

Planning Policy at Malvern Hills District Council,
Planning Services,
The Council House,
Avenue Road,
Malvern,
Worcestershire,
WR14 3AF.

By email only to: developmentplans@malvernhillsgov.uk

RE: Hanley Castle Neighbourhood Plan Regulation 16 Consultation

Dear Sir/Madam,

This letter provides Gladman Developments Ltd (Gladman) representations in response to the draft version of the Hanley Castle Neighbourhood Plan (HCNP) under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012. This letter seeks to highlight the issues with the plan as currently presented and its relationship with national and local planning policy. Gladman has considerable experience in neighbourhood planning, having been involved in the process during the preparation of numerous plans across the country, it is from this experience that these representations are prepared.

Legal Requirements

Before a neighbourhood plan can proceed to referendum it must be tested against a set of basic conditions set out in paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended). The basic conditions that the HCNP must meet are as follows:

- (a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.*
- (d) The making of the order contributes to the achievement of sustainable development.*
- (e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).*
- (f) The making of the order does not breach, and is otherwise compatible with, EU obligations.*

National Planning Policy Framework and Planning Practice Guidance

The National Planning Policy Framework (the Framework) sets out the Government's planning policies for England and how these are expected to be applied. In doing so it sets out the requirements for the preparation of neighbourhood

plans to be in conformity with the strategic priorities for the wider area and the role in which they play in delivering sustainable development to meet development needs.

At the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread through both plan-making and decision-taking. For plan-making this means that plan makers should positively seek opportunities to meet the development needs of their area and Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change. This requirement is applicable to neighbourhood plans.

The recent Planning Practice Guidance (PPG) updates make clear that neighbourhood plans should conform to national policy requirements and take account the latest and most up-to-date evidence of housing needs in order to assist the Council in delivering sustainable development, a neighbourhood plan basic condition.

The application of the presumption in favour of sustainable development will have implications for how communities engage with neighbourhood planning. Paragraph 16 of the Framework makes clear that Qualifying Bodies preparing neighbourhood plans should develop plans that support strategic development needs set out in Local Plans, including policies for housing development and plan positively to support local development.

Paragraph 17 further makes clear that neighbourhood plans should set out a clear and positive vision for the future of the area and policies contained in those plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. Neighbourhood plans should seek to proactively drive and support sustainable economic development to deliver the homes, jobs and thriving local places that the country needs, whilst responding positively to the wider opportunities for growth.

Paragraph 184 of the Framework makes clear that local planning authorities will need to clearly set out their strategic policies to ensure that an up-to-date Local Plan is in place as quickly as possible. The Neighbourhood Plan should ensure that it is aligned with the strategic needs and priorities of the wider area and plan positively to support the delivery of sustainable growth opportunities.

Planning Practice Guidance

It is clear from the requirements of the Framework that neighbourhood plans should be prepared in conformity with the strategic requirements for the wider area as confirmed in an adopted development plan. The requirements of the Framework have now been supplemented by the publication of Planning Practice Guidance (PPG).

On 11th February 2016, the Secretary of State (SoS) published a series of updates to the neighbourhood planning chapter of the PPG. In summary, these update a number of component parts of the evidence base that are required to support an emerging neighbourhood plan.

On 19th May 2016, the Secretary of State published a further set of updates to the neighbourhood planning PPG. These updates provide further clarity on what measures a qualifying body should take to review the contents of a neighbourhood plan where the evidence base for the plan policy becomes less robust. As such it is considered that where a qualifying body intends to undertake a review of the neighbourhood plan, it should include a policy relating to this intention which includes a detailed explanation outlining the qualifying bodies anticipated timescales in this regard.

Further, the PPG makes clear that neighbourhood plans should not contain policies restricting housing development in settlements or preventing other settlements from being expanded. It is with that in mind that Gladman has reservations regarding the HCNP's ability to meet basic condition (a) and (d) and this will be discussed in greater detail throughout this response.

Relationship to Local Plan

The current adopted plan that covers the Hanley Castle Neighbourhood Plan area and the development plan which the HCNP will be tested against is the South Worcestershire Development Plan (SWDP) adopted in February 2016. This joint plan covers the authorities of Malvern Hills District, Worcester City and Wychavon District setting the overarching strategic policies for these authorities.

Within this plan Hanley Swan, is classified as a Category 1 Village providing a range of local services and villages. The SWDP allocates a site within Hanley Swan for 20 dwellings. The HCNP should seek to support this development accordingly and not seek to incorporate policies which could affect the delivery of this and further development.

Hanley Castle Neighbourhood Plan

This section highlights the key issues that Gladman would like to raise with regards to the content of the HCNP as currently proposed. It is considered that some policies do not reflect the requirements of national policy and guidance, Gladman have therefore sought to recommend a series of alternative options that should be explored prior to the Plan being submitted for Independent Examination.

Policy MnGR 5- Scale of New Development

Gladman are concerned that this policy is seeking to restrict development to a maximum of 10 dwellings on any future proposed development. This does not accord with the Framework which in Paragraph 58 seeks for development to optimise the potential of a site to accommodate development. This could have the effect of restricting sustainable development and should be deleted from the plan.

Policy MnGr 6 – Incremental Growth

Recognising that this policy takes a positive approach in supporting development over and above the SWDP allocation this should not be a ceiling figure used to restrict future development. Gladman suggest the modification of the policy wording to a more flexible approach such as setting this as a minimum figure. Further, Gladman object to the phasing approach where no more than 30 dwellings are to be granted planning permission in any five-year rolling period. This does not accord with the Framework which seeks to significantly boost the supply of housing **now**, helping to tackle the housing crisis, not pushing this problem in to the future. To accord with national policy this phasing approach should be deleted from this policy.

