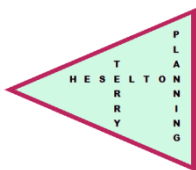


Branston Neighbourhood Plan (Examination Version)

Report of the Independent Examination

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Independent Examiner



Terry Heselton Planning

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Summary

I have examined the Branston Neighbourhood Plan as submitted to East Staffordshire Borough Council by Branston 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 Branston Neighbourhood Plan proceed to referendum, and that the voting area corresponds with the Branston Neighbourhood Area as designated by East Staffordshire Borough Council on 29 November 2012.

1.0 Introduction

- 1.1 I have been appointed by East Staffordshire Borough Council, with the consent of Branston Parish Council, to examine the Branston Neighbourhood Development Plan and report my findings as an Independent Examiner.
- 1.2 The Branston Neighbourhood Plan (referred to as ‘the Neighbourhood Plan’ or ‘the Plan’) has been produced by Branston 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. The Parish Council is a qualifying body for leading the preparation of a neighbourhood plan¹.
- 1.3 The Neighbourhood Plan covers the built up area of Branston village and associated residential and employment related development to the south of Burton on Trent, with open countryside to the south and west. The built up area is mostly contained by the River Trent to the east and the A38 trunk road to the west.
- 1.4 Significant new residential development is already planned adjacent to the built up area. The Plan focuses primarily on integrating new development into Branston, and shaping development in a way that is beneficial to existing communities while protecting and enhancing the local environment.
- 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 East Staffordshire Borough Council. The Plan would then be used to determine planning applications and guide planning decisions in the Branston 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 In order to meet the ‘Basic Conditions’, a neighbourhood plan must:
 - have regard to national policies and advice contained in guidance issued by the Secretary of State’,

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

- contribute to the achievement of sustainable development,
 - be in general conformity with the strategic policies of the development plan for the area of the authority (or any part of that area), and
 - not breach, and be otherwise compatible with EU obligations
- 2.3 In addition to reviewing the examination version of the Neighbourhood Plan I have considered a number of background documents which are listed in Appendix 1, together with twelve submitted representations, 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 on which I require clarification. I am also of the opinion that all parties have had full opportunity to register their views and put their case forward. I have therefore undertaken the examination through consideration of written representations, supported by an unaccompanied site visit of Branston and the surrounding 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 plan ⁷.
- 2.7 As Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan is submitted to referendum, on the basis that it meets the ‘Basic Conditions’ and other legal requirements; or
 - that modifications (as recommended in the report) are made to 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

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 requirements ⁸.

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 Branston Neighbourhood Area, and if so what the extended area should be ¹⁰.

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

3.0 Representations

3.1 Responses were received during the Regulation 16 Publicity period from East Staffordshire Borough Council, Staffordshire County Council, Natural England, English Heritage, the Environment Agency, Sport England, the Coal Authority, the Canal and River Trust, the National Forest Company, NHS Property Services, Gallagher Estates, and the Henhurst Hill/Postern Road Landowners Consortium.

3.2 **The Environment Agency, the National Forest Company, and the Canal and River Trust** are pleased that their previous comments have been incorporated in the Plan.

3.3 **Natural England** consider the Plan addresses natural environment issues very well and support the multi functional approach to green infrastructure. **Natural England** specifically support and commend Policy B8 (Landscaping and Protecting Biodiversity) which seeks to support and enhance local biodiversity, and Policy B9 (Open Space in New Developments). A number of detailed points and suggestions are made on other issues.

3.4 **English Heritage** generally endorses the Plan, and note that their previous comments have been largely addressed. Policies B3 (Design), B5 (Protection of Local Heritage Assets), B6 (Local Landscape Character) and B14 (Protection of Local Green Space) are specifically supported. Detailed comments and suggestions are provided on Policy B5 and Policy B6.

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

- 3.5 **Gallagher Estates, and the Henhurst Hill/Postern Road Landowners Consortium** object to Key Issue 8 (Protection of Local Green Space and Countryside), and Policy B6 (Local Landscape Character) and consider that the Plan does not satisfy the Basic Conditions, particularly in relation to the achievement of sustainable development.
- 3.6 **NHS Property Services** object to Policy B15 (Protection of Local Community Facilities) because the policy may inhibit the delivery of health services and the disposal of land and premises.
- 3.7 **Sport England, East Staffordshire Borough Council, and Staffordshire County Council** provide comments on a number of issues and policies in the Plan.
- 3.8 **The Coal Authority** had no substantive comments to make.
- 3.9 The 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) Plan Area

- 4.1 The Neighbourhood Plan relates to the whole of the Neighbourhood Area that was designated by East Staffordshire Borough Council on 29 November 2012, following an application by Branston Parish Council. The Parish Council is recognised as a Qualifying Body for the purposes of preparing Neighbourhood Plans under Sections 61F and 61G of the Town and Country Planning Act 1990.
- 4.2 The Branston Neighbourhood Area is coterminous with the area covered by Branston Parish.
- 4.3 I am therefore satisfied that the relevant statutory requirements in relation to the designation of the Neighbourhood Area and the authority of the organisation preparing the Neighbourhood Plan have been complied with.
- 4.4 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.

(b) Policies for the Development and Use of Land

- 4.5 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).

(c) Time Period

- 4.6 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 2012 to 2031. It therefore satisfies this legal requirement.

(d) Excluded Development

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

(e) Publicity and Consultation

- 4.8 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.
- 4.9 The submitted Neighbourhood Plan is accompanied by a comprehensive Consultation Statement which describes in some detail the process followed in preparing the Neighbourhood Plan as well as the methods used to engage with the local community and other stakeholders. It also demonstrates how comments received from members of the public and other stakeholders have been taken into account, and how these have influenced the preparation of the plan.
- 4.10 I have considered the various stages of consultation undertaken prior to and during preparation of the Neighbourhood Plan with particular regard to content, openness and transparency, as well as the extent to which the Regulatory requirements have been satisfied.
- 4.11 The stages of consultation and engagement can be summarised as
- Informal Consultation (July 2013 onwards)
 - Drop in events(January - February 2014)
 - Pre-submission (Regulation 14) consultation on the draft Plan
- 4.12 At the start of the process a Neighbourhood Plan Steering Group was established comprising interested residents and members of the Parish Council, with an initial brainstorming session held in January 2013 to consider the possible scope and content of the Plan and to identify key
-

themes. The Steering Group subsequently held a series of detailed discussions and workshops to guide and inform the content of the Plan.

Informal Consultation (July 2013 onwards)

- 4.13 Early informal consultation on the emerging vision, objectives and issues was undertaken in July 2013, in order to get members of the public and other stakeholders involved in the preparation of the Plan at an early stage. This included an event held at a local hotel in July 2013 which was advertised by distributing a leaflet to every household in the Parish.

Drop-in Events (January – February 2013)

- 4.14 In order to promote the emerging Plan and to provide an opportunity for informal consultation about key themes and policy areas two drop in events were held in Branston Village Hall and Rough Hayes Community Centre. These events were promoted to local residents and businesses by displaying posters and through coverage in the local newspaper.
- 4.15 Volunteers from the Steering Group attended both events to talk to residents, and an informal comment form was available to enable comments and suggestions to be made. Issues raised which have informed the preparation of the Plan included highway safety, improved pedestrian routes and suggestions for improvements to community infrastructure and open spaces.

Pre submission (Regulation 14) Consultation on the Draft Plan

- 4.16 The draft Plan was published for consultation in June 2014, and the Pre-Submission (Regulation 14) consultation took place between 16 June 2014 and 28 July 2014.
- 4.17 The consultation was publicised through the Parish Council web site press releases, posters, a banner displayed at various locations, and letters/e-mails sent to local businesses and community organisations. Hard copies of the Plan were placed in accessible locations such as local shops, Branston Post Office, public houses, Branston Village Hall, community centres, meeting rooms, and Burton upon Trent library. An electronic version was also available on the Neighbourhood Plan website which was used to advertise the various locations for viewing hard copies.
- 4.18 Members of the Steering Group also visited community groups and attended three venues (Rough Hayes Community Centre, Paget High School and a community day) to make residents aware of the consultation.
- 4.19 In addition a workshop was held at Rykneld Primary School to obtain young peoples' views in the area.
- 4.20 Specific evidence is provided in the Consultation Statement to demonstrate how the publication of the plan and the opportunity to comment on it has been publicised, plus details of the private individuals and various statutory bodies including East Staffordshire Borough Council, who were e-mailed copies of the plan direct.

Conclusions

- 4.21 During the preparation of the plan it is apparent that a wide variety of methods have been used to inform and engage with the local community including conventional methods such as meetings, leaflets, posters, workshops, and the local media, as well as electronic methods such as email, and the provision of a dedicated web page on the Parish Council's website.
- 4.22 The publication of the consultation draft Plan which was available in both paper and electronic formats has also been well publicised, and I am satisfied that those with an interest in the plan have been made aware of the opportunity to comment on it and that the views of relevant consultation bodies have been pro-actively sought.
- 4.23 Taking this and all of the previous stages into account, there is therefore plenty of evidence to show that the consultation process was comprehensive and conducted in an open and transparent manner from start to finish, with lots of opportunities for engagement, involvement and feedback. The Regulation 14 requirements for consultation and publicity have therefore been met and in some case exceeded.

