

Royal Leamington Spa Neighbourhood Development Plan (Submission Plan)

As you are aware I have been appointed to conduct the Examination of the Royal Leamington Spa Neighbourhood Development Plan. I can see that considerable community effort has gone into developing the Plan; in order that I may progress the Examination I would be grateful for the Qualifying Body's response to the initial enquiries below; the local authority may also have comments. The queries are extensive but the responses will all contribute to the progressing of the Examination.

I still have considerable work to undertake in fully assessing the submitted Plan but my purpose here is to better understand the intention behind the policy and other content from the authors and it is not to invite new content or policies that will not have been subjected to the public consultation process. In particular I need to be sure that the Plan meets the obligation to “contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” (NPPF para 16). It is an expectation of Neighbourhood Plans that they should address the issues that are identified through community consultation, set within the context of higher level planning policies. There is no prescribed content and no requirement that the robustness of proposals should be tested to the extent prescribed for Local Plans. Where there has been a failure by the Qualifying Body to address an issue in the round, leading to an inadequate statement of policy, it is part of my role wherever possible to see that the community's intent is sustained in an appropriately modified wording for the policy.

In order to ensure transparency with the conduct of the Examination a copy of these queries is being sent to the Local Planning Authority with a request that the exchange of emails be published on the webpage relating to the Neighbourhood Plan alongside the representations received during the Regulation 16 public consultation.

I am raising my queries in the same order as the Plan document.

Executive Summary

Whilst the Summary as a whole is helpful, in the box to the bottom of page 6 it is stated that “you will also find a number of supporting actions”. In reality I have found only 1 entry identified as such – on page 59 – and so I am querying whether that is what was intended?

RLSNDP 2029 Vision

In paragraph 2.3 it is stated that “one of the legal requirements a neighbourhood development plan must meet is that it must plan for the same period as the District Local Plan ie up to 2029”. In fact there is no such requirement, but it is often convenient for Plans to share a similar horizon.

Objectives

It is important that the wording of the Objectives and actions relate well to the subsequent Policies. I will raise some issues when I consider the Policies themselves but an example under the “Housing and Development Theme C” is that “where it is in keeping with its surrounding area, does not act negatively upon neighbouring properties and promotes energy efficiency”; none of these expectations I think are peculiar to “self-build housing”? Under the “Green Spaces and Parks Theme E” the aim to “maintain the permanence of the Green Belt” addresses a strategic planning matter that is for the Local Plan to consider (as is later acknowledged in paragraph 4.6). Under the “Roads and Transport Theme B” it may be considered to be beyond the scope of a Neighbourhood Plan to be “enabling” – as distinct from ‘contributing to’ – of a modal shift in transport? Under the Business Support and Town Centre Theme C” “the development of the Creative Quarter” may be unrealistic

for a Plan whereas its 'designation' or 'actions in support of the designation' may be more appropriate?

Warwick Strategic Planning Policy

The third sentence of paragraph 4.6 refers to two "Figures" taken from the Local Plan; I believe that the reference here needs to be corrected to '6 & 12'?

New Housing Development

Paragraph 5.1.5 references the Local Plan map for the "Urban Area" but for the purposes of understanding Policy RLS1 it would be helpful (not least because the Local Plan map is dominated by the identification of the Town Centre and it is unclear whether this is included or excluded from the defined Urban Area) for there also to be a simple overlay of the "Urban Area" on the map of the Neighbourhood Area. Hopefully, perhaps with the assistance of Warwick District Council, this would be feasible?

Policy RSL1 – Housing Development within the Royal Leamington Spa Urban Area

Whilst I appreciate that all Policies are to be read together (as noted at paragraph 5.1.6), element 1 of the Policy is quite a sweeping invitation to reuse land and buildings whatever their existing use and whether or not they are now vacant. No prospective sites are identified or exemplified and I therefore wonder whether this element of the Policy adds anything to, or has the potential to confuse, the related Local Plan policies?

Element 2 of this Policy uses "less than 10 dwellings" to define the scale of "infill" likely to be acceptable and asks the prospective developer to anticipate "future occupiers and uses" of adjacent land. In relation to the first of these, no apparent justification is provided for the specified upper scale of "infill" and given the density of the "Urban Area" one must wonder whether it is a realistic indicator particular for Leamington; I would appreciate some further explanation. In relation to the expectation that the future users/uses should be anticipated, it is difficult to see how this might be applied objectively?

