

APPENDIX 1

Newport Quendon & Rickling Neighbourhood Development Plan

Consultation responses on the Alternative Modifications

The table sets out the responses that were received during the six week consultation on the alternative modifications and the action required to be taken as a result.

Responses	Action Taken
Avison Young: 14/01/2021	
Central Square South Orchard Street Newcastle upon Tyne NE1 3AZ	
avisonyoung.co.uk	
Dear Sir / Madam	
Newport Quendon & Rickling Neighbourhood Development Plan Examiner's Report Regulation 18 Decision - Modification Consultation Representations on behalf of National Grid December – January 2021	No Action Required
National Grid has appointed Avison Young to review and respond to Neighbourhood Plan consultations on its behalf. We are instructed by our client to submit the following representation with regard to the current consultation on the above document.	
About National Grid	

National Grid Electricity Transmission plc (NGET) owns and maintains the electricity transmission system in England and Wales. The energy is then distributed to the electricity distribution network operators across England, Wales and Scotland.

National Grid Gas plc (NGG) owns and operates the high-pressure gas transmission system across the UK. In the UK, gas leaves the transmission system and enters the UK's four gas distribution networks where pressure is reduced for public use.

National Grid Ventures (NGV) is separate from National Grid's core regulated businesses. NGV develop, operate and invest in energy projects, technologies, and partnerships to help accelerate the development of a clean energy future for consumers across the UK, Europe and the United States.

Proposed development sites crossed or in close proximity to National Grid assets:

An assessment has been carried out with respect to National Grid's electricity and gas transmission assets which include high voltage electricity assets and high-pressure gas pipelines.

National Grid has identified that it has no record of proposed development sites crossed or in close proximity to National Grid assets within the Neighbourhood Plan area.

National Grid provides information in relation to its assets at the website below.

- <https://www.nationalgrid.com/uk/services/land-and-development/planning-authority/shape-files/>

Please also see attached information outlining guidance on development close to National Grid infrastructure.

Distribution Networks

Information regarding the electricity distribution network is available at the website below:

www.energynetworks.org.uk

Information regarding the gas distribution network is available by contacting:

plantprotection@cadentgas.com

Further Advice

Please remember to consult National Grid on any Neighbourhood Plan Documents or site-specific proposals that could affect our assets. We would be grateful if you could add our details shown below to your consultation database, if not already included:

██████████, **Director**
nationalgrid.uk@avisonyoung.com
Avison Young
Central Square South
Orchard Street
Newcastle upon Tyne
NE1 3AZ

██████████ **Town Planner**
box.landandacquisitions@nationalgrid.com
National Grid
National Grid House
Warwick Technology Park
Gallows Hill
Warwick, CV34 6DA

If you require any further information in respect of this letter, then please contact us.

Natural England 15/01/2021

Dear Demetria Macdonald

Notification of Newport Quendon & Rickling Neighbourhood Development Plan Examiner's Report Regulation 18 Decision - Modification Consultation

Thank you for your consultation on the above dated 07 December 2020

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England is a statutory consultee in neighbourhood planning and must be consulted on draft neighbourhood development plans by the Parish/Town Councils or Neighbourhood Forums where they consider our interests would be affected by the proposals made.

Natural England does not have any specific comments on this modification consultation.

For any further consultations on your plan, please contact: consultations@naturalengland.org.uk.

No Action Required

Yours sincerely

██████████
Consultations Team

Historic England 14/01/2021

From: ██████████ < >

Sent: 14 January 2021 17:44

To: ██████████ < >

Subject: [External] RE: Notification of Newport Quendon & Rickling Neighbourhood Development Plan Examiner's Report Regulation 18 Decision – Modification Consultation

Dear ██████████

Thank you for consultation Historic England about this Regulation 18 – Modification Consultation. Having reviewed the documentation and the reasons for the proposed alteration to the Examiner's own modification, I have concluded that there is no need for Historic England to make any further comment.

No Action Required

Kind regards,

██████████

Gladman Developments Limited

By email only to: planningpolicy@uttlesford.gov.uk

Dear Sir/Madam,

Re: Newport Quendon & Rickling Neighbourhood Plan – Proposed Modifications

This letter provides Gladman Developments Ltd (Gladman) representations in response to the current consultation held by Uttlesford District Council on the proposed modifications to the Newport Quendon &

Rickling Neighbourhood Plan (NQRNP) under paragraph 13 of Schedule 4b of the Town and Country Planning Act 1990 (as amended).