Regulation 16 Publicity

- 4.24 The draft Neighbourhood Plan, as amended in response to the consultation, was subsequently submitted to East Staffordshire Borough Council. The submitted plan, incorporating a map identifying the area covered by the Neighbourhood Plan, was accompanied by 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 The Consultation Statement provides details of those consulted and explains how they were consulted. It also contains a schedule identifying specific comments and objections made in relation to individual paragraphs and policies in the Plan, with a commentary as to how the points raised have been accommodated in the submitted version of the Plan, or the reasons for rejecting them.
- 4.26 East Staffordshire Borough Council subsequently published details of the Plan and the accompanying documents, notified interested parties and 'consultation bodies' of its receipt, and provided details as to how and by when representations could be submitted. The formal six week publicity stage for submitting representations covered the period Monday 9 February to Monday 23 March 2015.
- 4.27 In the light of the foregoing I am satisfied that the Regulation 15 and Regulation 16 requirements for publicity 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

¹¹ National Planning Policy Framework (2012) para 14

¹² National Planning Policy Framework (2012) para 16

¹³ National Planning Policy Framework (2012) para 17

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 in a neighbourhood plan 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*”.
- 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 many policies in the Branston 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

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

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

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 recognise there will be new development in the Plan area, and includes policies to manage and integrate that development. Other policies aim to conserve and enhance the natural and historic environment, and ensure the retention and improvement of local facilities and greenspaces. These are key aspects of sustainable development, as set out in the NPPF, which states (para 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 East Staffordshire Local Plan (July 2006)
 - Saved policies in the Staffordshire and Stoke on Trent Minerals Local Plan (1994-2006), and
 - The Staffordshire and Stoke on Trent Joint Waste Local Plan (2010-2026)
- 5.17 The Staffordshire and Stoke on Trent Minerals Local Plan and the Staffordshire and Stoke on Trent Joint Waste Local Plan have no relevance for the Branston Neighbourhood Development Plan.
- 5.18 Policies in the East Staffordshire Local Plan were initially saved on adoption for a three year period under the provisions of the Planning and Compulsory Purchase Act 2004 (as amended). A number of policies that remained relevant and compliant with (at the time) national and regional or Structure Plan policies were then extended beyond that date by Direction of the Secretary of State on the 20 July 2009. 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 be attributed to them after April 2013.
- 5.19 Remaining 'Saved' Policies, of a strategic nature, which are of relevance to the Neighbourhood Plan area are:-
- CSP5 Infrastructure and Community Provision
 - CSP6 National Forest
 - NE1 Development Outside Development Boundaries
 - NE5 Central Rivers Strategy
 - NE14 National Forest: Planting Schemes
 - NE15 National Forest: Implementation of Planting Schemes
 - NE27 Light Pollution
 - BE1 Design
 - H6 Housing Design and Dwelling Extensions
 - T1 Transport: General principles for New Development
 - T6 Parking Areas: Design
 - T7 Parking: Standards
 - L1 Loss of Sports Pitches and Ancillary Facilities

¹⁶ National Planning Policy Framework (2012) para 184

- L2 Landscaping and Greenspace: Assessment
- L5 Allotments
- IMR2 Contributions and Legal Agreements

- 5.20 As the 'saved' policies in the East Staffordshire Local Plan predate the NPPF, the NPPF takes precedence where there is a conflict.
- 5.21 I am also mindful of the fact that East Staffordshire Borough Council is preparing a new Local Plan which has reached examination stage. When adopted this will form part of the development plan and will replace a number of 'saved' East Staffordshire Local Plan policies.
- 5.22 As there are a number of remaining unresolved objections to policies in the new Local Plan until the Inspectors report following public examination of the Plan is received only limited weight may be given to the policies in the emerging Plan. In any case even if the document is found to be sound it may have some way to go to reach adoption. There is therefore no certainty as to when this document may be adopted and the extent to which it may be changed.
- 5.23 In assessing whether the Neighbourhood Plan is in general conformity with strategic policies contained in the Development Plan for the area I have therefore taken the 'saved' policies in the adopted Local Plan as the starting point. In so doing I have taken into account that in accordance with national planning policy less weight may now be attributed to these policies than formerly, and in any case that some policies are now out of date and superseded by national planning policy.
- 5.24 A number of modifications are necessary for the Neighbourhood Plan to be in general conformity with 'saved' strategic policies. These are set out in the *Comments on the Neighbourhood Plan* section of my report.

(d) European Union Obligations

- 5.25 As part of the Plan preparation process Branston Parish Council commissioned a screening report to determine whether a full Strategic Environmental Assessment (SEA) of the Plan proposals was required.¹⁷ The report, which was published for consultation at the same time as the draft Plan in June/July 2014, concluded that the Plan does not require full Strategic Environmental Assessment. Formal consultation was undertaken at the same time with the three relevant consultation bodies, namely Natural England, English Heritage and the Environment Agency.
- 5.26 Although no objections were received in response to the consultation, and both the Environment Agency and English Heritage specifically stated that in their opinion a full SEA would not be required, no response was

¹⁷ in accordance with European Directive 2001/42/EC

received from Natural England at that time.

- 5.27 As responsibility for determining whether or not any of the proposals of a neighbourhood plan are significant enough to require an SEA, East Staffordshire Borough Council subsequently produced an SEA screening opinion of their own. This included a Habitats Regulations Assessment (HRA) screening statement ¹⁸.
- 5.28 The report concludes that the Neighbourhood Plan does not require a full SEA as no negative significant environmental effects will occur as a result of the implementation of policies contained in the Neighbourhood Plan. It further concludes that no further consideration of European designated sites (or Natura 2000 sites) is required.
- 5.29 The three relevant statutory consultation bodies, Natural England, English Heritage and the Environment Agency were sent a copy of the screening report, and all three have confirmed in writing that they agree with the conclusion of the report.
- 5.30 No objections in relation to any of the above matters were received during the Regulation 16 'Publicity' stage.
- 5.31 An equalities impact assessment carried out by East Staffordshire Borough Council indicates that the Neighbourhood Plan has neutral or positive impacts on groups with protected characteristics. No evidence has been put forward to suggest otherwise, and I agree with the conclusions of the assessment.
- 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 'saved' local strategic policies in the East Staffordshire Local Plan. Where modifications are recommended, they are highlighted in **bold print**, with any proposed new wording in *italics*.

(a) Introductory Sections

- 6.2 The introductory sections of the Neighbourhood Plan comprise an Introduction explaining the background to the plan and the involvement of

¹⁸ 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).

the local community, a section on the preparation process, and a commentary on key issues that have emerged during the preparation of the Plan, followed by the overall vision and objectives for the Plan. The key issues are supported by a series of photographs to illustrate a number of traffic management and pedestrian movement related issues. There is also a map identifying the Plan area.

Comments

- 6.3 These opening sections are for the most part clearly written and informative. They provide the background to the policies that follow and a comprehensive assessment of issues and an explanation of the purpose of the Plan (particularly paragraphs 10 -13), which helps to demonstrate how the vision and objectives have been arrived at.
- 6.4 My only criticism is that by not explaining the evolution of Branston within the wider context of Burton on Trent an opportunity has been lost to create a strong sense of place. As this does not affect the ability of the Plan to meet the Basic Conditions I make no recommendations in this respect.
- 6.5 However, in establishing the planning context behind the preparation of the Plan in paragraphs 10-12 (Submission Plan) and in paragraphs 20-21 (Key Issue 1 - Integration of New Development) it is not clear which sites already have the benefit of planning permission (and whether full or outline) and where they are located.

Recommendation 01

Clarify which sites referred to in paragraphs 10 and 21 have the benefit of planning permission and identify these on a map.

- 6.6 The response to the Regulation 16 Publicity has highlighted a small number of anomalies and inconsistencies in the conclusions reached in some of the key issues and in four of the eight objectives in the Plan.
- 6.7 In this respect I agree with Staffordshire County Council who consider that insufficient explanation is given in Issue 3 (Schools) as to the process for securing financial contributions from development toward the provision of additional school places, and that this applies to both primary and secondary school places. Additional explanation should also be provided about the scope for securing enhanced school facilities to support dual use, potentially through the use of section 106 agreements and CIL, in the light of my recommended modification to Policy B16 (Provision of a New Secondary School).

Recommendation 02

Incorporate additional information in Issue 3 regarding the process for securing financial contributions from development toward the provision of additional primary and secondary school places, and

the scope for enhancing school facilities to support dual use through section 106 agreements and potentially through CIL.

- 6.8 There is a significant discrepancy between the green spaces identified in Issue 8 (Protection of Local Green Space and Countryside) and those proposed to be protected in Policy B14 (Protection of Local Green Space). In fact only eight of the fourteen sites identified in Table 1 (paragraph 49) appear in Policy B14.
- 6.9 In addition paragraph 51 (Issue 8) should refer to the fact that there is scope for improving the green infrastructure network rather than express this issue as a proposed action/policy.

Recommendation 03

Amend Table 1 in paragraph 49 to ensure consistency with Policy B14, including recommended modifications to Policy B14, and amend paragraph 51 so that reference to green infrastructure is expressed as an issue rather than a policy intention.

- 6.10 In commenting on objective two, East Staffordshire Borough Council suggest that as the responsibility for securing additional school places rests with the Local Education Authority it is not clear how the Neighbourhood Plan can influence this process. While it is beyond the scope of the Plan to directly influence the provision of school places it is nevertheless a valid objective to work with other organisations to this end. I do have a reservation however that as drafted the precise meaning of the objective is unclear. It is also inappropriate to expect development to contribute toward the provision of local services and infrastructure or measures to mitigate the impact of development, other than those directly related to the scheme.

Recommendation 04

Replace objective 2 with the following wording “*To ensure future development makes appropriate provision for new infrastructure and services that is directly related to the development, including identified educational and other local needs priorities*”.

- 6.11 Natural England suggest the scope of objective four should be widened by changing ‘cycle and walking routes’ to ‘cycle and walking networks’ to encompass the creation of new routes, and that ‘and enhance’ should be inserted after ‘protect’ in objective six. Both of these changes would ensure greater consistency between the objectives and subsequent policy wording, including recommended modifications to policies.

Recommendation 05

Replace 'routes' with '*networks*' in objective four.

Recommendation 06

Insert '*and enhance*' after 'protect' in objective six.

