

MINUTES OF CS11 WORKSHOP 01/04/16

Villagers in attendance: Tom McClelland; Laura McClelland; Dorothy Griggs; David Griggs; Ric Edelman; Nigel Hughes; Brian De'Ath; Clare De'Ath; Clare Osborne; Andy Irish; Karen Wilcox; Ray Debenham, Janet Van Dam.

Professionals in attendance: Rachel Hogger (Babergh point-person); Ian Poole (consultant); Kathryn Oelman (Development Management Officer).

Introduction from Rachel Hogger

- Rachel explained her support role and introduced Kathryn who works for Development Management at Babergh, which is the team within Planning that processes planning applications.

East Bergholt

- Ric introduced the concerns raised by the on-going situation with East Bergholt's Neighbourhood Plan. He reported on his conversation with Nick Ward, and his letter of concern to Cllr Peter Beer (to which there has been no reply as yet). Ric emphasised that we need reassurance that the work of the NPT, and the participation of the village, will not be wasted.
- Rachel explained that understanding CS11 would put EB into context. Their plan is under examination and there remain a few areas of tension in it between the Local Planning Authority (LPA/Babergh District) and EB Neighbourhood Plan Steering Group and these can be viewed in the table of representations to the Neighbourhood Plan made by Babergh District at publication stage (the stage which follows submission). Rachel emphasised that EB is a Core Village, so policies like CS11 apply differently.
- Kathryn explained that potential conflicts between a draft NP and wider policy are only confronted under examination, or when a planning application comes in. This is why Plans that are out for examination only have limited weight. Kathryn explained that for Core Villages, there's a general expectation for the village to take housing, whereas for Hinterland Villages there's more sensitivity to local growth.
- **Action: Tom to find record of any objections tabled by Babergh.**
- Ric asked why this potential conflict wasn't addressed when the Plan was in draft. Rachel confirmed that one would expect this to have happened. Ian noted that there is an organisation who do a 'health check' on draft plans, and that he expects they would have highlighted the potential conflicts.
- Andy reiterated the question of why these issues weren't addressed. Rachel emphasised that we shouldn't prejudge the outcome of the independent review. She noted that EB will have received advice on the riskiness of putting forward a policy of limiting developments to a small number. She noted that Neighbourhood Plans cannot set their own housing numbers. The lesson for Lawshall's NPT is to take advice of this kind seriously when it is given.

Meeting Basic Conditions

- Rachel explained that her goal was for us to gain a better understanding of the 'basic conditions' against which the independent examiner will judge Lawshall's Plan. There are four main conditions:
 1. Must have regard to national policy (NPPF)
 2. Must be in conformity with strategic elements of the Local Plan (which is the adopted Local Plan, which consists of the 2014 Core Strategy plus saved policies from the 2006 Local Plan).
 3. Must contribute towards the achievement of sustainable development
 4. Must be compatible with EU obligations

- CS2 defines Lawshall as a Hinterland Village. There is a target for Core and Hinterland to take 1050 homes, though no explicit policy on how this is to be divided.
- Of the various 'CS' numbers, CS11 and CS15 are key policies for the NP.
- Nigel asked for clarity on the condition of 'general' conformity to policy. Rachel explained that there are examples of Neighbourhood Plans which have successfully departed from the strategic policy context (the first Neighbourhood Plan ever made; the Upper Eden Neighbourhood Plan in the Lake District did this). However, you would need to have a very clear rationale and be sure your position is supported by evidence and could be justified when tested against the other basic conditions in particular national planning policy.
- Babergh and Mid-Suffolk are in the process of putting together a new joint Local Plan. A likely change in the new plan is that housing targets will go up.
- Ric asked whether the Neighbourhood Plan would be a pain for people in Kathryn's position? Kathryn said it would not be and explained that it's very useful to have evidence that justifies a decision to accept or reject. In the absence of evidence, she cannot justify declining an application.