Element 3 of the Policy appears to repeat rather than add any local detail to Policy H15 of the Local Plan?

Element 4 is not accompanied with any explanation as to why the Court Street area might be particularly – or exclusively? – suitable for "community-led housing developments and the provision of live/work units"?

Element 5 of the Policy appears to repeat rather than add any local detail to Policy H15 of the Local Plan? A number of representations have commented that any new purpose-built student accommodation "should also be of an architecture particularly sympathetic to the surrounding buildings to enhance the area in which they are situated" but I believe that expectation is already addressed in other Policies.

Whilst I note that the sentence about the Drainage Hierarchy has been commended by Severn Trent in their representation, no explanation is provided as to why the practice "Guidance" has become a requirement ("shall") for Leamington?

Policy RLS2 – Housing Design

Whilst Policy RLS2 does signpost Local Plan Policy BE1 and a related Design Guide I am unsure that the Neighbourhood Plan Policy content is "grounded in an understanding and evaluation of [the] area's defining characteristics" (NPPF para 125). Neither national nor Local Plan policies require construction of all dwellings to the "Lifetimes Homes" standard and no explanation is provided as to

why this may be a particular requirement in Leamington. As noted in several representations, the “Code for Sustainable Homes” was discontinued in 2015 and building performance standards (including water efficiency) are now set down within the Building Regulations which are updated from time to time (the Practice Guidance reference has been superseded). Overall, it is difficult to see where Policy RLS2 adds any locally evidenced detail to national and Local Plan policies.

Policy RLS3 - Conservation Areas

This Policy would not appear to relate to any of the Plan Objectives?

A representation from the Conservation and Design team at Warwick District Council notes that there are in fact only two Conservation Areas (CA) in Leamington Spa – Leamington Spa CA and the Canal CA; Lillington Road North and Lillington Village are character areas 34 and 35 respectively of the Leamington Spa CA. They also note that the Canal CA is incorrectly referred to as the “Canalside” CA. It would be helpful to the operation of this Policy if the two Conservation Area Assessment documents were fully source referenced. Further clarity (for both Policies RLS3 and RLS4) would be provided if Figure 7 had the Conservation Areas overlaid on the Neighbourhood Area map and each CA differently shaded so that the included/excluded areas were readily apparent and the fact that the Canal CA extends beyond the Neighbourhood Area would then be clearer.

Contrary to what is stated in paragraph 5.1.19 and implied at the beginning of the Policy, the “setting” of a Conservation Area is not “protected” – the boundary defines a specific area or areas. However, it is acknowledged that development outside of a Conservation Area may have an impact within it (NPPF para 200).

The second sentence of the Policy says that applicants should “consider, prepare [meaning obscure?] and describe how their proposed development meets to relevant criteria listed”. A representation comments that “the policy should be clear that the assessment criteria within the policy, should be applied in terms of any (sic) assessment of the [heritage] asset’s significance”.

With regard to the wording of the Policy criteria a number of matters of clarity arise and your comments on these are invited:

a) This criteria uses both “the surrounding area” and “the area in which it is situated” (and criteria (c) uses “the area within which” whereas criteria (k) uses “surrounding local context”); are these the same as a ‘character area’ within the Conservation Area to which the Policy relates? The intended meaning of “a sense of unity” is obscure; a representation comments: “The implication is that only development which mirrors or provides a pastiche of the existing architectural styles of the conservation [area] would be acceptable”.

e) This criteria would appear to have significant overlap with (a). A representation notes that the criteria expects the “retention of exiting (sic) gardens” whereas Policy RLS1 recognises that the loss of gardens may be acceptable if made within the context of Local Plan Policy H1. The representation adds that “if the reference to “gardens” is to the more formal public gardens of Leamington, as protected through draft Policy RLS8, then the policy should make this explicit”; given the interplay between Policies any such a reference may be unnecessary.

f) A representation notes that “criteria (f) combines in a single policy tests (sic) for treatment of both designated and non-designated heritage assets” and suggests that the criteria be split in two so that “the tests proposed to the different assets be consistent with that contained in the Framework [NPPF].”