Gladman are deeply concerned that a referendum date has already been set despite the consultation still being underway as this pre-empts the outcomes of this consultation. There is still the possibility that the plan may need to be referred back to examination. The Council should only be seeking to set a referendum date once it has satisfied itself that from the consultation responses further examination is not necessary. Gladman suggest that this is not the case and due to the nature of the change and how this alters the thrust of the policy, making it restrictive in nature as opposed to a permissive policy that satisfied basic condition (d), that the issue **should** be referred back to examination.

We agree with the Examiner that it was necessary to remove the word 'significant' from the policy due to the vagueness and ambiguous nature of the term, but in doing so contend that the Examiner should also have removed the term 'infill'. As the Council have identified, infilling is development that is located within clusters of existing development or between small gaps in existing built up frontage. By definition, the term infilling does not lend itself to development that is adjoining existing clusters, significant or otherwise.

The Referendum date in May was a date when the Government indicated that Referendums would be permitted to start. It was a date to work towards in the event that the presentation did not raise any substantive issues. Since receipt of the representations the Local Planning Authority (LPA) will reschedule the estimated Referendum date. The LPA was of the opinion that there would be adequate time for considering any substantive representations should they arise. The May date did not preclude the possibility of a focussed examination of the issues raised. The LPA is flexible with regard to the Referendum as this will depend on the outcome of the focussed examination and the modification meeting the Basic Conditions and all other legal requirements.

Agreed. The Examiner by not recommending the deletion of "or immediately adjoining" introduces ambiguity to the policy. The term infill did not need to be removed because infill is an exception to development to be permitted in the countryside in line with Policy S7 - Countryside.

This policy will be precise about its intention and its application will not be impossible to implement as stated.

Therefore, we do not accept the Steering Group's concern that this will 'support development ad infinitum' as it is anticipated that the practical application of this policy would be nearly impossible.

Instead, to achieve the flexibility that is necessary to meet the basic conditions the word infilling should also be removed from the policy so that it reads, 'Small scale development within or immediately adjoining settlement boundaries or existing clusters of development'.

What the Council have chosen to do removes the element of flexibility that was offered and that the Examiner considered was necessary to meet the basic conditions. Based on our reading of the Examiner's report, without this element of flexibility, there is a risk that the plan as a whole does not meet basic condition (d) as 'the plan is essentially not countenancing any significant new development within the settlements for the next 13 years'. As the Examiner may have reached a different conclusion, had the wording that is now proposed been used when the plan was submitted, Gladman consider it to be essential that the issue is referred back to examination for the Examiner to consider further.

As agreed with the statement above, "infill" cannot be immediately adjoining. The introduction of settlement boundaries introduces a new element to the policy because the clusters may or may not have defined boundaries. Defining boundaries in the countryside is not considered necessary and it is beyond the scope of the issue under consideration. As stated in Policy S7 – Countryside development will be strictly controlled, and addition of small scale development is in accordance with the Adopted Plan and NPPF.

The modification is intended to provide clarity in clearly specifying "infill" is within gaps in clusters and not additions to undefined cluster edges. The policy as previously worded did not provide flexibility, but uncertainty, with policy wording that did not make sense. However, the proposed change suggested is an alternative approach that does merit consideration by an independent examiner.

The NP might not have countenanced development within 13 years but in reality, this would have depended on the Local Land supply within the District. At the time the Examiner completed the Examination

the emerging Local Plan had been withdrawn and if there was any protection under NPPF para 14 that would have depended on a 3 year land supply.

The Local Planning Authority having considered the representations have come to the view that the issues raised are substantive and have therefore decided that it is appropriate to refer this matter back to the examiner. Referring the matter to an Examiner will also be undertaken as a matter of procedural fairness.

Conclusions

Gladman consider that the changes proposed by the Council are not in accordance with the basic conditions. We consider that this matter should be referred back to the Independent Examiner, otherwise it will likely be an area of contention for those promoting land interests within the neighbourhood area.

Gladman hopes you have found this representation helpful and constructive. If you have any questions do not hesitate to contact me or one of the Gladman team.

Yours faithfully,



Planner

Gladman Developments Ltd.

Anglian Water Services Limited: 7/12/2020

Dear Sir/Madam,

Thank you for the opportunity to comment on the proposed modifications to the Newport Quendon and Rickling Neighbourhood Plan. The following response is submitted on behalf of Anglian Water as sewerage undertaker for Newport and Quendon Parish and Rickling Parish.

The views of Affinity Water who provide water services in the parishes should also be sought on the neighbourhood plan.

No Action Required

I would be grateful if you could confirm that you have received this response. It is noted that alternative wording is proposed for inclusion in neighbourhood plan policy NQRHA1 - Coherence of the villages which differ from the Examiner's recommendations.