THE ADOPTED LOCAL PLAN

Kathryn Oelman:

- Kathryn explained she works in Development Management (i.e. Planning) and explained that her role is to judge applications, rather than setting policy or giving guidance on Neighbourhood Plans. She described the stages she would go through to judge a hypothetical application for 6 dwellings in Lawshall. The first stage is to ask whether the Core Strategy rules out this development, though for Lawshall there is no policy that would. In the past, the next test would be whether it's in the existing village envelope/built up area boundary (BUAB). However, now with the CS11 policy applications outside the boundary will be considered. Various considerations would be balanced e.g. the target numbers in the Local Plan, and whether there is a five year land supply.
- Regarding the five year land supply, Rachel and Ian explained that if Babergh fall behind on meeting their targets, then the importance of the Local Plan and Neighbourhood Plan gets diminished in favour of the NPPF. This means a presumption of approval so long as it meets the principle of sustainable development as articulated in the NPPF. Mid-Suffolk are outside of their target, but Babergh are within it. The authority report themselves whether they're on target, but aggressive developers can make a case for concluding that they are not on target..
- Ric asked if the blocking of development in EB would be bad news for Babergh's targets. Kathryn explained it was a 'windfall site' (i.e. an extra site over and above targets) so if it were blocked targets would still be met. She also noted that the NP isn't mentioned in CS11 for Core Villages like EB, and emphasised the explicit reference to NPs in CS11 for Hinterland villages.
- Ian asked whether there's a size of application for a Hinterland village that would preclude it from approval right away. Kathryn answered that this is not how the process works as it would have to be judged against the policy.
- Rachel and Kathryn explained the role of Character Assessments in decisions. An assessment might say something like the character is such that the biggest estate is of a certain size, which can inform judgements of what's out of scale. Where landscape is sensitive, this is also relevant.
- Clare raised the worry that applications could be judged against existing features of the village that are themselves in conflict with the character of the village. Rachel explained that the Character Assessment can report on what doesn't work in the village.

- Laura asked about the relevance of existing settlements that are not within the existing built up area boundary. Kathryn answered that she would be guided by the existing boundaries. The NP could move against this by identifying areas outside the boundary around existing settlements that are suitable for development. Laura asked whether an NP might, for instance, state that building is preferred next to existing settlements even if those settlements are outside the boundary. Kathryn explained that an NP could do this. Rachel noted that the NP could pre-empt forthcoming revisions to the designation of the BUABs in the next Local Plan.

Tom McClelland:

- Tom was asked in advance by Rachel to summarise four key issues that had arisen from the NP process. Tom reported that he used results from the Community Consultation event, and preliminary results from the village questionnaire, to pick out issues on which there are strong trends in the village. However, he put aside any trends that were not relevant to CS11. He listed four main issues, giving preliminary statistics as evidence of trends in the village:
 1. The facilitation of building that meets Lawshall's needs for: affordable housing; housing for young people; and housing for people with an existing connection to the village
 2. The facilitation of self-builds outside the existing built up areas of the village
 3. The restriction of any building outside the existing built up areas that does not meet Lawshall's needs
 4. Ensuring that any building outside the existing built up areas respects the villages environments.
- Regarding mix of housing (issues 1 and 3) Kathryn explained that affordable dwellings feature in existing policy, though noted that the definition of 'affordable' might expand to include starter homes. The current rule is that any development over 3 dwellings must include affordable homes.
- Regarding connections to the village (issue 1) Kathryn and Rachel explained that S106 building might give priority to people with a connection to Lawshall. This was done in Lavenham and East Bergholt's NPs (both currently at examination), though has to be justified in tandem with the Housing Needs Survey etc.
- Ian explained that, in theory, village could have an exceptions policy e.g. houses cannot be built outside the BUAB unless they are both affordable housing *and* give priority to people with a local connection. However, CS11 complicates such a policy as it already allows development beyond the BUAB.
- Laura asked how an application for a development neither in nor adjacent to the BUAB would be reconciled with the policy of not permitting development in 'open countryside'. Rachel explained that the NP might enable such development by designating specific sites and/or redrawing the existing BUAB (NB: redrawing the BUAB would be an example of diverging from the strategic policy context but as set out earlier, accompanied by a strong rationale and demonstrating meeting of national policy this might be an option for Lawshall)
- Ric asked about role of the Housing Needs Survey in decisions. Kathryn said that CS11 gives particular regard to this, as does CS8. She might refuse an application on the grounds that it doesn't have a mix of dwellings that fits with local need.
- Tom asked is 'self-build' is a relevant category (point 1). Kathryn explained that the government are pro-self-build and that national standards on this are changing. She noted that starter homes can be sold on after 5 years, so would not be protected as 'affordable housing' for the village. She also noted that the concept of 'self-build' does not feature much in the Local Plan.

