

DELEGATED REPORT AND DECISION

Wards Affected: WENDOVER & HALTON

22 November 2019

WENDOVER NEIGHBOURHOOD PLAN - MODIFICATIONS ARISING FROM THE EXAMINER'S REPORT

Decision taker: Charlotte Stevens (Planning Policy Manager)

Author: David Broadley (Senior Planning Officer) Tel: (01296) 585866

Executive Summary:

Following the examination of the Wendover Neighbourhood Plan, this delegated action report considers and makes decisions on the modifications to the Plan which have been proposed by the Examiner in the Examiner's report, including the area for the referendum.

1. Recommendation(s)

- 1.1 That the Council's response to the modifications set out in the Examiner's report which are detailed in the Annex to this report, be agreed and that the Wendover Neighbourhood Plan as so modified proceed to referendum.
- 1.2 That the area for the referendum, as recommended by the Examiner to be the same as the neighbourhood area, be agreed and that the referendum take place on 30 January 2020.

2. Background and current position

- 2.1 The Wendover Neighbourhood Plan was submitted to the Council on 24 June 2019 and was subsequently publicised for comments for 6 weeks until 12 August 2019. The Council then submitted the plan and representations for examination. Andrew S Freeman BSc (Hons) DipTP DipEM MRTPI of Intelligent Plans and Examinations (IPE) Ltd, was appointed by the Council, in consultation with the Wendover Parish Council to examine the plan. The general rule pursuant to paragraph 9 of Schedule 4B of the Town and Country Planning Act 1990 (as inserted by Schedule 10 of the Localism Act 2011) is that the examination takes the form of the consideration of written issues, but the examiner can hold a hearing where they consider that the consideration of oral representations is necessary to ensure adequate examination of the issue or to enable a person to put forward a fair case. In this case, Mr. Freeman decided a hearing was not necessary.

version of the report was received by the Council and sent to Wendover Parish Council on 18 October 2019. The Council is now required to decide what action to take in response to each of the Examiner's recommendations. The recommendations address:

- (a) modifications to the plan and its content in order to ensure that it complies with the basic conditions that all neighbourhood plans must meet; and
- (b) the area over which the referendum will take place.

2.3 Subject to the Examiner's modifications and the Council's response (as set out in the Annex to this report), the Neighbourhood Plan as so modified can proceed to the Referendum stage. The revision of the Plan to take into account the Examiner's modifications and other minor updating and typographical corrections will be published before the Referendum.

3. Options

3.1 The Planning Policy Manager has delegated authority to make decisions on an Examiner's report that recommend no or only minor changes to a Neighbourhood plan after consultation with the Local Members and the Cabinet Member for Planning and Enforcement. The consultation has taken place in November 2019 and the three Local Members and the Cabinet Member are all happy for the plan to proceed to referendum.

3.2 The various options are as follows:-

1. Decide not to progress the Plan in light of the Examiner's report

This option would only be necessary if the Examiner recommends that the Plan should not proceed to referendum or if the Council consider the modifications are not in accordance with the legal requirements. As the Examiner recommends the Plan as modified should proceed to Referendum and the modifications meet the legal requirements, this option cannot be justified.

2. Act upon the Examiner's report and progress the plan to referendum

In this case, the Examiner's modifications are minor and the Local Members and the Cabinet Member for Planning and Enforcement are in agreement with the Council's response on those modifications and, therefore **option 2** is the preferred option.

4. Implications

4.1 Policy

4.2 The National Planning Policy Framework (NPPF, 2019) sets out that Neighbourhood Plans must be in general conformity with the strategic policies of the Development Plan. 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 is set out in the Local Plan, or undermine its

strategic policies. In our district, the strategic policies are set out in the saved policies of the adopted Aylesbury Vale District Local Plan (AVDLP). The Vale of Aylesbury Local Plan (VALP) is the emerging local plan, at an advanced stage and is expected to be adopted in the first quarter of 2020.

4.3 Once a Neighbourhood Plan has successfully passed all of the stages of preparation, including an Examination and Referendum, it is 'made' by the local planning authority and forms part of the authority's Development Plan, meaning it will be a material consideration when considering development proposals.

