

Hook Norton Neighbourhood Plan

The Report by the Independent Examiner

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Summary

The Hook Norton Neighbourhood Plan has clearly been driven by a strong desire to protect the very special character of the village and to provide for the needs of its residents. It has been prepared in a difficult strategic context in the absence of an up to date local plan. The intention to achieve conformity with the emerging local plan has been complicated by modifications to that plan since the completion of the submission version of the Neighbourhood Plan that have increased the amount of housing being planned for in the District.

There has been thorough engagement with the community throughout the process and The Plan reflects a strong consensus within the community about the main issues to be addressed.

The preparation of the Plan has been in accordance with the legislation. I have found it necessary to suggest some modifications to meet the basic conditions, and subject to these modifications I am satisfied that the Plan:

- has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach and is compatible with European Union obligations and the European Convention on Human Rights.

I am therefore pleased to recommend that the Hook Norton Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.

I am also required to consider whether or not the referendum area should extend beyond the neighbourhood plan area. The Plan relates to the whole of the parish of

Hook Norton which includes a substantial area of countryside surrounding the village. I have seen no evidence to suggest that this area should be extended for the referendum.

Introduction

1. The Localism Act 2011 has provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.
2. Hook Norton is a large village with a population of just over 2,000 people. The Hook Norton Neighbourhood Plan (which I shall refer to as the HNNP or the Plan) has been prepared by Hook Norton Parish Council. The Plan covers the whole of the parish area. If, following a recommendation from this examination, the Plan proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and form part of the statutory development plan. As such it will be an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

Appointment of the Independent Examiner

3. I have been appointed by Cherwell District Council, with the consent of Hook Norton Parish Council, to carry out the independent examination of the HNNP. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).
4. I confirm that I am independent of the Parish Council and the Local Planning Authority and have no interest in any land within the parish of Hook Norton.
5. I am a Chartered Town Planner with over 30 years' experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I have completed the independent examination of four neighbourhood plans and carried out three health checks on emerging neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this examination.

The Scope of the Examination

6. The nature of the independent examination is set out in Sections 8-10 of Schedule 4B to the Town and Country Planning Act 1990.
7. I must:
 - a) decide whether the Plan complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. These requirements relate primarily, but not exclusively, to the process of preparing the Plan and I shall deal with these first.
 - b) decide whether the Neighbourhood Development Plan meets the basic conditions contained in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990. This element of the examination relates to the contents of the Plan.
 - c) make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the neighbourhood plan area.
8. The Plan meets the basic conditions if:
 - a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Plan;
 - b) the making of the Plan contributes to sustainable development;
 - c) the making of the Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - d) the making of the Plan does not breach, and is otherwise compatible with, EU obligations.
9. Paragraph 9 of Schedule 4B indicates that as a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person

a fair chance to put a case. I am satisfied from the documentation that has been submitted to me that there are no issues arising from consultation on which I require clarification and that all parties have had the opportunity to express their view in consultations. I have therefore decided that the examination can be carried out satisfactorily on the basis of written representations and that a hearing is not necessary.

10. The main documents which I have referred to in the examination are:

- Hook Norton Neighbourhood Plan Submission Version 2014-2031 July 2014 as submitted to Cherwell District Council by Hook Norton Parish Council
- Report of Head of Strategic Planning and the Economy to the Council Executive on the application for designation of the Neighbourhood Area and minutes of the Executive meeting 3 June 2013
- Hook Norton Neighbourhood Plan 2014-2031 Consultation Statement July 2014¹
- Hook Norton Neighbourhood Plan 2014-2031 Basic Conditions Statement July 2014
- Hook Norton Neighbourhood Plan Sustainability Appraisal Report, Submission Version July 2014
- Representations received in response to publicity on the submission of the HNNP in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012
- The National Planning Policy Framework 2012, Department of Communities and Local Government. (the Framework)
- Planning Practice Guidance, Department of Communities and Local Government. (PPG)
- Cherwell Local Plan 1996
- Cherwell Submission Local Plan 2006-2031 January 2014²
- Cherwell Local Plan 2011-2031 Main Modifications August 2014 (during the examination a new version of the plan appeared on the Council's website which incorporated these changes: Illustrative Cherwell Submission Local Plan Incorporating Proposed Modifications February 2015)

¹ The cover of the document contains an error as it says Hook Norton Neighbourhood Plan 2014-2013

² The document was published with a timescale of 2006-2031 but was subsequently changed to 2011-2031.

- Hook Norton Conservation Area Appraisal May 2007.

These documents include all those that are required to be supplied to me under Regulation 17 of the Neighbourhood Planning (General) Regulations 2012. (The Regulations).

11. I made an unaccompanied visit to Hook Norton to familiarise myself with the plan area and its surroundings on 3 February 2015.

