

Walton Neighbourhood Plan

Walton Neighbourhood Plan

Report of Examination

Report to Wakefield Metropolitan District Council

By the Independent Examiner:

Paul McCreery, B.SC., M.Phil, FRTPI.

20th August 2015

## Summary

1. From my examination of the submitted Walton Neighbourhood Plan (the Plan) and its supporting documents, including the representation made, I have concluded that, subject to the policy modifications I have recommended, making of the Plan will meet the Basic Conditions.
2. In summary the Basic Conditions are that the Plan must:
  - Have due regard to national policies and advice;
  - Contribute to the achievement of sustainable development;
  - Be in general conformity with the strategic policies of the development plan; and
  - Not breach, and otherwise be compatible with, European Union and European Convention on Human Rights obligations.
3. I have concluded that:
  - The Plan has been prepared and submitted for examination by a qualifying body – Walton Parish Council;
  - The plan has been prepared for an area properly designated: and does not cover more than one neighbourhood plan area;
  - The plan does not relate to “excluded development ”;
  - The plan specifies the period to which it has effect – to 2026; and
  - With the modifications I have recommended that the policies relate to the development and use of land for a designated neighbourhood area.
4. I recommend that, once modified to meet relevant legal requirements, the plan should proceed to a Referendum. This is on the basis that I have concluded that, once modified, it can meet all the relevant legal requirements. To that end I have made recommendations to modify policies and text to ensure that making the plan will meet the Basic Conditions.
5. In recommending that the modified plan should go forward to Referendum, I have considered whether or not the Referendum Area should be extended beyond the designated area to which the plan relates. I have concluded that it should not; the Referendum should be the same as the Neighbourhood Plan Area.

## **1.0 Introduction**

- 1.1 Neighbourhood planning provides a welcome opportunity for communities to directly shape the future of the places where they live and work and to deliver the sustainable development they need.

## **2.0 Appointment of the Independent Examiner**

- 2.1 I have been appointed by Wakefield Council with the agreement of the qualifying body to undertake this independent examination. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS).
- 2.2 I confirm that I am independent of the qualifying body and the local authority. I have no interest in any land affected by the Neighbourhood Plan. I am a chartered town planner with over thirty-five years' experience in planning and have worked in the public and private sectors. I therefore have the appropriate qualifications and experience to carry out this independent examination.

## **3.0 The role of the independent examiner**

- 3.1 The examiner must assess whether the Neighbourhood Plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).
- 3.2 The basic conditions are:
- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
  - The making of the neighbourhood plan contributes to the achievement of sustainable development
  - The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority
  - The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
  - Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

- 3.3 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) require that the Neighbourhood Plan should not be likely to have a significant effect on a European Site (as defined in the Conservations of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007) either alone or in combination with other plans or projects.
- 3.4 In examining the Plan, I am also required, under Paragraphs 8(1) of Schedule 4B to the Town and Country Planning Act 1990, (TCPA) to establish whether:
- The neighbourhood plan has been prepared and submitted for examination by a qualifying body
  - The neighbourhood plan has been prepared for an area that has been properly designated for such plan preparation
  - The neighbourhood plan meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area
  - The policies relate to the development and use of land for a designated neighbourhood area.
- 3.5 The examiner must then make one of the following recommendations:
- The Plan can proceed to a referendum on the basis it meets all the necessary legal requirements
  - The Plan can proceed to a referendum subject to modifications or
  - The Plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.
- 3.6 If the Plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.
- 3.7 If the plan goes forward to a referendum and more than 50% of those voting votes in favour of the Plan then it is made by the relevant local authority, in this case Wakefield Council. The Plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the Plan area.

#### **4.0 Compliance with matters other than the basic conditions**

4.1 I now check the various matters as set out above in paragraph 3.4 of this report.

#### **4.2 Qualifying body**

Walton Parish Council is a qualifying body able to lead the preparation of a neighbourhood plan. This complies with this requirement.