5.0 Resources

5.1 Finance: The Localism Act 2011 ("the Act") and the Neighbourhood Planning (General) Regulations 2012 ("the 2012 Regulations (as amended)") place duties on local planning authorities in relation to Neighbourhood Planning. These new duties have considerable implications for staff resources and include taking decisions at key stages in the process; being proactive in providing advice to communities about neighbourhood planning; providing advice or assistance to a parish council, neighbourhood forum or community organisation that is undertaking neighbourhood planning.

5.2 In recognition of the additional burdens that these new duties place on local planning authorities, the Ministry of Housing Communities and Local Government (MHCLG) has made (by letter 28 June 2019 "Update on financial support for neighbourhood planning in 2019/20") available grants to local planning authorities for the financial year 2019/20 for £20,000 following the referendum date being set.

5.3 As the Wendover Neighbourhood Plan has now also successfully passed examination the outstanding grant monies for this plan should be claimable in the next claims period.

5.4 The grant of £20,000 is expected, by Government, to cover the costs of the examination and the referendum. The extra burdens funding for this particular plan is also likely to cover the majority of staff costs. Staff resources to support Neighbourhood Planning will come from the existing staff within the AVDC Planning Policy team in Community Fulfilment. There will, however, be additional costs to the AVDC Electoral Registration team in respect of carrying out the Referendum, although it is expected the MHCLG Grant will cover the Referendum costs. If there is a legal challenge on a decision regarding the neighbourhood plan this will potentially have a significant impact on expected costs and will have to be managed as the situation arises. Decisions on any significant unexpected resource issues for the Council, as a result of officer involvement in Neighbourhood Planning, will be taken separately, as necessary.

5.5 The impact of the delegated decision on revenue costs or income is set out above and, in addition, the costs associated with the publicity of the plan; the independent examination and the holding of any future referendum will be met from the Planning Policy budget.

6.0 Legal issues

- (a) Neighbourhood planning is part of the Government's initiative to empower local communities to take forward planning proposals at a local level. The Act and the subsequent 2012 Regulations (as amended) confer specific functions on local planning authorities in relation to neighbourhood planning.
- (b) The Wendover Neighbourhood Plan has been consulted on in accordance with the 2012 Regulations (as amended) – firstly the Draft Plan was the subject of consultation by the Wendover Parish Council under Regulation 14 and, following the submission of the plan to the Council, the plan was publicised pursuant to Regulation 16.
- (c) As with any planning decision, there is a risk of legal challenge to the plan and/or judicial review of the council's decision to proceed with the referendum. The risk of challenge is being managed by ensuring that the regulations are followed and that the Council's decision making process is clear and transparent.

7.0 Other Implications

- 7.1 A Neighbourhood Plan must meet the basic conditions set out in paragraph 8 (2) of Schedule 4B to the Town and Country Planning Act 1990. The Examiner's report has confirmed that the Plan, as modified, meets all the basic conditions and officers are satisfied that there are no conflicts with these aspects. The Examiner also considered the area for the referendum and recommended that it should not extend beyond the neighbourhood area to which the plan relates. Officers are satisfied with his recommendation in this respect.
- 7.2 The consultations on the draft plan have helped to raise awareness of the development of the plan.

8.0 **Decision**

- 8.1 I agree the recommendations in paragraphs 1.1 and 1.2 of this report and have made the decision for the Council to receive and act upon the Examiner's report and that the Wendover Neighbourhood Plan, as proposed to be modified by the Examiner's Report, should proceed to referendum for the area recommended by the Examiner.



Charlotte Stevens , Planning Policy Manager

Date: 22 November 2019

Background Papers:

- *Wendover Neighbourhood Plan, submission version, 2019*
- *Wendover Neighbourhood Plan Examiner's report, October 2019*