- 6.12 I also agree with Sport England that objective seven should include reference to recreation and sports facilities as well as community facilities to ensure consistency with the policies in the Plan and recommended modifications to the Plan. I do not agree that the Vision should include reference to health and wellbeing as the Vision is very much a matter for the local community to decide for themselves, and has no bearing on whether the Plan satisfies the Basic Conditions.

Recommendation 07

Insert '*recreational and sports*' after 'community facilities' in objective seven.

- 6.13 There are also a number of factual errors and inaccuracies to correct.

Recommendation 08

- a) On page 3 change the title of 'Parish and Map 1' to '*Map 1 – Branston Neighbourhood Plan Area*', and thicken the boundary line.
- b) In paragraph 3 change 'contiguous' to '*coterminous*'.
- c) In paragraph 42 change 'when' in the last line to '*if*'.
- d) On page 22 change the number preceding the Vision and Objectives heading from '5' to '4'.

- 6.14 I also suggest that parts of the Introduction, including the consultation process and preparation process, are edited further in the final version as some of the content will no longer be relevant, and in order to simplify the Plan.

(b) General Approach

- 6.15 The Neighbourhood Plan recognises that the agenda for housing numbers and growth has already been established through the granting of a number of significant planning permissions. It does not therefore attempt to establish an appropriate level of future housing or employment

growth or identify specific sites to accommodate future growth. Rather it focuses on how new development will be managed and integrated into the existing pattern of development. The emphasis is on sustainable growth that respects the character of Branston, protects and enhances the built heritage and landscape assets of the Plan area, and safeguards local community facilities and green spaces.

Comments

- 6.16 The overall approach in the Plan generally conforms with ‘saved’ local strategic policies in the 2006 Local Plan. In particular the focus on conserving and enhancing the character of the area, ensuring that new development contributes toward the provision of local infrastructure and facilities, including new school places and walking/cycling networks, and that development is of a high design quality is consistent with a number of Local Plan policies.

(c) Land Use Policies and Explanatory Text

- 6.17 The land use policies part of the Plan is organised into three sub sections, namely; Integrating New Development into Branston, Protecting Branston’s Built Heritage Assets and Shaping What Happens on New Development Sites.
- 6.18 Individual policies within each section are set out in bold text in a coloured box to distinguish them from the supporting text and justification.
- 6.19 Each policy is followed by a list of relevant objectives, (highlighted in a box), which are addressed by the policy.
- 6.20 Finally each section concludes with a list of local strategic policies, (highlighted in a box), which are relevant to the policies within that particular section.

Comments

- 6.21 Although the policies are mostly accompanied by a reasoned explanation and /or justification, with excellent cross referencing between the key issues and policies in the Plan in some cases, I do have a number of reservations about the overall clarity and structure of this section.
- 6.22 First, there is no consistent pattern to the way the text accompanying the policies is presented. Sometimes it precedes the policy, sometimes it follows after, and sometimes as is the case with Policy B1 it is a mixture of the two. There are also examples (Policies B2, B4 and B16) where the specific justification for a policy is presented as part of the justification for another policy. On balance it would be more logical and clearer if policies were preceded by the accompanying justification.
- 6.23 Second, it is not very clear where individual subsections begin and end since the flow of subsection 3 (Shaping What Happens on New Development Sites) is interrupted by the inclusion of lists (highlighted in a box) of relevant local strategic policies, after groups of policies. For

example between Policy B9 and Policy B10.

- 6.24 Third, I note that Policies B14 (Protection of Local Green Space) and Policy B15 (Protection of Local Community Facilities) in sub section three are concerned with the protection of local community facilities and green space, rather than 'shaping new development'. For clarification policy B16 (Provision of a New Secondary School) is relevant to section three.
- 6.25 Fourth, the system of paragraph numbering and section/sub section numbering throughout the document is slightly confusing and does not give enough prominence to each of the sub sections. This could be overcome by using a different numbering system so that each paragraph number is made up of a section number and paragraph number, for example 1.0, 1.1, 2.0, 2.1, 2.2 and so on, or emphasising sub section headings through a combination of larger font size and highlighting.

Recommendation 09

Restructure Section 5 so that it is easier to differentiate between individual sub sections and so all policies are preceded by a relevant explanation and justification.

Recommendation 10

Create a new subsection for policies B14 and B15 entitled '5.3: Protecting Local community Facilities and Green Space', after sub section 5.2: 'Shaping What Happens on New Development Sites'.

- 6.26 Another point to note is that in assessing the general conformity of Neighbourhood Plan policies with local strategic policies throughout the course of the examination I have noticed a number of inaccuracies in the lists of relevant saved Local Plan policies at the end of each section. I recommend that these be reviewed and amended.
- 6.27 Neither is it appropriate to include lists of relevant emerging Local Plan policies since these may be modified or even deleted before the Plan is adopted. Policies in the Plan only have to generally conform with strategic policies in the current development plan, in order to satisfy the Basic Conditions.
- 6.28 For similar reasons Appendix 1 at the end of the document should be deleted as references to emerging local strategic policy and current national and other policy may become out of date and/or be superseded.

Recommendation 11

- a) Correct the lists of 'saved' Local Plan policies which are identified in a 'box' at the end of each section,**
- b) Delete references to emerging Local Plan policies in the 'box' at the end of each section**

c) Delete Appendix 1

Subsection 5.1: Integrating New Development in Branston

Policy B1 (Integrating New development with Existing Communities)

- 6.29 The policy is intended to ensure that new development caters for pedestrians, cyclists and mobility vehicle users in order to encourage travel by means other than the motor car. It also aims to ensure that new (pedestrian, cyclist, and mobility vehicle) routes are linked to existing routes and to secure improvements to a number of existing strategic pedestrian routes. A further policy strand identifies some specific improvements to the existing cycleway network and footpath network which are intended to be secured through either section 106 agreements or through funds received through the CIL.
- 6.30 The policy applies to developments classed as 'major' for planning application purposes, which (as defined by CLG) in the case of residential development would comprise schemes of 10 or more dwellings

Comments

- 6.31 Policy B1 has regard to national planning policy by promoting pedestrian and cycle movements as an alternative to the motor car, which also supports the creation of healthy, inclusive communities. Maximising non car based transport and improving the environment in which people live and work also contributes to the social and environmental aspects of sustainable development.
- 6.32 The policy generally conforms with local strategic policy by ensuring that new development makes appropriate infrastructure and community provision (Local Plan Policy CSP5 - Infrastructure and Community Provision), by ensuring that development makes adequate provision for pedestrians and cyclists (Policy NE1 and Policy T1), and by securing the implementation of proposals through appropriate contributions and agreements (Policy IMR2).
- 6.33 Given the scale of planned growth and the number of dwellings proposed through outline planning permissions in the Plan area the broad intentions of the policy are appropriate and reasonable. However as drafted the policy may be unworkable.
- 6.34 While it is reasonable to expect large scale developments to incorporate new cycleway and possibly mobility vehicle routes, I would question whether this is appropriate or even practical in the case of schemes as small as 10 dwellings. In such circumstances a financial contribution may be more appropriate although in considering planning applications decision makers may also need to address viability issues.
- 6.35 I have considered whether the introduction of different thresholds would overcome this difficulty, but in the absence of specific evidence and because interested parties have only had the opportunity to comment on

- the Plan proposals as published, this would be inappropriate. I therefore suggest the words 'where appropriate' should be incorporated in the first part of the policy. I appreciate this weakens the policy to a degree but without this qualification I am not confident that the policy could be applied in a consistent or meaningful way.
- 6.36 Similar considerations apply to the second part of the policy (paragraph 2) in relation to expected improvements to existing pedestrian routes, since it will not necessarily be appropriate for all schemes to contribute (directly or financially) to the upgrade of established routes, particularly where these are not linked to or well related to the development.
- 6.37 The wording of both the policy and the accompanying text is also unclear, and the legibility of the accompanying Map 2 could be improved.
- 6.38 In this respect a number of inaccuracies are highlighted by East Staffordshire Borough Council in their response to the submitted Plan. For example the Council state that the list of existing pedestrian routes in the second part of the policy (paragraph 2) comprises a mixture of existing and non existing pedestrian routes. In addition the 'Postern Road to Sandyford Dingle' route identified in the first bullet point is referred to as a 'proposed path' in the second bullet point. I also agree that the location of the routes referred to is not clear without an accompanying map.
- 6.39 While the first part of the policy does benefit from an accompanying map I have to say Map 2 is not very legible, and as pointed out by East Staffordshire Borough Council the map only covers part of the Parish. It is also apparent that the routes shown extend beyond the Parish boundary in some cases. While this helps demonstrate wider connectivity beyond the Parish, as the Parish boundary is not shown the map is somewhat misleading. In any case the Plan should make it clear that development proposals within the Plan area cannot reasonably be expected to create new routes and improve existing linkages outside the Plan area.
- 6.40 I also note that the policy wording refers to 'existing wider routes as shown on Map 2' whereas the Map is entitled 'Proposed Extension of Cycle Routes/Walking Routes'. Neither do the routes delineated correspond with the map legend. For example 'public rights of way permissive paths' are shown in the legend with a light brown broken line but on the map with a light brown 'dot line'. There are also a number of routes shown on the map (with a solid red line, solid brown line and a solid black line with cross lines) with no corresponding legend.
- 6.41 A number of modifications are therefore required in order to rectify these inaccuracies and inconsistencies, and to improve the clarity of both the text and Map.
- 6.42 With regard to the final part of the policy (paragraph 3) I note that the list of suggested improvements duplicates some of the improvements identified in the second part of the policy. East Staffordshire Borough Council also comment that the wording of the policy implies that a CIL will be introduced which might not be the case.
- 6.43 As the range of improvements relate to aspirations rather than firm
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proposals, and as funding priorities may evolve and change through time it is inappropriate to include the list in the policy. The suggested improvements could however be incorporated in the non development plan part of the Plan (Section six).