The proposed modification does not appear to raise any issues of relevance to Anglian Water. Therefore, we have no comments to make in relation to the current consultation.

Should you have any queries relating to this response please let me know.

Regards,



Spatial Planning Manager

Telephone:

Web: www.anglianwater.co.uk/SGI

Anglian Water Services Limited

Anglian Water, Thorpe Wood House, Thorpe Wood, Peterborough, Cambridgeshire. PE3 6WT

Mr D Hill c/o Sworders

**NEWPORT QUENDON & RICKLING NEIGHBOURHOOD PLAN – POLICY NQRHA1
CRITERION (b)**

We object to the proposed alternative modification to Policy NQRHA1 Coherence of Villages of the Newport Quendon & Rickling Neighbourhood Plan. The change proposed is fundamental to the operation of the policy. Our strong view is that the matter should be referred back to the Examiner and the Examination should be re-opened in relation to this issue.

The additional amendment proposed is of considerable magnitude being significantly more restrictive and less flexible than both the original wording as drafted by the Qualifying Body and the change recommended by the Examiner.

We do not consider that the Town and Country Planning Act 1990 allows for this type of modification to be made via this process. The specific wording now proposed for deletion has already been fully considered by this Examiner and is considered to meet the Basic Conditions, as such, the authority would be acting outside of their powers in making this change.

Agree to refer matter for a focussed examination because as currently worded the policy does not reflect the NPPF whereby the development in the countryside is limited but allows for types of development which help to sustain the rural economy or require a rural location.

The Local Planning Authority (LPA) in accordance with the provision of Schedule 4B of the Town & Country Planning Act 1990 as amended has a legal obligation to (Sect 12(2)(a) consider each of the recommendations, and (b) decide on what to do with each recommendation. Section 12(4b) states that the Authority are satisfied that the draft order would meet those

conditions, be compatible with those rights and comply with that provision if modifications were made to the draft order **(whether or not recommended by the examiner)**

Furthermore, the concerns with the Examiner's recommended change to Policy NQRHA1 have already been fully considered by the Examiner who did not consider it appropriate to make a further modification.

As per Schedule 4B Section 12 (b) the LPA can make modifications **whether or not recommended by the examiner** as long as the plan meets the basic conditions and is compatible with Convention Rights and complies with provision made by or under sections 61E(2), 61J and 61.

It would be inappropriate for the authority to make this change without referring the matter back to the Examiner.

Agreed that the issue needs to be referred to the Examiner in order to meet convention rights and ensure fairness.

The implications of the amendment now proposed cannot be over-stated and would result in a wholly different policy position than that recommended by the Examiner. It cannot be the intention of Sections 12 and 13 of the Act to allow the recommendations made by the Examiner to be amended to such a degree.

Schedule 4B Section 12 (4)(b) inter alia provides that subject to meeting Basic Conditions, compatibility with those rights and compliance with the provisions, a draft order (plan) can go for referendum if the were made to that plan (whether or not recommended by the examiner). Section 13(1) allows the Local Planning Authority to take a decision that differs from that of the Examiner. The Local Planning Authority may decide to refer the issue to an independent Examiner if considered the appropriate course of action.

In assessing the implications of the amendment now proposed, it is important to look not solely at the Examiner's proposed wording and the alternative modification, but also at the policy as originally drafted by the Qualifying Body.

As originally drafted:

"Small scale infill development within or immediately adjoining significant existing clusters of development"

As modified by the Examiner:

"Small scale infill development within or immediately adjoining existing clusters of development"

Proposed alternative modification:

"Small scale infill development within existing clusters of development".

The Examiner has recommended the deletion of the word "*significant*" due to the term being undefined and vague, resulting in ambiguity as to whether proposals would be supportable under this policy, leaving the rest of the original wording intact. The original drafting and change proposed by the Examiner are very similar in the context of decision making; both would allow modest development within and adjoining existing development, it is only the word "*significant*" which is removed.

The change now proposed by the authority is to further delete the words "*or immediately adjoining*", which were originally drafted by the Qualifying Body. This would make a significant difference to the operation of this policy and be considerably more restrictive than that originally drafted. It would result in a very different situation in the context of decision making as it would prevent any development, no matter how modest and small-scale, immediately adjoining existing development.

The original wording and Examiner's amended wording allowed flexibility. This is consistent with the NPPF which requires plans to "*positively seek opportunities to meet the development needs of their area and be sufficiently flexible to adapt to rapid change*" (paragraph 11a). The change now proposed will result in significantly less flexibility which is inconsistent with the NPPF and therefore doesn't meet the Basic Conditions. It cannot have been the intention of legislation and policy writers to allow Council's to make post Examination amendments to Neighbourhood Plans which result in their policies being less flexible than as originally drafted.

