

[REDACTED]

From: [REDACTED]
Sent: 21 November 2019 23:39
To: [REDACTED]
Cc: [REDACTED]
Subject: Examination of the Kirk Ireton Neighbourhood Plan
Attachments: Opening enquiries Kirk Ireton Neighbourhood Plan.pdf

Dear [REDACTED]

Please find attached my opening enquiries of the Parish Council as the Qualifying Body for the Kirk Ireton Neighbourhood Plan. As is explained, I am seeking some further clarity on the Plan content and invite comments in order that I can make further progress with the Examination. I have copied in [REDACTED] at Derbyshire Dales District Council who may also wish to make comments to add clarity. Whilst there is no particular timescale for a response, to help with my planning of the Examination it would be helpful to know if you believe the Council will need substantially beyond three weeks to make its response.

Kind regards

[REDACTED]

NPIERS Independent Examiner

Kirk Ireton Neighbourhood Development Plan (Submission Plan dated April 2019)

As you are aware I have been appointed to conduct the Examination of the Kirk Ireton 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 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 and other 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 meets the obligation to “contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” (NPPF para 16). 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.

General Matters

There are three initial comments that pertain to the approach of the Plan document. Firstly, a representation comments: “The underlying tone throughout the document is that development is unappealing and unwelcome in the village....Surely, like us, many would welcome future development in the village that is of appropriate scale, quality and density and that reflects sensitivity to the characteristics of the conservation area.” As the NPPF requires (para 16b) that Plans should “be prepared positively, in a way that is aspirational but deliverable”, are you able to confirm and illustrate that the Plan was prepared with a positive intent?

Secondly, the Vision Statement says that (para 8.02) “There will have been no substantial increase in traffic and the village will have provided adequate off-street parking”. The growth in car ownership and reliance on car journeys for mobility are both matters beyond the scope of a land use Neighbourhood Plan, although I appreciate that development itself may contribute marginally to the rate of increase. Whilst the Plan seeks to protect existing off-street spaces used for parking, the Plan does not identify or allocate land for additional parking; therefore again the Plan as written cannot help to make progress toward the Vision. This aspect of the Vision may therefore be seen as misleading? Your comments are invited.

Thirdly, the Content page (and the document itself) suggests that there are two Appendices KINP A and KINP B – although other Appendices are attached to other related documents. However, within the Plan text there are references to Appendices C and F. It would seem that the number of Appendices may have been rationalised but this has not been carried through into the Plan document? I will address the content of the Appendices later.

5 Planning History

The Present

The local authority has questioned the objectivity of the statement (para 5.02) that post-war developments “paid little attention to the local vernacular architecture”. It would seem that the designation of “the whole of the built-up area of Kirk Ireton” as a Conservation Area (para 5.03) would indicate that the local authority comment is fair. Your comments are invited.

As is acknowledged late in the Plan document, the Derbyshire Dales Local Plan classifies Kirk Ireton as a Tier 4 settlement where “Development will therefore be limited to that needed to help maintain existing services and facilities and to meet the housing needs of the settlement. As such there is some limited scope for development within these settlements”. Whilst it is accurate to say that the Local Plan does not set a housing growth target for Kirk Ireton, it is not accurate to say that this suggests “a *very* [my emphasis] limited amount of development” as local population growth may suggest otherwise. Para 5.04 needs to be a fair representation of the present planning position. Do you have any comments?

6 Community Engagement and 7 Data Gathering and Analysis

The local authority has commented: “This section and the following section on ‘Data Gathering and Analysis’ tend to repeat similar points. It may be worthwhile to have one section on community engagement that then encompasses a number of sub sections detailing how community engagement has been carried out; what it sought to achieve; how the results of data collection have been analysed; what were the key outcomes and issues raised; and how this has informed the objectives for the Neighbourhood Plan and resultant policies. It would be better if KINP A is moved into the Consultation Statement so that the results can be seen more clearly. Then x-refer to the Consultation Statement for the detailed data”. I tend to agree that such changes would be beneficial to the clarity and presentation of the Plan and why the particular issues for Policies have been selected. A representation adds an additional concern about potential bias: “An example may be in respect to “Sites that should be protected from future development” where “Land Fronting Nether Lane/The Crofts” gets a mention. Yet the converse opinion that gets more support only appears under “Further comments – Positive” where a greater number of people are encouraging of “Expand settlement Boundary to Allow Development along Nether Lane”. This could be construed as bias.” The local authority has noted another example: “Para 7.09 – only 28% suggested this was an issue for them – [and it] could be argued that 72% either agreed or had no view on this question. That’s not really an indication of this being an issue for the village.” The local authority also notes a confusion as to whether questionnaires were distributed to all households in the village (para 1.05) or all households in the Parish/Neighbourhood Area (paras 6.11.and 7.01).

