

Holymoorside and Walton Parish Neighbourhood Plan

The Report by the Independent Examiner

Richard High BA MA MRTPI

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Summary

The Neighbourhood Plan for Holymoorside and Walton Has been thoughtfully prepared to address the issues that are of concern to the community. While it does not envisage significant new development other than small scale infill, this reflects the existing Local Plan policy, the direction of the emerging Local Plan and the location of Holymoorside and Walton in relation to the Green Belt.

I found the Basic Conditions Statement disappointingly superficial and it could usefully have been much more explicit in explaining the relationship between the Plan and national and Local Plan Policies. It is a document that is intended to serve a very specific purpose to assist the examination and it should be prepared thoughtfully rather than as a mechanical listing exercise.

I have found it necessary to recommend some modifications for a variety of reasons. Some elements of policies do not relate to the development and use of land and thus would not provide guidance in the determination of planning applications. In other cases, policies do not have a significant local dimension and thus do not add to the NPPF. Some policies will have limited effect because the matters they seek to influence are often not subject to planning control. In light of the local planning authority's comments it is important to emphasise that, while I accept that some policies may eventually be superseded by the emerging Local Plan, that does not render them unnecessary at this stage as the Local Plan is some way from adoption.

I am grateful to the officers of NEDDC and HWPC and to the consultants of the Parish Council for the support and assistance they have provided in responding to my queries during the examination.

I have concluded that, if the modifications that I have recommended are made:

The Holymoorside and Walton Neighbourhood Plan has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;

Having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;

The making of the Plan would contribute to the achievement of sustainable development;

The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;

The Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

I am therefore pleased to recommend that the Holymoorside and Walton Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.

I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. The Plan includes the whole Parish of Holymoorside and Walton and I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”.¹ **I therefore conclude that there is no need to extend the referendum area.**

¹ PPG Reference ID: 41-059-20140306

Introduction

1. The Localism Act 2011 has provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.
2. Holymoorside and Walton Parish Council is the qualifying body for the Holymoorside and Walton Neighbourhood Plan 2016-2033, which I shall refer to as the HWNP or the Plan. The Plan area covers the whole of the parish of Holymoorside and Walton.
3. Holymoorside is a village situated just to the west of the built-up area of Chesterfield. Walton lies about 1.5 miles to the east of Holymoorside and is connected to the built-up area of Chesterfield. The whole of the parish except for the areas within the Settlement Development Limits of Holymoorside and Walton lies within the Green Belt. One of the key roles of this part of the Green Belt is to maintain the separate identity of the village of Holymoorside from Chesterfield. The parish had a population of 2233 in 2011 and has a good range of services and facilities including a primary school, two shops, two public houses, village hall and a range of sporting and recreational facilities.
4. If, following a recommendation from this examination, the Plan proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and will then form part of the statutory development plan. As such it will be an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

Appointment of the Independent Examiner

5. I have been appointed by North-East Derbyshire District Council (NEDDC) with the agreement of Holymoorside and Walton Parish Council (HWPC) to carry out the independent examination of the Holymoorside and Walton Neighbourhood Plan (HWNP).
6. I confirm that I am independent of both NEDDC and HWPC and have no interest in any land which is affected by the HWNP. I have never had any other professional involvement in the village.
7. I am a Chartered Town Planner with over 30 years' experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I have completed over 20 neighbourhood plan examinations and three health checks. I therefore have the appropriate qualifications and experience to carry out this

examination.

The Scope of the Examination

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

- Holymoorside and Walton Parish Submission Draft Neighbourhood Plan 2016-2033 April 2017. Including Appendices 1-10 providing supporting evidence.
 - Holymoorside and Walton Parish Neighbourhood Plan 2016-2033 Basic Conditions Report, April 2017.
 - Holymoorside and Walton Parish Neighbourhood Plan 2016-2033 Consultation Statement April 2017.
 - Holymoorside and Walton Parish Neighbourhood Plan 2016-2033 Strategic Environmental Assessment Screening and Habitat Regulation Assessment Screening Report. August 2016
 - Responses to Regulation 16 Consultation on the submission draft of the Holymoorside and Walton Parish Neighbourhood Plan.
 - North-East Derbyshire Local Plan 2001-2011 adopted in 2005.
 - North-East Derbyshire Local Plan 2011-2033 Consultation Draft February 2017.
 - The Neighbourhood Planning (General) Regulations 2012 as amended in 2015 which are referred to as the NPR
 - The Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).
 - The National Planning Policy Framework which is referred to as the NPPF
 - National Planning Practice Guidance referred to as PPG.
13. The documents submitted include all of those that are required to be submitted under regulation 15 of the NPR.
14. I made an unaccompanied visit to Holymoorside and Walton on 7 August 2017 to familiarise myself with the parish and help me to understand the implications of the Plan policies. I spent most of the day walking around the village and its surroundings to view all the key locations referred to in the Plan.

The Preparation of the Plan

15. An application for the designation of the whole of the parish of Holymoorside and Walton was submitted by HWPC to NEDDC on 12 January 2015. The District Council undertook consultation as was then required by regulation 6 of the NPR for a six-week period extending from 12 January to 27 February 2015 and the neighbourhood area was designated 4 March 2015². The designation was subsequently published on the Council's website in accordance with regulation 7(1) of the NPR.

