

Reviewed Long Wittenham Neighbourhood Development Plan

Independent Examiner's Clarification Note

Context

This note sets out my initial comments on the submitted Plan. It also sets out areas where it would be helpful to have some further clarification. For the avoidance of any doubt matters of clarification are entirely normal at this early stage of the examination process.

Initial Comments

The Plan is very well-presented. The Plan provides a clear and distinctive vision for the neighbourhood plan area in a challenging context in terms of the relationship between existing planning policy and the emerging Local Plan. Its focus on the proposed community hub and the natural and built environments, is both appropriate and distinctive to the neighbourhood area. Its proposals for a Community Hub are both innovative and well-developed.

Points for Clarification

I have read the submitted Plan and its associated documents. I have also visited the neighbourhood area. I am now in a position to raise some initial issues for clarification. They are designed for the Parish Council. The comments that are made on these points will be used to assist in the preparation of my report. They will also inform any modifications that may be necessary to the Plan to ensure that it meets the basic conditions.

General Policy Wording

The Plan uses overlapping wording in several policies where it takes a positive approach to development. In these circumstances it uses either 'permitted or approved'. Where it takes a more negative approach to development it uses 'will not be allowed'.

This is potentially confusing to all concerned and to SODC in particular as it would implement a 'made' Plan up to 2033. As such I am proposing to recommend modifications to all affected policies so that they include either 'support' or 'not support' as appropriate.

Your comments would be appreciated at this stage.

Response:

The criticism that the wording "permitted" or "approved" might be confusing when both used in the same context is accepted. The word "permitted" is more precise and more accurately reflects the intended meaning.

The word "support" was not used for the NDP because the Made policy will have the same standing as a Local Plan policy. It will therefore be used to test individual development proposals. The outcome of this test will be used in the planning balance and will lead either to planning permission or refusal.

The word "support" means to approve of, but not to approve per se. "Support" is a weaker term than "permit" in the planning context. It cannot be certain that a policy that only offers "support" will carry the same planning weight as a policy that grants or denies "permission".

The Parish Council concludes that "permitted" or "refused" would be preferable to "support" or "not support".

Policy LW1

I have a series of detailed comments on this important component of the Plan. They should be seen within the context of my views on the Community Hub in the 'Initial Comments' section above.

Policy LW1Ba

What is meant by 'changing educational and social expectations'?

Does it overlap with paragraph 78a?

Would it be more appropriate for the criterion to require compliance with educational standards in place at the time of determining planning applications for the community hub?

Response:

Educational policies change often. An example of this is shown in para. 78 where a new requirement for playing fields needed to be accommodated in the scheme. Social expectations of what the community hub might require may also arise during the scheme's development and delivery. This wording has been used to allow a certain degree of flexibility in the scheme's design to accommodate unforeseen changes.

Para. 78 was an explanation of why the scheme was modified at a late design stage. Para. 78 is not "policy" and will probably not be given much weight as an example in the decision-making process.

Yes, it might be more appropriate for the criterion to require compliance with educational standards in place at the time of determining planning applications for the community hub.

Policy LW1Bb

The second sentence appears to detract from the substance of the first sentence.

Is there any possibility that a complementary approach will not be possible?

Response (also for LW3Bb):

During the planning inquiry for Fieldside in LW3, the Inspector noted that it would be desirable for the two sites to account for one another during the design stage, if possible.

The Fieldside site only has outline approval and the Parish Council have been given no indications that the reserved matters application is in preparation.

It is therefore conceivable that the Fieldside permission will either expire, or that the reserved matters application will progress at a time when the general scheme for the Hub site under LW1 is also in preparation.

It would make good planning sense for these two developments to be sensitively designed so that they complement one another and provide the best overall design and amenity for the village.

For instance, if one development provided play space for the toddler age group, it might be desirable for the other development to accommodate play for older children. Or, as another example, the layout and position of open space could be jointly planned to have the minimum impact upon the views of Wittenham Clumps.

In response to the second comment, currently there is no communication between the PC and the developer of the adjacent site. We have added this policy because, once this is a made policy, Kler will be required to work with the Parish Council on a complementary design.

Policy LW1D

What is this component of the policy seeking to achieve?

Is it more a matter for the underpinning development agreement (and/or supporting text) rather than for planning policy?

Response:

This clause was inserted at the suggestion of the Local Planning Authority. It will help the many development partners understand how the various sites will be utilised over the delivery of policies LW1 and LW2.

Policy LW1E

In the wider context of the policy is this component necessary?

If it is required for assurance or clarity should it be supporting text rather than policy?

Response:

This clause has been included because, if the hub scheme does not proceed, it will be contrary to Emerging Local Plan policy H8 for this site to become a housing site. The NDP has already made provision for its housing need through policy LW3.

