

Crandall Neighbourhood Plan Examination

21st August 2019

**Request for Clarification from the Examiner to Crandall Parish Council and
to Hart District Council**

Further to reviewing the Crandall Neighbourhood Plan and supporting information, I would be grateful for the assistance of both Crandall Parish Council (re: all Questions) and Hart District Council (particularly Questions 1, 6, 7 and 8) in respect of clarifying a number of matters in writing.

In responding to the matters where I seek clarification, set out in bold/italics below, please do not direct me to any evidence that is not already publicly available.

Please can all responses be provided within four weeks of the above date. If this poses any difficulties and more time would be helpful, please let me know.

Thank you

Nigel McGurk

**Nigel McGurk BSc (Hons) MCD MBA MRTPI
Independent Examiner
Crandall Neighbourhood Plan**

1) European Obligations
(matter for clarification by Hart District Council)

National guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

- *“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations”* (Planning Practice Guidance¹).

In April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta* (“People over Wind”), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.

In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an *Appropriate Assessment* to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.

These changes came into force on 28th December 2018 and this pre-dated the submission of the Neighbourhood Plan. As the regulations are now in force, it is important to double-check that, wherever necessary, an *Appropriate Assessment* has been undertaken.

A Strategic Environmental Assessment (SEA) and a Habitats Regulations Assessment (HRA) were submitted alongside the Neighbourhood Plan and neither Hart District Council nor any of the statutory consultees (Historic England, Natural England² and the Environment Agency) have expressed any concerns in respect of the Neighbourhood Plan’s compatibility with European obligations.

¹ Planning Practice Guidance Reference ID: 11-031-20150209.

² Subject to the removal of the word “either” from Neighbourhood Plan Policy 2e.

- ***Taking the above into account, please can Hart District Council confirm that it is satisfied (or is not satisfied) that the Neighbourhood Plan is compatible with European obligations.***

2) Comments on Regulation 16 Representations ***Optional Response from Cron dall Parish Council***

Neighbourhood Planning Independent Referral Service (NPIERS) Guidance³
Paragraph 1.11.4 states that:

“The qualifying body will normally be given the opportunity to comment on the representations made by other parties...This may be particularly important where the matters concerned have not been raised at Regulation 14 stage. The opportunity for the qualifying body to comment on representations could be incorporated within an independent examiner’s clarification note...”

- ***Consequently, whilst not a requirement, I confirm that, in responding to this letter, there is an opportunity for Cron dall Parish Council (CPC) to comment on any of the representations made during Regulation 16 consultation, should it wish to do so.***

3) Paras 2.2 to 2.4

- ***The introductory text in these paragraphs appears to have been overtaken by events. Does CPC agree with the representation made by Hart District Council in this regard ?***

³ NPIERS “Guidance to Service Users and Examiners”

4) **Policy 1**

- *Much of the Policy appears to refer to matters covered by other Policies in the Neighbourhood Plan ? As the development plan should be considered as a whole there is no need to repeat/cross reference policies. Please can you point out any parts of the Policy that are exclusive to Policy 1 (ie, not referred to or covered in other Policies) ?*
- *Please can you point me to the detailed analysis of each important view that must be preserved, protected and enhanced; and please can you point me to evidence that this part of Policy 1 is deliverable and that it has regard to Paragraph 56 of the National Planning Policy Framework (the Framework) ?*
- *Please can you point me to information in respect of how a decision maker should interpret the phrase “creeping expansion” ?*

5) **Policy 2**

- *The allocations of 2a and 2c comprise very small sites providing for a net total of just 3 dwellings. They would not deliver any affordable housing. Given that the sites are within the settlement boundary, why does the Parish Council consider them to be worthy of allocation and in what way do the allocations contribute to the achievement of sustainable development ?*
- *Why does the Neighbourhood Plan refer to a “windfall allowance” ? Is this intended to restrict the amount of housing coming forward by way of windfall development ?*

6) **Policy 2b Mill Lane**
(Clarification by Hart District Council and Cron dall Parish Council

- *Hart District Council objects to this allocation.*
- *Is the allocation of the site in general conformity with the adopted strategic policies of the development ?*
- *Does the allocation of the site contribute to the achievement of sustainable development ?*
- *Page 22 of the Neighbourhood Plan states that protection of the open countryside “was a clear priority identified by respondents to the initial questionnaire.” Given that the Neighbourhood Plan does not need to allocate any housing land, how does the allocation of Site 2b meet this “clear priority” identified by the community ?*
- *Page 23 of the Neighbourhood Plan states that any development “should be appropriate in scale and density.” The site appears to support development at a higher density to that of the rest of Mill Lane. It also appears to support the development of a large number of houses relative to the size of Mill Lane. Why is the site appropriate in scale and density to Mill Lane ?*
- *The site scored positively in respect of social contribution as it would provide affordable housing. Can Cron dall Parish Council point me to evidence of the consideration of options for the provision of affordable housing sites and/or rural exception sites around Cron dall? Would Hart District Council like to comment in this regard ?*
- *The site was scored positively as a brownfield site, yet the majority of the site comprises green field land with a rural character set within the open countryside. The landowner/developer considers that the whole site comprises previously developed land. Does Hart District Council agree that land within Hart associated with equestrian use necessarily comprises previously developed land and does it consider that in this case, the whole of the site comprises brownfield land ? The assessment of the site at Broden Stables scored that site negatively in respect of comprising brownfield land – please can CPC point me to information that supports this apparently conflicting approach ?*
- *Please can you point me to evidence that the site is capable of delivering around 13 affordable homes (as referred to on page 24 of the Neighbourhood Plan) as well as providing for safe access and egress and any related/appropriate highway infrastructure ?*