Agreed that deletion of the word "significant" does not change the context of the policy as originally drafted or modified by the Examiner this policy would not allow modest development but would encourage development at the edges of clusters in the countryside where Policy SP7 of the Adopted Local Plan specifies the limited circumstances where new dwellings in the countryside could be acceptable. The proposed modifications will be in accordance with SP7 and the NPPF whereby small gaps within built development is appropriate to the scale of the locality and will have no adverse impact on the character of the countryside and local environment.

The original wording and Examiner's wording allowed for development in the countryside where Policy S7 - Countryside stated inter alia that "planning permission will only be given for development that needs to take place there.or is appropriate in a rural area.....There will be strict control on new building". Policy HA1 read as a whole allows for development in line with

Section 12[6] of Schedule 4B of the Town and Country Planning Act 1990 sets out the only modifications that the authority may make. This allows for modifications that the authority consider need to be made “*to secure that the draft order meets the Basic Conditions*”.

In this case, the draft plan meets the Basic Conditions, subject to the amendments proposed by the Examiner. The wording now proposed for deletion from policy NQRHA1 was included in the original Neighbourhood Plan which was prepared by the Qualifying Body then submitted and subject to Independent Examination. The policy wording was fully considered through the Examination process. The Examiner considered that, with one small amendment, the policy would meet the Basic Conditions. The Examiner did not recommend the change now proposed was necessary to meet the Basic Conditions. However, the authority wishes to make further amendments beyond those recommended by the Examiner. These will not “*secure that the draft order meets the Basic Conditions*”; the plan meets the Basic Conditions with the Examiner’s proposed change but will not meet the Basic Conditions with this further change as it will not have regard to the NPPF as a whole and specifically paragraph 11a. Section 12[6] does not allow for additional modifications to be made where a plan already meets the Basic Conditions, it only allows for changes to ensure that it does.

Annex 1 of the Consultation Notification states that the authority consider that the recommendation made by the Examiner would somehow change the operation of the policy. Specifically, this alleges that the Examiners amendment would lead to ambiguity within the policy wording between the words “*infill*” and “*immediately adjoining*”. For this reason, the authority consider the Neighbourhood Plan would not meet the Basic Conditions and would be contrary to paragraph 41-041-20140306 of the PPG

NPPF (para 11a). However, para 11a does not mean unfettered development in the countryside as the NPPF makes exceptions in Rural Housing (paras 77 – 79). NPPF para 11a should be read in context of the NPPF as a whole.

As mentioned above according to Schedule 4B Section 12 4b) the LPA can make modifications whether **or not recommended by the examiner**) subject to those modifications meeting the Basic Conditions. The LPA is of the opinion that the proposed modification meets the Basic Conditions. Also as mentioned above the Regulations allow for the LPA to make a decision that differs from the Examiners again subject to these modifications meeting the legal requirements. Section 12(6) allows for modification for the purposes of correcting errors.

Agreed

The original wording was drafted by the Qualifying Body (QB) and this in itself is a moot point because the Examiner has had to modify and in cases delete some of the

The words “*infill*” and “*immediately adjoining*” were drafted by the Qualifying Body. The Examiner has already considered whether conflict or confusion arise as a result of this combination of words via the Examination and recommended only to delete the word “*significant*”.

In the context of policy NQRHA1 as a whole, the combination of “*infill*” and “*immediately adjoining*” in this bullet point are not conflicting or ambiguous. The bullet points in policy NQRHA1 specifically list the circumstances under which development “*outside of the development limits*” will be supported. The bullet point sets out these circumstances, i.e. small scale development either within or immediately adjoining development limits. We agree with the Examiner that there is no conflict or confusion here.

The deletion of the word “*significant*” has not changed the meaning of the bullet point as originally drafted so no conflict can have arisen as a result. The policy as originally drafted and as modified by the Examiner allowed development both within and immediately adjoining development limits. It is only with the alternative modification now proposed that the policy has a different effect.

Our view is that there is no ambiguity resulting from this change and agree with the Examiner that policy NQRHA1, subject to the Examiner’s proposed amendment, does have regard to national policies and guidance and does meet the Basic Conditions.

original QB’s wording. It is unknown to what extent this particular point was considered because the Examiner extensively modified this policy. A re-examination of this issue would allow the Examiner to focus on this issue.