g) A representation comments that “If the policy [criterion] is simply replicating the protection afforded by draft Policies RLS8 and RLS9, then it is unnecessary and should be deleted.”

j) I believe that the cross-reference here should be to Policy RLS20 not RLS21?

l) Is “key” within this criteria, and also three times within (n), intended to relate to features identified within the respective CA Assessments? If not it is difficult to see how “key” matters might be unambiguously determined.

m) A representation comments that “proper evaluation” is not the term used within the NPPF which is “appropriate assessment” and accordingly that would be the terminology to be followed since it would not require further qualification.

o) It is unclear how a development might “establish” a link with the town’s history; would it not be the case that there either is a link or there is not?

Policy RLS 4 - Housing Character Outside the Conservation Areas

This Policy would not appear to relate to any of the Plan Objectives?

It is unclear where this Policy may add local detail to existing national and Local Plan policies. As with Policy RSL2, I am unsure that the Neighbourhood Plan Policy content is “grounded in an understanding and evaluation of [the] area’s defining characteristics” (NPPF para 125). A representation queries the practical effect of “Proposals should seek to maintain views of higher slopes, skylines and the wider landscape” – I note this is not a feature of Policy RLS3. The representation notes: “There is no document contained within the evidence base for the RLSNDP which assesses the landscape character surrounding the Town”.

It would seem that paragraph 5.1.29 relates to a “Supporting Action” point that might be highlighted for the Town Council to pursue?

Policy RLS5 – Royal Leamington Spa Housing Mix and Tenure

A representation queries the implications of an invitation to follow “any up to date housing needs assessment” for the Neighbourhood Area: “Who is to have produced such an assessment, and with what oversight, rigour or testing?” Since there is national guidance on this I don’t believe that the Neighbourhood Plan need delve into such detail but the Policy wording needs clarity. I note the “distinguishing features” of existing housing stock in the Neighbourhood Area but I am left wondering by the “Justification” whether:

a) it is realistic to expect that an imbalance between rented and owner-occupied affordable housing can be resolved within an area as small as South Leamington (a definition for which must come from the Local Plan); a representation notes that the support for purpose-built student accommodation within RLS1 could help to free up family accommodation presently used for students;

b) there is any supporting evidence to suggest that there is any significant “potential, at appropriate locations [within the Urban Area?], to provide detached and semi-detached family homes”.

Policy RLS6 – Protection of Community Facilities

I note that definition of “community facilities” for the purposes of Local Plan Policy HS8 is “a wide range of uses within Use Class D1 ... as well as local cultural facilities, local convenience stores (under 500sq.m gross floor space) and public houses where there is no alternative provision within the community.” What is absent from the “Justification” for Policy RLS6 is an assessment for the public houses listed that there is “no alternative provision within the community”. It seems improbable that there are no out-of-centre pubs with “similar facilities accessible to the local community by means other than the car”? This would appear to be an instance where local detail could distinctly benefit the application of Local Plan Policy.

The second paragraph of the Policy does not identify any particular gaps or want of improvement within the present community facilities. Any new facilities would automatically gain the benefit of Local Plan Policy HS8.

At their scale (and perhaps because they are derived from another source) I find the Figures 8 & 9 virtually unreadable – and they do not include all of the properties affected by Policy RLS6. The Policies Map appears also to have its limitations in that the scale of some of the smallest sites does not allow for the showing of their index number. If the added detail that the Neighbourhood Plan affords is that it identifies all the “community facilities” individually then the mapping must be appropriate to that aim.

Policy RLS7 – Public Art

I note that the “action” under “Objective 2 Community and Culture Theme” says “To support the creation of new public art works which link to the history and essence of Royal Leamington Spa as a creative hub for innovation”. Policy RLS7 is worded significantly differently in that it particularises the places where public art “should” be provided with every development but the related “Town Council Supporting Action” is only identified at the end of paragraph 5.2.9. From the “Justification” it is not explained on what basis the expected hosting of public art has been determined, or whether the integration of public art is the only way to “make [these] spaces and frontages distinct and visually and physically interesting”, or whether an individual Policy is required if “integration” is the key. Your comments are invited.