General Questions for Kathryn

- Kathryn made a general offer to help the NPT with interpretation of policy in the future.
- Nigel asked about how changes to government might affect things. Rachel explained that planners having regard for National Policy means they even have to be sensitive to recent statements by Ministers, so in principle change is possible all the time. If there are big changes, there will be opportunities to carry policies in the NP forward, though this would have to be sensitive to the fact that housing targets will inevitably increase. Ian emphasised that we can't stop doing plans just in case unexpected happens.
- Kathryn noted that the evidence we gather helps guide decisions independently of the NP itself. Looking at the BUAB and visiting sites only gives her limited information, so any evidence we gather would be valuable to her decision. She noted that consistency with character has always been a core principle of housing, and that she does not anticipate that ever changing.
- **Action: Kathryn to get in contact if she thinks of any more technical considerations regarding Housing Needs and Character Assessment that might help the NPT.**

TEA BREAK

NATIONAL POLICY CONTEXT

Rachel's Presentation:

- She recommended that the NPT look at what the examiners say about East Bergholt and Lavenham when their reports are complete.
- She explained that the NPPF was introduced by the Coalition to replace 1000s of existing policy documents.
- She noted the presumption in favour of sustainable development. The NP can define what sustainable development – as defined by the NPPF – means for Lawshall (so long as it is appropriate having regard for the NPPF etc). Character Assessment is key to this. The 'Planning Practice Guidance' can help us understand NPPF in the section on Neighbourhood Planning. She also noted that revisions to the NPPF are coming in the Summer.
- **Action: Tom to investigate these documents when he adopts his new role.**

Exercise:

- Rachel asked those present to split into groups and look at key paragraphs in the NPPF. She highlighted the following paragraphs:
- Para 17 Core Planning Policies: these principles underpin the whole system.
- Para 28 is about encouraging developments that contribute to the economy. Any obstacles to rural economy in an NP might be incompatible with this paragraph.
- She explained that the examiner will test the NP against all these considerations, and that guidance on how to demonstrate compliance is available.
- **Action: Rachel to email Tom her presentation summarising these key points**
- Rachel noted that the Secretary of State is calling in planning applications that are contrary to a NP which is in a late stage of development. They will either leave to Babergh or appoint an inspector (and by the time it gets there the Plan may have been made).
- Rachel noted that many people ask whether the NP has the same legal status as a Local Plan once made. The answer is that it *does*. However, a *new* Local Plan could take precedent over the NP, in which

case the NP would need to be reviewed. That said, authority should endeavour to ensure that a new Local Plan does not depart from existing NPs.

- Rachel explained that a Development Plan = Neighbourhood Plan plus Local Plan. The NP, together with the Local Plan provide the basis for the determination of planning applications so long as there is a five year land supply. If there's not a five year land supply, then the planning policies related to housing numbers are not considered up to date and planning applications will then be considered against the context of the presumption in favour of sustainable development as defined in the NPPF..
- The NP's legal status means that there can be legal challenges (where the losing party has to pay costs). In some areas there have been legal challenges from developers.

Conclusions and Next Step

- The village has the ambitious option of redrawing the BUAB with Babergh's co-operation, perhaps with a local exceptions rule. However, since this amounts to a kind of site allocation there might be tensions about doing something akin to site allocation.
- Alternatively, we might define more clearly a local interpretation of CS11 with exceptions (though that may entail policy complications).
- **Action: If the village and NPT pursue such policies, Rachel will enquire to Babergh about their viability.**
- Rachel noted that a Character Assessment might ask 'is the existing built up area up to date?', including its designation of green spaces. Ian noted that existing BUABs were not drawn with CS11 in mind as they predate it. This is why the BUABs only identify green areas inside the BUAB. Because of CS11, green spaces outside the BUAB are also important, so a Character Assessment should highlight them.
- Clare identified the problem that environmental *interconnections* make it impossible to draw a line around the environmental areas that need to be protected. Ian noted that Suffolk Wildlife Trust can give assessment of potential sites.
- Janet asked whether a policy might specify that developments must have low ecological impact, and compensation for any impact they have. Rachel explained that they can, but noted that the NP cannot stop things happening to the environment if they have nothing to do with the planning process.
- **Action: NPT to organise another session with Rachel further down the line, once we have done more work on the Character Assessment.**

APPENDIX:

During the un-minuted tea break, Rachel noted that Lawshall has a number of listed buildings. Policy specifies that new developments should not encroach on the 'setting' of listed buildings. Since what does or does not encroach on the setting of listed buildings is open to debate, the NP might have policies that elaborate on this. These could be developed with the help of historic England.