civ 1370 (9 October 2002)'. The Judgment points to the Town and Country Planning Act 1990 Section 70(2), which states: '*In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.*' As above, advances in the Neighbourhood Plan are a material consideration, even before it is formally 'made'. (our emphasis)

In responding to material considerations the Judgment states at paras 125 and 126 that: '*... where the delegated officer who is about to sign the decision notice becomes aware (or ought reasonably to have become aware) of a new material consideration, section 70(2) requires that the authority have regard to that consideration before finally determining the application. In such a situation, therefore, the authority of the delegated officer must be such as to require him to refer the matter back to committee for reconsideration in the light of the new consideration. If he fails to do so, the authority will be in breach of its statutory duty. In practical terms, therefore, where since the passing of the resolution some new factor has arisen of which the delegated officer is aware, and which might rationally be regarded as a "material consideration" for the purposes of section 70(2), it must be a counsel of prudence for the delegated officer to err on the side of caution and refer the application back to the authority for specific reconsideration in the light of that new factor.*'

On the basis of the above we consider that the commencement of the Neighbourhood Plan Examination is a material consideration and that, even if the Secretary of State lifts the Holding Direction, Officers should refer the application back to Members before issuing a decision; otherwise the decision would be open to legal challenge. This considerably reduces the weight that can reasonably be attributed to the decision.

Finally, if - notwithstanding the above - the application is lawfully consented, then we would note again that the Melton Local Plan is only emerging and has not been found to be sound following an independent Examination. Consequently housing numbers may increase both at the Borough and Parish level. As such, in this eventuality we would consider it prudent to retain the allocation for Phase 2 to build in flexibility to the Neighbourhood Plan. Given that the development of this site is the clear preference of local residents this could include, at worst, a change to a reserve site for the Parish that could be released in appropriate circumstances.

Question 3 I would wish to hear the reasons behind the Neighbourhood Plan changing its preferred location for new residential development as the plan has progressed and I will invite representations as to the "objectivity" of the site selection exercise.

The Parish Council are clearly best-placed to advise on the reasons for the changing of its preferred locations for growth as they have been closest to the site assessment process, and have also been engaged in the discussions with local residents during the production of the Neighbourhood Plan.

However, it appears to us that this has been a clear, transparent and robust process.

What cannot be denied is that circumstances have changed on sites adjacent in Frisby on the Wreake, which has involved:

- Changes in requirements from MBC in terms of the quantum of growth required to be allocated;

- Changes in site availability;
- Planning applications being consulted on, submitted and determined;
- Site promoters being able to communicate their intentions for different areas of land; and
- Additional detailed information becoming available for different sites.

The changes in these circumstances have, either individually or in combination, led to the re-assessment and re-consideration of the preferred locations for growth.

Indeed, we are of the view that the change in site selection is indicative of a healthy consultation process that has retained an open mind and an ability to fully consider changing circumstances during the production of the Neighbourhood Plan. This reflects well on the community and Parish Council in continuing to engage on matters up to the Submission of the Plan for Examination; too often it is the case that either Local Plans or Neighbourhood Plan fail to consider changing circumstances or evidence once they are published in draft form, and it is often to the detriment of the quality of the Plans.

Question 4 - What are the relative merits of these sites in terms of how they would deliver sustainable development. How do they compare to Great Lane Phase 2 proposal? The text in the plan seems to acknowledge that there are issues with the Phase 2 site, in terms of distance the new residents will be from village amenities, public transport and the school. I need to understand why this development, which seems to extend the village into the countryside to the south east, is preferable to the Cook land which has apparent community benefits, not only in terms of walking distance to the village shop, pub, school, church and other village facilities but also offers the opportunity to address some of the problems set out in the plan currently experienced at the village school, by providing additional parking and dropping off facilities for parents. In this context to what extent is the Water Lane site affected by flooding and are the other sites preferable in terms of the sequential test as set out in the NPPF?

As a starting point we would emphasise the role of an Inspector at a Neighbourhood Plan Examination; (Crownhall Estates Limited v. Chichester District Council [2016] EWHC 73 (Admin)) is clear at paragraph 29 that, as per the Planning Practice Guidance, that *"... the examination of a Neighbourhood Plan, unlike a development plan document, does not include any requirement to consider whether the plan is "sound"... So there is no requirement to consider... whether the Plan is "justified" in the sense of representing "the most appropriate strategy, when considered against reasonable alternatives" and based upon "proportionate evidence"."* (Paragraph 29).

Neighbourhood Plans are also intended to inspire and empower local communities; to disregard the community's preference on site-selection and seek to test the soundness of the proposed allocations appears contrary to the above considerations.

Notwithstanding this, we consider that the Neighbourhood Plan has been progressed based on sound evidence and appropriate consultation.

