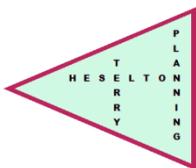


Whorlton Village Neighbourhood Plan (Submission Version)

Report of the Independent Examination

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Independent Examiner



Terry Heselton Planning

March 2017

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Summary

I have examined the Whorlton Village Neighbourhood Plan as submitted to Durham County Council by Whorlton and Westwick Parish Council. The examination has been undertaken by written representations.

I conclude that the Neighbourhood Plan meets all of the statutory requirements, including those set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990. However a number of modifications are required to ensure that the Plan meets the four 'Basic Conditions', as defined in Paragraph 8(2) of the Schedule.

Subject to making the modifications set out in my report I recommend that the Whorlton Village Neighbourhood Plan proceed to referendum.

I further recommend that the voting area should be extended beyond the Whorlton Village Neighbourhood Area to include all of Whorlton and Westwick Parish.

1.0 Introduction

- 1.1 I have been appointed by Durham County Council, with the consent of Whorlton and Westwick Parish Council, to examine the Whorlton Village Neighbourhood Development Plan and report my findings as an Independent Examiner.
- 1.2 The Whorlton Village Neighbourhood Plan (referred to as ‘the Neighbourhood Plan’ or ‘the Plan’) has been produced by Whorlton and Westwick Parish Council under the provisions of the Localism Act 2011, which introduced the means for local communities to produce planning policies for their local areas. Whorlton and Westwick Parish Council is a qualifying body for leading the preparation of a neighbourhood plan¹.
- 1.3 The Plan Area encompasses the built up area of Whorlton village and the immediate surrounding area, corresponding with the boundary of the Whorlton Conservation Area. Whorlton is the main settlement in Whorlton and Westwick Parish, and is situated on the north bank of the River Tees to the east of Barnard Castle in County Durham. It is associated with Britain’s oldest suspension bridge which crosses the River Tees to the south of the village.
- 1.4 Other parts of the Parish are specifically excluded from the Neighbourhood Area as the Plan focuses on addressing development pressure and amenity and design issues.
- 1.5 My report provides a recommendation as to whether or not the Neighbourhood Plan should proceed to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Neighbourhood Plan would be *made* by Durham County Council. The Plan would then be used to determine planning applications and guide planning decisions in the Whorlton Village Neighbourhood Area.

2.0 Scope and Purpose of the Independent Examination

- 2.1 The independent examination of neighbourhood plans is intended to ensure that neighbourhood plans meet four ‘Basic Conditions’², together with a number of legal requirements. Neighbourhood plan examinations are narrower in scope than Local Plan examinations and do not consider whether the plan is ‘sound’.
- 2.2 A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State’, it is appropriate to ‘make’ the

¹ Section 38C of the Planning and Compulsory Purchase Act 2004 and Section 61F of the Town and Country Planning Act 1990.

² Set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990

- plan,
- the plan contributes to the achievement of sustainable development,
 - it is in general conformity with the strategic policies of the development plan for the area of the authority (or any part of that area), and
 - it does not breach, and is otherwise compatible with EU obligations
- 2.3 In addition to reviewing the Submission Draft of the Neighbourhood Plan I have considered a number of background documents which are listed in Appendix 1, together with representations submitted by one individual and three organisations, as part of the examination.
- 2.4 The general rule is that examination of the issues is undertaken through consideration of written representations, unless the examiner considers that a public hearing is necessary to ensure adequate examination of an issue (or issues) or to ensure that a person has a fair chance to put a case.
- 2.5 In reviewing the Neighbourhood Plan and the accompanying background documents and submitted representations, I have not identified any issues which require a public hearing to be held. I am also of the opinion that all parties have had full opportunity to register their views and put their case forward. Neither have I seen any requests for a hearing. I have therefore undertaken the examination through consideration of written representations, supported by an unaccompanied site visit of the Neighbourhood Plan Area.
- 2.6 In undertaking the examination I am also required to check whether:
- the Neighbourhood Plan policies relate to the development and use of land for the designated neighbourhood area ³;
 - the Neighbourhood Plan meets the requirement to specify the period for which it is to have effect, not to include provision relating to 'excluded development', and not to relate to more than one neighbourhood area ⁴,
 - the Neighbourhood Plan has been prepared for an area that has been properly designated ⁵ and has been developed and submitted for examination by a qualifying body ⁶, and
 - adequate arrangements for notice and publicity have been made in connection with the preparation of the Neighbourhood Plan⁷.
- 2.7 As Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan is submitted to referendum, on the

³ Section 38A (2) Planning and Compulsory Purchase Act 2004 as amended

⁴ Section 38B (1) Planning and Compulsory Purchase Act 2004 as amended

⁵ Section 61G Town and Country Planning Act 1990 as amended

⁶ Section 38C Planning and Compulsory Purchase Act 2004 and Section 61F of the Town and Country Planning Act 1990.

⁷ Section 38A (8) Planning and Compulsory Purchase Act 2004 as applied by the Neighbourhood Planning (General) Regulations 2012

basis that it meets the 'Basic Conditions' and other legal requirements; or

- that modifications (as recommended in the report) are made to the draft Neighbourhood Plan and that the draft Neighbourhood Plan as modified is submitted to Referendum; or
- that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the 'Basic Conditions' and other relevant legal requirements⁸.

2.8 Modifications may only be recommended to ensure that the Neighbourhood Plan meets the 'Basic Conditions', that it is compatible with Convention Rights, or for the purpose of correcting errors.⁹

2.9 If recommending that the Neighbourhood Plan should proceed to referendum, I am required to then consider whether or not the Referendum Area should extend beyond the Whorlton Village Neighbourhood Area, and if so what the extended area should be¹⁰.

2.10 I make my recommendations in this respect in the final section of this report.

3.0 Representations

3.1 Responses were received to the Regulation 16 Publicity from a local resident and from three consultation bodies, namely; Durham County Council, Historic England and Northumbrian Water Limited.

3.2 A **local resident** identifies a number of perceived omissions and suggests that the Plan should have been subject to both a Sustainability Appraisal and a Risk Assessment, and that measures should be put in place to monitor the impact of development against the plan's objectives and to review the Plan.

3.3 **Durham County Council** make a number of positive suggestions to improve the clarity and practicability of specific policies and the supporting text.

3.4 While generally supporting the policy intentions to protect the historic environment **Historic England** consider the evidence base of the Plan is inadequate and that as drafted a number of policies provide insufficient guidance to manage future development proposals. They also make a number of suggestions to clarify the wording of text supporting specific policies and to bring Policy WP5 (Protection of the Historic Environment) more in line with national planning policy.