#### **4.3 Plan Area**

The Walton Neighbourhood Plan was approved as a neighbourhood area in January 2013 by Wakefield Council. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements.

#### **4.4 Plan period**

A neighbourhood plan must specify the period for which it is to have effect. The Plan clearly indicates within the document itself that it covers the period to 2026 to accord with the Wakefield Core Strategy. The Plan therefore meets this requirement.

#### **4.5 Excluded development**

The Plan does not include policies or proposals that relate to any of the categories of excluded development and therefore meets this requirement.

#### **4.6 Development and use of land**

Neighbourhood plans often contain aspirational policies that signal the community's priorities for the future of their local area. However, the neighbourhood plan should only contain policies relating to development and use of land. The Walton Neighbourhood Plan (the Plan) differentiates between policies and aspirations. It is clearly explained at the outset that Section 3 and the Policies Map of Walton Neighbourhood Plan comprise the "Neighbourhood Development Plan". (Introduction and Background (page 1)).

4.7 Subject to the contents of this report, which recommends some modifications be made to ensure that the policies in the Plan meet the basic conditions, this requirement can satisfactorily be met.

## **5.0 The examination process**

- 5.1 I commenced preparation for the examination of the plan in July 2015 following my appointment and briefing with the Plan documents.
- 5.2 The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or to give a person a fair chance to put a case.
- 5.3 I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
- 5.4 I am satisfied that I am in a position to properly examine the Plan without the need for a hearing. None of the parties have requested a hearing.

## **6.0 The Examination documents**

- 6.1 In addition to the legal and national policy framework and guidance (principally The Town and Country Planning Acts, Localism Act, Neighbourhood Plans Regulations, the National Planning Policy Framework and the Planning Policy Guidance) and the development plan, have had regard to the following relevant documents that were furnished to me:-
  - Walton Neighbourhood Plan – Submission Draft Plan.
  - Consultation Statement, January 2015 (including Appendices 1-14).
  - Basic Conditions Statement, April 2015.
  - Sustainability appraisal, April 2015.
  - Appropriate Assessment Scoping Report, April 2015.
  - Statement of Reasons why no Strategic Environmental Assessment is required.
  - Evidence Base:
    - Historic Evidence Base Review (URS, August 2014)
    - Designated Assets
    - Proposed Wildlife Habitat Network – Evaluation – Date of Survey 4<sup>th</sup> March 2014
    - Baseline Assessment of Parish
  - Bundle of representations submitted as a result of Regulation 16 Consultation.

## **7.0 Compliance with the basic conditions**

### **7.1 National policy advice**

The main document that set's out national policy is the National Planning Policy Framework (the Framework) published in 2012. In particular the Framework explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans and plan to positively support local development.

7.2 The Framework also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies. (NPPF, paragraph 184)

7.3 The Framework indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. (NPPF, paragraph 17)

7.4 The Basic Conditions Statement Table 1 explains how the Plan policies have been informed by the guidance set out in the Framework. The Basic Conditions Statement reviews each Policy in detail and explains how the Plan achieves important elements of national policy.

7.5 I am satisfied that the Neighbourhood Plan has appropriate regard to national policies and advice, subject to the modifications set out in this report being made.

### **7.6 Sustainable development**

The Basic Conditions Statement takes each of three sustainability objectives in turn and explains how the Plan will meet these objectives.

7.7 The Basic Conditions Statement (Section 5, page 35) concludes that the Plan has good performance on sustainability issues. I agree with that conclusion and I am satisfied that the Neighbourhood Plan will make a positive contribution to the achievement of sustainable development, subject to the modifications recommended in this report.

## **The Development Plan**

- 7.8 A basic condition is that the neighbourhood plan should be in general conformity with the strategic policies contained in the development plan. The Framework (at paragraph 184) states that neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.
- 7.9 The Basic Conditions Statement (Section 4, page 11) states that the following documents comprise the development plan:
- Wakefield Core Strategy (April 2009)
  - Wakefield Development Policies (April 2009)
  - Wakefield Site Specific Policies Local Plan (September 2012)
- 7.10 The Basic Conditions Statement (Table 2 pages 12 -18) explains how the Plan is compatible with development plan policies.
- 7.11 I am satisfied that the Neighbourhood Plan is in general conformity with the strategic policies of the development plan, subject to the modifications set out in this report being made.

