

The Steering Group proposal

The Steering Group request that point b. is amended as below to delete '~~or immediately adjoining~~'

Policy NQRHA1 – Coherence of the villages

Development of sites within the Newport Development limits will be supported if of a scale and setting relating well to the village, with good vehicle access and where safe, convenient pedestrian and cycle access is in place providing good connectivity from residential areas to the village centre and the railway station and bus stops.

Further development outside of the development limits shown in the Development Limits maps (see maps 13 and 14), will not be supported other than:

- a. Development appropriate for a countryside location, defined as agriculture, horticulture, forestry, outdoor recreation, and other uses which need to be located in the countryside.
- b. Small scale infill development within ~~or immediately adjoining~~ existing clusters of development.
- c. Affordable housing on rural exception sites to meet an identified local need which cannot be met in any other way; including some market housing necessary to secure the viable delivery of the affordable homes.
- d. Residential conversion of redundant or disused rural buildings, which will enhance their setting.
- e. Subdivision of an existing dwelling.
- f. Construction of new houses of exceptional design meeting the criteria set in paragraph 79e) of the NPPF.
- g. Conversion of existing buildings and the erection of well-designed new buildings for business uses.

Reasons

1. The wording is a linguistic illogicality as 'infill' is mutually exclusive with 'adjoining'. Policies must be unambiguous so they can be used with clarity and certainty. We have witnessed barristers (expensively) arguing over interpretations. Policies must be clear and we now realise having had 18 months use of the draft version, it is unclear.
2. The adopted Local Plan defines infill as 'small gaps in small groups of houses' (paragraphs 6.13 and 6.14).
3. There will always be areas 'immediately adjoining' any cluster, regardless of how much development is added. Thus the policy point could be interpreted to support development ad infinitum, outside of development limits. This would be unreasonable, and contrary to adopted Local Plan policy S7.
4. Extending development outside the clusters could result in a significant number of dwellings in the open countryside. The Steering Group have identified seven locations where this part of the policy could apply, where development would be distant from all services, and would be accessed entirely by vehicle. The wording could support unsustainable development in the most distant rural locations in the Plan area.

5. NQRHA1 sets out six other categories of development outside of limits which are to be supported. This proposed clarification, by deletion of an ambiguity, would make the seventh category clear and usable, and consistent with the adopted Local Plan

Glossary definitions

Infill - The development of a relatively small gap between existing buildings.

Cluster - A low density grouping of houses at an individual site, or hamlet, separated from the villages, and comprising a small number of dwellings in a non-linear arrangement.

Experience of use of the draft Plan

With the exception of the three words, the policy is considered very sound and serviceable. It is a useful codification of the essence of LPA policy S7, and the NPPF, and the wording is relevant to our rural location. Not related to the wording, but UDC does currently have a 3 year housing supply, and being up to date, the Neighbourhood Plan it is not subject to challenge, and we are finding the Plan very useful in planning considerations.

However, concerning the bullet point at issue, it was immediately obvious when HA1 was sought to be referenced in relation to planning applications that we had made a drafting error.

Consideration of LPA policy S7 as 'strategic' and 'dated'

We can find neither guidance nor legislation allowing an adopted Plan, even if old, to be ignored or down played concerning test e).

As the LPA policy S7 is relevant to such a high percentage of applications in the district and is fundamental to the division and weight between 'within' and 'outside of' limits, S7 in combination with development limits, it is considered a strategic policy. It should also be noted that the NhP incorporates limits around the two main settlements which are more extensive than the adopted Plan, and includes a site allocation.

Evidence for S7 being considered a strategic policy is provided by Gladman considering it so important that they challenged it at an appeal, then in a Judicial Review, then at the Appeal Court. See *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government, Corby Borough Council and Uttlesford District Council*, where, despite no five year supply and S7 being only partially NPPF compliant, the validity of S7 was upheld. The conclusion was '*Conflict with development plan policies is therefore a legitimate consideration in assessing the adverse impacts associated with particular proposal.*'

There are many appeal decisions which support the application of 'significant weight' to Policy S7, although there some which do not. The definitive view was given within APP/C1570/A/14/2219018 by the Secretary of State, who "considers that the policy aim of LP Policy S7, to protect the countryside, is consistent with the fifth bullet of Paragraph 17 of the Framework, that indicates the intrinsic character and beauty of the countryside should be

recognised, while supporting thriving communities within it. He therefore attaches significant weight to this.”

Comments on the two consultation responses

The Steering group agree with LPA comments set out in their Appendix 1

Sworders

Policy S7, regardless of the claim made, clearly forbids the ‘adjoining’ development. HA1, as amended, uses the compliant wording ‘will not be supported’ and is thus similar to policies relating to development outside of limits which may be found generally in Local and Neighbourhood Plans. It is a compliant permissive policy for seven types of development outside of limits. As amended it would not prevent ‘adjacent ‘development or any other development outside of limits. It would merely be a factor to be balanced. If such policies trumped all other considerations then there would be no regular housing permissions granted outside of limits.

Sworders claim that the policy is not ambiguous. However, their comment involves selective quote of two words with ‘and’ inserted between. This would be a different text, or even warrant two separate bullet points. This argument appears contrived.

Gladman

Concerning ambiguity they appear to accept this by saying ‘as it is anticipated that the practical application of this policy would be nearly impossible’ but then suggest a broader wording supporting ‘Small scale development within **or immediately adjoining settlement boundaries** or existing clusters of development’. Such a wording would defeat the object of having development limits and would also bring in to play the question; ‘what is small scale compared to an existing settlement?’

It is noted that other landowner/developer consultees who responded at earlier consultations have remained silent.

Conclusion

We consider that a drafting error was made and the requested alteration corrects that to make a clear and compliant policy.