ANNEX Modifications recommended by the Examiner and the Council's response

Page No.	Examiner's Report	Aylesbury Vale District Council Response
	Modifications to policies and supporting text	
PM1 33	Amend the final sentence in Section 11.3 to read: "...has been amended. A large part of the Conservation Area, mainly subject to Green Belt restrictions, has been excluded from the settlement boundary."	Agree, factual correction.
PM2 35	<p>Make the following changes to Policy H1:</p> <p>In the opening sentence, change "Map 3" to "Map 4".</p> <p>In the first bullet point, change "Section 106 agreement" to "Section 106 obligations". Delete the remainder of the bullet point.</p> <p>Delete the second bullet point.</p> <p>After "Green Belt infilling", insert "and other development". Change "policies" to "paragraphs".</p> <p>Change the final provision of the policy to read: "Outside the settlement boundary (Area of Outstanding Natural Beauty), development proposals will only be permitted where they accord with paragraph 172 of the NPPF and where:"</p> <p>The final two bullet points in the policy should be separated by "or".</p>	Agreed, for clarity and interests of having a more succinct plan and consistency with NPPF.
PM3 35	Replace Section 11.6 with the following text: "Policy S2 of the Local Plan provides for the delivery of housing outside the settlement boundary and the matter is not considered here."	Agree. Amendment would be beneficial to ensure consistency having regard to emerging local plan with Policy S2 in VALP. We must note however VALP is still the emerging plan and the 'development plan' is AVDLP saved policies.
PM4 35	Amend Section 11.8 to read: "This policy seeks to preserve or enhance the Conservation Area.	Agree, needs amendments to ensure the statutory test on conservation and enhancement

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	<p>Development within it, or affecting its setting, must preserve or enhance...".</p> <p>Amend the first bullet point in Policy H2 to read: "It preserves or enhances...".</p>	are reflected.
PM5 35	In Section 11.8, replace the final sentence with the following: "There must be respect for the street scene and appropriate spacing between and around buildings."	Agree, adds clarity.
PM6 36	<p>In Policy H2:</p> <p>Change the first sentence to "Development proposals in the Conservation Area will be supported where:".</p> <p>Replace the first bullet point with the following: "They preserve or enhance the character and appearance of the Area including its setting and the significance of any heritage assets."</p> <p>In the second bullet point, replace "those distinctive heritage features" with "any heritage asset".</p>	Agree, adds clarity.
PM6a 35	Add a new section (paragraph) after Section 11.9: "Policy H2, by reflecting the views of residents and the focus of the Parish Council, addresses heritage assets within the Conservation Area. However, there is a rich presence elsewhere within the designated area, particularly in terms of archaeology. Both the Local Plan and the NPPF contain policies of relevance."	Agree, adds clarity.
PM7 35	Replace the first sentence of Policy H3 with the text in the first bullet point. Follow this with the text of the third bullet point, adding "in each proposal" after "affordable units". Delete the second bullet point.	Agree, avoids repetition with VALP.
PM8 37	Add a new section (paragraph) ahead of Policy H4 saying: "Retirement housing will be supported under Policy H4. Sites adjacent to Local Green Spaces, or within the Green Belt or Conservation Area, are unlikely to be suitable for this form of development."	Agree. Adds further clarity.
PM9 38	<p>In Policy SD1:</p> <p>Change the first sentence to read: "Proposals that accord with other Plan policies will be</p>	Agree- to be better consistent with NPPF, other plan policies, avoid duplication.

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	<p>supported provided that:".</p> <p>Change the wording of the second bullet point to read: "It sustains and enhances the significance of any heritage asset and/or the special interest, character and appearance of the assets including their settings."</p>	
<p>PM10 39</p>	<p>In Policy SD2:</p> <p>Replace the first sentence with the following: "Parking required for development in the neighbourhood area will be supported provided that:".</p> <p>In the first bullet point, insert the following before "unless": "and having regard to guidance published by both the District and County Councils,".</p> <p>Add a new sentence at the end of the policy: "Provision of cycle racks and electric vehicle charging points shall also be taken into account, where appropriate."</p>	<p>Agree- to be better consistent with NPPF, other plan policies, avoid duplication.</p>
<p>PM11 40</p>	<p>In Policy B1, delete the requirement for alternative local facilities; also, the final bullet point.</p>	<p>Agree. Would duplicate other parts of the plan and in the VALP too.</p>
<p>PM12 42</p>	<p>In Policy CF1, delete the requirement for alternative local facilities; also, for community benefits of the proposed use.</p>	<p>Agree with Examiner's conclusion that this matter would be considered within the planning balance</p>
<p>PM13 44</p>	<p>Add a new section (paragraph) ahead of Policy CH1 saying: "The policy covers noteworthy natural assets within Wendover. However, there are many other statutory and non-statutory sites within the Parish on or adjacent to which development must be avoided. Reference should be made to Local Plan policies and to records from the Buckinghamshire and Milton Keynes Environmental Records Centre. In addition, and in accordance with paragraph 172 of the NPPF, great weight should be given to conserving and enhancing landscape and scenic beauty in the Chilterns Area of Outstanding Natural Beauty (see Map 3)."</p>	<p>Agree, this is to remove duplication with the NPPF</p>
<p>PM14 45</p>	<p>On Map 5, show the boundary of the Ashbrook Allotments.</p>	<p>Agreed for accuracy.</p>
<p>PM15 47</p>	<p>In Policy CH1:</p>	<p>Agree, for clarity.</p>