3.5 **Northumbrian Water Limited** acknowledge that their previous comments

⁸ Paragraph 10(2) Schedule 4B of the Town and Country Planning Act 1990 as amended

⁹ Paragraph 10(3) Schedule 4B of the Town and Country Planning Act 1990 as amended

¹⁰ Paragraph 10(5) Schedule 4B of the Town and Country Planning Act 1990 as amended

regarding the capacity of the local sewerage infrastructure have been included in the Plan and confirm that there is capacity to accommodate an additional 10 dwellings as proposed in the Plan.

- 3.6 General and detailed points raised on specific issues and policies in the Plan by those submitting representations are considered in section Six of my report.

4.0 Compliance with Legal Requirements

(a) The Qualifying Body

- 4.1 The Whorlton and Westwick Parish Council is recognised as a relevant body for the purposes of preparing Neighbourhood Plans under sections 61F and 61G of the Town and Country Planning Act 1990.

(b) The Plan Area

- 4.2 The Neighbourhood Plan relates to the Neighbourhood Area that was designated by Durham County Council on 10 August 2014, following an application by Whorlton and Westwick Parish Council submitted on 5 March 2014.
- 4.3 The application included a map identifying the proposed Neighbourhood Area together with a statement justifying the extent of the proposed area which covers part of Whorlton and Westwick Parish comprising Whorlton village (the main settlement in the Parish) and the immediate surrounding area, corresponding with the boundary of the Whorlton Conservation Area.
- 4.4 In considering whether the proposed area was an appropriate area to be designated as a Neighbourhood Area in accordance with the requirements of section 61G of the Town and Country Planning Act 1990 (as amended) the County Council took into account the fact that the designated boundaries do not necessarily have to coincide with Parish boundaries. The Council also considered a number of comments submitted in response to advertising the application for six weeks.
- 4.5 I therefore confirm that the requirements for preparing a Neighbourhood Development Plan under section 61G of the Town and Country Planning Act 1990 (as amended) and Regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012 have been complied with.
- 4.6 I am also satisfied that the Plan does not relate to more than one neighbourhood area and there are no other neighbourhood development plans for the designated Neighbourhood Area in accordance with

statutory requirements.

(c) Policies for the Development and Use of Land

- 4.7 The Neighbourhood Plan sets out policies in relation to the development and use of land for the defined Neighbourhood Area, which accords with the definition of neighbourhood plans in Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended).

(d) Time Period

- 4.8 A neighbourhood plan must specify the period during which it is to have effect. The Neighbourhood Plan clearly states on its title page that it covers the period 2015 to 2035 and therefore satisfies this requirement.

(e) Excluded Development

- 4.9 The Neighbourhood Plan does not include policies on excluded development such as national infrastructure, mineral or waste related development.

(f) Publicity and Consultation

- 4.10 Public consultation on the production of land use plans, including neighbourhood plans, is a legislative requirement. Building effective community engagement into the plan-making process encourages public participation and raises awareness and understanding of the plan's scope and limitations.
- 4.11 The submitted Neighbourhood Plan incorporates a Consultation Statement which describes the process followed in preparing the Neighbourhood Plan as well as the steps taken to engage with the local community and other stakeholders, including consultation bodies.
- 4.12 Following the decision to proceed with the preparation of the Neighbourhood Plan the Parish Council established a working sub-committee made up of a mixture of Parish Councillors and representatives of local community organisations.
- 4.13 As a first step in the preparation of the Plan the general views of the local community were sought through an advertisement in a local monthly publication, 'the Flyer', which is distributed to all homes within Whorlton and Westwick Parish.
- 4.14 This was followed by a questionnaire on future housing development

which was delivered to all households within the Plan area.

- 4.15 The combined responses (30) to the questionnaire and the 'general invitation to comment' were then taken into account in preparing the Plan.
- 4.16 In addition to inviting comments on the draft Plan through the Parish Council website and the 'Flyer', targeted consultation with relevant consultation bodies was undertaken between 29 June and 10 August 2015.

Conclusions

- 4.17 The Parish Council has taken positive steps to engage with the local community during the preparation of the Plan by using the free monthly newsletter, the 'Flyer', and the Parish Council website to publicise the Plan and to invite comments at key stages in its preparation.
- 4.18 As the 'Flyer' is distributed to every home in the Parish it is apparent that all Parish residents, not just Whorlton village residents, have been given the opportunity to get involved in the preparation of the Plan, effectively extending the consultation area.
- 4.19 Delegating the preparation of the Plan to a working sub-committee made up of a mixture of Parish Councillors and representatives from local community organisations has also ensured that the views of a cross section of the community have been taken into account.
- 4.20 While I have reservations about the fact that the consultation statement does not adequately differentiate between the informal consultation that took place during preparation of the Plan and the formal Regulation 14 Consultation, as there is no prescription in the Regulations on the frequency or manner of publicity, or the format of the Consultation Statement, this does not prevent the Plan satisfying the Basic Conditions.
- 4.21 I also note that in addition to publishing the Regulation 14 Consultation Draft Plan on the Parish Council website paper copies were also available from the Parish Council on request, so that those without access to digital media have not been unduly disadvantaged.
- 4.22 My only other reservation concerns the fact that no evidence is provided in the Consultation Statement as to the manner in which the draft Plan was publicised and the other Regulation 14 requirements satisfied. However no individual or organisation has suggested (for example at Regulation 16 stage) that they been disadvantaged by a lack of publicity and I am mindful of the fact that an ongoing dialogue has been maintained with Durham County Council throughout the preparation of the Plan.
- 4.23 Taking all the above factors into account there is enough evidence to show that the consultation process as a whole was appropriate to the size of the local community and that those with an interest in the Plan were made aware of the opportunity to comment on it and that the views of relevant consultation bodies have been pro-actively sought.

Regulation 16 Publicity

- 4.24 The draft Neighbourhood Plan, as amended in response to the consultation, was subsequently submitted to Durham County Council in December 2015. The submitted Plan incorporates a map identifying the area covered by the Neighbourhood Plan, a Consultation Statement, and a Basic Conditions Statement explaining how the proposed Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990.
- 4.25 Durham County Council published details of the Plan on their website, notified interested parties and 'consultation bodies' of its receipt, and provided details as to how and by when representations could be submitted. Hard copies of the submitted documents were also made available for inspection at County Hall in Durham, and Witham Community Arts Centre in Barnard Castle, or were available free of charge by post for those who were unable to visit either of these venues.
- 4.26 The formal six week publicity stage for submitting representations covered the period Monday 4 January to Monday 15 February 2016. Three responses were received during the publicity period. One response was received after the deadline for submitting comments expired. As this was attributable to a technical difficulty which had previously been notified to the County Council and no other party will be placed at an unfair disadvantage by taking the comments into account, after consulting the Council I have decided to consider the submitted comments as part of the examination.

Conclusions

- 4.27 In the light of the foregoing I am satisfied that the Regulation 16 requirements to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area have been met.

