

High Offley Parish Neighbourhood Plan Examination

23rd January 2020

**Request for Clarification from the Examiner to High Offley Parish Council
and to Stafford Borough Council**

Further to reviewing the High Offley Parish Neighbourhood Plan and supporting information, I would be grateful for the assistance of both High Offley Parish Council (re: all Questions except Question 1 and Question 2) and Stafford Borough Council (re: Question 1 and Question 2 (Stafford Borough Council may also comment on other Questions if it wishes to do so)) in respect of clarifying a number of matters in writing.

In responding to the questions where I seek clarification, set out in bold/italics below, please do not direct me to any evidence that is not already publicly available.

Please can all responses be provided within four weeks of the above date. If this poses difficulties and more time would be helpful, please let me know. If, however, it is possible to respond sooner, this will aid the timely conclusion of the examination process

The questions set out are not, in any way, designed to criticise or to “catch-out”, but they are simply drafted with the aims of 1) aiding my understanding of the Neighbourhood Plan; and 2) supporting the examination process as a whole. Please note that the questions are underpinned by the fundamental requirement for the Neighbourhood Plan to meet the basic conditions.

Thank you in advance for any information you can provide.

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1) European Obligations

(matter for clarification by Stafford Borough Council)

National guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

- *“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations” (Planning Practice Guidance¹).*

As you are aware, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta* (“People over Wind”), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.

In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an *Appropriate Assessment* to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.

These changes came into force on 28th December 2018. As the regulations are now in force, it is helpful to double-check that, wherever necessary, an *Appropriate Assessment* has been undertaken.

¹ Planning Practice Guidance Reference ID: 11-031-20150209.

Screening was undertaken by Stafford Borough Council in respect of Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) and it was concluded that neither SEA nor HRA were required. The statutory consultees, Historic England, Natural England and the Environment Agency were consulted and none disagreed with Stafford Borough Council's conclusions. Further, neither Stafford Borough Council nor any of the statutory consultees have expressed any substantive concerns in respect of the Neighbourhood Plan's compatibility with European obligations.

- ***Taking all of the above into account, please can Stafford Borough Council confirm that it has considered all relevant information and that it is satisfied (or is not satisfied) that the Neighbourhood Plan is compatible with European obligations ?***

2) Comments on Basic Conditions **(matter for response from Stafford Borough Council)**

The Neighbourhood Plan allocates development land. Planning guidance states that, if allocating land, a Qualifying Body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria to establish whether the site is suitable, available and achievable for development in principle and if so, whether it would be appropriate to allocate in the neighbourhood plan. Allocations must be in general conformity with the strategic policies of the development plan and have regard to national policy.

Does Stafford Borough Council agree with the housing requirement calculations set out on page 9 of the Neighbourhood Plan ?

Has Stafford Borough Council been involved in the land allocation assessment process ?

Is Stafford Borough Council satisfied that each of the housing allocations are in general conformity with the strategic policies of the adopted development plan, have regard to paragraph 79 of the Framework and contribute to the achievement of sustainable development ?

Is Stafford Borough Council satisfied that the campsite and canal mooring sites are in general conformity with the strategic policies of the development plan ?

3) Comments on Regulation 16 Representations ***Optional Response from High Offley Parish Council***

Neighbourhood Planning Independent Referral Service (NPIERS) Guidance²
Paragraph 1.11.4 states that:

“The qualifying body will normally be given the opportunity to comment on the representations made by other parties...This may be particularly important where the matters concerned have not been raised at Regulation 14 stage. The opportunity for the qualifying body to comment on representations could be incorporated within an independent examiner’s clarification note...”

- ***Consequently, whilst not a requirement, I confirm that, in responding to this letter, there is an opportunity for High Offley Parish Council to comment on any of the representations made during Regulation 16 consultation, should it wish to do so.***

Questions for High Offley Parish Council

- 4) A number of representations suggest that sites allocated in the Neighbourhood Plan favour land owned by members of the Parish Council or their relatives.
- **Please can you confirm that no member of the Parish Council or their relative or member of the Neighbourhood Plan Working Group or their relative has any ownership interest in any land allocated in the Neighbourhood Plan ?**
 - **If, alternatively, a member of the Parish Council or relative, or member of the Neighbourhood Plan Working Group or relative does have any ownership interest in any land allocated in the Neighbourhood Plan (NP), please can you confirm which allocation(s) (for any form of development) such ownership or interest relates to ? NB - I am not interested in the identities of any individuals. Also, if this is the case, please can you point me to evidence of any declarations of interest made during the plan-making process ?**

² NPIERS “Guidance to Service Users and Examiners”

5) **Policy 1**

I would like to understand more about the land allocations process.