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	<p>Amend the first sentence to read: "Where feasible and appropriate, proposals for any development directly or indirectly affecting any of the natural assets on Map 5 shall:".</p> <p>Change the beginning of the first bullet point to read: "preserve or enhance...".</p> <p>Delete "Must" and "where appropriate" from the second bullet point.</p>	
PM16 47	Replace Map 6 with a more accurate map based on the mapping contained in the "WNP Local Green Spaces Regulation 16 Submission Report April 2019 AM/JLC/SEB".	Agreed for accuracy.
PM17 49	<p>In Policy G1:</p> <p>Change "Map 5" to "Map 6".</p> <p>Replace "very special circumstances" with "accordance with Green Belt policy".</p>	Agreed for accuracy.
PM18 51	In Section 11.29, add "particularly" before "from the approaches to Wendover".	Agreed for accuracy. 11.29 is now para 11.32
PM19 51	Change the text of Policy G2 to the following: "Important views will be protected from the adverse effects of development and, where practical, enhanced. Attention shall be paid to the location, layout and height of development and to landscaping. This policy applies to the key views and vistas shown on Map 7. It also applies to open views from within the designated area towards the Chiltern Hills."	Agree, adds further detail to help coverage of the policy on views and vistas.
PM20 51	Add a new section (paragraph) after Section 11.30: "Government policy with regard to biodiversity is mainly set out in the NPPF (see Paragraphs 174 and 175). However, Policy G3 focuses on matters of particular local interest."	Agree, needed to strengthen the plan with reference to the NPPF and the limits of the policy G3.
PM21 52	<p>In Policy G3:</p> <p>Change the opening two sentences to read: "New development shall protect and/or enhance biodiversity and wildlife in the area including through contributing to green infrastructure, connecting with other green spaces and open countryside."</p> <p>Change the first bullet point to read: "All development shall result in a net gain to biodiversity</p>	Agree, needed to strengthen the plan with reference to the NPPF and the limits of the policy G3.

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	<p>in line with National policy expectations.”</p> <p>Change the second bullet point to read: “Designated sites (including protected and priority species, habitats, hedgerows, grasslands and woodlands) will be safeguarded and biodiversity enhanced.”</p> <p>In the fifth bullet point, following “all suitable new buildings”, add a footnote saying: “Those that meet Planning and Design and Access conditions”.</p> <p>Replace the final bullet point with the following: “Landscaping must maximise opportunities for wildlife and pollinators and comprise plant species that are native and of local provenance.”</p>	
PM22 53	In the first bullet point of Policy IC1, add “telecommunications” before “structures”.	Agree, adds clarity.
PM23 55	<p>At the end of Section 11.39, add the following: “In addition, attention is drawn to a Highways Development Management Guide as published by Buckinghamshire County Council: https://www.buckscc.gov.uk/services/transport-and-roads/transport-plans-and-policies/highways-development</p>	Agreed, for accuracy, providing the right link. Para 11.39 is now 11.43 in the referendum version of the plan.
PM24 55	At the end of Policy T3, add the following: “Support is also offered to supporting infrastructure such as cycle parking and improvements that will create an environment conducive to cycling.”	Agreed, added detail to help implementation of T3.
PM25 56	Change the reference in Section 11.40 to: https://www.buckscc.gov.uk/services/transport-and-roads/transport-plans-and-policies	Agreed, added detail to help clarity of 11.40
PM26 56	In the first bullet point in Policy T4, delete “in accordance with Local Highway Authority guidance (BCC)” and insert “for the approval of the Local Planning Authority in conjunction with the Local Highway Authority”.	Agreed, added detail to help implementation of T4.