## **EU Obligations**

- 7.12 A Sustainability Appraisal has been undertaken for Walton Neighbourhood Plan.
- 7.13 The Basic Conditions Statement (Section 6, page 36) found that overall Walton Neighbourhood Plan has good performance on sustainability issues.
- 7.14 An Appropriate Assessment screening opinion was issued by Wakefield MDC in June 2014 which examined all European sites within the district boundary and within 10 km of Wakefield District boundary. The Appropriate Assessment screening opinion advised that the Walton Neighbourhood Plan is not likely to affect the integrity of the Denby Grange Special Area of Conservation, either directly or indirectly and therefore a full Appropriate Assessment under the EU Habitats Regulations is not required.
- 7.15 I agree with that assessment and I am satisfied that the Neighbourhood Plan is compatible with EU obligations.



7.16 I have also considered whether the Plan complies with the European Convention on Human Rights, particularly in terms of Article 8 (privacy): Article 14 (discrimination) and Article 1 of the First Protocol (property) under the meaning of the Human Rights Acts 1998 and I am satisfied that the Plan is compatible with all these provision.

## 8.0 Neighbourhood Plan preparation and public Consultation

8.1 On 18<sup>th</sup> April 2012 it was confirmed that Wakefield Council would support the Walton Parish Council in progressing with Walton Neighbourhood Plan.

8.2 The key consultation events in the preparation of the Neighbourhood Plan are recorded in Section 3, page 6 of the Consultation Statement as follows:-

- Annual Parish Meeting in April 2012;
- Designation of Neighbourhood Plan area in January 2013;
- Topic discussed at Annual Parish Meeting April 2013;
- Attendance at Village events and meetings to raise awareness – Summer 2013;
- Consultation on the Issues and Vision for the WNP through the distribution of the WNP Questionnaire to every household, local business, landowners, faith groups and sporting groups in October 2013 (for a 6 week comment period);
- School Visioning Day at Walton Primary School on 24<sup>th</sup> October 2013 and engagement with Walton Students at Crofton Academy;
- Community Group meeting 8<sup>th</sup> November 2013;
- Topic at Annual Parish meeting April 2014;
- Attendance at Village events and meetings to update on progress – Summer 2014;
- Consultation on the Draft WNP in accordance with Regulation 14 through the distribution of the Draft WNP Questionnaire to every household, local businesses, landowners, faith groups, and sporting groups in October 2014 (for a 6 week comment period). Also issuing the Draft WNP to the statutory consultees on 15<sup>th</sup> October 2014 for comment by 26<sup>th</sup> November 2014;
- Holding a Public Exhibition of the WNP Consultation Draft on 9<sup>th</sup> November 2014.

8.3 In response to the Regulation 14 Consultation responses were received from four statutory consultees, The Environment Agency; The Coal Authority; Natural England and Network Rail. These comments are recorded in the Consultation Statement and make no adverse comments.

- 8.4 Wakefield Council made four specific comments and the Consultation Statement (at paragraph 2.2.9) explains how these comments have been taken on board by the emerging plan documentation.
- 8.5 The Draft Final Neighbourhood Plan was published in July 2014 and was subject to consultation under Regulation 16 of the Neighbourhood Plan Regulations. Several representations were received at this stage and once again these were either broadly supportive of the plan or did not make comments.
- 8.6 I am satisfied that the neighbourhood planning process has been open and engaging giving residents and businesses opportunities to become involved and influence plan making . Similarly it is clear that the final plan reflects the issues raised and that the policies contained in the Plan enjoy a strong degree of public support.