5.0 Basic Conditions

- 5.1 This section of my report considers whether the Neighbourhood Plan taken as a whole has regard to national policies and advice contained in guidance issued by the Secretary of State, whether the plan contributes to the achievement of sustainable development, and whether it is in general conformity with local strategic policy. It also addresses EU obligations. Each of the plan policies is considered in turn in the section of my report that follows this.

(a) National Planning Guidance

- 5.2 National Planning Guidance is set out principally in the National Planning

Policy Framework (NPPF) which was published in 2012. At the heart of the NPPF is a presumption in favour of sustainable development¹¹ which when applied to neighbourhood planning means that neighbourhoods should develop plans which support the strategic development needs set out in Local Plans, and which plan positively to support and shape local development that is outside the strategic elements of the Local Plan.¹²

- 5.3 The NPPF incorporates 12 Core Principles¹³ which underpin both plan-making and decision-taking. These are summarised in paragraph 17 of the NPPF and elaborated in the remainder of the NPPF through individual policy topics such as building a strong economy, delivering a wide choice of high quality homes, requiring good design, promoting sustainable transport, and conserving the historic environment.
- 5.4 Included in the 12 Core Principles is a requirement to produce neighbourhood plans which set out a positive vision for the future of the area and which provide a practical framework within which decisions on planning applications can be made.
- 5.5 The NPPF also (paragraph 184) requires neighbourhood plans to be 'aligned with the strategic needs and priorities of the wider local area, and to be in general conformity with the strategic policies of the Local Plan. To facilitate this, Local Planning Authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans (and neighbourhood development orders) should not promote less development than that set out in the Local Plan or undermine its strategic policies.
- 5.6 It goes on (paragraph 185) that once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict.
- 5.7 More detailed guidance and advice, expanding on the general policies in the NPPF has been available since March 2014 as Planning Practice Guidance (PPG). This includes specific guidance as to 'What evidence is needed to support a neighbourhood plan?'¹⁴, and 'How policies should be drafted'¹⁵, that is "*a policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise, and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared*".

¹¹ National Planning Policy Framework (2012) para 14

¹² National Planning Policy Framework (2012) para 16

¹³ National Planning Policy Framework (2012) para 17

¹⁴ Planning Practice Guidance para 040 Ref ID: 41-040-20140306

¹⁵ Planning Practice Guidance para 041 Ref ID: 41-041-20140306

- 5.8 I have had regard to these principles in carrying out the examination, since the manner in which policies are drafted and whether or not they are supported by appropriate evidence is clearly fundamental to determining whether or not individual policies and a plan as a whole satisfies the Basic Conditions.
- 5.9 Less straightforward to determine is whether a policy is distinct, and whether it reflects local circumstances. For example while it is clear that policies in the Whorlton Village Neighbourhood Plan are driven by local circumstances and community preferences, to a certain extent some could apply to other, if not all, locations. I have taken the view that the fact that a local community has chosen to include a particular policy, reflects its awareness that the particular issue is of special importance to the locality, and this does not therefore prevent that policy from satisfying the Basic Conditions.
- 5.10 Taken as a whole I conclude that the Neighbourhood Plan reflects the broad principles embedded in the NPPF and PPG. In those instances where individual policies and/or supporting text have been found to be inconsistent with national policy I have made specific recommendations to correct this later in the report.

(b) Sustainable Development

- 5.11 In carrying out the examination I am also required to consider whether the Plan would contribute to the achievement of sustainable development, as described in the NPPF.
- 5.12 There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of interdependent roles, namely:
- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
 - **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
 - **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

- 5.13 Although the Neighbourhood Plan does not make specific provision for new development, for example through site allocations, it does facilitate the provision of new dwellings through infilling subject to environmental safeguards. Other policies aim to protect local heritage, support the local economy and retain and improve local facilities and amenities. These are key aspects of sustainable development, as set out in the NPPF, which states (paragraph 9) that *“Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life, including (but not limited to):*
- *making it easier for jobs to be created in cities, towns and villages;*
 - *moving from a net loss of bio-diversity to achieving net gains for nature;*
 - *replacing poor design with better design;*
 - *improving the conditions in which people live, work, travel and take leisure; and*
 - *widening the choice of high quality homes”.*
- 5.14 Subject to the modifications recommended later in my report I am satisfied that the Neighbourhood Plan is capable of contributing to the achievement of sustainable development.

(c) Strategic Local Policy

- 5.15 Statutory weight is given to neighbourhood development plans that are closely aligned with and in general conformity with the strategic policies of the development plan for the local area. Neighbourhood plans are also required to plan positively to support local strategic policies¹⁶. This ensures neighbourhood plans cannot undermine the overall planning and development strategy for the local area set out in the development plan.
- 5.16 The current development plan for the area comprises
- Remaining saved policies in the Teesdale Local Plan (TLP) (adopted by the former Teesdale District Council June 2002)
 - Saved policies in the County Durham Minerals Local Plan (adopted December 2000), and
 - Saved policies in the County Durham Waste Local Plan (adopted April 2005).
- 5.17 The County Durham Minerals Local Plan and the County Durham Waste Local Plan have no relevance for the Whorlton Village Neighbourhood Area.
- 5.18 Although the TLP was adopted as long ago as 2002 it provides the most up to date local strategic planning policies for the area. Policies in the Plan were initially saved for a three year period until 27 September 2007

¹⁶ National Planning Policy Framework (2012) para 184

under the provisions of the Planning and Compulsory Purchase Act 2004 (as amended). Policies that remained relevant and compliant with (at the time) national and regional policies were then extended beyond that date by Direction of the Secretary of State in September 2007.

- 5.19 These remain in force until replaced by new development plan policies and are still part of the 'development plan' for the area, although in accordance with national planning policy less weight may now be attributed to them after April 2013. In any case a number of policies are now out of date in view of the period of time which has elapsed since they were first adopted, or because they predate national planning policy which takes precedence where there is a conflict.
- 5.20 Policies which the Guidance suggests may be considered to be strategic in nature include overarching policies, policies which shape the broad characteristics of development, those which establish a framework for balancing competing priorities or establish a standard, and those policies which are central to the delivery of the overall vision.¹⁷
- 5.21 Having regard to this advice the remaining 'saved' policies which I consider to be strategic policies, or hybrid policies containing both a development management and a strategic element, and which are broadly consistent with national planning policy, and relevant to the Neighbourhood Area are:-
- GD1 General Development Criteria
 - ENV1 Protection of the Countryside
 - ENV3 Development Within or Adjacent to an Area of High Landscape Value
 - ENV7 Sites of Local Nature Conservation Interest
 - ENV12 Protection of Agricultural Land
 - ENV16 Development Affecting Rivers or Streams and their Corridors
 - BENV7 Settlements for Article 4 Directions
 - H3 Housing development on Sites of More than 0.4 Ha
 - H4 Infill development on Sites of Less than 0.4 Ha
 - H13 Low Cost Local Needs Housing
 - H14 Provision of Affordable Housing Within Residential Developments
 - ECON3 Conversion of Buildings and Land Currently in Employment Use
 - SC4 Small Local Shops
 - SC6 Retail Development in the Countryside
 - TR1 New Visitor Accommodation

