Comments

Site Specific Part 2 Local Plan - Publication Plan Consultation (18/12/19 to 12/02/20)

Comment ID 180
Response Date 12/02/20 11:25
Consultation Point Policy NEH3 Historically and Visually Important Local Green Spaces (View)
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Representation

Please use a separate form for each representation.

Which part of the Publication Plan does your representation relate to?
Policy NEH3

Tests of Soundness

Do you consider the Local Plan is sound in terms of being:

Justified . No
Effective . No
Positively prepared . No
Consistent with National Policy . No

Legal and Procedural requirements

Do you consider the Local Plan has been prepared in line with legal procedural requirements? No

Duty to Cooperate

Do you consider the Local Plan to be compliant with the Duty to Cooperate? No

Reasons
Please give the reason(s) why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the statutory Duty to Cooperate.

4.7.1 The above policy proposes to allocate a number of sites as ‘Historically and Visually Important Local Green Spaces (LGS)’ and considers these areas as demonstratively special and of particular local significance. The policy further states that the Council will seek to protect and preserve these areas from development that would harm their function, visual openness and their local and/or historical importance.

4.7.2 Gladman does not consider that the approach taken is positively prepared or consistent with national policy as it seeks to protect land surrounding such designations. Indeed, this is highlighted at paragraph 11.15 of the SPP2 which relates to Policy DES5. It states: “The site also lies immediately adjacent to an area allocated as Historically and Visually Local Green Space (HVI) known as ‘The Damms’. Therefore as set out in Policy DES5, below, development in this, or in close proximity to this area is resisted and the impact on the area on the allocation site must not detrimentally impact the character and setting of the area designated as HVI.” (emphasis added)

4.7.3 The approach taken is clearly not in accordance with the requirements of national policy as the designation of land as LGS only relates to the land which is designated and not adjacent land which has no significance.

4.7.4 The designation of land as LGS is a significant policy designation and effectively means that once designated it provides protection that is comparable to that of land located within the Green Belt. As such, the Council needs to ensure that the proposed designations are capable of meeting all three tests required by paragraph 100 of the Framework which states:

“The Local Green Space Designation should only be used where the green space is:

a) In reasonably close proximity to the community it serves;

b) Demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field). Tranquillity or richness of its wildlife; and

c) Local in character and is not an extensive tract of land." (emphasis added)

4.7.5 Gladman has reviewed the proposed LGS put forward by the Council and the associated evidence base and is concerned regarding the lack of a methodical approach to inform the selection of sites. Indeed, a number of sites appear to be extensive in size, either individually, or in comparison to the site of the settlement. Whilst Gladman appreciate that neither the NPPF nor the PPG specify what is considered to be an extensive tract of land, this issue is commonly considered through the neighbourhood plan examination process. In this regard, Gladman highlight a number of decisions which have considered this issue:- The Seldescombe Neighbourhood Plan Examiner’s Report 5 recommended the deletion of a LGS measuring approximately 4.5ha as it was found to be an extensive tract of land.- The Oakley and Deane Neighbourhood Plan Examiner’s Report 6 recommended the deletion of a LGS measuring approximately 5ha and also found this area to be not local in character. Thereby failing to meet 2 of the 3 tests for LGS designation.- The Alrewas Neighbourhood Plan Examiner’s Report 7 identifies that both sites proposed as LGS in the neighbourhood plan to be extensive tracts of land. The Examiner in this instance recommended the deletion of the proposed LGS which measured approximately 2.4ha and 3.7ha.- The Freshford and Limpley Neighbourhood Plan Examiner’s report 8 identified that the six LGS proposed did not meet the criteria required by the Framework either collectively or individually. Indeed, the Examiner identified that the combination of sites comprised of extensive tract of land. The Examiner also considered that the protection of fields to ‘prevent agglomeration between the settlement areas…is not the purpose of Local Green Space designation’. -The Eastington Neighbourhood Plan Examiner’s Report 9 recommended the deletion of three LGS (16ha and 2ha) considered to be extensive tracts of land. The third proposed LGS was deleted due to the lack of evidence demonstrating its importance a significance to the local community.- The Tattenhill and Rangemore Neighbourhood Plan Examiner’s Report 10 recommended the deletion of two LGS comprising of 4.3ha and 9.4ha.- The Norley Neighbourhood Plan Examiner’s Report 11 identified a total of 13 LGS where proposed for designation. The Examiner in that instance recommended at paragraph 4.98 that the ‘identification of these extensive tracts of agricultural land was contrary to NPPF policy’ and recommended that the policy should be deleted. The proposed LGS measured in the range of 1ha – 4.3ha.- The Malpas and Overton Neighbourhood Plan Examiner’s Report 12 recommended the deletion of policy LC4 which included a total of 42 LGS. The Examiner identified that ‘a number of identified sites do not meet one or all of these requirements.’ With regard to the third criteria the Examiner recommended that sites 16, 17 and 40 be deleted as they are ‘relatively extensive tracts of countryside’. The size of these sites ranged from 3.4ha – 16ha.
Proposed Actions/Changes

Please explain what changes or actions are needed to make the Local Plan legally compliant.

4.7.6 Whilst information has been prepared by KBC in an attempt to justify the proposed LGS, it is notable that a number of sites cover extensive tracts of land. In this regard, Gladman recommend the Council consider the findings of the above examiner’s report and reconsider its methodology and assessment of land against the three tests required for designation before submitting the SPP2 for examination.

Attendance at the examinations hearings

If you are seeking to change the Plan, would you like to attend the examination hearings? No

Notifications

Do you wish to be notified? When the Plan is submitted for independent examination?
When the Inspector’s Report is published?
When the document is adopted?