The decision to allocate sites for the 24 dwellings in the NP appears to have been decided prior to the Options process as all three “Options” included these allocations.

- ***Please can you confirm that this is the case, or point me to evidence if you do not consider that this was the case ?***

Previous consultation made it clear that the community did not support the allocation of land for more than 25 dwellings, yet Options 2 and 3 included land for the 24 dwellings referred to PLUS additional large housing sites, resulting in substantially more than 25 dwellings.

Whilst I acknowledge that some large sites were considered along with the community benefits they might bring, this was only done on the basis that they would be allocated IN ADDITION to land which the Parish Council had already determined would be allocated for 24 dwellings, regardless of the Options process.

- ***Given that it was already known that the community did not support the allocation of land for more than 25 dwellings, please can you point me to information in respect of why the Options process did not provide an Option, or Options, for consideration that did not include the 24 dwellings allocated in the NP ?***
- ***Given that the community expressed a preference for sites of up to ten houses, please could you provide information in respect of why it was not possible for say two sites of ten dwellings plus one or two small sites to be considered, whilst sticking to the overall community desire re: keeping allocations to no more than 25 dwellings ?***

In the above regard, I note that the housing allocations in the Neighbourhood Plan do not provide for any community benefits – whereas this is something that would, from consideration of the evidence, have been achievable were one or two slightly larger housing sites allocated in the Neighbourhood Plan.

Further to the above, whilst Site 6, which is allocated for 4 dwellings, was originally considered on the basis of it providing for 82 dwellings, other sites were simply dismissed because they were “too large.” It is not clear on what basis one site was reduced in size, whereas others were not.

- ***Please can you point me to evidence in respect of how larger sites, including Sites 4, 8, 9 and 12 adjacent to Woodseaves, were considered on a comparable basis to Site 6, such that the number of dwellings to be delivered could effectively be controlled by the allocation policy ?***

National policy requires plans to be deliverable (Paragraph 16, the Framework). In respect of the assessment process, there does not appear to have been any detailed assessment of the likely impacts of the potential allocations, for example, to demonstrate that the development of the allocations would generally be acceptable in respect of impacts on local character, residential amenity and highway safety. These are aspects of land use planning that national and strategic local policy require development proposals to take full account of and I note that representations have expressed concerns in respect of the impacts of the allocations proposed.

- ***Please can you point me to information setting out how it was determined how the site allocation process should be carried out (for example, did plan-makers follow national guidance, examples from other Neighbourhood Plans, or published good practice) ?***
- ***Please can you point me to information/evidence that the site assessment process provided for a more detailed assessment and comparison process than the basic information shown in the Table provided in the Consultation Statement (Appendix 2)? If not, please can you point me to any publicly available information or evidence to demonstrate that the allocated sites are capable of providing for development in a way that has regard to national policy and is in general conformity with the strategic policies of the Local Plan ?***

Paragraph 78 of the Framework states that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Whilst the evidence base demonstrates that there are available sites on the edge of Woodseaves that have not been allocated for development, the Neighbourhood Plan proposes the allocation of land in locations isolated from services and facilities across the Neighbourhood Area.

Paragraph 79 of the Framework prevents the development of isolated homes in the countryside, unless specific circumstances apply.

- ***Please can you point me to evidence to demonstrate that site allocations 3, 5, 14 and 20 have regard to national policy ?***

6) Policy 2

- ***The Policy requires each housing development to provide a mix of housing types yet the allocated sites define dwelling types or are for a single house. The Policy appears meaningless in the context of the allocations and there is no evidence of any additional sites where a mix of housing types would be supported. Please could you point me to information in respect of the deliverability of Policy H2 ?***

7) Policy 3

- ***Please can you point to the definition of a “primary boundary,” as opposed to a boundary ?***

8) Policy 4

- ***Policy 4 is unclear – is the Policy support for additional parking together with improvements to highway safety, or support for additional parking and support for highway safety improvements ?***

9) **Policy 6**

- *Please can you point me to evidence in respect of how the campsite allocations and canal mooring allocations have emerged through a site comparison and assessment process; and to evidence in respect to their suitability, having regard to national policy and in general conformity with the Local Plan, including the requirements of Policies E2 and E6 ?*

Thank you for consideration of all of the above.