Green Spaces and Parks and Policy RLS8 – Protecting Local Green Space

Contrary to what is said in the opening sentence of this Policy, its purpose is to designate each of the 28 listed spaces as a “Local Green Space (LGS)”. I note that a justification for each designation is provided at Appendix 2 but I will need to visit each of these to further assess their meeting of the NPPF criteria. With that in mind I note that the Policies Map is not printable at a scale which would allow me to distinguish with absolute clarity the proposed boundary for each Space; I would therefore be pleased to receive a map for each LGS with a distinct boundary marked. Incidentally, I have been unable to locate LGS19 but I believe that I have identified two areas numbered LGS26?

I note that the NPPF criteria have been addressed but Planning Practice Guidance notes, “If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space” (Ref: 37-011-20140306); in this regard I note that all of the Spaces are said to be in the ownership of Warwick District Council. It would therefore be helpful to understand what “additional local benefit” would be derived from Local Green Space designation.

A representation notes that for LGS 4 the name should be ‘Victoria Park’ which has an active Friends organisation, hasn’t hosted cricket matches for many years, and contains a large Bowls Pavilion, a Tennis (previously cricket) Pavilion and Victoria Lodge. Another representation about LGS 8 says that instead of “the site is run by ARC CIC” the description should say ‘Foundry Wood is co-managed by ARC CIC and the Friends of Foundry Wood’.

Policy RLS9 – Protecting Open Spaces

I note that this Policy aims to identify the spaces within the Neighbourhood Area to which Local Plan Policy HS2 will apply. No details are provided as to the nature and purpose of the spaces identified and therefore there is no evidence that it is appropriate for all the areas to sit under the Policy HS2 umbrella. I am unclear as to why the areas identified under Policies RLS11 & RLS12 have been separated out from those the subject of Policy RLS9, although I can see that a combined list would be lengthy. I note that neither Policy seeks to identify areas in want of improvement that would thereby potentially benefit from the provisions of Local Plan Policy HS4.

I note that whilst paragraph 5.3.10 seems to identify “Town Council Supporting Actions” these are not separately highlighted.

Policy RLS10 – Royal Leamington Spa Green Infrastructure

I note that the definition of Green Infrastructure has benefitted from a District Council Green Infrastructure Study; however, as a consequence, the related Figure 10 does not identify the Neighbourhood Area specifically. In the “Justification” it is noted that the Local Plan has two Policies – NE1 and NE2 – that cover the same policy areas as Policy RLS10; I am therefore uncertain that Policy RLS10 adds any local detail, such as specific locations, to the existing national and Local Plan policy coverage?

Policy RLS11 – Allotments

I presume that, in common with the areas listed under Policy RLS9, the allotment areas identified were felt to fall short of the Local Green Space designation criteria? A representation queries why Old Milverton Allotments is omitted. Any new allotment area – no areas identified – would have automatic protection under Local Plan Policy HS2.

I note that whilst paragraph 5.3.19 seems to identify a “Town Council Supporting Action” this is not separately highlighted.

Policy RLS12 – Leisure, Sport and Recreation Facilities

I presume that, in common with the areas listed under Policy RLS9, the areas identified under Policy RLS12 were felt to fall short of the Local Green Space designation criteria? I note that whilst the titles are often self-explanatory, no details are provided as to the nature of what is being protected. Any new recreation area – no such areas are identified – would have automatic protection under Local Plan Policy HS2.

The content relating to Newbold Comyn Golf Course would appear to be overdetailed and it will date very quickly; the essential issue is, I believe, does a closed course still warrant a protection?

I note that paragraph 5.3.25 identifies an item with potential to be a “Town Council Supporting Action” but this is not separately highlighted.

Policy RLS13 – Air Quality

The relevant part of the NPPF is identified at paragraph 5.4.3 but I am unclear how Policy RLS13 adds any local detail to that, apart from identifying the Air Quality Management Area, a Supplementary Planning Document and, in the text, the Air Quality Action Plan (all of which need source references). There appears to be no Policy content that is specific to the Neighbourhood Area whilst part of Policy RLS14 also addresses air quality?