Your comments are invited.

Community Vision

I commented earlier about what might be seen as misleading aspirations for the Plan. The local authority adds a further query in relation to para 8.03: “The evidence that mobile communication is an issue for the community and raised in consultation is lacking from the community engagement/data gathering and analysis section and should be added. In essence the evidence identifying this as an issue is lacking from the Neighbourhood Plan. No evidence from the consultation that indicates that this is an issue. Superfast Broadband is available throughout the village area.” Do you have any comments?

Policies

The introductory page helpfully makes it clear that the Neighbourhood Plan and the Local Plan need to be read together but it unhelpfully suggests that planning decisions will be made by the Parish Council as authors of the Plan. Another Plan not far from Kirk Ireton used the following:

‘All policies should be read in conjunction with policies in the Derbyshire Dales District Council’s adopted policies. No Neighbourhood Plan policy will be applied in isolation; account will be taken of all relevant policies.’ Your comments are invited.

Policy P1 - Development

The local authority comments suggest that this Policy does not meet the Examination Basic Conditions: “It is considered that elements of this policy are not in general conformity with the Adopted Derbyshire Dales Local Plan and do not therefore meet the Basic Conditions. As outlined in previous correspondence it is recommended that reference to the existing built framework illustrated on the map on page [17] should be removed from Policy 1. The designation of a built framework to the settlement of Kirk Ireton is contrary to the provisions of the Adopted Derbyshire Dales Local Plan (2017).

“Kirk Ireton is classified as an ‘Accessible Settlement with Minimal Facilities - Fourth Tier’ within the settlement hierarchy of the Derbyshire Dales Local Plan (Policy S2). The adopted Derbyshire Dales Local Plan seeks to encourage new development in such villages as Kirk Ireton by way of infill and consolidation of the existing built framework of the settlement, or through development well related to the existing built framework that would not result in a prominent intrusion into the countryside; or constitutes an exception site for the provision of affordable housing (see policies S2, S4 and HC5 Derbyshire Dales Local Plan).

“Advice in the NPPF (paragraph 13) states “neighbourhood plans should support the delivery of strategic policies contained within Local Plans”. As currently drafted Neighbourhood Plan Policy 1 restricts development to within a framework boundary, and infers that only ‘sensitive development’ within it will be supported and that all development outside it would be rejected, this is more restrictive than the Adopted Derbyshire Dales Local Plan and raises a principle issue of non - conformity.”

If I agree with the local authority assessment then the only way to avoid a conclusion that the Plan does not meet the necessary legal requirements may be to delete Policy P1. It may be that Policy P1 has been developed from a misunderstanding of the Local Plan Policy; para 4.20 of the Local Plan clearly states for Kirk Ireton that “Development on a large scale would be unsustainable in these villages, as this would generate a disproportionate number of additional journeys outside the villages and undermine the spatial strategy”; the Neighbourhood Plan does not seem to acknowledge this. A further indication of a misunderstanding is provided by the correction that the local authority has indicated for the Consultation Statement where it says: “Kirk Ireton is listed as a Tier 4 settlement in the DDDC Local Plan and is not allocated a settlement framework boundary. Kirk Ireton had a settlement boundary from 1992 up until the adoption of the 2017 DDDC Local Plan. The consultation process revealed strong support for an ‘existing built frame-work’.” The local authority notes that this is “factually incorrect – The only defined Built Up Area [for Kirk Ireton] that has been included within a Local Plan was in 1988 Southern Parishes Local Plan”. A representation adds: “It maybe should be made clearer that the so called “settlement boundary” or “built framework” has in fact little relevance for a tier 4 village such as Kirk Ireton. The impression given by the draft may be misleading as such boundary or framework is not defined and does not exist for tier 4 villages such as Kirk Ireton.”

I note that element a) of the Policy supports “sensitive” development without that term being explained. However I further note that the Kirk Ireton Conservation Area covers an area larger than the built-up area and therefore Policy P3 is, or has the opportunity to be, explicit about the type of development that would be acceptable. Element a) also uses the term “existing built framework” and relies on a mapping of that which was *not* adopted within the new Local Plan. However the area is also defined as the area that was excluded from the Landscape Sensitivity Study which was itself undertaken as part of the Local Plan preparation and therefore it does not need Policy P1 to say that development would, to some degree, be acceptable there. I note however the Plan does not assess or indicate that there is any capacity within the “existing built framework” for additional development.

Within element b) of Policy P1 the term “countryside” only has the planning policy meaning derived from the Local Plan. Local Plan Policy S4 says that “countryside” covers the whole Neighbourhood Area since no part is within “defined settlement development boundaries, and sites allocated for development as defined on the Policies Map”. Therefore in effect Policy element a) would have the effect of excluding from the countryside the built-up parts of Kirk Ireton. Whilst Policy S4 does go on to say that permission will be granted for “Housing in fourth and fifth tier villages in accordance with Local Plan Policy S2” Kirk Ireton cannot deny its position in the strategic settlement hierarchy as a fourth tier village.