The Preparation of the Plan

12. Hook Norton is a “relevant body” under Section 61G(2) of the Town and Country Planning Act 1990 (inserted by paragraph 2 of Schedule 9 to the Localism Act 2011). The neighbourhood area includes the whole of the parish of Hook Norton and is therefore in accordance with Section 61G(3) of the 1990 Act.
13. Hook Norton Parish Council made an application to Cherwell District Council on 26 November 2012 for the designation of the whole of the parish as a neighbourhood area for the purposes of the HNNP in accordance with regulation 5 of The Regulations. Consultation on the proposed designation was carried out from 6 December 2012 to 24 January 2013 in accordance with regulation 6. The proposed designation was approved by the Executive of Cherwell District Council on 3 June 2013 and Hook Norton Parish Council was notified of this decision on 7 June 2013. The designation has been publicised on the Cherwell District Council website in accordance with regulation 7.
14. Section 38B (1) (a) of the Planning and Compulsory Purchase Act 2004 requires that a neighbourhood plan must specify the period for which it is to have effect. The cover of the Plan clearly specifies that it relates to the period 2014-2031 and paragraph 1.3 of the Plan indicates that this is in line with the planning horizon for the emerging Cherwell Local Plan.
15. The Plan must not include any provision about development that is excluded development as defined in Section 61K, which is inserted into the 1990 Town

and Country Planning Act. Excluded development includes “county matters” such as mineral extraction and waste disposal and major infrastructure projects. I am satisfied that the submitted Plan contains no such provision and does not relate to more than one neighbourhood area.

Public Consultation

16. The Consultation Statement sets out the approach to public consultation which was influenced by the guiding principles that the Plan would be: transparent, open, inclusive and independent. The preparation of the Plan was undertaken by a Steering Group comprised mainly of volunteers who were not members of the Parish Council, in order to ensure that it was genuinely led by the community. Prior to the formal regulation 14 consultation there were several stages of consultation and community involvement which were aimed at identifying issues to be considered in the Neighbourhood Plan, agreeing goals and objectives and consulting on early drafts of policies. These involved presentations, workshops, questionnaires and a residents’ survey. These stages took place between January and September 2013.
17. Pre-Submission consultation on the draft HNNP took place between 18 November 2013 and 6 January 2014. It involved:
 - a newsletter delivered to all households
 - written consultation of businesses, clubs and societies and statutory consultees
 - posters and banners in the village, use of social media and hard copies of the Plan being available in several places in the village
 - the delivery of a leaflet and summary of the Plan to all households
 - two open meetings.It is difficult to imagine that any residents or businesses in Hook Norton could have been unaware of the Plan.
18. The Consultation Statement sets out all the responses to the Pre-Submission Consultation and indicates the action taken in terms of amendments to the draft plan. The document also lists the statutory consultees, non-statutory consultees and parish consultees that were invited to comment on the Plan.

19. I am satisfied that: the extensive consultation on the Plan was in accordance with and exceeds the requirements of regulation 14, and the Consultation Statement is in accordance with the requirements of regulation 15 (2).
20. 7 representations have been received in response to the consultation conducted by the local planning authority, following the submission of the Plan, in accordance with regulation 16. While I have not referred specifically to all of these, I have taken them all into account.

The Development Plan

21. The statutory development plan is made up of the saved policies of the Cherwell Local Plan 1996, and the saved policies of the Oxfordshire Minerals and Waste Plan 1996. The Local Plan will be replaced, probably before long by the emerging Cherwell Local Plan 2011-2031 which is currently undergoing examination. The Minerals and Waste Plan will be replaced by the emerging Minerals and Waste Plan which also has a timeframe up to 2031. The Basic Conditions Statement indicates that the HNNP aims to be in conformity with the policies of the January 2014 submission version of the emerging plan. Examination of this plan commenced in June 2014 shortly before the production of the submission version of the HNNP. However the examination was suspended while modifications were made to reflect up to date forecasts of housing need. These modifications were published for consultation in August 2014 and submitted to the Inspector in October 2014. The examination of the plan recommenced in December 2014. Thus the policies which are currently being examined differ to some extent from those to which the HNNP has had regard.
22. It is clearly prudent for the HNNP to aim for conformity with the emerging local plan, particularly when it is at an advanced stage of preparation, as the neighbourhood plan could quickly become out of date if it was in conflict with the new plan. However it is important to emphasise that the basic conditions to which I must have regard require conformity with the adopted development plan and a failure to comply with the strategic policies of the emerging plan

would not amount to a breach of the basic conditions. Where, as in this case, the development plan is out of date, particular focus must be placed on consistency with the Framework.

The Basic Conditions Test

23. The Basic Conditions Statement which has been submitted with the HNNP is intended to demonstrate how the Plan meets the basic conditions to which I have referred in paragraph 8. The statement addresses each of the basic conditions.
24. In considering the relationship of the HNNP to national policy the statement relates the policies in the Plan to the 12 planning principles in the Framework. While this is helpful it is less than thorough as it does not address the relationship between the Plan and the more detailed provisions of the Framework. This does not comply with National Planning Practice Guidance which encourages a qualifying body to set out the particular national policies it has considered. However, there are no specific formal requirements for the content of a basic conditions statement and the Basic Conditions Statement itself is not being examined. The limited approach that has been adopted makes my task more onerous as I must relate the policies of the Plan to the detail in the Framework,
25. I shall consider the compatibility of the Neighbourhood Plan with basic conditions a), b) and c) in relation to each of its policies but will first consider whether it meets European Union obligations.

European Union Obligations

26. A Sustainability Appraisal taking account of the legal requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR) has been submitted with the Plan. The EAPPR place the requirements of Directive 2001/42 into UK law.
27. A draft of the document accompanied the consultation on the Pre-Submission Neighbourhood Plan and the document has been updated to take account of changes made to the policies of the Plan, following consultation.