Recommendation 12

- a) **Insert ‘*and where appropriate*’ between ‘safe walking’ and ‘cycling and mobility vehicle routes’ in the second line of paragraph 1.**
- b) **Delete ‘below’ in line 3 of paragraph 1.**
- c) **Insert ‘*where appropriate*’ after ‘valued by the community and’ in the second line of paragraph 2.**
- d) **Incorporate additional explanation in the accompanying text to the effect that development will be expected to improve or contribute to the improvement of established pedestrian routes within the Plan area where these are related to the development.**
- e) **Delete all ‘non existing’ routes from the list of existing pedestrian routes after paragraph 2,**
- f) **Incorporate a map identifying the existing pedestrian routes referred to in the policy and insert ‘*as shown on Map X*’ after ‘The following routes’ in the first line of paragraph 2.**
- g) **Delete paragraph 3 including the list of potential improvements, and incorporate these as aspirations and priorities in the non development plan part of the Plan (Section six)**

Recommendation 13

- a) **Extend Map 2 to cover the entire Neighbourhood Plan area and show the Plan area boundary.**
- b) **Enhance the legibility of the map.**
- c) **Change the map title to ‘*Wider Pedestrian Routes*’.**
- d) **Correct inconsistencies between the map and the map legend.**

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

6.45 **Policy B2 (Improving Public Transport Links to Local Employment Areas)** is intended to ensure that new development supports improvements to public transport, including links to local employment areas, education facilities, the town centre, and other facilities. The policy applies to development classed as ‘major’ for planning application purposes, which (as defined by CLG) in the case of residential development would comprise schemes of 10 or more dwellings.

Comments

- 6.46 The promotion of sustainable transport is embodied in national planning policy and Policy B2 would contribute to the economic, social, and environmental dimensions of sustainable development. It also generally conforms with local strategic transport policies.
- 6.47 However the policy is not supported by accompanying text or justification, and there is no explanation as to how development will be expected to deliver improvements to public transport, for example through the layout and design of schemes to accommodate bus routes, or through financial contributions, for example to provide bus shelters, information displays, or other bus related facilities.
- 6.48 I also find there is an element of duplication and inconsistency between the first and second parts of the policy. For example the first part of the policy refers to links to 'employment areas, and training and educational facilities' whereas the second part refers to 'local centres of employment and education facilities, the town centre and other facilities'.
- 6.49 Similar considerations apply in relation to the 'trigger point' for the policy raised previously in connection with Policy B1. For example it may be impractical to incorporate a public transport element in schemes as small as 10 dwellings, and depending on the range of infrastructure and other requirements generated by the development, an additional financial contribution toward public transport improvements may affect the viability of individual schemes.
- 6.50 One way round this could be to insert a caveat in the policy so that it only applies 'where appropriate' (in the view of the decision maker). While this would weaken the policy I do not consider the policy could be applied in a consistent or meaningful way without it. However in the light of the other considerations highlighted above I recommend that the policy be deleted as its meaning and method of implementation is unclear, and it lacks adequate explanation/justification.
- 6.51 Some elements of the policy could be incorporated in the text in connection with Policy B1 and in the non development Plan 'aspirations' section of the Plan.

Recommendation 14

Delete Policy B2 and incorporate additional text in the Plan explaining that improvements to public transport will be sought through negotiation on section 106 agreements and a CIL (if introduced) and incorporate some examples of the type of improvements to be sought in the 'aspirations' section of the Plan.

- 6.52 **Policy B3 (Design)** aims to ensure that all new development is of a high design quality which contributes to local distinctiveness. Considerable emphasis is placed on avoiding clutter in the street scene by ensuring the

provision of waste bin/cycle storage facilities. The policy also discourages development higher than 2 storeys in order to reflect the prevailing character of the area and to preserve views.

Comments

- 6.53 The policy reflects the general intention of national planning policy by promoting designs which respond to and make a positive contribution to local character, and by creating a visually attractive environment. These are key attributes of the environmental dimension of sustainable development. The policy generally conforms with Local Plan Policies NE1, BE1, and H6 by promoting high quality designs which correspond with and enhance surrounding development, at the same time protecting local amenity.
- 6.54 However although one of the reasons for the intended blanket restriction on building heights is to 'protect views' no specific evidence has been produced as to which views or vistas are particularly valued and worthy of protection. At the same time while it is not the purpose of the planning system to protect a view for the benefit of any particular individual I am mindful of the fact that a number of Local Planning Authorities do have policies in place to protect specific views or to restrict building heights in the wider public interest, for example to safeguard a skyline, or the character and appearance of a conservation area.
- 6.55 I therefore agree with the suggestion made by East Staffordshire Borough Council that this part of the policy should be worded more positively.
- 6.56 I also note that reference is made to a number of supporting documents and guidance in the policy. As these documents may become out of date and superseded with the passage of time I recommend future proofing the policy by substituting a more general cross reference to guidance in force at the time of considering applications.
- 6.57 Additional information about current guidance could be included in the accompanying text if desired. In this respect the reference to the West Midlands Historic Farmstead Project is slightly misleading as development proposals should take account of the Staffordshire Farmstead Guidance produced by Staffordshire County Council as a result of the project, including the East Staffordshire Character Statement. The guidance reviews the character and significance of traditional farmsteads and buildings in the area and is intended to inform and achieve the sustainable development of historic farmsteads.
- 6.58 Reference could also be made to East Staffordshire Borough Councils 'Re-use of Rural buildings SPD (2010)' and guidance produced by English Heritage (Guidance on Local Farmsteads in East Staffs 2011) which complements the SPD.
- 6.59 A further suggestion is made by East Staffordshire Borough Council to incorporate additional information about the National Forest Project in paragraph 64. While this may be informative it has no bearing on whether

the Policy and accompanying justification satisfy the Basic Conditions and I therefore make no recommendation in this respect.

Recommendation 15

- a) Delete paragraph 2 and substitute the following “***Building heights are expected to reflect the predominant character of the area. While development is expected to be predominantly two storeys or less, development higher than two storeys may be acceptable in certain locations where this would harmonise with the character of the area and the sites surroundings and be acceptable with regard to design and other considerations***”
- b) Delete ‘as set out in the East Staffordshire Design Guide SPD’ in the second line of paragraph 1 and insert ‘***taking account of the most up to date design guidance adopted by East Staffordshire Borough Council***’
- c) Delete ‘the guidance in the West Midlands Historic Farmstead Project’ in paragraph 5 and insert ‘***up to date guidance adopted by Staffordshire County Council and East Staffordshire Borough Council regarding historic farmsteads***’
- d) Incorporate additional text in the accompanying explanation to provide more information about the Staffordshire Farmstead Guidance and SPD/guidance produce by East Staffordshire Borough Council and English Heritage.

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

6.61 **Policy B4 (Character Areas)** requires new development to be subdivided into different character areas to be achieved through variety of scale, density, enclosure and materials.

6.62 While this approach would contribute to the achievement of more interesting designs and a strong sense of place in line with national planning policy I have reservations about the practicability of the policy.

6.63 First as drafted the policy would apply to all development irrespective of scale or type. While it may be inferred from the accompanying text (paragraph 62) that it applies to residential developments classed as ‘major’ for planning application purposes, this could mean residential developments as small as 10 dwellings (based on the CLG definition of major planning applications as is the case with Policy B1 and Policy B2). It seems to me that this is an unreasonable and impractical requirement.

6.64 Second, in the absence of any evidence I am unable to answer the question posed by East Staffordshire Borough Council in their response as to what scale of development would be required for such a policy to become feasible and appropriate. I am mindful of the fact that a number of neighbourhood plans incorporate similar policies which have been endorsed at examination. However these have higher thresholds based

on specific evidence and justification such as the previous pattern and/or scale of growth. Clearly the circumstances at one location cannot be used to justify a policy at another location.

- 6.65 It would not therefore be appropriate for me to suggest a specific threshold particularly as interested parties have only had the opportunity to comment on the Plan proposals as published.
- 6.66 In the circumstances because the policy lacks sufficient clarity and evidence I have no option but to recommend deletion of the policy, although the accompanying explanation (paragraph 62) may be retained to encourage developers to consider the approach advocated.

Recommendation 16

Delete Policy B4.

Subsection 5.2: Protecting Branston's Built Heritage Assets

Policy B5 (Protection of Local Heritage Assets)

- 6.67 **Policy B5** is intended to conserve and enhance local (non designated) heritage assets (as opposed to designated heritage assets) when these are identified at some point in the future by East Staffordshire Borough Council through publication of a 'Local List'. It is supported by a list of buildings, structures and spaces which the Parish Council intends to submit as the basis for preparing the 'Local List'.

Comments

- 6.68 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 Local Plan objective of preserving and enhancing the areas architectural and historic heritage.
- 6.69 However as pointed out by English Heritage in their response to the published Plan in the short term at least the local heritage assets identified in paragraph 74 will remain unprotected. English Heritage considers that as these are assets of clear significance to the local community it would be appropriate to protect them in the interim.
- 6.70 In fact there is no guarantee that a 'Local List' will ever be agreed and published. Nor is it clear as to whether the assets identified can genuinely be regarded as having clear significance to the local community, or whether they reflect English Heritage guidance for assessing the suitability of buildings to be identified as local heritage assets.
- 6.71 From the information at my disposal it is not possible to assess the extent to which the community may have been involved in preparing and

commenting on the list. For example I note that Policy B5 and the accompanying explanation have only been included in the Plan as a result of comments made by English Heritage on the draft Plan at Regulation 14 consultation stage. And although a list of potential local heritage assets, referred to as 'Areas of Interest', was included in the draft Plan there is no evidence of specific consultation having taken place with a view to drawing up a list.