¹⁷ Planning Practice Guidance para 076 Ref ID: 41-076-20140306

- TR2 New Visitor Accommodation in the Countryside
- TR3 Camping and Caravan Sites
- TR7 Outdoor Recreational Development
- TR8 Provision of Formal Recreational Areas
- C2 Public House Change of Use
- C5B Windfarms Outside the Area of Natural Beauty
- C6 Other Forms of Renewable Energy
- C7 Telecommunications Development

- 5.22 Although Durham County Council is preparing a new Local Plan which will replace some or all of the 'saved' TLP policies this is at a relatively early stage of preparation and no weight can be attached to it.
- 5.23 A number of modifications are necessary for the Neighbourhood Plan to be in general conformity with the above strategic policies. These are set out in the *Comments on the Neighbourhood Plan* section of my report.

(d) European Union Obligations

- 5.24 Local Planning Authorities are legally responsible for deciding whether neighbourhood plan proposals are compatible with EU obligations, including obligations under the Strategic Environmental Assessment (SEA) Directive¹⁸.
- 5.25 In circumstances where a neighbourhood plan is likely to have significant environmental effects, for example where it includes proposals to allocate land for development, it may require an SEA to be undertaken as part of the preparation process, in accordance with the SEA Directive and Environmental Assessment Regulations¹⁹. Draft neighbourhood plan proposals should therefore be screened to assess whether they are likely to have significant environmental effects²⁰. Where significant environmental effects are identified plans should be accompanied by a full SEA report.
- 5.26 Durham County Council has therefore undertaken a Strategic Environmental Assessment (SEA) screening opinion on behalf of Whorlton Parish Council, based on policies in the draft Plan. The assessment concludes that the Neighbourhood Plan does not require a full SEA as no significant environmental effects are likely to occur as a result of the implementation of policies contained in the Plan.
- 5.27 A separate Habitats Regulations Assessment screening as to whether a

¹⁸ European Directive 2001/42/EC

¹⁹ Environmental Assessment of Plans and Programmes Regulations 2004

²⁰ Planning Practice Guidance para 027 Ref ID: 11-027-20150209

Habitats Regulations Assessment (HRA)²¹ was required under the Habitats Directive²² was also carried out by the Council. This concludes that an appropriate assessment of European designated sites is not required in order to progress the Plan further.

- 5.28 All three statutory consultation bodies who were consulted during the preparation of the screening reports agree with the conclusions in the report and no concerns in relation to the screening process have been raised.
- 5.29 I am therefore satisfied that the screening reports undertaken in accordance with the Regulations, demonstrate that neither a full SEA nor HRA are required.
- 5.30 It has been suggested by a **local resident** (in response to the Regulation 16 Publicity) that the Plan should be subject to a Sustainability Appraisal by evaluating the extent to which individual policies satisfy proposed objectives. While I find the absence of specific objectives in the Plan to be a regrettable omission because it weakens the justification for individual policies I am also mindful of the fact that there is no requirement to undertake this sort of exercise in connection with neighbourhood plans (see paragraph 6.4 below). There is also no requirement to test alternative scenarios by undertaking a Sustainability Appraisal as there is with Local Plans.
- 5.31 Although an equalities impact assessment has not been undertaken the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics. And no evidence has been put forward to suggest otherwise.
- 5.32 I am therefore satisfied that the Neighbourhood Plan does not breach, and is otherwise compatible with EU obligations and human rights requirements and therefore satisfies that 'Basic Condition'.

6.0 Comments on the Neighbourhood Plan

- 6.1 The Neighbourhood Plan is considered against the Basic Conditions in this section of my report, particularly whether individual policies and supporting text have regard to national policy, and whether they are in general conformity with local strategic policies in the TLP. Where modifications are recommended, they are highlighted in **bold print**, with any proposed new wording in *italics*.

²¹ in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

²² European Directive 92/42/EEC

(a) Introductory Sections

- 6.2 The introductory sections of the Neighbourhood Plan comprise a Statement from the Chairman of the Parish Council, a map of the Plan area, the Basic Conditions Statement, an overview of the village, and a section outlining how the Plan was prepared incorporating the 'Consultation Statement', followed by 'What the Plan Aims to Achieve, the Vision and Objectives.

Comments

- 6.3 Although limited in scope these opening sections are clearly written and informative, and provide information on the key issues and planning context within which the Plan has been prepared.
- 6.4 While a clearer sense of purpose and direction could have been achieved by setting out specific aims and objectives to accompany the overall vision, as there is no prescription in national planning policy, Planning Practice Guidance and neighbourhood plan regulations regarding the format and content of neighbourhood plans, I make no recommendations in this respect.
- 6.5 I do however recommend changes to the introductory sections in order to correct a number of anomalies and inaccuracies.
- 6.6 On page 4 (Basic Condition Statement) there is an inaccurate reference at the end of paragraph 2.1 to the Plan being required to be in general conformity with the County Local Plan. This should more generally refer to conformity with the strategic policies contained in the most up to date development plan for the area in line with statutory requirements,²³ since until the Durham Local Plan is brought forward and adopted the current development plan for the area comprises extant policies in the Teesdale Local Plan (2002).
- 6.7 In paragraph 2.3 on page 4 there is a superfluous reference to 'item 6' and a grammatical error in the reference to NPPF policy which requires development in rural areas to enhance or maintain the vitality of rural communities.
- 6.8 There is also an inappropriate reference in paragraph 2.4 on page 4 to the Parish Council's opposition to one aspect of the emerging County Durham Plan. As this Plan is at a very early stage of preparation no weight may be attached to it and as referred to above the Neighbourhood Plan is not required to be in conformity with its emerging policies or proposals. Consequentially any reference to supporting or opposing elements of the emerging County Durham Plan is potentially misleading.
- 6.9 On page 6 (Whorlton Village: An Overview) there is a syntax error in line 3 in paragraph 3.1 and an erroneous reference to 'the Parish' in line 4 which should be 'Whorlton village'.

²³ Set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990

- 6.10 Finally, it would be more accurate to acknowledge that the various heritage assets referred to in paragraph 3.5 are located within the Plan area rather than Whorlton village, and that, as pointed out by **Historic England**, in addition to its grade II* listing Whorlton suspension bridge is a designated Scheduled Monument and therefore considered to be a heritage asset of the highest significance. The terminology used in relation to the various grades of listed buildings and structures in paragraph 3.5 also requires correction to ensure consistency with national planning policy.