28. The Sustainability Appraisal effectively incorporates a strategic environmental assessment (SEA). The report includes a non-technical summary which sets out simply the approach taken, a summary of the conclusions, the approach to monitoring, conclusions on the need for a Habitats Regulations Assessment and next steps.
29. The consultation bodies identified in regulation 4 of the EAPPR were consulted at the scoping stage, which took place early in the plan preparation process. Their responses and the action taken to address them are set out clearly in an appendix.
30. The main environmental characteristics of the area are described in some detail and from this a set of sustainability objectives, incorporating relevant environmental objectives is developed and the objectives and policies of the Plan are evaluated against these. The evaluation groups policies according to the four main themes in the Plan and plots their effects against each of the sustainability objectives. The effects are assessed on the basis of a five point scale ranging from significant positive effects to significant negative effects and take into account whether the effects will be short, medium or long term. The methodology also indicates whether the effects would be permanent or temporary and takes into account secondary, cumulative and synergistic effects (where possible to identify). The effects are also described briefly. In all cases the evaluation showed neutral or positive effects.
31. Regulation 12(2) (b) of the EAPPR requires the environmental report to “evaluate the likely significant effects on the environment of ... reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme”. The sustainability appraisal does this in a somewhat limited way. Very often the evaluation of alternatives will involve a comparison of different site specific proposals, but the Plan does not contain any site specific allocations for new development. There is no requirement for a neighbourhood plan to make site specific allocations and in the absence of such allocations it is not easy to show what reasonable alternatives should be generated. The scoring in the Sustainability Appraisal compares the environmental effects of the HNNP policies with a “do nothing” approach

where there would be reliance on the Local Plan and national policies. This is a limited but reasonable alternative. In all cases the effect of the HNNP is positive or neutral. The absence of other alternatives would be a greater concern if the assessment identified significant harmful effects from the Plan's proposals, but it does not.

32. The Sustainability Appraisal has been a continuing process during the preparation of the HNNP and has helped in the development of the goals, objectives and policies that are included in the Plan. In this way it has helped to ensure that the policies in the Plan contribute to sustainable development. It has also been updated following the pre-submission consultation to take account of changes to the Plan in response to the consultation. The approach in the Sustainability Appraisal is similar to that followed in the Tattenhall Neighbourhood Plan which was the subject of legal challenge. In that case it was found that the principle of comparing the effects of the plan with a "do nothing" scenario was in accordance with the legal requirements of the European Directive.³
33. The consultation bodies were consulted on the Sustainability Appraisal alongside the consultation on the Pre-Submission Neighbourhood Plan. No comments were received at that stage other than comments from Cherwell District Council regarding the relationship of the Sustainability Appraisal with that for the Cherwell Local Plan, which were taken into account. Some modifications were also made to reflect changes to the Plan following pre-submission consultation.
34. Planning Practice Guidance makes it clear that "The strategic environmental assessment should only focus on what is needed to assess the likely significant effects of the neighbourhood planIt does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan."⁴ I am satisfied, taking the report as a whole, that it does address the

³ BDW Trading Ltd and Anor v Cheshire West and Chester Borough Council March 2014 paragraphs 69 and 75.

⁴ Planning Practice Guidance Reference ID: 11-030-20150209

requirements of the regulations in a proportionate way having regard to the nature of the proposals in the HNNP.

35. I have taken account of the representation from Gladman to the effect that the Sustainability Appraisal is unsound because it does not take account of the main modifications to the Cherwell District Local Plan (CDLP) which is currently the subject of examination. The adoption of the CDLP may lead to a need to review the HNNP. However there is no requirement for a neighbourhood plan to be based on the policies of an emerging local plan. In any event, while the recent modifications do suggest a higher rate of development overall, it is by no means clear what the implications of this would be for a single village such as Hook Norton. This issue is addressed in more detail in relation to policies for housing development, but I do not accept that the recent modifications to the emerging plan invalidate the Sustainability Appraisal.
36. The Sustainability Appraisal also considers whether there is a need to prepare a Habitats Regulation Assessment. It concludes that as there are no Natura 2000 sites within or near to the HNNP Area there is no requirement for such an assessment.
37. I am also satisfied that nothing in the Plan is in conflict with the European Convention on Human Rights. It has been suggested that Policy HN – COM 1 is a contravention of Article 1 of the European Convention on Human Rights which refers to the right to the peaceful enjoyment of possessions because it includes buildings which are not resources essential to the public needs of the community. This matter is addressed in my consideration of that policy and subject to the modifications I have recommended I am satisfied that the Plan does not breach the Human Rights Convention.
38. I therefore conclude that the Plan is compatible with and does not breach European Union obligations.

Key issues, goals and objectives

39. The Plan has been developed from a distillation of the main concerns of the community which emerged during the consultative process. These concerns have been grouped under five main themes: housing, community and amenities, employment, environment and transport. One or more goals are identified in relation to each of these themes and for each goal there are a number of specific objectives. The clear link between these objectives and the aspirations expressed by the community in the early stages of public consultation is well presented in the Consultation Statement⁵ and is important in defining the focus of the HNNP. The Plan does not include policies in relation to all of the objectives and some of the comments in response to the regulation 14 consultation regretted the absence of policies on some issues. It is important to note that the absence of a policy on a particular issue is not a conflict with the basic conditions. Where the neighbourhood plan is silent the policies of the development plan and the Framework will apply.
40. It is very clear that a desire to maintain the local distinctiveness of Hook Norton, in terms of its built environment, its countryside setting and its community vitality is a defining factor in the Plan. At the same time the Plan aims to meet the housing needs of the community by ensuring that new housing is of a size that reflects the needs of different age groups. The predominance of relatively large houses in the village is a very noteworthy characteristic that has emerged from the preparatory work on the HNNP.
41. The goals and objectives are not policies that will form part of the development plan if the Plan is made. However some representations suggest that there is a conflict between some of the objectives and the Framework. As the goals and objectives are very influential in the shaping of the policies I have therefore addressed this issue.
42. Under the heading “Housing” the overall goal is to provide existing and future residents with the opportunity to live in a decent home. Objective 1.4 refers to