MnGr – Preferred Site Allocations

Wishing to raise no specific comments regarding the site allocations made within the plan Gladman are concerned that following Historic England's initial opinion that a full Strategic Environmental Assessment (SEA) should be undertaken that this has not been completed to support the plan and the allocations made within the plan. Whilst it is unlikely for there to be significant environmental effects this should be demonstrated through the legal requirement of undertaking an SEA demonstrating how the policies of the plan have been formulated to ensure minimal environmental effects. This would help strengthen the evidence base regarding the site assessment and selection. For the plan to meet the basic conditions Gladman suggest that a full SEA is undertaken before submission to an Independent Examiner to avoid the real risk that the plan will be found to not meet basic condition (e).

RE 2 – Settlement Identity

Gladman consider this approach to be overly restrictive and suggest that a more permissive approach is taken towards development beyond the settlement boundaries of the two principal settlements in the parish. Gladman suggest wording is added to the policy that would support demonstrably sustainable development adjacent to the two settlement boundaries. Such a restrictive approach would not support further sustainable development and does not accord with the Framework.

BHN 1 – Protection of Buildings or Structures on the Local List of Heritage Assets (Local List)

Gladman are concerned that this policy is seeking to elevate the significance of non-designated heritage assets on the Local List to that of designated heritage assets. This policy should be modified to reflect Paragraph 135 of Framework which deals with the effects of applications on non-designated heritage assets being balanced against the significance of the asset.

BHN 2 – The Environs of Heritage Asset

Gladman raise similar concerns with the wording of this policy as to that of Policy BHN1. This policy effectively elevates the importance of non-designated heritage assets to that equivalent of designated heritage assets and does not recognise that there is a separate exercise that should be taken for the consideration of designated and non-designated heritage assets.

BHN 4 – Preserving Ancient Trees, Woodland, Trees, Hedges

Gladman suggest that wording is added to this policy which allows for mitigation where development would result in the damage or loss of trees, parkland, woodland or hedgerow to allow for these losses to be compensated on a like for like basis.

BHN 5– Protected Local Green Spaces

Policy BHN5 seeks to designate 8 parcels of land as Local Green Space (LGS). In order to designate land as LGS the Parish Council must ensure that it is able to demonstrate robust evidence to meet the national policy requirements set out in the Framework. The Framework makes clear at paragraph 76 that the role of local communities seeking to designate land as LGS should be consistent with the local planning of sustainable development for the wider area. Paragraph 76 states that:

‘Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.’

Further guidance is provided at paragraph 77 which sets out three tests that must be met for the designation of LGS and states that:

‘The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- *Where the green space is reasonably close proximity to the community it serves;*

- *Where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreation value (including as a playing field), tranquillity or richness of its wildlife; and*
- *Where the green area concerned is local in character and is not an extensive tract of land.'*

The requirements of the Framework have now been supplemented by the advice and guidance contained in the PPG. Gladman notes paragraph 007 of the PPG which states:

'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 to in a way that undermines the aim of plan making.'

Of further note is paragraph 015 of the PPG(ID37-015) which states:

'Paragraph 77 of the National Planning Policy Framework is clear that Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. Consequently, blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a 'back door' way to try to achieve what would amount to a new area of Green Belt by another name.'

Designation of LGS should not be used as a backdoor approach to designate new areas of Green Belt without sufficient evidence, as the designation of Green Belt is inherently different and must meet a set of stringent tests for its allocation (paragraphs 82 to 85 of the Framework). The issue of whether LGS meets the criteria for designation has also been explored in a number of Examiner's Reports across the country and highlight the following decisions:

- The Alrewas Neighbourhood Plan Examiner's Report identifies that both sites proposed as LGS in the neighbourhood plan 'in relation to the overall size of Alrewas Village' to be an extensive tract of land. The Examiner in this instance recommended the deletion of the proposed LGSs which measured approximately 2.4ha and 3.7ha.
- The Blackwell Neighbourhood Plan Examiner's Report recommended the deletion of two LGS designations measuring approximately 19ha and 32ha respectively and found both designations did not have regard to national policy which states that LGS should only be used where the area concerned 'is not an extensive tract of land.'
- The Sedlescombe Neighbourhood Plan Examiners report 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 recommended the deletion of a LGS measuring approximately 5ha and also found this area not to be local in character. Thereby failing to meet 2 of the 3 tests for LGS designation.

Gladman are concerned that a number of the parcels identified are extensive tracts of land in proportion to the individual settlements and suggest they should be deleted from the plan.

BHN 6 – Sites of Biological Interest

Gladman suggest that the wording of this policy is modified to allow more flexibility and suggest wording is modified to ensure that there is no net loss of biodiversity. This would allow for the effect of any development within the Parish to offset any impact on biodiversity and allow a commensurate protection based on the significance of the biodiversity.

Conclusions

Gladman recognises the role of neighbourhood plans as a tool for local people to shape the development of their local community. However, it is clear from national guidance that these must be consistent with national planning policy and the strategic requirements for the wider authority area. Through this consultation response, Gladman has sought to clarify the relation of the HCNP as currently proposed with the requirements of national planning policy and the wider strategic policies for the wider area.

Gladman is concerned that the plan in its current form does not comply with basic condition (a). The plan does not conform with national policy and guidance. Gladman hopes you have found these representations helpful and constructive. If you have any questions do not hesitate to contact me or one of the Gladman team.

Yours faithfully,

Richard Agnew


Gladman Developments Ltd.