Recommendation 01

- a) Delete 'County Local Plan (CDP)' in line 10 of paragraph 2.1 on page 4 and insert '*the strategic policies contained in the development plan for the area*'
- b) Delete 'item 6' in line 1 of paragraph 2.3
- c) Delete 'enhancing or maintaining' in line 2 of paragraph 2.3 and insert 'enhance or maintain'
- d) Delete paragraph 2.4 on page 4 and number the following paragraph (which is without a paragraph number) as paragraph 2.4
- e) Insert '*which*' after '2011 Census' in line 3 of paragraph 3.1 on page 6 and substitute '*identified*' for 'only, at' after 'Whorlton Parish'
- f) Substitute '*Whorlton village*' for 'the Parish' in line 4 of paragraph 3.1.
- g) Delete 'village' in line 1 of paragraph 3.5 and insert '*Plan area*'
- h) Delete '18 "listed" buildings/structures grade 2 and one,' after 'contains' in line 1 and insert '*one scheduled monument, Whorlton Bridge, and 18 grade II listed buildings/structures*'.
- i) Delete 'graded 2*' after 'Whorlton suspension bridge' in line 2 of paragraph 3.5 and insert 'is also grade II* listed'.

- 6.11 There are also three typographical errors in the Introductory sections.

Recommendation 02

- a) Substitute '*below*' for 'belpw' in line 2 of paragraph 1 on page 3.
- b) Substitute '*Whorlton*' for 'Whorlon' in line 2 of paragraph 4 on page 3.
- c) Substitute '*Conservation Area*' for 'conservation Area' in paragraph 2 (e Historic England) on page 8.

(b) Scope of the Plan

- 6.12 In response to the Regulation 16 Publicity a **local resident** suggests the Plan should be subject to a risk assessment and that provision should be made to monitor the effectiveness of its policies and review the Plan if necessary. A number of issues which it is felt should be addressed in the Plan are also identified.
- 6.13 For example it is suggested that more emphasis should be placed on local character and distinctiveness by identifying areas characterised by mature trees and hedgerows and by incorporating policies to retain these features, or where they are affected by justifiable development, to ensure their replacement elsewhere.
- 6.14 It is further suggested that the Plan should protect the village green from development and ensure that new development minimises on street car parking, incorporates sustainable drainage, and is accompanied by appropriate landscaping and measures to protect existing trees during construction.
- 6.15 The absence of a specific policy to retain existing businesses and encourage new job opportunities is also seen as a significant omission.

Comments

- 6.16 While the Plan may be improved by incorporating some of these suggestions neighbourhood plans are not obliged to contain policies addressing all types of development²⁴ and there is no prescription in current guidance or legislation about the range of topics that should be covered or the level of detail.
- 6.17 Neither is there any requirement to undertake a risk assessment (which is in any case partly addressed through the examination process) or to monitor and review plans, however desirable this may be, although I note a commitment to undertaking a future Plan review is given in paragraph 7.5.8. These perceived omissions do not therefore affect the Plan's ability to satisfy the Basic Conditions.
- 6.18 The Plan instead concentrates on addressing issues which have been identified as local priorities through consultation with the wider community.
- 6.19 Having said that, the aspiration to protect local character is catered for in part by extant TLP policies such as TLP Policy BENV4 (Development Within and/or Adjoining Conservation Areas) and also through national planning policy and specific legislation concerning conservation areas and trees. The village green is also protected through Policy WP6 (Amenities) although I appreciate it is not specifically identified in the Policy.
- 6.20 Other suggestions such as resisting future attempts to deregister the village green and adopting measures to discourage drivers from blocking

²⁴ Planning Practice Guidance para 040 Ref ID: 41-040-20160211

and/or parking on pavements are outside the scope of the Plan which is concerned with land use issues.

- 6.21 No changes to the Plan are therefore recommended in response to the above suggestions.

(c) Policies and Accompanying Text

Format

- 6.22 The land use policies part of the Plan contains five sub sections concerning; Housing, Employment, Internet Connection, Protection of Environment and Heritage, and Protection and Provision of Amenities. Each subsection comprises a policy (two policies in the case of the Housing sub section) preceded by explanatory text and justification for the policy that follows. Each policy heading is emboldened to distinguish the policy from the accompanying text.

Comments

- 6.23 The individual subsections are presented in a well organised and consistent way.
- 6.24 While it would have been helpful to include more cross referencing to supporting information there is on the whole adequate justification to satisfy the Basic Conditions. Where this is not the case I have made recommendations to either rectify the absence of supporting information or to delete policy wording.
- 6.25 A number of modifications are required to ensure that community aspirations and non land use issues are distinguishable from land use policies.

Land Use Policies

- 6.26 **Policy WP1 (Housing Provision)** establishes a target of 10 dwellings to be provided in the village over the duration of the Plan. Proposals for new dwellings will be acceptable provided they are in keeping with the scale, form and character of the surroundings and satisfy a number of other considerations including the provision of safe and suitable access, avoiding significant adverse effects on the amenities of neighbouring residents and avoiding the loss of best and most versatile agricultural land.
- 6.27 The policy also supports the provision of 'affordable starter homes' and promotes the re-use of empty or underused properties.
- 6.28 It is intended to review future housing need at the 'half term' of the Plan.

Comments

- 6.29 The policy reflects the presumption in favour of sustainable development in national planning policy, and has regard to core planning principles in the NPPF aimed at securing a good standard of amenity and ensuring development takes account of its surroundings. This will ensure that future housing developments contribute to the social and environmental dimensions of sustainable development.
- 6.30 Policy WP1 also reflects Whorlton's role in the settlement hierarchy as a smaller settlement with a limited service base which is not suitable for significant housing development but which may sustain limited small scale development.
- 6.31 However I have a number of reservations about the evidence supporting the policy and its practicability, and also whether the policy conforms with the approach to development in the countryside in extant local strategic policy.
- 6.32 First although the establishment of a local housing target is a laudable objective the 10 dwelling target is not supported by evidence of objectively assessed need. While I appreciate that the figure put forward is based on local surveys it amounts to an 'aspirational target' in the sense that it represents the number of additional new dwellings which the local community considers to be an acceptable number over the duration of the Plan.
- 6.33 Where policies such as Policy WP1 introduce specific targets or standards, it is important that they are supported by 'proportionate and robust evidence' to justify the intention and rationale of the policies in line with PPG guidance²⁵. The fact that a policy is popular, or is based on local consensus or not subject to objection is insufficient justification in itself.
- 6.34 While **Durham County Council** suggest a shorter 10 year timescale up to 2025 for the delivery of the ten dwellings this is not substantiated with need or capacity based evidence, and would effectively leave a zero target in the period beyond 2025 up to the end of the Plan period.
- 6.35 In any case neither the proposed policy nor the suggested alternative timescale address whether the housing target should be treated as a minimum target in line with national planning policy.
- 6.36 The policy also lacks a mechanism for managing delivery such as measures to increase supply in the case of a shortfall or to restrict further provision if, for example, there proved to be insufficient infrastructure capacity.
- 6.37 In the light of the foregoing I conclude that the first part of the Policy serves no practical purpose in influencing housing delivery and the inclusion of a housing target in the policy is not justified. In order to satisfy