- 6.72 On the other hand the local community and interested parties have had the opportunity to comment on the (paragraph 74) list at Regulation 16 Publicity stage. The fact that only two out of twenty seven identified local heritage assets have attracted an objection to their inclusion on the list demonstrates a degree of support for the remainder.
- 6.73 While national Planning Practice Guidance¹⁹ 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 am therefore persuaded by the argument in favour of protecting those features already identified in the Plan as local heritage assets, subject to the caveat that at such time as a 'Local List' may be prepared that would supersede the list of features identified in the Plan. This would enable additional assets that meet the relevant criteria to be included in the 'Local List', and any assets identified through the Neighbourhood Plan to be excluded if they do not meet the criteria.
- 6.75 With regard to the paragraph 74 list of local heritage assets, I agree with East Staffordshire Borough Council that the inclusion of the two groups of trees (in Clays Lane and Clays Lane Park) is inappropriate as these could if necessary be protected through Tree Preservation Order legislation. I therefore recommend their deletion from the list.
- 6.76 I further recommend that the descriptions of individual (paragraph 74) local heritage assets should be checked for accuracy and in order to clarify the precise location of each asset within the Plan area they should be identified on a map, cross referenced to Policy B5.
- 6.77 A number of additional recommendations are made in order to ensure the use of correct terminology and to further improve the clarity of both the policy wording and the accompanying explanation so as to fully reflect national planning policy and guidance.
- 6.78 In particular paragraph 71 should be amended to more accurately 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, and to describe the role of the Local planning Authority in producing 'Local Lists', with reference to the

¹⁹ Planning Practice Guidance para 041 Ref ID: 18a-041-20140306

Planning Practice Guidance²⁰.

Recommendation 17

- a) In paragraph 65 insert '*designated*' before 'heritage assets' in line one and substitute '*harm this irreplaceable asset*' for 'adversely affect this', in line three.
- b) Change the heading immediately before paragraph 68 to '*Locally Significant Heritage Assets*'.
- c) Amend paragraph 71 to more accurately explain the difference between designated heritage assets and non designated heritage assets, and to describe the role of the Local Planning Authority in producing 'Local Lists', with reference to the Planning Practice Guidance, and insert the amended paragraph before paragraph 68,
- d) In paragraph 68 substitute '*Local Planning Authority*' for 'Council'.
- e) In paragraph 73 substitute '*conserve*' for 'protect' in line 2.
- f) Delete the second sentence in paragraph 73.
- g) Replace paragraph 74 with the following '*The following features, buildings, structures and spaces, as defined on Map x, are considered to be local heritage assets worthy of protection:*'.
- h) Check the accuracy of the descriptions of individual local heritage assets in para 74
- i) Delete the following features from the list of local heritage sites included in paragraph 74 ; 'Fir trees at the top of Clays Lane, outside the land of No's 1 and 2 Clays Lane', and 'Oak tree on Clays Lane Park, adjacent on playing field to No 110 Clays Lane'
- j) Incorporate a map in the Plan identifying the individual features in the amended list of local heritage sites.
- k) In paragraph 75 insert '*statutory*' before 'listing' in line 2.
- l) In paragraph 76 insert '*which will supersede the list of local heritage assets identified in this Plan*' after 'heritage assets in Branston'

Recommendation 18

- a) In the first paragraph of Policy B5 delete 'Once the Local Heritage List for Branston has been approved by East Staffordshire Borough Council, and substitute '*Local Heritage Assets as defined on Map x and listed in paragraph xx,*' for 'building or structure on the Local Heritage List'.
- b) Substitute '*identified as Local Heritage Assets on Map x and listed in paragraph xx*' for 'on the Local Heritage List' in the third paragraph.

²⁰ Planning Practice Guidance para 021 Ref ID: 2a-039-20140306

- c) **Insert an additional paragraph at the end of the policy as follows ‘*The local heritage assets protected by this policy will be superseded by heritage assets on a Local List of non designated heritage assets when this is prepared by East Staffordshire Borough Council*’.**

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

Subsection 5.3: Shaping What Happens on New Development Sites

Policy B6 (Local Landscape Character).

- 6.80 The policy is intended to ensure that new development takes local landscape character into account, and that associated heritage, wildlife, woodland and hedgerow features are enhanced. In particular development should protect and enhance the historic environment of the Trent Valley Washlands and take account of the National Forest Project.
- 6.81 The historic landscape in the vicinity of Postern Road/Henhurst Hill is specifically protected from new development
- 6.82 The policy applies to development classed as ‘major’ for planning application purposes, which (as defined by CLG) in the case of residential development would comprise schemes of 10 or more dwellings.

Comments

- 6.83 In considering whether the policy satisfies the Basic Conditions there are a number of objections and other representations from interested parties to take into account. These principally concern the fourth paragraph of the policy which specifically prohibits development in the vicinity of Postern Road/Henhurst Hill.
- 6.84 Two of the respondents, namely Gallagher Estates and a Consortium of Henhurst Hill/Postern Road landowners have a direct interest in land at this location and object on the grounds that there is no evidence to justify the protection of the area from development and that the policy therefore conflicts with national planning policy (paragraph 126) which requires historic assets to be conserved in a manner appropriate to their significance. It is also suggested that this could inhibit the provision of educational facilities (in conjunction with development on adjacent land) or long term development at this location contrary to the achievement of sustainable development.
- 6.85 Having considered the various documents referred to in both the Plan and by objectors it seems to me that the key issue is whether the Plan correctly interprets an Historic Environment Character Assessment (HECA) carried out by Staffordshire County Council on behalf of East Staffordshire Borough Council in 2013.
- 6.86 The objectors contend that while the HECA identifies part of the Plan area

- as falling within an area of '18/19 Century planned enclosure' (Character Zone 9), this does not apply to the land in question. In any case it is suggested that even if it did this does not preclude development since this landscape type is relatively common in this area, and there are recent examples of planning permissions being granted within Character Zone 9.
- 6.87 This interpretation is corroborated by comments submitted by Staffordshire County Council who indicate that a previous report, based on a Historic Landscape Characterisation project carried out in 2006, identified the majority of the Parish as '18/19 Century planned enclosure'. The response also advises that the more recent assessment was restricted to areas adjacent to the existing built up area, as requested by East Staffordshire Borough Council, in order to inform the emerging new Local Plan, and that land at Postern Road/Henhurst Hill was excluded from the assessment. Crucially it is pointed out by the County Council, that the report does not recommend a ban on development within areas identified as '18/19 Century planned enclosure'.
- 6.88 The fact that East Staffordshire Borough Council suggests some additional wording to 'soften' the impact of this part of the policy tends to support the view that this part of the policy is overly restrictive.
- 6.89 In the light of the foregoing I conclude that the available evidence does not justify the approach taken, and that the policy places disproportionate emphasis on local landscape character contrary to national planning policy.
- 6.90 I also agree that as drafted this part of the policy could undermine long term sustainable growth, since although the emerging Local Plan has yet to be finalised it is clear that Burton on Trent as the principal settlement is likely to continue to be an appropriate location for continued growth. However this conclusion should not be interpreted as conferring future development status on the land in question.
- 6.91 For clarification my recommendation is to delete the whole of paragraph 4 since the only 'presumption' in national planning policy is the presumption in favour of sustainable development. This part of the policy is therefore at odds with national policy, and also with Local Plan Policy CSP6 (National Forest) which does not restrict development within the defined National Forest area.
- 6.92 There is one additional response to consider which was submitted by English Heritage who are concerned that the second paragraph of the policy goes beyond the statutory duty by requiring development to enhance heritage features, wildlife habitats, woodland and hedgerow networks as well as to conserve these features. While national planning policy refers to the conservation and enhancement of natural features, I am mindful of the fact that conservation area legislation requires proposals to 'conserve or enhance'. In the circumstances it seems appropriate that the policy should at least refer to conservation, as the minimum requirement, with enhancement to be undertaken where this is appropriate, as suggested by English Heritage.
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- 6.93 I also note that the policy refers to Staffordshire County Council's Planning for Landscape Change Supplementary Planning Guidance, which was published in 2000, and not the more recent assessments of landscape character which have been undertaken. Rather than refer to specific guidance which may become outdated and/or superseded I recommend the policy be future proofed by incorporating a more general cross reference to guidance in force at the time of considering proposals.

Recommendation 19

- a) **Delete 'Staffordshire County Council's Planning for Landscape Change SPG' in the fourth line of paragraph 1 and insert '*the most up to date landscape character assessment and associated guidance produced by Staffordshire County Council*'.**
- b) **Insert '*conserved and where appropriate*' after 'hedgerow network are' in line 3 of the second paragraph.**
- c) **Delete paragraph 4**

- 6.94 Subject to the above modifications the Policy meets the Basic Conditions. It has regard to national planning policy by conserving and enhancing the natural environment, one of the key attributes of the environmental dimension of sustainable development.

- 6.95 As modified the policy generally conforms with local strategic policies NE1 and BE1 by ensuring that new development is compatible with and responds positively to the character of the surrounding area. It will also accord with Policies CSP6, NE14 and NE15 in relation to the National Forest.

- 6.96 **Policy B7 (Health and Wellbeing)** aims to increase opportunities for healthy lifestyle choices by promoting a green infrastructure approach to design through the provision of open spaces, cycling and walking networks. Developers are also encouraged to cater for disabled/elderly residents through the provision of raised planting beds, and to take the views of the local community into account in relation to the provision of garden space, allotments and shared space.

Comments

- 6.97 The policy reflects national planning policy which includes health and wellbeing objectives, including the creation of safe environments where there are opportunities for members of the community to meet. These are important elements in the social and environmental aspects of sustainable development. It also complements local strategic policy in relation to the design of development, (Policy BE1), the provision of facilities for cyclists and pedestrians (Policy T1) and the provision of greenspace (Policy L2).