⁵ Consultation Statement Section 3.4

the provision of “a limited amount of housing” Gladman argue that this is in conflict with the ethos of the Framework and the presumption in favour of sustainable development. I do not accept that it is the intention of the Framework to prevent neighbourhood plans placing any limitation on the scale of development. It is quite explicit in saying in paragraph 184 that neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies. Provided the Plan meets this requirement and is not unduly rigid in defining the total amount of development there is no conflict between this objective and the Framework.

43. Similarly, Objective 1.6 aims to “limit the size of individual developments....” Again I see no inherent conflict with the Framework as it does not preclude the delivery of the required amount of housing. I shall return to both these issues in the consideration of Policy HN-H1.
44. The other objectives set out a clear set of aspirations. While not all of them can be addressed through policies for the development and use of land they do not present any conflict with national or development plan policy.

The Policies of the Hook Norton Neighbourhood Plan.

45. In considering the policies of the HNNP it is important to clarify the restricted nature of my role. I may only suggest modifications to the policies where they are necessary: to comply with the basic conditions set out in paragraph 8, to be compatible with the European Convention on Human Rights or to correct errors.⁶ The purpose of the policies, as set out in paragraph 183 of the Framework, is to guide decisions on planning applications, and PPG sets out the requirements for policies which include the need to be “clear and unambiguous” and “drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining applications”⁷. Some of the amendments I have suggested are to clarify the wording of the policy for this purpose. The policies of the Plan are grouped under the 4 main themes as the “Community and Amenities” and “Employment” themes in the

⁶ Schedule 4B to the Town and Country Planning Act 1990 Paragraphs 10 (3) (a) and (b)

⁷ Planning Policy Guidance Reference ID:41-041-20140306

objectives are merged under the heading “Community – Living and working in Hook Norton.

Character and Countryside:

Policy HN – CC 1: Protection and enhancement of local landscape and character of Hook Norton

46. The first part of the policy aims to ensure that new development sits comfortably in its surroundings and requires development to make a positive contribution to the locally distinctive character and context of Hook Norton. This aim is compatible with the maintenance of local distinctiveness and with the guidance in paragraphs 58 and 64 of the Framework which refer respectively to the desirability of “improving the overall quality of the area” and “taking the opportunities available to improve the character and quality of an area”.
47. The second part of the policy aims to resist development in the open countryside which would adversely affect the character of the landscape. This is a strongly worded policy in that it does not provide for any exceptions. It is consistent with the Framework and several saved policies in the Local Plan 1996, notably policy C7, in providing strong protection for the countryside. The Framework also allows for some types of development in the countryside⁸ and in some cases provides for a balancing of the need for the development against the harm to the landscape. I have considered the need for an amendment to reflect this, but with any development plan policy there may be material considerations in a particular case which would justify a departure from it and on this basis I have concluded that no modification is necessary for the policy to comply with the basic conditions.
48. The final section of this policy seeks to prioritise the development of previously developed land and to resist the development of residential gardens for inappropriate housing. I am satisfied that the policy relating to brownfield land is consistent with the principle in the Framework (para 17)

⁸ The Framework paragraphs 28 and 55.

which aims to encourage the reuse of previously developed land. The principle in the Framework, which is reflected in Environmental Objective 2.2 of the HNNP, does not prescribe how this reuse should be encouraged and the preference outlined in this policy is an appropriate way of doing it. The policy refers to a general preference for brownfield land, which implies that there may well be exceptions. It is therefore not unduly prescriptive as it does not preclude the development of green field sites.

49. While the wording of the policy in relation to the development of garden land is similar to that in paragraph 53 of the Framework, it does not make it clear what would constitute “inappropriate” residential development. Paragraph 53 is not a policy as such but encourages the framing of a policy and gives an example of what might be considered inappropriate. A complete ban on the residential development of garden land would in my judgement be contrary to the presumption in favour of sustainable development and the policy therefore needs to be amplified to describe inappropriate development.

Recommendation

In the third paragraph of Policy HN-CC 1 add after “...not supported” “where it would result in a cramped form of development or otherwise detract from the character of the village”.

Policy HN – CC 2 Design

50. The policy sets out an overall approach to the achievement of high quality design and six criteria which new development proposals should meet. The overall approach requires applications to demonstrate high quality design which means that proposals must build on the principles set out in the Hook Norton Conservation Area Appraisal.
51. The requirement for any application to contain sufficient detail to demonstrate a high quality design would be difficult to apply to outline applications, and there is no clear justification to require full applications in all cases.
52. A large proportion of the village lies within the Conservation Area. However, while it is appropriate to seek to reinforce local distinctiveness, applying the standards of the Conservation Area to the rest of the village is a requirement

that is too onerous to be consistent with the presumption in favour of sustainable development. It is also not clear what the requirement to “build on the principles” would mean in practice. Within the Conservation Area there are many matters that are subject to planning control but would be permitted development outside it. The principles in the Conservation Area appraisal are derived from a detailed appraisal of specific character areas within it and they are not intended to be applied to a wider area.