Policy RLS14 - Traffic and Transport

The lengthy opening sentence to this Policy lacks clarity; in particular it is unclear how “where the need is identified” relates to the structure of the elements that follow. As noted earlier, policies need to be “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” (NPPF para 16). The introductory sentence refers to “measures” but the elements of the Policy generally provide little further clarity on what “measures” are being sought, instead several repeat the term “measures” again. There are two sections to the Policy but there is some overlap apparent between them and it is generally unclear how the elements of each have been arrived at and from what supporting evidence. Many of the Policy elements seem to be beyond the scope of a Neighbourhood Plan and more to do with national policy wider than land use planning.

Whilst it is generally useful for Policies to include local details, the viability and method of delivery for “specific proposals” is unexplored. Warwickshire County Council as Highway Authority states clearly in its representation that the Plan should not “identify capital or revenue schemes that rely

on funding from the [County] Council". It would therefore appear that there needs to be a closer alignment with the "Town Council Supporting Actions" on page 59 but it would still remain unclear how realistic these are in relation to the anticipated rate of development from the Local Plan allocations?

Policy RLS15 - Cycling

In contrast to Policy RLS14, this Policy has greater clarity of intent. However, the cycle route map included as Appendix 3 is, in my copy, virtually unreadable and it may be more practical to provide an in-text source reference for this, particularly since it covers an area much wider than the Neighbourhood Area. It is perhaps disappointing that the "Justification" section provides no details to date on the benefits, if any, arising to date from the existing local cycle network.

Policy RLS16 – Canal and Riverside Development

The potential for the canal/river corridor to provide valuable walking/cycling routes is evident. However, apart from noting it in paragraph 5.4.9, the Policy does not seem to acknowledge the ambition of the Canalside Development Plan Document to seek regeneration for employment and housing? Having said this, the representation from Warwickshire County Council notes that " swathes of Leamington Spa are within Flood zone 2/3" and yet this Policy in particular does not acknowledge this issue. However I note that a representation from the Canal and River Trust is supportive and the representation from Severn Trent identifies subsections a), c) and h) for particular support. In relation to the Policy wording, I doubt that a development proposal can "create" new views (criterion (f)) but it may be possible to open up additional views.

Community Infrastructure Levy

As is appropriately noted, this is a Town Council commitment beyond the scope of the Land Use Plan.

Policy RLS17 – Royal Leamington Spa Town Centre

Planning Practice Guidance (Para 005 Reference ID: 41-005-20190509) says: "Plans should be prepared positively, in a way that is aspirational but deliverable." In what way is it envisaged that the elements of this Policy will be delivered; is this perhaps a 'shopping list' for the proposed Area Action Plan?

In relation to the detail of the Policy is there a difference between elements (a) and (b)? From the supporting "Justification", element (c) would seem to be more relevant to Policy RLS18? Element (d) seems to amount to an informal allocation for housing of a site the boundary of which is unidentified on the related map (and the availability of which seems uncertain?). As a formal planning policy the future of and options for the Fire Station site would need to be identified and examined before a preferred future use can be determined; the appropriate context for this would probably be the Area Action Plan.

Policy RLS18 – Royal Leamington Spa Creative Quarter

It is unclear to what extent this Policy and the work-in-progress Creative Quarter Masterplan have been co-ordinated; it would be unhelpful if the two documents showed areas of conflict. However I note that the representation from Historic England says "we are pleased to note that the [Creative Quarter] masterplan is fully referenced within the Neighbourhood Plan and that the Plan includes bespoke policies that will assist with the implementation of the masterplan objectives". The source for Figure 13 is not stated but I presume it derives from the brief for the Masterplan or similar?

A representation expresses "our concern for the future uses of both the Town Hall and the old Post Office in Priory Terrace".

Looking at the three main elements of the Policy, the first element says it addresses “Proposals for development” but in practice it seems to be a list of improvements that might accompany development. The second element identifies a broad range of uses, but very few of these would seem to be particular to a Creative Quarter (and as noted under RLS23 they may sometimes conflict with Local Plan Policy TC7)? The third element relates to “opportunity sites” but it is not stated how these have been identified and they are not located on Figure 13. I would appreciate some explanation of the intent behind the Policy.

Policy RLS19 – Old Town Retail Area

I presume that the “Policy TC2” referenced is the Local Plan Policy? However, neither the Local Plan Policy nor the Policies Map identifies “the Old Town Retail Area” as such. It would appear however that Old Town is included within the Creative Quarter and, if this is so, Figure 13 might show the retail area?

