



Report to Neighbourhood Plan Steering Group & Oxspring PC

20th May 2014

Questions raised by Parish Councillors following comments made on the 7th May NP Workshop

These questions were sent by email to RR-W (Chair of the ONP Steering Group) and Mike Dando (Planning Aid England) on 13th May and as the agreed nominated person she was asked to contact BMBC and request a response from key officers in the planning department.

Q. 1 Is there any evidence from NPs that have been approved and are now in place that either local builders or the relevant local authority is not adhering to, or are challenging, what is in the NP?

Response from Helen Willows - BMBC Strategic Planning

- 1. *I am not aware of any such evidence. The clear advice to the Parish Council must be that planning applications will be determined in accordance with the policies of the development plan (which would include an adopted neighbourhood plan) unless material considerations¹ indicate otherwise.*

Response from Mike Dando - Planning Aid England

A: Far too early to say – only 8 or 9 NPs so far ‘made’ (ie adopted) and only time/research in some years time will tell us the answer to this. But what should be remembered is that a NP, once ‘made’ becomes part of the Council’s own Local Plan and as such should be treated in exactly the same way as other policies/proposals in that Local Plan.

Further to the Parish Council question 1 above, Ruth Rovira-Wilde had circulated to all the volunteers attending the meeting of 7th May a published response for the Tattenhall Neighbourhood Plan Judicial Review.

In summary the report said that a High Court judge threw out a challenge to a neighbourhood plan that proposes limiting developments to no more than 30 homes. Barratt Homes and Wainhomes Developments had launched a judicial review against the decision by Cheshire West and Chester Borough Council to allow the Tattenhall Neighbourhood Plan to be put to a local referendum.

But **the judge rejected** claims that the council had not complied with a European environmental assessment directive, that the plan did not comply with national and local policy, and that the inspector which approved the plan had been biased.

A material consideration is a matter that should be taken into account in deciding a planning application or on an appeal against a planning decision. Material considerations can include (but are not limited to): Overlooking/loss of privacy, Loss of light or overshadowing, Parking, Highway safety, Traffic, Noise, Effect on listed building and conservation area, Layout and density of building, Design, appearance and materials, Government policy, Disabled persons' access, Proposals in the Development Plan, Previous planning decisions (including appeal decisions), Nature conservation. **However, issues such as loss of view, or negative effect on the value of properties are not material considerations.**

Q. 2 If BMBC decide in September 2014 that we have to build say 60 houses, Helen apparently indicated that infill houses (i.e. small one/two or three developments on a very small site) would not count towards the 60 target that they had given us. Is this right?

Response from Helen Willows - BMBC Strategic Planning

A-2. *I can confirm that I did not say that.*

a. *In response to the questionnaire responses regarding infill housing, Mike (Dando PAE) clarified that there is a policy in the existing and emerging development plans that allows infill housing. The neighbourhood plan would have to be in general conformity with this. What I clarified was that if we (Barnsley or Oxspring) allocated a site/s for development, this would not mean that subsequent applications that came forward for small scale infill housing could be refused purely because Oxspring considered that they had already allocated enough land to cater for the identified housing need. If however Oxspring chose to seek to identify and allocate small scale infill plots, we could consider whether they could contribute towards the identified housing need. Amongst the issues to be considered would be the need to ensure that the allocated sites would be genuinely available for development both in the first five years of the plan and over the whole plan period.*

Response from Mike Dando - Planning Aid England

A: *Yes as I understand it. Only delivery on allocated sites counts towards the target.*

Q. 3 I know that BMBC have to have a plan for the next 5 years for housing stock and then onwards for the next 15 years. Does the target that they will set in September take us right up to the 15 year deadline or can they come back after 5 years and tell us that we have to have more homes built?

Response from Helen Willows - BMBC Strategic Planning

A-3. *At the moment the current intention is that the Local Plan will have a timescale of 2013-2033. However, government advice is clear that most Local Plans are likely to*

require updating in whole or in part at least every five years. If the evidence exists on review of the Local Plan that there is a need for further housing, then this will need to be accounted for and further land may need to be allocated.

[Response from Mike Dando - Planning Aid England](#)

A: Plan reviews can result in amended targets if national or significant local circumstances dictate. The current Core Strategy target is being reviewed in just this way now after fewer than 5 years since adoption, in this case to take account of Council Economic Strategy.

Q.4 Apparently, some of the residents on Longley Ings have asked that as the industrial units at the side of their houses are proving to be difficult to let, is there any scope in us saying that we would like to remove them and build additional houses. Obviously, from their point of view it is better to have houses at the side of them rather than a site with industrial units. There is also the field across at the other side of the road which is I believe ear marked for industrial use, could we also perhaps build on that site.

[Response from Helen Willows - BMBC Strategic Planning](#)

A-4. We have policies in the existing and emerging development plans that indicate that existing and proposed employment sites and buildings will be protected from alternative uses, such as housing, in the interests of the economy. I understand that the industrial units next to Longley Ings have all been occupied since June 2013. I would have to suggest that you wait until the Council publishes its draft Local Plan in the autumn, where we will confirm what strategic policies and allocations relate to Oxspring.

[Response from Mike Dando - Planning Aid England](#)

A: In principle, allocated industrial land can be re-allocated for other uses such as residential, if it can be demonstrated that there is no realistic prospect of an industrial use coming forward. Evidence is required to show that site has been reasonably marketed over a reasonable length of time without success.

Q.5 When the plan is finalised and formally approved, can the local Authority negotiate with builders to change what is in our plan if they are afraid that the builder might walk away if he does not get his own way. Apparently, this has already happened somewhere and rather than lose the builder, they have allowed them to make changes that do not conform to the NP.

[Response from Helen Willows - BMBC Strategic Planning](#)

A-5. Once the plan is formally approved, the Authority cannot make any changes. After the examination, the Authority must consider each of the examiner's recommendations

and decide what action to take. The Authority can also make modifications to the plan to ensure the basic conditions are met.

Response from Mike Dando - Planning Aid England

A: This refers to viability negotiations with developers as currently required nationally by government – provisions in the NP will be no different in this regard than provisions in the Core Strategy or Local Plan.

Q. 6 Is there any scope in our saying that we will run just with the large plot of land out on Sheffield Road, which was in their initial offer for completion within 15 years' time. It is a huge site and would more than satisfy any number of housing problems that the local authority will have. This would almost be a separate hamlet, although still within the Oxspring boundary?

Response from Helen Willows - BMBC Strategic Planning

A-6. I think I would suggest that you wait until the Council publishes its draft Local Plan in the autumn, where we will confirm what strategic policies and allocations relate to Oxspring. I think the site that you are referring to is in our SHLAA – remember that this document assesses the availability, suitability and deliverability of land for housing development. The SHLAA does not represent a statement of Council policy, but it will be used to inform our decisions on which sites to propose for housing allocations in the Local Plan.

Response from Mike Dando - Planning Aid England

A: No matter which site you may decide 'to run with' (ie if you decide to allocate a site or sites in the NP), you will have to run on the basis of a 'Housing Needs Assessment' to quantify the housing need/target within Oxspring and a Housing Sites Assessment to demonstrate that the allocated site/sites are the best available option to meet the identified need/target. You can't just pluck a site out of the air to meet an unspecified need/target.

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