Question 4 above appears to look at a very definition of sustainable development, linked only to the distance to village amenities. In that regard we would firstly note that the majority of 'Great Lane Phase 2' is within 800m walking distance of the key services and facilities within the village, and even the far end of the site is within 90 seconds walk of Phase 1. As such it would be inappropriate to be talking about this site as being detached from the settlement in any way, or necessitating private car use.

Furthermore, as set out in the evidence base, the consideration of sustainability in choosing the appropriate site has considered a full range of social, environmental and economic factors. Sites FRIS2 and FRIS3 both perform less well against the full range of sustainability criteria in the Neighbourhood Plan evidence base.

There are differences across a range of factors including; topography, landscape quality, trees, settlement form, amenity of existing residents, wildlife, heritage features, safe vehicular access, noise, flood risk and drainage.

This is a much more robust and holistic appraisal of sustainability than simply looking at distances. We would also note that in terms of FRIS3, and the offer of a new school car park, there appears to be no linkage into the school from this car park, which would lead to a lengthy walk to the school gates – leading one to wonder whether this would have any positive impact on the issue that it is seeking to resolve.

In terms of Great Lane Phase 2, we would also emphasise the following points:

- All survey work submitted in support of the planning application for Phase 1 considered the Phase 2 area, confirming its deliverability in terms of technical considerations;
- Phase 1 has been sold to a major housebuilder (Bellway) who also have a contractual position on Phase 2 – and the reserved matters for Phase 1 is being designed to deliver Phase 2;
- Bellway are committed to delivering a range of property types to meet household needs;
- In terms of access to bus stops the Great Lane site is closer to the 128 service, which runs pass the site and it does not necessitate the use of Gaddesby Lane by vehicles or add traffic to the road network so close to the level crossing – as the other sites do;
- Neither of the other two sites are under the control of a developer, as such there can be little certainty in them delivering what is offered – which should be a key consideration for the neighbourhood plan; and
- There are still important technical documents for FRIS3 that have not been made publically available, including a drainage strategy and Phase 1 Ground Investigation.

On the basis of all of the above, we strongly suggest that the allocations are left as voted for by the community.

Question 5 In view of the suggested changes in the affordable housing policy as now set out in Policy C4 of the emerging local plan, should the percentage of affordable housing proposed Policy H8 be changed to 40%?

No comment.

Question 6 Should the definition of affordable homes include retirement homes and starter homes?

We consider that the definition of affordable housing should be consistent with that set out in the NPPF. Given the likelihood for a new NPPF in early 2018, it may be considered prudent to point to that definition and any subsequent amends to it made at the national-level.

Question 7 Why should the allocation of affordable homes in the Plan area be limited to people with a local connection, where is the evidence to support this and in any event, is this an appropriate planning policy or is it a housing allocation policy which is the responsibility of the Housing Authority?

Whilst we support the attempts to focus affordable housing provision for local residents, or those with a local connection; we consider that this should be done in a cascade-style as opposed to being a strict limitation.

We have agreed similar cascade mechanisms within S106 agreements and consider that the following triggers may be appropriate:

“A Qualifying Person will benefit from a Local Connection if they satisfy any one or more of the following criteria:

In the first instance:

- *They were born in the Frisby on the Wreake Parish.*
- *Currently live in the Frisby on the Wreake Parish concerned and have done so for at least the past 12 months.*
- *Have lived in Frisby on the Wreake Parish for not less than three years during their lifetime.*
- *Currently work in Frisby on the Wreake Parish and have done so for at least the past 12 months for an average of at least 16 hours per week.*
- *Currently has a close family member (mother, father, brother, sister, son, daughter) living in Frisby on the Wreake who have done so for not less than three years.*

In the second instance:

- *Satisfies any one or more of the criteria above but in respect of any named adjoining parishes namely:*
 - *TBC adjoining relevant Parishes.*

In the final instance:

- *Satisfies any one or more of the criteria above but in respect of any other parish in Melton Borough.”*

Such an approach both focuses provision on those with a local connection, but would enable such provision to be utilised across the Borough if appropriate persons were not available to purchase the affordable properties.

Question 8 In view of the proposed changes in the latest version of the emerging local plan should the neighbourhood plan seek to limit the capacity of windfall sites to 5 units or should their capacity be dependent upon the size of the site and the type of housing being promoted.?

No comment.

Question 9 Should the allocation sites be included within the proposed Limits of Development?

Yes – to not do so would fail to give clarity to persons looking at the Plan.

Question 10 Would the Qualifying Body please clarify the sites that are identified in Policy ENV2 will also be covered by Policy ENV4 and is the level of protection offered by Policy ENV2 consistent with Paragraph 113 and 118 of the NPPF?

No comment.

Question 11 Is the proposed designation as Local Green Space of land at Mill Lane Fields and also Dawson’s Field, justified having regard to the criteria in Paragraph 77 of the National Planning Policy Framework and the advice set out in the Planning Practice Guidance?

No comment.