This clause is related to policy LW2 where the site is identified for a purpose, but if that purpose cannot be met, the use of the land will be determined at a later review of the plan.

Policy LW3Bb

The second sentence appears to detract from the substance of the first sentence.

Is there any possibility that a complementary approach will not be possible?

Please see response to LW1Bb above.

Policy LW4

Both components A and B read in a potentially-confusing fashion.

By definition development in both the proposed Green Gaps and the wider countryside would be restricted in general terms. Nevertheless, in both cases the exceptions to the restrictions are presented as the key elements of the policy.

In addition, this matter is potentially further confused by the double-negative approach included in both LW4Ba and LW4Bd.

I am proposing to recommend a modification to the policy so that its approach is reversed (a restrictive approach with specific exceptions).

Does the Parish Council have any comments?

Response:

This policy has proven difficult to draft and has gone through many iterations.

The Examiner's recommended modification using a restrictive approach with specific exceptions would be welcomed provided that it met the intended purpose of the policy.

LW6A

This reads as a statement of intent rather than as a policy.

Is its approach one which requires to developers to mitigate impacts on community infrastructure where an impact arises directly from the development proposed (and in doing so rely on the information in the Evidence Paper)?

Response:

Unlike all the other "boxed" and labelled policies, this is titled "Community Objective" rather than "Policy". It is not intended to be used as a policy in development management decisions. It was originally presented as a policy but was downgraded to an objective at the suggestion of SODC.

The Objective's purpose is to set out a clear marker how CIL money will be utilised to enable development, and to give an indication of how discussions regarding Developer Contributions might be framed.

LW7

Would the approach that is included in components A/B and C result in any material difference between the outcome of development proposals within the conservation area and elsewhere?

Response:

Clauses A and B reflect issues that the Long Wittenham community have identified as important to them. These clauses accordingly set out requirements that apply in addition to Local Plan and national policies on conservation areas.

The purpose of Clause C is to protect the historic archaeological remains that English Heritage (EH) believes (but has no evidence of) exist around the village. This clause was inserted following the EH response to the Reg. 14 draft. It was felt by the Parish that these matters were adequately addressed by Local Plan and national policy and that no additional policy support was required, but the objection from EH was strong and this Clause was inserted as a response.

LW8B

This reads as a clarification of LW8A. Furthermore, it largely repeats paragraph 142.

Does it add any value? Is it needed?

Response:

Clause B was included because the view corridors cover large expanses of land. It is conceivable that over long distances, views might be obscured by development but that the harm might be minor. LVIAs are a tried and tested method of assessing the level of harm and proposing appropriate mitigation.

Paragraph 142 is “supporting text” and it cannot be certain that it would be used in decision-making. By including LW8B, the applicant and decision-maker is required to consider how impacts can be assessed and harm mitigated.

LW9A

As drafted this policy would allow a developer to ‘consider how they could contribute to wider proposals’ and then decline to contribute.

Is the policy’s purpose to ensure that proportionate payments are made where it is appropriate for the development proposed to do so?

The text in bold at the end of this part of the policy refers the reader to the excellent Evidence Paper. However, for the purposes of simplicity I am proposing to recommend a modification to replace the bold text with ‘Policy LW9B’. The link to the Evidence Paper would remain in paragraph 146.

Does the Parish Council have any comments?

Response:

The text in LW9B sets out specific locations where improvements are required but the Evidence Paper provides necessary context and overall, the Parish would prefer if the applicant were required to consider what is proposed. If the reference were removed from the policy, the applicant could introduce improvements of their own design that might not be supported by the community.

The suggestion that the policy uses weak wording requiring the developer to “consider” is accepted. It is suggested that the word “consider” is replaced by “demonstrate”.

Policy LW11

I can see that this policy largely mirrors than in the ‘made’ Plan (Policy LW6). This is fine in itself.

However, should its geographic extent be modified (reduced) to take account of the implications of the inclusion of Policy LW3 in the submitted Plan (and the associated residential proposal granted on appeal)?

No, the geographic extent should not be reduced.

The permission for Fieldside is outline only and does not appear to be progressing to a reserved matters application. Should a new application be submitted, it is important that the Snail’s full habitat area is protected. In addition, future planning applications anywhere in the area identified in this policy should also protect the identified habitat.

Representations made to the Plan

I will contact the Parish Council again once the Regulation 16 consultation period has concluded. That communication will ask if Parish Council wishes to make observations on any representations that have been received by the District Council.

Protocol for responses

I would be grateful for comments by Friday 7 December 2018. Please let me know if this timetable may be challenging to achieve. It reflects the factual basis of the questions raised.

In the event that certain responses are available before others I am happy to receive the information on a piecemeal basis. Irrespective of how the information is assembled please can all responses be sent to me by the District Council and make direct reference to the policy/issue concerned.

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Independent Examiner

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