53. The specific criteria are consistent with the basic conditions, though the fourth one may not be fully enforceable as the removal of walls, hedgerows and unprotected trees outside the Conservation area may not always be subject to planning control. With regard to the retention of open spaces, the Plan does not propose any Local Green Spaces, which is perhaps a missed opportunity.

Recommendations

In the first line of Policy HN – CC 2 insert “full” after “any”.

Delete the second sentence and insert “Proposals for development within or visible from the Conservation Area must have regard to the principles set out in the Hook Norton Conservation Area Appraisal. All new development should:”

Policy HN – CC 3 Local distinctiveness, variety and cohesiveness

54. The policy aims to ensure that new development respects the character of the village. The first part of the policy aims to secure development in the form of small scale and gradual change. This is consistent with saved policy H13 of the Cherwell Local Plan 1996 which envisages development in category 1 settlements including Hook Norton in the form of infilling and minor development comprising small groups of dwellings within the built up area. The appropriate scale of development is considered further in relation to policies HN- H1 and HN – H2.
55. The Framework refers in paragraphs 60 and 66 to the need to encourage innovative designs while reinforcing local distinctiveness. The use of the word “reflect” in relation to building styles may be somewhat restrictive in this respect as it would tend to preclude innovative design. The emphasis on the

use of ironstone as the predominant building material is appropriate, but outside the Conservation Area a range of materials including brick are used in buildings of various ages and it would be unduly restrictive and sometimes inappropriate to require ironstone in these locations. Small amendments to reflect these points would enable the policy to satisfy the basic conditions.

56. The final sentence of the policy refers to the need to consider all elements of schemes including details such as bin storage at an early stage. These are all important elements of good design, but it is unduly onerous to require consideration at an early stage in relation to outline applications.

Recommendations

In the 5th line of Policy HN – CC 3 replace “reflect” with “respect”.

In the 7th line of Policy HN – CC 3 after “...ironstone will continue to be the predominant building material” insert “..particularly in the Conservation Area”.

In the 8th line of Policy HN – CC3 delete “at an early stage”.

Policy HN – CC 4 Resource efficient design

57. This policy is consistent with the basic conditions

Policy HN – CC 5 Lighting

58. The policy is consistent with the basic conditions.

Living and working in Hook Norton

Policy HN – COM 1: Protection of Locally Valued Resources

59. The public involvement in the preparation of the HNNP clearly highlighted the importance of the community facilities in the village, to the extent that they have been referred to as the “Crown Jewels”. The policy seeks to protect these while acknowledging that there may be circumstances where this is not possible. The policy is not entirely clear as to what is being protected, but I take it to be primarily the use of these buildings as changes to the form and appearance would be covered by policies HN – CC1 and HN – CC2 and relevant Local Plan policies. In many cases the buildings are listed and would

also be subject to listed building control. A minor amendment to clarify this is therefore necessary.

60. The Locally Valued Resources are set out in Table 1 which precedes the policy. Neil Warner argues that The Bell Public House and the Brewery do not fall within the scope of paragraph 70 of the Framework which aims to prevent “the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day to day needs”.
61. The Bell Public House was no longer in use as a public house and was being used as a photo copying shop at the time the HNNP was submitted. The photo copying use was low key and could not be regarded as an important facility. Planning permission has since been granted for the conversion of the building to a single dwelling.⁹ Even though it had been designated as an Asset of Community Value in 2013, it cannot now be regarded as a locally valued resource, particularly as there are 3 other public houses in the village.
62. The Brewery is an important component of Hook Norton’s unique character. It makes an important contribution in terms of the appearance of its distinctive group of buildings, the provision of employment and attracting visitors. The buildings are protected by their listed status and the use of the site for employment is addressed by Policy COM5. However as a manufacturing industry within Use Class B2, changes of use to other uses within use classes B1 and B2 would not be subject to planning control and, while it contains a café and shop these are designed to serve visitors and it cannot be regarded as a community resource in the same way as the other facilities in Table 1.
63. Subject to modification to reflect the points above the policy is entirely consistent with section 8 of the Framework, in particular paragraphs 28, 70 and 74, and meets the basic conditions.

Recommendations:

In Table 1 delete “The Bell Public House” and “Brewery”

In Policy HN – COM 1 in the first line insert “for a change of use” after

⁹Application Ref 14/01810/F

“Any proposal”.

In the second line insert “as defined in Table 1” after “..Locally Valued Resource”.

Policy HN – COM 2: Public Rights of Way

64. Hook Norton benefits from an extensive network of public rights of way and this policy reflects paragraph 75 of the Framework in seeking to protect them. However the policy goes further than the Framework by focussing on the amenity value of footpaths rather than their access value and as worded suggests that any loss of amenity value would be a reason to resist new development. The representation from Gladman rightly points out that where proposed development would affect the amenity value of a public right of way the loss of amenity would be a consideration among others in the planning balance. There may well be circumstances where the benefits of new development would outweigh some loss of amenity through re-routing of a right of way. A modification to allow for this balance to be struck is necessary in the interests of sustainable development.

Recommendation

Reword the first part of Policy HN– COM 2 to read “Existing Public Rights of Way in the parish will be protected. Where re-routing is essential to accommodate sustainable development any loss of amenity value will be minimised.”