Specifically, in the context of the NP as a whole “immediately adjoining” introduces development at edges of clusters where the sites’ edges are not always clearly defined by a physical feature that also acts as a barrier to further growth (such as a road). This proposal would allow for development to extend building into the open countryside which is not what the QB and the Countryside Policy S7 intended.

The modification is intended to ensure that small scale infill is **within** clusters and does not extend the pattern of development beyond the existing built form; and it is in keeping with the character of the area and is sensitive to the setting. As currently modified by the Examiner this part of the policy would result in extending the pattern of development beyond the existing built form; and not in keeping with the character of the area and not sensitive to the setting of the cluster/settlement.

The Examiner's recommendation would not be contrary to adopted Local Plan policy S7. Policy S7 relates to development beyond settlement development limits and includes infilling, in accordance with the supporting text in the Housing chapter. This supporting text specifies that there is no specific policy on infilling outside development limits, directing infill proposals to be considered in the context of Policy S7 which allows "*sensitive infilling of small gaps in small groups of houses outside development limits but close to settlements*". Policy NQRHA1 as amended by the Examiner is entirely consistent with this. The amendment now proposed is not, as it would only allow for development within, but not close to, settlements.

Policy S7 clearly states that infilling will be in accordance with paragraph 6.13 of the Housing Chapter of the Plan which inter alia states that, "Infilling with new houses will be permitted within settlements subject to safeguards." The same paragraph goes on to say, "..... in some cases the approaches to the villages are too loose in character for development to be appropriate." An approach to a village can be defined as the area adjacent to a village. Thus, immediately adjoining these clusters would not be considered appropriate development as per the bullet point originally drafted by the Qualifying Body.

Note that supporting text (para 6.13) Adopted Plan clearly states that (Infilling with new houses will be permitted within settlements ...etc" Para 6.14 states that there is no policy on infilling outside limits but needs to be considered in the context of Policy S7. This says that development will be strictly controlled. The Policy read as a whole is clearly consistent with Policy S7 – Countryside.

Annex 1 states that concern with Policy NQRHA1 was voiced by the Newport Quendon & Rickling Steering Group, who considered that “*immediately adjoining*” any cluster could be interpreted to support development ad infinitum, outside of development limits. We do not consider this to be the case as such development is clearly defined as “*small scale*” and the meaning of the bullet point in this context is unchanged regardless of whether the word “*significant*” is included or not. The words “*immediately adjoining*” were included in the original policy wording; it is clear that the Examiner has already considered the effect of these words and considered them to meet the Basic Conditions.

The change now proposed has also already been fully considered by the Examiner. Annex 1 is clear that the Newport Quendon & Rickling Steering Group’s concern with the Examiner’s amendment to Policy NQRHA1 was raised directly with the Examiner at the Fact Checking stage. Whilst the response from the Examiner on this particular issue is not published, paragraph 25 of the Examiner’s Report does refer to comments and commentary by the Qualifying Body and states that their comments have been reflected upon very carefully. The fact that this concern was raised, and that the Examiner chose not to amend the original wording beyond the recommendation already made demonstrates that the Examiner has considered the views of the Qualifying Body but concluded that the Neighbourhood Plan meets the Basic Conditions as per the Examiner’s recommendation, without the further amendment now being proposed.

Our view is that the Act does not allow for the Neighbourhood Plan to proceed to referendum with wording contrary to that recommended by the Examiner if this change is not to secure that the plan meets the Basic Conditions. As stated above, the Council’s proposed change does not meet the Basic Conditions as it would not have regard to national policy and guidance or the adopted development plan.

In conclusion, we consider it inappropriate to make the alternative modification proposed. As stated in the 24th November 2020 Cabinet report, alternative modifications to those recommended by the Examiner are very rare and “*not a decision to be taken lightly*”. In this case, the alternative modification proposed would result in a significantly different policy position which would be contrary to the conclusions reached, and recommendations made, by the Examiner.

The Qualifying Body raised a lot of concerns regarding the original wording of the whole policy and this led to the deletion of the first paragraph and replacement of the whole first paragraph.

It is debatable to what extent the Examiner considered the wording in question. However, a re-examination on this particular criterion will allow the Examiner to focus on the implications of this criterion.

As mentioned above the LPA has the authority to proceed to Referendum with wording that differs from that recommended by the Examiner. However, the modifications should meet Basic Conditions and all other legal requirements.

The Local Planning Authority having considered the representations have come to the view that the issues raised are substantive and have therefore

As such, this matter should be referred back to the Examiner and the Examination should be re-opened in relation to this issue.

decided that it is appropriate to refer this matter back to the examiner. Referring the matter to an Examiner will also be undertaken as a matter of procedural fairness.