- 6.98 Although I would question the effectiveness of a policy which relies on developer co-operation to achieve its objectives, as it is not my role to test for soundness, for example in terms of deliverability, I am satisfied the policy meets the Basic Conditions, subject to the following reservations.
- 6.99 First, there is an inconsistency between the policy wording which implies that the policy should apply to all development, and the accompanying text (paragraph 87) which refers to major residential schemes, which I take to mean schemes of 10 or more dwellings on the basis of the definition used in other policies. However similar considerations as discussed in relation to Policy B1 apply in that it may not always be appropriate for schemes as small as 10 dwellings to provide or contribute toward the provision of cycleways.
- 6.100 Second, it is not clear in the third paragraph of the policy whether developers are expected to consult with existing or new residents (or both) – a point raised by East Staffordshire Borough Council. The accompanying text (paragraph 87) suggests that new residents should be involved in this process, which would make sense particularly in relation to large scale developments which are likely to be implemented over long timescales. On balance I see no reason why the policy should not apply to both.
- 6.101 In addition the inclusion of a reference to the contribution made by sports activities to physical and mental wellbeing, as suggested by Sport England, would bring the policy further in line with national policy.

Recommendation 20

- a) Delete 'sites' and insert '*defined as major residential for planning application purposes,*' in the first paragraph.
 - b) Insert '*where appropriate*' after 'cycling/walking networks' in the first paragraph.
 - c) Insert '*sports facilities*' after 'open spaces,' in the first paragraph, and incorporate a reference to the contribution made by sports activities to physical and mental wellbeing in paragraph 86.
 - d) Insert '*including existing and new residents*' after 'the community' in the third paragraph.
- 6.102 Subject to the above modifications the Policy meets the Basic Conditions.

Policy B8 (Landscaping and Protecting Biodiversity)

- 6.103 The policy covers a wide range of considerations including the protection and enhancement of natural habitats, restoring and recreating habitats, retaining and creating woodland and hedgerows and supporting local biodiversity through the incorporation of Sustainable Drainage Systems in new development.

Comments

- 6.104 The conservation and enhancement of the natural environment, including biodiversity, is one of the core principles of national planning policy, and contributes to the environmental dimension of sustainable development, which includes the objective of ‘moving from a net loss of biodiversity to achieving net gains for nature’ (NPPG paragraph 9).
- 6.105 The policy also generally conforms with Local Plan Policy NE1 in relation to landscaping new development, Policy NE5 in relation to the Central Rivers Strategy, and Policies NE14 and NE15, in relation to planting schemes in the National Forest.
- 6.106 However while the policy intentions are commendable there a number of inconsistencies and inaccuracies in the policy, some elements are confusing and others such as the reference to improving a footpath route in the sixth paragraph are not related to biodiversity issues. A number of modifications are therefore required in order to provide greater clarity and appropriate explanation in line with Planning Policy Guidance.
- 6.107 First, in the first paragraph the policy links two separate requirements namely for landscaping schemes to generally support biodiversity objectives, and for landscaping schemes to specifically create new wildlife habitats which will enhance the areas nature conservation assets. There is no explanation of local biodiversity objectives and it is not clear how the second requirement can be achieved other than where particular development proposals are located adjacent to a designated nature conservation asset or incorporate designated land within the site.
- 6.108 Nor is it necessarily appropriate, depending on the location and scale of the proposed development, for all landscaping schemes to meet these requirements. In any case it would be more appropriate to have a broader requirement for development proposals as a whole to protect and enhance designated nature conservation assets, rather than just landscaping schemes. As the wording is so vague it would be difficult for decision makers to judge whether proposals satisfy the policy requirements set out in this part of the policy.
- 6.109 Second, there are conflicting references to natural heritage assets and nature conservation assets (after the bullet points) in the first paragraph.
- 6.110 Third, the location of the nature conservation assets identified in the policy is unclear, and there is no explanation as to the meaning or significance of the various terms used. And clearly the ‘creation of the National Forest’ is not a nature conservation asset in its own right.
- 6.111 Fourth, no explanation is provided as to the definition and purpose of priority habitats, or the Central Rivers Initiative in the second paragraph.
- 6.112 Fifth, the requirement in the fourth paragraph for all existing woodland and hedgerows to be retained, and for new hedgerow to be planted around the perimeter of all sites is overly prescriptive and may inhibit the achievement of sustainable development.

Recommendation 21

- a) Replace the first part of paragraph 1 with the following ***‘Development proposals and associated landscaping schemes should conserve and where appropriate enhance designated nature conservation assets, including’***
- b) Delete the fifth bullet point **‘the Creation of the National Forest’**
- c) Insert ***‘creating wildlife habitats’***, after **‘opportunities’** in the second paragraph.
- d) Provide an explanation in the accompanying text about the different nature conservation designations and identify the individual assets on a map.
- e) Provide an explanation about the definition and purpose of **‘priority habitats’** and the Central Rivers Initiative in the accompanying text.
- f) Insert ***‘New hedgerows should be planted and’*** before **‘Existing woodland’** and insert ***‘where appropriate’*** after **‘should be retained’** in the third paragraph.
- g) Delete the fifth paragraph.

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

6.114 **Policy B9 (Open Space in New Developments)** aims to ensure that an appropriate amount and variety of greenspace, including sports pitches and recreation open space, is provided in new residential development, as part of a wider network of green infrastructure.

Comments

6.115 The policy reflects national planning policy which includes the promotion of health and wellbeing, and the provision of open space and recreational facilities to meet community needs, among its core principles. These are key attributes of sustainable development.

6.116 Although there are no comparable local strategic policies the policy complements the design and community access objectives of Local Plan Policy BE1.

6.117 I note that the policy duplicates elements of other policies in the Plan and relies in part on standards produced by East Staffordshire Borough Council in order to achieve its objectives. In this respect it adds nothing to established policy, although the scale and impact of anticipated growth, as explained in the accompanying text does perhaps justify the inclusion of the policy. Rather than refer to specific guidance which may become outdated and/or superseded the policy should be future proofed by incorporating a more general cross reference to policies and guidance in force at the time of considering proposals.

6.118 I also recommend that additional explanation is provided in the

accompanying text to clarify the definition and purpose of 'priority species', (in the third bullet point at the end of paragraph three) in comparison with 'priority habitats' which are referred to in Policy B8.

- 6.119 And as noted in relation to policy B8 more consistency is desirable in the terminology used to describe sites with nature conservation value, which are referred to as 'habitats and sites of special biodiversity interest' in Policy B9.

Recommendation 22

- a) **Delete 'East Staffordshire Borough Council Open Space Supplementary Planning Document (Adopted September 2010)' in the third line of paragraph 1 and insert '*the most up to date Open Space Standards and Guidance adopted by East Staffordshire Borough Council*'.**
- b) **Provide an explanation about the definition and purpose of 'priority species' in the accompanying text.**
- c) **Delete 'enhance habitats and sites of special biodiversity interest' in the third bullet point at the end of paragraph three, and insert '*conserve and enhance designated nature conservation assets*'.**

- 6.120 Subject to the above modifications the Policy meets the Basic Conditions.

- 6.121 **Policy B10 (Sustainable Homes)** promotes a sustainable approach to the design and layout of new housing estates, including high standards of energy and resource efficiency and the incorporation of flood resilience in individual house designs.

- 6.122 Although there are no comparable local strategic policies the policy complements Local Plan Policy BE1 which includes the arrangement of buildings and how they relate to the surrounding area as one of the factors to be taken into account in assessing proposals.

- 6.123 While East Staffordshire Borough Council consider that the policy should refer to recognised Standards such as the Code for Sustainable Homes and Buildings For Life I am mindful of the fact that subsequent to the Regulation 16 Publicity the Deregulation Bill 2015 has received Royal Assent. This introduces new national standards on house building (to be implemented through changes to the Building Regulations) which makes the older standards referred to obsolete.

- 6.124 A recent Ministerial Statement²¹ also makes it clear that Neighbourhood Plans should not be used to apply the new technical standards.

- 6.125 I am therefore satisfied that modification to the first part of the policy is not

²¹ Secretary of State for Communities and Local Government (Housing standards: streamlining the system) March 25, 2015

necessary in order to satisfy the Basic Conditions, although this part of the policy is effectively in the process of being superseded by changes at national level.

- 6.126 However the final part of the policy does not accord with national (flood risk) policy which specifically precludes residential development in areas defined as floodplain (Classed as Flood Zone 3b with a high probability of flooding) rather than 'preferring' non flood plain locations. It would also be inappropriate to require flood resilience measures to be incorporated in dwellings located in low flood risk areas (i.e. outside Flood Zone 2 and 3 areas with a medium – high probability of flooding).

Recommendation 23

Replace the final paragraph with the following wording
'Development approved in areas with a medium – high probability of flooding following a sequential flood risk test, should be designed to be flood resilient'.

- 6.127 Subject to the above modification the Policy meets the Basic Conditions.
- 6.128 **Policy B11 (Housing Type and Mix)** aims to ensure that (major) new housing developments deliver a diverse mix of housing types and tenures, including provision for older people, to support the creation of sustainable neighbourhoods.
- 6.129 While only limited justification is provided for the policy it does reflect the emphasis placed on the creation of 'sustainable, inclusive and mixed communities' in national planning policy²². This is one of the key attributes of the social dimension of sustainable development.
- 6.130 By encouraging the provision of more housing for older people the policy also reflects the additional emphasis given to the housing needs of older people through recent changes to Planning Policy Guidance²³ in the light of the projected national increase in the number of households aged 65 and over.
- 6.131 The policy therefore meets the Basic Conditions and no modifications are recommended.
- 6.132 **Policy B12 (Safer Roads and Streets)** promotes the creation of environmentally and pedestrian/cyclist friendly highway networks in connection with new development including the retention and provision of pedestrian and cyclist routes, the incorporation of traffic calming measures, easy access for emergency vehicles, sensitive use of materials and sensitive lighting.