Policy HN – COM 3: Developer Contributions to Community

Infrastructure

65. This policy requires the local planning authority to consult the Parish Council regarding the provisions of any Section 106 Agreement. It is not appropriate for inclusion in a neighbourhood plan as it is not a policy for the development and use of land, but a policy relating to procedure. In any event the Parish Council is consulted on all planning applications and if it wished to suggest items for inclusion in a S106 Agreement it could do so at this stage. It is important to note that Section 106 Agreements can only be sought where they are: necessary to make the development acceptable in planning terms,

directly related to the development and fairly and reasonably related in scale and kind to the development¹⁰. Thus many items which might be considered desirable could not be included. The Community Infrastructure Levy (CIL) is intended to replace S106 agreements for many aspects of community infrastructure and the proportion of funds raised in this way is higher (25%) where a neighbourhood plan is in place than elsewhere (15%). The introduction of CIL will present an opportunity for the Parish Council to use its share of the proceeds as it chooses. However at present Cherwell District Council has not introduced a CIL scheme.

Recommendation

Delete Policy HN – COM 3

It may be helpful to refer in supporting text to using the existing consultation on planning applications and to the potential to use CIL to support village needs when it is introduced.

Policy HN – COM 4: Broadband.

66. The policy aims to encourage the development of high speed broadband infrastructure and to ensure that any new development is connected to it. It is consistent with the basic conditions.

Policy HN – COM 5: Retention of local employment

67. This policy aims to retain sites currently providing local employment unless they can be demonstrated not to be viable and meets the basic conditions.

Housing

Policy HN – H1: Sustainable housing growth

68. It is an important requirement of neighbourhood plans that they should not provide for less development than is set out in the Local Plan. In the case of Hook Norton the adopted Local Plan dates from 1996 and made provision for housing needs up to 2001. It is thus seriously out of date and does not

¹⁰ The Framework paragraph 204

provide any guidance to the HNNP in terms of the quantity of housing required. A non-statutory Local Plan was adopted in 2004 to act as interim policy up to 2011 until the new Local Plan was adopted. This Plan is now also out of date and provided no guidance on the scale of housing development required at Hook Norton. In the absence of any statutory strategic context, the HNNP has tried to base the amount of housing need on the emerging Local Plan.

69. The Cherwell Submission Local Plan was published in January 2014. The examination of this plan started in June 2014 but was suspended because it did not take account of up to date forecasts of housing need. Major modifications were published in October 2014 which significantly increased the amount of housing envisaged for a group of villages including Hook Norton. However, these modifications were published after the completion of the submission version of the HNNP and the outcome of the examination is not yet known.
70. The attempt to ensure that the HNNP was compliant with the emerging Local Plan was a sensible and prudent approach as there is of course a significant risk that if it does not comply with the emerging plan it could become out of date when the new Local Plan is adopted. It is not, however a statutory requirement. The requirement is for the making of the Plan to be in general conformity with the strategic policies of the development plan for the area. Case law has confirmed¹¹ that there is no requirement for a neighbourhood plan to be consistent with the strategic policies of an emerging Local Plan and that the absence of an up to date Local Plan does not preclude the making of a neighbourhood plan.
71. Whether or not policy HN-H1 is consistent with the requirements of Policy Villages 2 of the emerging plan would require detailed consideration beyond the scope of this examination. The policy provides for 750 dwellings in all category A villages, in addition to completions between 2011 and 2014, an allowance for small windfall sites and existing planning permissions. There

¹¹ R (Gladman Developments Ltd) v Aylesbury Vale District Council (CO/3104/2014) 22 July 2014 and BDW Trading Ltd v Chester West And Chester Borough Council (2014)

are 24 category A villages and there is no clear guidance on the level of development to be accommodated in Hook Norton. It is, for example, not clear to what extent the development that has taken place since 2011 and the permitted development should be taken into account in determining what share of the 750 additional dwellings required should be built in Hook Norton. As my consideration relates to the basic conditions I have reached no conclusion on the compliance of Policy HN –H1 with the policies of the emerging plan. However the contention by Gladman that any failure of the policy to comply with the policies of the emerging plan would make it contrary to the basic conditions is not valid.

72. Policy HN – H1 provides for housing development in Hook Norton in the form of conversions, infilling and minor development. It regards minor development as typically for less than 10 dwellings but provides for developments up to 20 dwellings where justified by objectively assessed local housing need. The Policy does not set any limit on the number of separate developments and so it could theoretically be capable of accommodating any number of dwellings, although in practice the number would be constrained by the number of suitable sites.
73. I am not satisfied that the requirement for a justification on the basis of “objectively assessed local housing need” is consistent with Saved Policy H13 of the adopted Local Plan. This policy identifies Hook Norton as a category 1 village here the “physical characteristics and range of services available within them enable them to accommodate some limited extra housing growth”. While the Local Plan envisages this growth to be small scale it is clear that Hook Norton occupies a place in the settlement hierarchy as one of the larger villages in the district and that in this capacity it is expected to be able to accommodate part of the growth to be accommodated in the District. It would be inconsistent with this position in the settlement hierarchy to limit developments to those that can be justified on the basis of objectively assessed local need. It would also be unduly onerous for developers to be expected to conduct such an assessment in association with each application.