The Policy commends a mix of “retail and commercial uses” but I note that Local Plan Policy TC3 seeks to retain retail uses, with certain exceptions, and I presume that Policy RLS19 is intended to work within that framework? The Policy also suggests that “scale and design” may achieve “independent, artisanal quality” but perhaps an explicit preference for regeneration rather than rebuilding may provide greater clarity? See my further comments under Policy RLS23.

Policy RLS20 – Royal Leamington Spa Town Centre Shopfronts

It is not evidenced that this Policy content is “grounded in an understanding and evaluation of [the Town Centre] area’s defining characteristics” (NPPF para 125). I note that there is a Local Plan Policy TC16 and a Warwick District Council Guidance document (which needs a source reference) and this latter benefits hugely from illustrations. At the very least the Policy must make it clear that the Council Guidance will take precedence in the areas that it covers. However, as is noted in the “Justification”, the Conservation Area covers the whole of the Town Centre and I therefore wonder where Policy RLS20 might add significantly to the protections already afforded through the CA designation and the existing Policy and Guidance?

A representation from Warwick District Council Conservation and Design Team comments on the final sentence of the Policy and the “Justification” sentence that says: “The RLSNDP supports the use of more creative, colourful and active frontages and signage on [Old Town] shopfronts to develop a more distinct vibrant feel and image for Old Town”. The representation comments that “this may encourage advertisements that are harmful [to the] character and appearance of the Conservation Area and we are concerned that this policy contrasts with our SPG: Shopfronts and Advertisements for Leamington Spa Importantly, this guidance is clear in that it states provision for advertisements here should be similar to the approach applied in Warwick Street/Regent Street, with illumination and signage at fascia level not permitted.....The wording of this policy [RLS20] may also give rise to inappropriate signage that has a detrimental effect on the scale, proportions and character of historic buildings in [Old Town], whilst inadvertently giving the impression that premises with existing, unauthorised signage is (sic) acceptable.”

Policy RLS21 – Protected Car Parks

The “Justification” for this Policy notes that there is a “fine balance” between providing the appropriate level and over-providing town centre car parking. However there is no evidence that efforts have been made to establish where that balance might lie or to interrelate Policy RLS21 to the ambitions of Policies RLS13 and RLS14. It would appear that the impact of 620 additional spaces at Covent Garden has yet to be established? In particular any prospective benefits from the use of Park and Ride would expect reduced use of town centre car parks, but in a planned manner. Accordingly some further background detail seems necessary to help my deliberations.

Policy RLS22 – Local Shopping Centres

The “Justification” for this Policy notes that four of the shopping centres listed are already identified in the Local Plan. It then says that “the RLSNDP identifies three further local shopping centres” but the Policy lists 8 in total; the Tachbrook Road centre appears to have been added or omitted at some stage? Although not referenced in paragraph 5.5.18 I presume that Local Plan Policy TC17 is that to which Policy RLS22 is adding more detail? Policy TC17 already extends to the smaller areas now identified under the sub-heading “Protecting local shops outside of town and local shopping centres”. I see no reason for the Local Plan identified areas to be repeated but the Policy may wish to note that the 3/4 smaller areas benefit from a protection afforded through Local Plan Policy TC17.

Policy RLS23 – Secondary Retail Areas within the Creative Quarter

It is unclear to me why this Policy is separated out from Policy RLS18 and it is difficult to understand the intended interrelationship with Policy RLS19. These difficulties partly arise through lack of maps identifying other than the Creative Quarter boundary; indeed paragraph 5.5.23 says at great length what a map would illustrate instantly. Do these Policies work together?

It would appear that the first paragraph of Policy RLS23 is a straight repeat of Local Plan Policy TC7? However the subsequent paragraphs go on to suggest an often imprecise Policy variant that would be unique to the Creative Quarter. From a quick reading of the “Big Picture” document I am not yet convinced that:

- a) a revised policy for the whole area is in keeping with the site and building approach being adopted; and
 - b) the project is at a stage where a practical retail policy variant can be developed and evidenced.
- In summary, it would seem that the content of Policy RLS18 where it relates to “opportunity sites”, if further fleshed out, might meet the needs of the Creative Quarter more efficiently and effectively. Comments invited.