²⁵ Planning Practice Guidance para 040 Ref ID: 41-040-20140306

- the Basic Conditions I therefore recommend the deletion of references to a housing target in the policy, with consequential changes to the remaining policy wording.
- 6.38 It is not necessary to delete references to the housing target in the accompanying text as this helps to explain the future scale and type of housing that is considered appropriate by the local community.
- 6.39 Second, because the Policy as drafted applies to the whole of the Plan area, including the countryside surrounding Whorlton village, it conflicts with extant local strategic policy which resists residential development in the countryside while supporting continued infilling in small settlements such as Whorlton provided this is within with defined development limits (TLP Policy H4 - Infill Development on Sites of Less than 0.4 Ha).
- 6.40 Modification to the policy is therefore required to ensure that future infilling and small scale development is contained within the existing village limits. As my recommended change removes the necessity to include a specific requirement in the policy to protect best and most versatile agricultural land a consequential change is required to delete criterion d).
- 6.41 I also agree with **Durham County Council** that the policy could be strengthened by including a specific requirement to protect garden land and other undeveloped land which contributes to the character of the village.
- 6.42 Further modification is required to ensure more accurate reference is made to national planning policy in relation to 'starter homes' and affordable housing.
- 6.43 In this respect as drafted the policy wording conflates the Governments proposed 'starter homes' initiative, which is aimed at securing a 20% discount on the market value of properties for occupiers aged under 40, with the provision of affordable housing. The reference to starter homes should be removed since the starter homes initiative is aimed at brownfield sites in urban areas.

Recommendation 03

- a) **Delete the reference to a housing target in Policy WP1, including the reference to re-assessing future need at the half term of the Plan.**
- b) **Insert '*for infilling and small scale residential development within the existing built up area of Whorlton village*' after 'Permission will be granted'**
- c) **Delete criterion 'd)'**
- d) **Insert a new criterion 'd)' as follows '*is not on an area of undeveloped land, including residential curtilage, that contributes to the character of the village*'**
- e) **Delete 'Starter' after 'will be given to affordable' in line 10 and delete 'for the first time buyers under 40' after 'homes'.**

- 6.44 Subject to the above modifications the Policy meets the Basic Conditions.
- 6.45 **Policy WP2 (Housing Allocation)** requires future proposals for new housing to be judged against the general aims and requirements of the Plan as no housing allocations are proposed. An additional policy strand indicates that flood risk considerations will also be addressed at planning application stage.
- 6.46 However I have reservations as to whether the policy, as drafted, is sufficiently clear and unambiguous to provide a meaningful basis for considering development proposals, as required in national Planning Practice Guidance.²⁶
- 6.47 First, since the intended aims, objectives and requirements of the Plan are not made sufficiently clear, as referred to previously in paragraphs 5.30 and 6.4 above, it is difficult to see how they can inform the development management process. In any case the range of criteria set out in Policy WP1 provides a more logical and specific basis for considering development proposals.
- 6.48 Second, while reference is made to ‘housing allocation’ in the policy heading the text which follows merely confirms that no allocations are proposed in the Plan and that future housing proposals and any related flood risk issues will be considered through the development management process.
- 6.49 I therefore conclude that the policy provides insufficient guidance to direct or control the ‘development and use of land’ in accordance with statutory requirements²⁷ and recommend its deletion. An explanation that the Plan does not promote specific sites for development and that proposals will also be expected to address flood risk issues, including sequential testing of sites if appropriate, could usefully be included in the supporting text to policy WP1 (Housing Provision).

Recommendation 04

- a) **Delete Policy WP2 (Housing Allocation)**
- b) **Incorporate an explanation in the supporting text to Policy WP1 (Housing Provision) to the effect that the Plan does not promote specific sites for development and that in addition to the criteria set out in Policy WP1 proposals will also be expected to address flood risk issues, including sequential testing of sites if, appropriate.**

- 6.50 **Policy WP3 (Working from Home)** supports development proposals that enable home working provided proposals are in keeping with their

²⁶ Planning Practice Guidance para 041 Ref ID: 41-041-20140306

²⁷ Section 38A(2) Planning and Compulsory Purchase Act 2004 (as amended)

surroundings, safe and suitable access is provided, and there are no significant effects on the amenities of local residents.

- 6.51 The policy has regard to national planning policy by supporting local businesses and economic growth in a positive sustainable manner. Facilitating economic growth is one of the key attributes of sustainable development. There is no relevant local strategic policy although the Policy will supersede TLP Policy ECON4 (Business Uses Within Residential Areas) within the Neighbourhood Plan Area.
- 6.52 For consistency with Policy WP1 (Housing Provision) the requirement for development proposals to avoid significantly affecting residential amenity should specifically require decision makers to consider whether there are significant adverse effects or not. A minor grammatical correction is also required.

Recommendation 05

Insert ‘adversely’ after ‘significantly’ in criterion b) in Policy WP3, and change ‘affects’ to ‘affect’.

- 6.53 Subject to the above modification the Policy meets the Basic Conditions.
- 6.54 **Policy WP4 (Internet Connection)** promotes the provision of high speed broadband by requiring new dwellings to incorporate ducting capable of accepting fibre optic cable.
- 6.55 Although there is no equivalent local strategic policy the provision of high speed broadband infrastructure is recognised in national planning policy as a vital element in the provision of local community facilities and services, and which also contributes toward sustainable economic growth.
- 6.56 However although national planning policy encourages the expansion of high speed broadband and Local Plans are increasingly encouraging high speed broadband connectivity infrastructure to be incorporated in new developments there is as yet no requirement for mandatory provision.
- 6.57 Neither has the UK Government yet implemented the provisions of a recent EU Directive²⁸ aimed at ensuring that new build and major renovations of buildings are high speed ready, with exemptions only allowed for historic buildings, holiday homes and projects where the cost to do this would be disproportionate.
- 6.58 Since the Plan does not consider the potential costs/viability issues associated with the provision of fibre optic ducting nor indeed whether fibre optic broadband is available in this locality (or the programme for its provision) the inclusion of a mandatory requirement would be out of step with current national planning policy.

²⁸ EU Directive 2014/61/EU on Measures to Reduce the Cost of Deploying High-Speed Electronic Communications Networks

- 6.59 I therefore suggest that the requirement to incorporate fibre optic ducting in new dwellings should be qualified by reference to 'where this is feasible'.