74. It is not entirely clear what is meant by “no more than 20 dwellings being built in any location at any time”. My understanding is that it could be taken to accept that there may be locations where more than 20 dwellings would be acceptable over a period of time, but that no more than 20 dwellings should be built in any one discrete phase of development.
75. Planning permission has recently been granted for two substantial developments in Hook Norton, one for 70 dwellings to the west of Bourne Lane and one for 37 dwellings to the south of Station Road. Both of these sites are under construction. Two further applications have been submitted, one for 54 dwellings to the north of Hook Norton Primary School (which is currently subject to appeal) and one for 48 dwellings to the north of Station Road, which has yet to be determined.
76. The rationale for Policy HN – N1 is that given the way in which Hook Norton has gradually developed over the years, and taking account of the existing permissions for relatively large scale development, future development should be relatively small scale in order to be sustainable and to maintain the character of the village. The policy is consistent with the approach in the adopted Local Plan with the exception of my concern regarding justification on the basis of local need.
77. The objection by Gladman contends that the Plan fails to take account of the latest modifications to the emerging Local Plan which show an objectively assessed need for 1140 dwellings per year in the District compared with 640 dwellings in the Submission Local Plan January 2014. I have already explained that the test before me is the conformity of the Plan with the strategic policies of the adopted development plan and with national policies and advice.
78. The objection from Gladman also suggests that the HNNP is in conflict with the requirement in paragraph 47 of the Framework for local planning authorities to boost the supply of housing by objectively assessing needs for affordable and market housing in their area and maintaining a supply of housing land. These obligations are placed clearly on local planning authorities rather than qualifying bodies preparing neighbourhood plans; they

are not activities that could realistically be taken at the neighbourhood plan level. Again a recent legal judgement has confirmed that view.¹²

79. The purpose of neighbourhood plans is that they should allow communities to “ensure they get the right types of development for their community”¹³ providing they accord with the strategic needs and priorities for the wider area.” That is what this policy HN – H1 tries to do. The policy cannot be regarded as inappropriately restrictive as it does not place a limit on the overall number of dwellings that will be built in the village and it contains sufficient flexibility to allow for the development of larger sites over a period of time. There is no clear strategic context defining the scale of development to be accommodated by the village, and subject to the amendment below I am satisfied that the policy satisfies the basic conditions.

Recommendation

In policy HN-H1 amend the 4th (penultimate) sentence to read.

“Proposals for up to 20 dwellings may be permitted where this does not result in more than 20 dwellings being built in any one location at any time, taking into account any extant permissions.”

Policy HN – H2: Location of Housing

80. The policy does not make specific allocations for development but sets out criteria to be considered in the assessment of planning applications. The first and last of the criteria are consistent with the basic conditions.
81. The second criterion requires compliance with the policies and advice in the HNNP. The policies of the Plan can be clearly identified and it is entirely appropriate that proposals should take account of them. The advice in the Plan is however not clearly identified, unless it is intended to apply to all of the lower case text in the document. If this is the case the criterion effectively gives policy status to all of the supporting text. This is clearly not appropriate as much of it is discursive and descriptive and some of it is lacking in

¹² R (Gladman Developments Ltd) v Aylesbury Vale District Council (CO/3104/2014) 22 July 2014 paragraph 73.

¹³ National Planning Policy Framework Paragraph 184

sufficient clarity to be applied in policy terms. The reference to advice should therefore be excluded.

82. Similar reasoning is applicable in the case of the third criterion. None of the sites which are referred to in section 4.2 is defined on a map and they are only generally described. There is no indication of the area of the land being referred to and the text acknowledges that the preferences expressed need to be seen in the context that not all of the site may be considered suitable. There is no indication which part of the sites may be considered suitable and there is no objective evaluation of the possible sites against defined criteria. In this sense a requirement to comply with the evidence of public consultation would be very difficult to implement. Moreover, public consultation is one of many material planning considerations that should be taken into account and a policy that makes it the determining factor is therefore not consistent with the presumption in favour of sustainable development.
83. The requirement for applications to comply with the results of public consultation is almost making an allocation by the back door. There is no requirement for the Plan to make allocations of residential land, and a criteria based approach to the release of sites is appropriate. However, if no allocations are to be made the vague site specific preferences expressed in public consultation cannot be given policy status. If preferred sites are to have any status, the possible alternative sites should be evaluated against a range of material planning considerations and clearly identified in a policy.
84. For the reasons I have outlined the third criterion does not meet the requirement of being “drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining applications”¹⁴ and is not consistent with the presumption in favour of sustainable development.

Recommendations:

In the second bullet point of Policy HN – H2 delete “advice” and delete the third bullet point.

¹⁴ Planning Policy Guidance Reference ID:41-041-20140306

85. With regard to both policies HN – H1 and HN – H2, I have considerable sympathy for the HNNP Steering Group in terms of the strategic context within which they have been working. Great efforts have been made to align the Plan with the emerging Cherwell Local Plan. While this is not a requirement it is clearly good practice as it would help to ensure that the Plan remains up to date following the adoption of the emerging plan. This endeavour was not helped by the change in the strategic context in the modifications published after the Plan had been submitted.
86. It is evident from the representations of Cherwell District Council that some clarification of the relationship of the HNNP and the proposed modifications to the Cherwell Local Plan will be necessary if the Local Plan is adopted in this form. As I have said I have not attempted to determine how compliant the Plan is with the emerging Local Plan as it is not the issue before me, but some clarification of the scale of development which will be required in Hook Norton under the Local Plan will be necessary. This will require joint working with the District Council and no doubt this discussion will take account of many factors including the scale and form of recent development and its effect on the character and local distinctiveness of Hook Norton. It will then be necessary to consider whether the approach to the development of new housing taken in the HNNP is capable of delivering the required level of housing. If it is not some elements of the Plan may need to be reviewed at that stage.