## 9.0 **The Plan and its Policies**

- 9.1 Policies 1-10 deal with a variety of heritage, conservation and public access issues. These policies are clearly stated, well documented and, where necessary, supported by the evidence base. The reports by the Built Heritage Consultant and Hazelwood Conservation are particularly valuable in supporting the Plan policies.
- 9.2 Policies 11 and 12 reflect Protected Area of Search policies contained in the development plan and as such comply with NPPF policies for neighbourhood plans.
- 9.3 Policy CS 3 in the Wakefield Core Strategy (adopted 1st April 2009) deals with the Scale and Distribution of Additional Housing.
- 9.4 Policy CS 3 (1) (d) reads as follows:
- “In villages limited amounts of additional houses will be built to meet local needs up to a maximum scheme size of 10 dwellings, provided that development fills the whole land parcel or site and complies with density and design policies. To reflect the need to meet local housing requirements these settlements are expected to accommodate up to 5% of the housing requirement.”
- 9.5 The note at the foot of Policy CS 3 (1) reads as follows:
- “When proposing the change of use of a building to residential use in villages, smaller settlements and rural areas, developers will need to demonstrate that proper consideration has been given to employment and community uses before residential.”

9.6 Policy CS 3 (2) reads as follows:

“Proposals for residential development will achieve a net residential density of:

- a. at least 50 dwellings per hectare in Wakefield city centre and Castleford and Pontefract town centres;
- b. at least 40 dwellings per hectare throughout the rest of the Wakefield, Castleford and Pontefract urban areas;
- c. at least 30 dwellings per hectare in other urban areas, local service centres and villages.

In circumstances where individual site characteristics dictate and are justified, a lower density may be acceptable.”

9.7 Paragraph 3.16 of the Wakefield Development Policies (adopted 1<sup>st</sup> April 2009 reads as follows:

“Planning Policy Statement 3 advises that where a windfall proposal is sustainable, it will make effective use of land and is in line with the housing and wider objectives of the plan, planning permission for housing should be granted.”

9.8 It is clear that both the Core Strategy and the Development Policies have as their policy background Planning Policy Statement 3 (PPS3). PPS3 is no longer current, having been replaced in large part by the NPPF.

9.9 The NPPF, at paragraph 53, reads as follows:

“Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”

9.10 It is clear that public consultation on the Plan supports the appropriate use of windfall sites.

9.11 The policy on housing density contained in CS 3 (c) comes directly from PPS3 and has been superseded, in part by paragraph 53 of the NPPF, but it remains part of the development plan.

9.12 My conclusion of the above review of the NPPF and the development plan is that, in order to properly deal with density and residential amenity so that the Plan complies with the basic conditions, there should be an explicit policy reference to these issues.

9.13 Weighing the above policy considerations in the balance, I have concluded that in order to comply with the basic conditions WNP Policy 13 “New Windfall Housing Sites” should include two additional bullet points as follows:

- “Not comprise residential gardens where the proposal is of a form or density which would cause harm to the amenities of the surrounding dwellings.”
- “Demonstrate that proper consideration has been given to employment and community uses before residential.”

9.14 WNP policies 14-18 deal with services, allotments and community gardens and infrastructure provisions and in my opinion do not give rise to any conflict with the basic conditions.

## **10.0 Conclusions and recommendations**

10.1 The Plan is a highly commendable document that will help to guide growth and sustainable development. It is a credit to all those who have clearly worked hard to produce a readable and well-presented Plan. The Plan's real strength is in its articulation of the concerns and aspirations of the local community, by reflecting the results and outcomes of a very extensive engagement process. Where there was some lack of completeness, it has been possible to recommend modifications.

10.2 From my examination of the submitted Neighbourhood Development Plan, within its legal and policy context, and its supporting documents, including the representations made, I have concluded that, subject to the policy modifications I have recommended, making of the Plan will meet the Basic Conditions.

10.3 I have concluded that:-

- The Plan has been prepared and submitted for examination by a qualifying body – Walton Parish Council;
- The Plan has been prepared for an area properly designated; and does not cover more than one neighbourhood plan area;
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