- ***Hart Distict Council refers to the “adjacent Conservation Area.” The site is not adjacent to Cron dall Conservation Area. Is there another Conservation Area that the site is adjacent to ?***
- ***Please can Cron dall PC and Hart District Council provide any comments on the following:***
 - ***The site was scored positively as a sustainable location, although Mill Lane lacks a range of services and facilities and relies on Cron dall and other settlements for these. A number of sites in/on the edge of Cron dall were scored neutrally or negatively in respect of being within a sustainable location.***
 - ***The site scored neutrally in respect of being in the settlement area. The site is outside the settlement boundary of Mill Lane and requires a change to the settlement boundary. Sites outside of Cron dall were scored negatively, but like this site, could have been incorporated into an altered settlement boundary.***
 - ***The site would comprise a large (relative to Mill Lane and Cron dall) housing site in the countryside on the edge of a hamlet and it would appear inevitable that building 32 homes would have a rural impact. However, the site scored neutrally in this regard.***

7) Policy 2c

- ***Please can you point me to substantive evidence that this site can be developed safely, taking into account its location within the Flood Zone ? Please can you clarify why no Sequential Test has been carried out in respect of this site, taking into account its location within the Flood Zone ?***

8) **Policy 2d**
(CDC and Hart District Council)

- *The site comprises employment land and is not located within any settlement. The Mill Lane example above is indicative of concerns raised in representations that the site assessment process was subjective and inconsistent. Please can you point me to substantive evidence to demonstrate why an existing employment site outside any settlement boundary is more sustainable than other potential sites within or adjacent to Cron dall village ?*
- *Could Hart District Council please comment in the above regard ?*
- *Please can you point me to evidence that it is viable for the commercial buildings to be converted to residential use and that this can be delivered in a manner that would be in keeping with neighbouring properties ?*
- *Please can you point me to information in respect of what kind of housing is suitable to a “small household” and why the size of a household, as opposed to say, the size of a house, is relevant to this policy ?*

9) **Policy 2e**

- *Do CDC agree with the representation submitted by Natural England in respect of a proposed change to the wording of the Policy ?*

10) **Policy 3**

- *Please can you point me to evidence that all development can retain or enhance all views, as required by the Policy; and to the justification for this requirement, with reference to relevant and supportive national or local planning policy ?*

- *Please can you point me to evidence to demonstrate that the fifteen requirements of the Policy are deliverable in respect of all development; and to evidence that the requirements of the Policy have regard to Paragraph 56 of the Framework ?*
- *A Written Ministerial Statement in 2015 established that technical standards relating to the construction, internal layout or performance of new dwellings should not be progressed within a neighbourhood plan. Please can you point me to any justification for the criteria in the Policy that appear to conflict with Government advice in this regard?*

11) Policy 4

- *Please can you point me to information in respect of how a decision maker is meant to interpret the phrase “excessive development” ?*
- *Cron dall is a significant distance away from Mill Lane and is separated by a major, busy road. Please can you point me to evidence that demonstrates that there is a significant threat in respect of the coalescence of Mill Lane and Cron dall; and also, that the inclusion of land not located directly in between the two settlements within the large proposed Local Gap is fully justified ?*

12) Policy 5

- *Please can you point me to evidence to demonstrate that the designation of the School Playing Fields as Local Green Space contributes to the achievement of sustainable development, taking into account the education authority’s concerns that such a designation would present a significant risk to the appropriate expansion of the primary school, were such expansion to become necessary in the future ?*
- *Please can you respond to the concerns raised in respect of the proposed designation of Old Parsonage Meadow as Local Green Space, whereby representations have been set out to demonstrate that the designation does not meet the appropriate tests in the Framework ?*

13) Policy 6

- *The opening sentence of the Policy refers to “respecting principles” whereas the subsequent criteria appear as requirements. Are the criteria meant to comprise requirements or guidance. If they are meant to comprise requirements, please can you point me to evidence to demonstrate that they are deliverable and have regard to Paragraph 56 of the Framework ?*
- *Please can you point me to evidence to demonstrate that the list of requirements in respect of SuDS are deliverable for all forms of development ?*
- *Please can you point me to information in respect of, for example, when it will be appropriate, and who will determine, that development must incorporate raised finished floor levels and under floor voids ?*

14) Policy 7

- *Policy 7 is different to, more onerous than and conflicts with national planning policy set out in Chapter 16 of the Framework. For example, it includes vague and onerous requirements to enhance views; to “preserve fabric”; to accord with a long list of requirements set out in another Policy; includes a requirement in respect of curtilage, without evidencing why this is a planning matter; requires the use of traditional and vernacular building materials only; and introduces an entirely new form of protection for non-designated heritage assets.*
- *Please can you point me to the justification for this very different approach to the appropriate conservation of heritage assets and to evidence to demonstrate that the approach has regard to national policy ?*

15) Policy 8

- *As worded, the Policy would serve to prevent the expansion or development of community facilities. Is this a drafting error or does it reflect the intent of the Policy ?*

16) Policy 9

- *The Policy includes land designated as Local Green Space. The Policy appears to conflict with that designation – for example, there is no apparent evidence to demonstrate that car parking, lighting and new buildings are suitable for Local Green Space ? Should the sites be designated as Local Green Space or Public Open Space ? Or can you point me to justification for designation as both and evidence of no conflict ?*
- *Please can you point me to the justification for supporting the development of lighting or car parking on rural footpaths ?*
- *Please can you point me to evidence that the school playing field comprises a public open space ?*
- *Public rights of way are, by their very nature as public rights of way, already protected. Please can you point me to information that clarifies how and why all footpaths comprise “public open spaces” and why their inclusion in Policy 9 is relevant and appropriate ?*

Thank you for consideration of the above