Recommendation 06

Insert '*wherever feasible*' after 'All new dwellings should' in line 1 of Policy WP4.

- 6.60 Subject to the above modification the Policy meets the Basic Conditions.

- 6.61 **Policy WP5 (Protection of the Historic Environment)** aims to conserve and enhance heritage assets by requiring new developments to respect the setting and/or character of designated and non designated heritage assets.

Comments

- 6.62 The policy has regard to national planning policy by seeking to sustain and enhance significant local heritage assets which contribute toward the quality of the built environment and toward people's quality of life, two of the key aspects of sustainable development. While there are no local strategic policies concerned with either designated or non designated heritage assets the policy will contribute to the TLP Built Environment objectives of preserving and retaining listed buildings and protecting conservation areas from insensitive development
- 6.63 However I have reservations as to whether the policy provides a practical basis for development management decisions in relation to national planning policy, particularly whether the wording of the second part of the policy adequately reflects the different approaches required in the treatment of designated heritage assets and non designated heritage assets when considering the impact of development proposals.
- 6.64 In this respect I agree with **Historic England** that the policy wording could be strengthened by requiring decision makers to resist development proposals which would cause 'substantial harm or total loss of significance of designated heritage assets', better reflecting the wording in NPPF paragraph 133. However I am also mindful of the fact that the policy creates the misleading impression that the impact of development on non designated heritage assets should be judged in the same way. This contrasts with national planning policy (NPPF paragraph 135) which indicates that (in considering applications that affect non designated heritage assets) 'a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.
- 6.65 Since the second part of the policy provides an incomplete and inaccurate repetition of national planning policy it therefore serves no useful purpose and I recommend its deletion. In its place an explanation about the different approaches required by national planning policy when

- considering the impact of development proposals on designated and non designated heritage assets could usefully be included in the accompanying text.
- 6.66 In considering whether the Plan satisfies the Basic Conditions I am also required to address concerns raised by **Historic England** that the evidence base accompanying Policy WP5 is inadequate because there is no assessment of the historic environment and the assets, either in the Plan or in a separate document.
- 6.67 While I agree that the Plan would benefit from the inclusion of a map identifying local heritage assets with accompanying information and descriptions, following a local audit and assessment, this is not necessarily a pre-requisite for preparing neighbourhood plans.
- 6.68 For example while national planning policy (NPPF paragraph 169) refers to the need for up-to-date evidence of heritage assets and the contribution they make to the environment, the Planning Practice Guidance accompanying national policy indicates (paragraph 040) that evidence in neighbourhood plans should be proportionate and may rely on evidence produced by Local Planning Authorities. In other words the level of detail that might be expected in a Local Plan is not necessarily appropriate for a neighbourhood plan.
- 6.69 Arguably Durham County Councils Historic Environment Records (HER), which brings together information about the archaeology, historic buildings/structures and historic landscapes of the County, provides the starting point for informing local communities about the heritage assets in their area and it would therefore be appropriate to incorporate an appropriate cross reference in the Plan to this source of information.
- 6.70 While this in part addresses the concerns put forward by **English Heritage** about the absence of evidence regarding the historic environment, it remains unclear as to which assets listed in the policy are designated heritage assets and which are non designated heritage assets. Although this distinction is not essential for the operation of the policy (as recommended to be modified), the status of any non designated assets is questionable since no information is provided as to how these have been identified and/or the justification for them.
- 6.71 On the one hand it is not clear as to whether the assets identified can genuinely be regarded as having significance to the local community, or whether they reflect Historic England guidance for assessing the suitability of buildings to be identified as local heritage assets.
- 6.72 On the other hand the local community and interested parties have had the opportunity to comment on the Policy at both (Regulation 14) Pre Submission Consultation stage and (Regulation 16) Publicity stage. The fact that there were no objections (particularly from either the Local Planning Authority or Historic England) to the inclusion of any non designated heritage assets demonstrates a degree of support.

- 6.73 While national Planning Practice Guidance²⁹ confers responsibility for identifying non designated heritage assets (which may be referred to as 'locally listed' as opposed to designated or statutorily listed assets) on Local Planning Authorities, there is nothing to prevent locally valued features, buildings, structures and spaces being protected through neighbourhood plans. Arguably that is one of the main purposes of the neighbourhood approach to planning.
- 6.74 I therefore conclude that as the policy provides a practical framework for considering development proposals further modification is not required in this respect. It would however be helpful to clarify in the accompanying text which buildings/features listed in the policy are designated heritage assets and which are considered to be non designated assets and to explain the difference between designated heritage assets which are protected through specific legislation (such as listed buildings and conservations areas) and non designated heritage assets, with reference to the Planning Practice Guidance³⁰.
- 6.75 In view of the absence of information about individual features I recommend removing the reference to 'all' stone walls in the list of heritage assets in the Policy as no justification has been presented for including every wall within the Plan area. The inclusion of the abbreviated 'and so forth' at the end of the list of heritage assets is superfluous to the meaning of the Policy and should be deleted.
- 6.76 Minor changes to the accompanying text are also required in order to correct a number of inaccuracies.
- 6.77 First, as suggested by **Historic England**, the reference to stone walls in paragraph 7.5.1 should be qualified to reflect the fact that where walls form part of the curtilage of a listed building they are likely to be protected by that listing.
- 6.78 Second, the reference in paragraph in 7.5.6 to the conclusions of the Strategic Environmental Assessment Screening Report should reflect the requirement in the Regulations³¹ to determine whether there are likely to be any 'significant environmental effects', as opposed to 'adverse effects.'
- 6.79 Third, I agree with **Durham County Council** that as responsibility for reviewing conservation area boundaries is vested in the Local Planning Authority paragraph 7.5.8 should be amended accordingly.
- 6.80 In commenting on the Plan **Durham County Council** also suggest that the proposed future Plan review referred to in paragraph 7.5.8 should be programmed for 2021, five years after the Plan is 'made', to allow the revised Plan to reflect the findings of a conservation area character appraisal. However as the timing of a future review will be dependent on the availability of resources at the time, and changing circumstances in

²⁹ Planning Practice Guidance para 041 Ref ID: 18a-041-20140306

³⁰ Planning Practice Guidance on Conserving and Enhancing the Historic Environment

³¹ Paragraph 9 Environmental Assessment of Plans and Programmes Regulations 2004

the interim, this is not a matter that can reasonably be imposed through a recommended modification to the Plan. Neither does it affect the ability of the Plan to satisfy the Basic Conditions.