²² National Planning Policy Framework (2012) para 50

²³ Planning Practice Guidance para 021 Ref ID: 2a-021-20150326

- 6.133 The promotion of sustainable transport, good design principles, and healthy communities with safe and accessible environments are embodied in national planning policy. These are all key attributes of the economic, social and environmental dimensions of sustainable development.
- 6.134 The policy generally conforms with local strategic policy in relation to infrastructure provision (Local Plan Policy CSP5), vehicle and pedestrian access, (Policy NE1), provision of walking and cycling facilities (Policy T1), parking arrangements (Policies NE1 and T6), and light pollution (Policy NE27).
- 6.135 The policy therefore meets the Basic Conditions and no modifications are recommended.

Policy B13 (Car Parking Provision)

- 6.136 The policy complements Local Plan Policies NE1 and H6 by ensuring that residential development schemes make adequate provision for parking, including arrangements for visitor parking.
- 6.137 The thrust of national planning policy and recent Ministerial Statements is to avoid the imposition of maximum car parking standards for both residential and non residential development. While national guidance is aimed at local planning authorities there is no reason why neighbourhood plans should not establish their own local parking standards for residential and other forms of development.
- 6.138 A range of factors are identified in national planning guidance (para 39) to inform the development of local car parking standards. These include the accessibility of the development, the type, mix and use of development, the availability and opportunities for public transport, local car ownership levels, and the overall need to reduce the use of high emission vehicles.
- 6.139 However while Policy B13 is intended to ensure that new development does not create car parking and related highway problems no particular evidence or justification has been put forward for the specific car parking standards proposed.
- 6.140 At the same time I am mindful of the fact that the proposed standards are very similar to those previously adopted by East Staffordshire Borough Council in 2004, the important difference being that the Neighbourhood Plan proposes minimum standards, rather than the old maximum standards adopted by the Local Planning Authority. This is consistent with a recent Ministerial Statement²⁴ which confirms that local parking standards should only be imposed where there is clear and compelling justification and that maximum standards should be avoided.
- 6.141 Since neither East Staffordshire Borough Council, nor the local highway

²⁴ Secretary of State for Communities and Local Government (Parking; helping local shops and avoiding congestion) March 25, 2015

authority (Staffordshire County Council) object to the policy I am satisfied that it meets the Basic Conditions.

- 6.142 As a consequence of the previously recommended deletion of Policy B4 (Character Areas) it is necessary to delete the last paragraph Policy B13 which proposes different parking solutions in different character areas. In any case no explanation or justification has been put forward for this part of the policy.

Recommendation 24

Delete the last paragraph of the policy

- 6.143 **Policy B14 (Protection of Local Green Space)** aims to protect a number of green areas and open spaces which have particular local significance, while supporting appropriate enhancements and improvements to these areas.
- 6.144 Eight sites are identified in the policy and in a series of individual site plans. These comprise a golf course, cricket ground, recreation ground, allotments, two areas of woodland, an amenity space and an area of open (paddock) land. Additional information and justification is provided in an accompanying table.

Comments

- 6.145 The objective of protecting and enhancing existing open spaces complements Local Plan policies to protect sports pitches (Policy L1) and allotments (Policy L5).
- 6.146 The desirability of identifying and protecting green areas that are of particular significance to local communities is also recognised in national planning policy and facilitated through the designation of 'Local Green Space' (paragraphs 76 and 77).
- 6.147 However although I recognise that the local community is in the best position to judge which sites hold particular local significance for them I have a number of reservations about whether all of the identified sites meet the criteria in paragraph 77 of national planning policy, and conform with the supporting Planning Practice Guidance on Local Green Space designation.
- 6.148 First, national planning policy stipulates that Local Green Space designation will not be appropriate for most green areas or open space and identifies three criteria which must all be satisfied, namely;
- that the green space is in reasonably close proximity to the community it serves
 - the green area is demonstrably special to a local community and holds a particular local significance, and
 - it is local in character and not an extensive tract of land.
- 6.149 While all the designated sites satisfy the first criteria, because they are

located either within or on the edge of the built up area and therefore within walking distance of a significant number of residents, I am not convinced that all the sites satisfy the second and third requirements.

- 6.150 In this respect while the table accompanying the policy provides information regarding the perceived qualities and character of each of the sites, as pointed out by East Staffordshire Borough Council that is not the same as demonstrating why individual sites are special and hold particular significance to the local community. For example the inclusion of an area of amenity space (Regents Park Open Space) could not be justified on the basis of the sites intrinsic quality although the fact that it is the only open area in an otherwise built up area must carry some weight.
- 6.151 With regard to the third criteria, while it is a moot point as to what constitutes a site that is local in character, it seems to me that Branston Golf Course does not satisfy the second part of this criteria as it covers a relatively extensive area at the urban edge.
- 6.152 Second, a number of sites are already protected through saved Local Plan policies. These comprise Branston Golf Course, Branston Cricket Ground, and Clays Lane Park which are protected by Local Plan Policy L1 (Loss of Sports Pitches and Ancillary Facilities), and Regatta Allotments which are protected by Local Plan Policy L5 (Allotments). Regatta allotments are also afforded statutory protection as statutory allotments.
- 6.153 Not only does this duplicate Local Plan policies but it conflicts with Planning Practice Guidance²⁵ on Local Green Space designation which suggests that where land is already protected by another designation consideration should be given as to whether any additional local benefit would be gained by designation as Local Green Space.
- 6.154 I am also mindful of the fact that Local Green Space policy is not necessarily the most appropriate way to protect sports pitches and recreational land since (unlike extant Local Plan policies) the policy does not recognise that there may be circumstances where future development may be desirable, for example where there may be overall community benefits such as allowing partial development on a site to secure funding for enhancement of the remainder or where alternative provision of equivalent or enhanced standard elsewhere is preferable. However this must be balanced with the legitimate aspiration to protect land that is particularly valued by the local community.
- 6.155 Third, Planning Practice Guidance²⁶ emphasises the importance of contacting landowners at an early stage about proposals to designate any part of their land as Local Green Space. At least two of the sites, namely land near to Howards Transport, and Branston Cricket Ground (Trentside Cricket Club) appear to be in private ownership. Although landowners will have had the opportunity to make representations on the proposals during formal consultation on the Plan, I can find no evidence of targeted

²⁵ Planning Practice Guidance para 011 Ref ID: 37-011-20140306

²⁶ Planning Practice Guidance para 019 Ref ID: 37-019-20140306

consultation with landowners.

- 6.156 I acknowledge that the above comments do not apply to the remaining six sites which are in the ownership of either East Staffordshire Borough Council or Branston Parish Council. East Staffordshire Borough Council in their submitted comments specifically refer to the fact that they have no objection to the designation of Regents Park Open Space, Toadhole, Beans Covert, and Branston Golf Course (which are in their ownership) as Local Green Space.
- 6.157 Inclusion of 'Land near to Howards Transport' also potentially conflicts with Planning Practice Guidance²⁷ which indicates that Local Green Space designation will rarely be appropriate where land has planning permission for development unless development would be compatible with the reason for designation, or where the permission is no longer capable of being implemented. While a previous permission on this site has lapsed I am mindful of the fact that a fresh application has been submitted and that the designation of Local Green Space should still be consistent with the principles of sustainable development and complement the provision of new homes, jobs and other essential services.
- 6.158 I conclude that the following sites do not comply with the criteria for designating Local Green Space set out in national planning policy and the accompanying Planning Practice Guidance and should be deleted from the policy in order to meet the Basic Conditions: Branston Golf Course, Branston Cricket Ground, Regatta Allotments, and Land near to Howards Transport.
- 6.159 Although Clays Lane Park is already protected through Local Plan Policy L1 (Loss of Sports Pitches and Ancillary Facilities) as the site is owned by the Parish Council I have taken into account the desire to provide a stronger level of long term protection. Clays Lane Park is not therefore recommended for deletion.
- 6.160 Both Sport England and Natural England question why other sites have not been identified in the policy, but without making specific suggestions. However as the purpose of the Local Green Space designation is to protect open space most valued by the community, and it is not appropriate to 'test' whether the best (or other) sites have been included in order to satisfy the Basic Conditions, I make no recommendation in this respect.
- 6.161 There is one further issue to address relating to the last paragraph of the policy which identifies development for schools as an exception to the policy. I agree with East Staffordshire Borough Council that as the level of protection provided by the policy is similar to green belt policy (arguably stronger) the identification of exceptions is not appropriate and could potentially undermine the policy. In any case no indication has been given that any of these sites are being considered as suitable locations for new school facilities by Staffordshire County Council.

²⁷ Planning Practice Guidance para 008 Ref ID: 37-008-20140306

- 6.162 A number of minor modifications are also required to ensure that the policy and accompanying explanation is clear and unambiguous. For example I note that the description of the special qualities and local character of Regents Park Open Space in the accompanying table refers to the need to protect woodland and retain views, whereas it is apparent from my site inspection that this is not a wooded site. Table 1 should also be referred to as Table 2 as there is a previous Table 1 on page 20 of the Plan.
- 6.163 For clarification the amended list of designated Local Green Space should also be reflected in the key issues section of the Plan, in order to ensure consistency. (See Recommendation 03)

Recommendation 25

- a) **Delete Branston Golf Course, Branston Cricket Ground, Regatta Allotments, and Land near to Howards Transport from the policy and accompanying table.**
- b) **Delete the last paragraph of the policy**
- c) **Correct the description of the ‘special qualities and local character’ of Regents Park Open Space in the accompanying table.**
- d) **Delete reference to ‘proximity’ in the heading of the second column in the table, and insert an explanation in the accompanying text to the effect that as all the designated sites fall within the built up area they are considered to satisfy the requirement to be located in close proximity to the local community.**
- e) **Change Table 1 to ‘Table 2’**

- 6.164 Subject to the above modifications the policy meets the Basic Conditions.