Within element c) of Policy P1 it is implied rather than stated that development of fields designated as low sensitivity in the Landscape Sensitivity Study may be appropriate and would certainly would be preferred to more sensitive areas. The Plan does not go so far as to assess these low sensitivity fields to arrive at preferences for land allocation in the event that housing requirements are identified “to help maintain existing services and facilities and to meet the housing needs of the settlement” (Local Plan Policy S2). However the Plan seems to support the use of the Landscape Sensitivity Study to identify the least intrusive sites and the Local Plan adopts the same approach since it is a requirement of Policy S2 that development “would not lead to prominent intrusion into the countryside”.

Therefore it would seem to me that Policy P1 is in most important respects already encompassed within the Local Plan Policies. A Neighbourhood Plan Policy might, in accordance with the NPPF, urge the efficient use of land by the reuse of previously developed land but that would be of little value if there is little or no capacity within the existing built-up area.

Do you have any comments on these lines of thought?

Policy P2 – Protecting Views

An issue with the wording of Policy P2 is how is the decision maker to distinguish between “detrimental” and non-detrimental impacts. I believe that the local authority is fair to comment: “Further supporting evidence and justification is required for this policy. For instance is there evidence to suggest that the views identified have a specific value such that they should be protected by the Neighbourhood Plan? What criteria have been applied to determine which views are sensitive/valued and warrant retention?” A representation comments: “The whole section and reference to views would seem somewhat arbitrary. Whilst recognising the importance of views, it should also be recognised that views evolve and that sensitivity should be to maintaining a connection to the wider landscape and to the characteristics of the conservation area. It is unrealistic to believe that views will not change at a micro level.” A Policy might require the prospective developer to ‘assess and address’ their impact on village views generally but I am unsure that this would be any stronger than the more specific guidance available within the Conservation Character Appraisal. Your comments are invited.

Policy P3 – Conservation Area

It is helpful that the Neighbourhood Plan draws attention to the Conservation Area Character Appraisal, although this document is already part of the planning decision making. I note that the equivalent Local Plan Policy PD2 says it will: “Requir[e] development proposals in Conservation Areas to demonstrate how the proposal has taken account of the local distinctive character and setting of the Conservation Area including open spaces and natural features and how this has been reflected in the layout, design, form, scale, mass, use of materials and detailing, in accordance with Character Appraisals where appropriate”. Often differences of wording can give rise to confusion with decision makers not knowing which guidance to follow. However, the common element here is the Character Appraisal document from which I presume it is expected that the “key characteristics” mentioned in Policy P3 are to be derived? The Policy therefore needs to include an expectation that the Character Appraisal will be addressed within development proposals, rather than the oblique reference now used.

The local authority comments that “A localised list of notable buildings to which the policy may apply would be seen to add value to the Neighbourhood Plan”. Accordingly the Policy might say something along the lines of: “Particular attention should be paid to any impacts on principal landmarks as identified in the Conservation Area Character Appraisal and listed within this Plan.”

Do you have any comments on these lines of thought?

Policy P4 – Business Development

The quotation from the NPPF is not part of a neighbourhood level Policy and should be within the supporting text. As with Policy P2, how is the decision maker to distinguish between proposals that are “adversely affecting” and those that are positively contributing? Whilst I appreciate that there is detail on this within the Local Plan that is not specifically addressing Kirk Ireton. From the supporting information it would appear that the most significant element of the Policy wording may be “small scale”? If this is the case then the Policy might say, for instance, ‘Business and tourism developments that have appropriate regard for the rural character and rural infrastructure of the Neighbourhood Area will be supported’. Do you have any comments on these lines of thought?

Policy P5 - Parking

I note that this Policy does not identify land which could add to the current number of off-street parking spaces within the village. The local authority has commented that “the informal parking at Peats Close, Kirk Ireton” is in the ownership of Derbyshire Dales District Council. The Council objects to the proposal “seeking to retain Peats Close for village car parking in perpetuity [as it] may prejudice the ability of the District Council to utilise this area of land in the future to deliver the corporate aspirations for affordable housing ...”. I have yet to view this site but it would seem that there is some potential internal conflict between elements a) and b) of this Policy. Element a) says that any displaced spaces should be replaced whereas element b) suggests that some spaces are to be considered irreplaceable; on the face of it this distinction seems unjustified. Your comments are invited.

Appendices

As noted above, it would seem that KINP A would be more appropriately located within the Consultation Statement that accompanies the Plan. Since KINP B does not relate to any Policy content within the Plan it would seem that the content of this Appendix could sit within the on-line reference documents. Your comments are invited.