Policy HN – H3: Housing density

87. This policy does not prescribe a minimum or maximum housing density figure but aims to determine the density of proposed development is appropriate by having regard to the character of surrounding area. This is a flexible and pragmatic approach that is entirely consistent with the basic conditions.

Policy HN – H4: Types of Housing

88. As I have said in relation to policy HN – H1 the needs of households in Hook Norton are an important consideration but cannot be the only determinant of

the mix of dwellings provided as the village does have a role in the settlement hierarchy in accommodating the housing needs of the district and a minor amendment to reflect this is necessary for compliance with the Local Plan.

89. The requirement in this policy for applicants to submit an objective assessment of housing need for Hook Norton is onerous and would lead to a great deal of repetition. Paragraph 193 of the Framework requires local planning authorities to publish a list of information requirements for applications and indicates that these should be proportionate to the nature and scale of development proposals. It is a duty of the local planning authority to objectively assess housing need in its area and the Parish Council may from time to time conduct a local housing needs survey. It would be unduly onerous and inconsistent with the Framework to require a local needs study in every case but it would be entirely reasonable to require applicants to demonstrate how their proposals relate to the latest published information on housing need.

Recommendations:

In the first line of policy HN – H4 delete “to meet” and insert “that has regard to”

Delete the second sentence of policy HN – H4 after “...required to submit” and insert “with any planning application a statement setting out how the proposed housing types, sizes and tenures comply with the most up to date Strategic Housing Market Assessment and Local Housing Needs Survey.”

Policy HN – H5: Provision and retention of affordable housing

90. The policy aims to ensure that affordable housing provided on exception sites and under a planning obligation should, where possible be allocated to people meeting Hook Norton Needs or Connections Criteria. The first part of the policy relating to Rural Exception Sites is consistent with the basic conditions. In the second part of the policy relating to planning obligations it is not entirely clear what is meant by “the maximum proportion possible”. On first reading it appears to be an aspiration to aim for 100% of units to be allocated to people with local connections. However, the supporting text refers to Cherwell

District Council's allocation scheme which provides for up to 50% of affordable housing secured in this way to be allocated to people with village connections and I believe the intention of Policy HN – N5 is to seek the maximum percentage in accordance with the allocation scheme. On this basis the policy would comply with the basic conditions and I suggest a modification to clarify what is meant.

Recommendation

In the third line of the second part of Policy HN – H5 after "...total units provided" insert "under Cherwell District Council's Allocation Scheme".

91. Recent changes to PPG relating to planning obligations for affordable housing prevent agreements for the provision of affordable housing on developments of 10 dwellings or less.¹⁵ As the HNNP proposes small scale typically for less than 20 dwellings, this will limit the provision of affordable housing in this way.

Transport

Policy HN – T1: Access and parking

92. This policy sets out the approach to the provision of access and parking for new development. Cherwell District Council has pointed out that the County Council's parking standards are used as guidance, but that decisions are taken by local planning authorities on the basis of these standards and other development plan policies. The implication is that on occasions the presumption in favour of sustainable development will result in some deviation from the strict application of the standards. Subject to a minor modification to clarify this the policy meets the basic conditions.

Recommendation

In the second line of policy HN – T1 replace "in line with" with "taking account of".

¹⁵ Planning Practice Guidance ref ID:23b-012-20141128

Policy HN – T2: Non-car transport

93. This policy is a general one seeking to take opportunities to enhance facilities for pedestrians and cyclists and improve bus services. The last sentence refers to developer contributions towards the provision of an enhanced bus service for Hook Norton. Oxfordshire County Council has indicated that strategy is in place to improve the bus service between Banbury and Chipping Norton and that developer contributions are sought to assist this. However the restrictions on planning obligations for developments of 10 dwellings or less, referred to in paragraph 91, also apply to tariff style contributions. This, together with the requirements to be met by planning obligations referred to in paragraph 65 may well mean that of the relatively small scale development proposals envisaged by the Plan will rarely be able to justify a planning obligation of this sort. A minor amendment to reflect this is necessary.

Recommendation

Amend the last sentence of Policy HN – T2 to read “Where possible developer contributions will be sought towards the provision of an enhanced bus service for Hook Norton.”

Summary and Referendum

94. The Hook Norton Neighbourhood Plan has clearly been driven by a strong desire to protect the very special character of the village and to provide for the needs of its residents. It has been prepared in a difficult strategic context in the absence of an up to date local plan. The intention to achieve conformity with the emerging local plan has been complicated by modifications to that plan since the completion of the submission version of the Neighbourhood Plan that have increased the amount of housing being planned for.
95. There has been thorough engagement with the community throughout the process and The Plan reflects a strong consensus within the community about the main issues to be addressed.

96. The preparation of the Plan has been in accordance with the legislation. I have found it necessary to suggest some modifications to meet the basic conditions, and subject to these modifications I am satisfied that the Plan:

- has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach and is compatible with European Union obligations and the European Convention on Human Rights.

I am therefore pleased to recommend that the Hook Norton Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.

97. I am also required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Plan Area. The Plan relates to the whole of the parish of Hook Norton which includes a substantial area of countryside surrounding the village. I have seen no evidence to suggest that this area should be extended for the Referendum.

Richard High March 2014