Recommendation 07

- a) Delete 'all' after 'heritage assets such as' in line 2 of Policy WP5, and delete 'etc' after 'Whorlton Beck' in line 3.
- b) Delete the second part of Policy WP5 from 'Inappropriate development' onwards, and incorporate an explanation in the accompanying text about the different approaches required by national planning policy when considering the impact of development proposals on designated and non designated heritage assets.
- c) Incorporate a reference in the accompanying text to Durham County Council's Historic Environment Records (HER), which contain information about the archaeology, historic buildings and structures in the Plan area and provide the starting point for conserving and enhancing heritage assets in the area.
- d) Clarify in the accompanying text which buildings/structures listed in the policy are designated heritage assets and which are considered to be non designated assets and explain the difference between designated heritage assets which are protected through specific legislation (such as listed buildings and conservation areas) and non designated heritage assets, with reference to the Planning Practice Guidance.³²
- e) Insert '*(where these are not within the curtilage of a listed building)*' after 'stone walls' in line 4 of paragraph 7.5.1
- f) Delete 'will have no adverse effect on the natural habitats within the area' in line 1 of paragraph 7.5.6 and insert '*is not likely to have any significant environmental effects, including effects on European Protected Sites*'.
- g) Delete 'to consider the preparation of' in line 1 of paragraph 7.5.8 and insert '*in conjunction with*' and delete 'including review the NP and Conservation Area boundaries.' in line 2 and insert '*and review of Neighbourhood Plan boundaries.*'
- h) Insert a new sentence '*Durham County Council will be responsible for any future review of the Conservation Area boundaries.*' at the end of paragraph 7.5.8.

6.81 Subject to the above modifications the Policy meets the Basic Conditions.

6.82 **Policy WP6 (Amenities)** is intended to protect and enhance existing amenities and facilities, and to support the provision of additional facilities

³² Planning Practice Guidance on Conserving and Enhancing the Historic Environment

including litter bins and street lighting. Proposals for allotments and an extension to the cemetery area will be supported provided the amenities of nearby residents are not significantly affected and safe and suitable access is provided.

Comments

- 6.83 The need to deliver social, recreational and cultural facilities and to guard against the unnecessary loss of facilities and services, which enhance the sustainability of communities, is recognised in national planning policy³³.
- 6.84 Although there are no equivalent local strategic policies Policy WP6 generally supports one of the key aims of the TLP to ensure that the health and social needs of residents are met.
- 6.85 In order to satisfy the Basic Conditions however it is important that the policy focuses on land use planning issues. While I recognise that plan making at the local level will inevitably focus on the wide ranging aspirations of the community, some elements of the policy, such as seeking to maintain existing bus services, rely on the investment decisions of other organisations such as the County Council and individual bus service providers which are outside the control of the Parish Council and outside the scope of land use planning.
- 6.86 Other elements of the policy such as the provision of litter bins and upgrading street lighting are operational rather than policy matters, and it is also unclear who is intended to be responsible for undertaking the intended actions.
- 6.87 I therefore agree with **Durham County Council** that a more practical approach would be to secure contributions toward additional litter bin provision and upgraded/additional street lighting, through planning obligation agreements with developers. This also creates the opportunity to widen the scope of the policy to support the provision of other amenities and facilities which may be identified as community priorities in the future, provided they are linked to the development.
- 6.88 In addition to incorporating the County Council's suggested wording in the policy I recommend that the non land use aspirational elements are moved to the accompanying text so that they are clearly distinguishable from the land use and development considerations that will be used to inform the decision making process.
- 6.89 For consistency with Policy WP1 (Housing Provision) the requirement for development proposals to avoid significantly affecting residential amenity should specifically require decision makers to consider whether there are significant adverse effects or not.

Recommendation 08

- a) Insert 'adversely' after 'does not significantly' in criterion a. of Policy WP6.**

³³ National Planning Policy Framework para 70

- b) **Delete references to litter bins, street lighting and bus links from the policy and incorporate these as aspirations in the accompanying text.**
- c) **Insert an additional paragraph as follows *'Where necessary developers will be expected to enter into a planning obligation with the Local Planning Authority to deliver improved amenity facilities in the village resulting from the additional needs generated by the development'*.**

6.90 Subject to the above modifications the Policy meets the Basic Conditions.

7.0 Conclusions and Formal Recommendations

Referendum

7.1 I consider the Neighbourhood Plan meets the relevant legal requirements and subject to the modifications recommended in my report it is capable of satisfying the four 'Basic Conditions'.

7.2 Although there are a number of modifications the essence of the policies would remain, providing a framework, for managing future development proposals and conserving and enhancing the local environment.

I therefore recommend that the Neighbourhood Plan should, subject to the recommended modifications, proceed to Referendum.

Voting Area

7.3 I am also required to consider whether the Referendum Area should be extended beyond the Whorlton Village Neighbourhood Area.

7.4 The Neighbourhood Plan is focussed on Whorlton village although the Neighbourhood Area has been drawn to coincide with the conservation area boundary rather than the TLP defined development limits which are more tightly defined.

7.5 While the impact of the policies, both collectively and individually, are likely to have minimal impact on land and communities outside the defined Neighbourhood Area I am mindful of the fact that during the preparation of the Plan consultation was undertaken within the wider Parish area.

7.6 This creates a dilemma as only those residents living within the Whorlton Village Neighbourhood Area will be entitled to vote in the referendum if the voting area coincides with the Neighbourhood Area, whereas those living outside the Neighbourhood Area in the wider Parish will not.

- 7.7 It seems to me that it would be unfair and potentially discriminatory to exclude Parish residents who live outside the defined Neighbourhood Area who may have responded to questionnaires or contributed to the preparation of the Plan in some other way and who continue to have an interest in the Plan.

I therefore recommend that the voting area should be extended beyond the Whorlton Village Neighbourhood Area defined by Durham County Council on 10 August 2014, to include all of Whorlton and Westwick Parish.

Declaration

In submitting this report I confirm that

- I am independent of the qualifying body and the Local Authority.
- I do not have any interest in any land that may be affected by the Plan and
- I possess appropriate qualifications and planning and development experience, comprising 42 years experience in development management, planning policy, conservation and implementation gained across the public, private, and community sectors.

Examiner Terry Raymond Heselton BA (Hons), DiP TP, MRTPI

Dated 14 March 2017

Appendix 1 :

List of Documents referred to in connection with the examination of the Whorlton Village Neighbourhood Development Plan

- Submission Version of the Whorlton Village Neighbourhood Plan (November 2015) incorporating a Basic Conditions Statement and Consultation Statement
- National Planning Policy Framework
- National Planning Practice Guidance
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning (General) Regulations (2012) (as amended)
- The Environmental Assessment of Plans and Programmes Regulations (2004)
- Remaining 'Saved' policies in the Teesdale Local Plan (adopted June 2002)
- Durham County Council Screening Opinion on Strategic Environmental Assessment of the Neighbourhood Plan and Habitats Regulation Assessment February 2015)
- Four representations received in response to the Regulation 16 'Publicity'.

I also accessed Durham County Council's planning policy website pages during the course of the examination.