Policy B15 (Protection of Local Community Facilities)

- 6.165 Policy B15 aims to safeguard existing community facilities, including health and education facilities, libraries and religious buildings, unless alternative provision of equivalent or enhanced provision can be made locally, or it can be demonstrated that there is no longer a need for the facility.

Comments

- 6.166 Although there are no equivalent local strategic policies Policy B15 generally conforms with the Local Plan objective to enhance community facilities.

- 6.167 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 policy²⁸.
- 6.168 In considering whether the policy satisfies the Basic Conditions I need to address an objection submitted by NHS Property Services, who are concerned that, as drafted, the policy could inhibit the NHS's ability to dispose of land and premises and reinvest in improved/modern facilities for the benefit of the community. Although national planning policy supports the retention of existing facilities it is argued that the overarching objective is to ensure the delivery of relevant services.
- 6.169 The NHS consider it is unclear how 'need' could be demonstrated and suggest the objection could be satisfied by removing the requirement to demonstrate to the satisfaction of the Parish Council that there is no need for the facility. A related point is made by East Staffordshire Borough Council who feel that the responsibility for judging whether there is a continuing need for a facility or not should be vested in the Local Planning Authority, presumably because they are the decision maker in considering planning applications.
- 6.170 It seems to me that the key to this issue is the phrase 'guard against unnecessary loss', since there may well be circumstances when the disposal and/or redevelopment of existing premises might be justified on the grounds that they are no longer 'fit for purpose' and it is no longer viable to continue to operate within the existing premises. I am also mindful of the fact that public bodies are required to secure best value when considering the disposal of land and property, and that investment decisions are often taken against a background of service restructure, which may preclude continued provision of a service within any particular locality.
- 6.171 In these circumstances it would be unreasonable and impractical to restrict the future use of the building to alternative health or community uses, as proposed in the second sentence in paragraph 1.
- 6.172 However while the service provider may well be best placed to judge whether there is a continued need for the provision of a particular service, as part of the planning application process it is not unreasonable to expect relevant information to be shared with the decision maker, in this case the Local Planning Authority. I also consider that in order to get the full picture any assessment of need or demand should take into account whether the provision of the service is viable in the current premises, including an assessment of the suitability of the building.
- 6.173 Modification to the policy is therefore required in order to ensure the policy is clear and unambiguous in line with Planning Policy guidance, and that it fully reflects national planning policy.
- 6.174 A further issue has been raised by East Staffordshire Borough Council in their response to the Plan concerning the reference to 'Community

²⁸ National Planning Policy Framework para 70

Assets' in the first part of the policy. This is considered (by the Council) to be potentially misleading since it could also refer to the process of 'community asset transfer' introduced by the Localism Act whereby responsibility for managing buildings and associated services on behalf of the community is transferred (by agreement) to a community organisation. If this is the case it is suggested that additional information should be provided regarding specific proposals

- 6.175 It is also possible to confuse the phrase 'community assets' with another provision of the Localism Act which enables local communities to nominate facilities to the Local Authority as 'assets of community value'. If the nomination meets the criteria and the owner decides to sell the asset the community group must be notified and would have six months to prepare a bid before the asset can be sold.
- 6.176 As neither of these processes relate to land use planning reference to 'community assets' should be removed from the policy to avoid confusion.

Recommendation 26

- a) **Insert '*Proposals involving the loss of*' at the beginning of the policy,**
- b) **Delete 'will be protected as community assets. There will be a presumption in favour of the re-use of such facilities for health and community type uses. The change of use of existing facilities to other uses' in lines 3-5.**
- c) **Delete 'the following can be demonstrated' in line 5.**
- d) **Insert '*It can be demonstrated to the satisfaction of the Local Planning Authority that*' at the beginning of sub paragraph b), and insert '*or the premises are unsuitable or not viable for the continued provision of the service*', after 'need for the facility,', and delete 'and this can be demonstrated to the satisfaction of the Parish Council'.**

- 6.177 Subject to the above modification the policy meets the Basic Conditions.

Policy B16 (Provision of a New Secondary School)

- 6.178 The policy supports the provision of a new secondary school, reflecting national planning policy which attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.²⁹
- 6.179 However the second part of the policy which aims to ensure that maximum provision for open space is made on new school sites, and that playing field and other school facilities are available for community use, may not be deliverable.

²⁹ National Planning Policy Framework para 72

- 6.180 As pointed out by a number of key stakeholders (Staffordshire County Council, East Staffordshire Borough Council and Sport England) current circumstances in relation to public sector funding mean that schools are built to meet basic DoE criteria, and additional facilities such as separate changing rooms, or enhanced space standards to provide larger sports halls, would have to be funded by other means such as section 106 or CIL monies.
- 6.181 In addition even where section 106 agreement and CIL monies can be directed toward the provision of dual use facilities there is no guarantee that wider community use will be achieved since school management is delegated to individual head teachers and the proposed new secondary school is intended to have academy status, with management outside the control of the Local Education Authority.
- 6.182 While Sport England support community access to all school sports facilities they raise an additional concern that increased use could be at the expense of school playing fields unless funding is available for provision of all weather surfaces for example.
- 6.183 Modification to the policy is therefore required in order to more accurately reflect current circumstances in relation to school funding and dual use of school facilities, and also to clarify that ‘enhanced school facilities’ may be secured through section 106 and CIL contributions.
- 6.184 Additional explanation to cover these points should be provided in the accompanying text, which could also recognise that ‘enhanced school facilities’ to cater for dual use is just one of a number of infrastructural improvements or measures to mitigate the impact of development that will be competing for funding secured through developer contributions. The Plan would also be clearer if the specific justification for Policy B16 immediately precedes the policy.
- 6.185 I would further recommend that ‘enhanced school facilities’ could be included in the list of aspirations identified in Section six of the Plan (Aspirations and Priorities), to provide further evidence of local priorities potentially to be secured through section 106 developer contributions and CIL.
- 6.186 Rather than cross reference the policy to specific higher tier development plans such as East Staffordshire Local Plan, which may be superseded, and bearing in mind it is not explicit which Local Plan is being referred to, the policy should be future proofed by incorporating a more general cross reference to higher tier plans in force at the time of considering proposals.

Recommendation 27

- a) **Delete ‘East Staffordshire Local Plan’ and insert ‘*higher tier plans*’.**
- b) **Delete the second sentence and insert ‘*Appropriate provision should be made through the planning system to ensure that provision of open space on new and improved school sites is***

maximised wherever possible and that the design of new schools would enable community use of playing fields, sports halls and other school facilities’.

- c) Reposition the second sentence in paragraph 99 so that it immediately precedes the policy and incorporate additional explanation about current circumstances in relation to school funding and dual use of school facilities, and the scope for securing ‘enhanced school facilities’ through section 106 and CIL contributions.**
- d) Incorporate ‘enhanced school facilities’ in the list of aspirations in Section Six to be potentially secured through section 106 developer contributions and CIL.**

6.187 Subject to the above modification the policy meets the Basic Conditions.

(d) Aspirations and Priorities

6.188 The policies section of the Plan is followed by a section on local aspirations and priorities, which were identified as important to the local community during the preparation of the Plan. These include suggested environmental improvements, parking and traffic management improvements, and developer contributions toward highway improvements and walking, cycling and equestrian activities. These do not fulfil the land use and development criteria to be included as development plan policies.

Comments

6.189 I recognise that plan making at the local level will inevitably focus on wide ranging aspirations of the community, some of which may be non land use based. Where neighbourhood plans incorporate non land use policies and aspirations it is important that these are clearly distinguishable from the land use and development policies that will be used to inform the decision making process.

6.190 The inclusion of aspirations and priorities in a separate section is a practical response to this issue. This has enabled non land use aspirations to be consulted on and incorporated within the document in a way in which the ‘aspirations’ will not be confused with land use policies. However for the avoidance of doubt I recommend some additional wording is added to emphasise that these are not part of the development plan.

6.191 I also note that a number of suggested enhancements to community facilities are identified in paragraph 100 which forms part of the explanatory text to Policy B15 (Protection of Local Community Facilities) in the previous ‘development plan policies’ section of the Plan. This does

not seem to serve any purpose in relation to that policy and the list could be appropriately included in 'aspirations and priorities'.

- 6.192 For clarification my report does not consider the non land use policies and intentions described in section six (Aspirations and Priorities), nor the representations submitted in connection with these, as this is a matter for the Parish Council to consider.

Recommendation 28

- a) **Insert additional wording in paragraph 101 to emphasise that the aspirations and priorities identified in Section Six do not form part of the development plan,**
- b) **Incorporate the list of community facilities identified in paragraph 100 as an additional category in section six where improvements are considered to be desirable.**

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 significant number of modifications the essence of the policies would remain, providing a framework, for managing future development proposals and protecting 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 Branston Neighbourhood Area. As the impact of the policies and proposals contained in the Plan, which does not include any land allocations, is likely to be focused on the built up area of Branston and on sites which already have the benefit of outline planning permission in the adjacent countryside area, there will be minimal direct impact on land and communities outside the defined Neighbourhood Area. I therefore consider the Neighbourhood Area to be appropriate. No evidence has been submitted to suggest that this is not the case.

I therefore recommend that the Neighbourhood Plan should proceed to a Referendum based on the Neighbourhood Area as approved by East Staffordshire Borough Council on 29 November 2012.

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 40 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 27 April 2015

Appendix 1 :

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

- Examination Version of the Branston Neighbourhood Plan
- 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)
- East Staffordshire Local Plan (adopted July 2006)
- Basic Conditions Statement (October 2014)
- Consultation Statement (October 2014)
- East Staffordshire Borough Council Screening Opinion on Strategic Environmental assessment of the Neighbourhood Plan and Habitats Regulation Assessment (November 2014)
- East Staffordshire Borough Council Equality and Health Impact Assessment (July 2014)
- Twelve representations received during the Publicity period

I also accessed East Staffordshire Borough Council's planning policy website pages during the course of the examination.