² The Consultation Statement indicates that the formal decision notice is attached as Appendix 1. It was not in my copy but I located it on the NEDDC website.

16. As required under Section 38B (1) (a) of the Planning and Compulsory Purchase Act 2004 the Plan clearly states the period to which it relates, which is 2016-2033.
17. The Plan must not include any provision about development that is excluded development as defined in Section 61K, which is inserted into the 1990 Town and Country Planning Act. Excluded development includes “county matters”, such as mineral extraction and waste disposal, and major infrastructure projects. I am satisfied that the submitted Plan contains no policies which relate directly to these matters.
18. I am also satisfied that the Plan does not relate to more than one neighbourhood area.

Public Consultation

19. The Consultation Statement describes the consultation that took place during the preparation of the Plan and sets out in the appendices attached to it more details of the process and the responses received.
20. Following the designation of the Neighbourhood Area, an invitation to contribute to the process was widely publicised in the community and on the website. A Steering Group of parish councillors and members of the community was set up.
21. In October 2015, there was a major exhibition/drop in event at which emerging policies were presented. Display material including emerging policies was presented under five topic headings: Housing, Environment, Community facilities, Businesses and Transport. The event was well attended and comments were presented on a wide range of issues. Following this event there were discussions with the officers of NEDDC.
22. Formal pre-submission consultation in accordance with regulation 14 of the NPR took place between 22 January and 8 March 2016. The Draft Plan was made available on the Parish Council’s website, copies of the plan were made available to view and comment on at convenient locations throughout the Parish including the Parish Offices, notices were placed on social media, the Parish Council notice board and Parish Council website and there was written consultation with all relevant statutory bodies and a wide range of local organisations. 44 responses were received; these are summarised in Appendix 5 to the Consultation Statement which also indicates what changes were made to the Plan in response to them.
23. I am satisfied that the draft plan was publicised in a way likely to bring it to the attention of people who live, work or carry on business in the area and that the Consultation Statement together with the attached tables contain the information required by Regulation 15 of the NPR.

24. Consultation on the submitted Plan was carried out by NEDDC from 26 May to Friday 7 July 2017 in accordance with regulation 16 of the NPR.

The Development Plan

25. The statutory development plan is made up of:
- The saved policies of the North-East Derbyshire Local Plan 2001-2011 adopted in 2005. (NEDLP)
 - The saved policies contained within the Derby and Derbyshire Minerals Plan adopted in 2000 and amended in 2002
 - The saved policies contained within the Derby and Derbyshire Waste Local Plan adopted in 2005.
26. The planning horizon for all three of these plans has now past and new plans are in the process of production. The draft North-East Derbyshire Local Plan was subject to consultation in February 2017 and has a horizon of 2033. While the basic conditions (see below) only require “general conformity with the strategic policies of the adopted Local Plan”, the evidence base of the emerging plan is an important consideration.

The Basic Conditions Test

27. The consideration of whether the Plan meets the basic conditions is the main focus of the independent examination process. It is therefore essential to be absolutely clear on the meaning of each of the basic conditions.

“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan”.

28. There are two important points to emphasise in relation to this. The first is that I must consider this requirement in relation to the making of the Plan; it thus applies to the Plan as a whole rather than to individual policies. The second point is the use of the phrase “*having regard to*”. This means that I must consider the national policy and advice but it does not mean that each policy should be in absolute conformity with it. It provides for an element of flexibility. PPG explains that “*having regard to national policy*” means that “*a neighbourhood plan must not constrain the delivery of important national policy objectives*”.³ The Plan as a whole is clearly the sum of its policies and it is therefore necessary to consider the extent to which each policy complies with national policy and guidance. However, in reaching my conclusion on this basic

³ PPG What does having regard to national policy mean? Reference ID: 41-069-20140306

condition it is the relationship of the Plan as a whole with national policies and guidance rather than individual policies which is the key consideration.

29. The Basic Conditions Statement indicates the relevance of the policies in the HWNP to each of the main sections of the NPPF. This is helpful as far as it goes, but it is good practice and helpful to the examination to relate the policies of the neighbourhood plan more specifically to the relevant paragraphs of the NPPF as this something I will need to do.
30. Also, relevant to the basic conditions test is “guidance issued by the Secretary of State” as set out in PPG. The Basic Conditions Statement does not consider the relationship of the Plan to PPG but I have had frequent need to relate aspects of the Plan to it.

“The making of the plan contributes to sustainable development”

31. Sustainable development is the fundamental principle guiding the planning process and the assessment of this basic condition is therefore of prime importance.⁴ The NPPF spells out the three dimensions of sustainable development: economic, social and environmental, and emphasises the interdependent nature of these. Again, it is important to note that the assessment to be undertaken relates to the Plan as a whole, but clearly the contribution of each policy needs to be considered to enable a conclusion to be reached and policies which fail to contribute to sustainable development are likely to require modification or deletion. As the NPPF points out local circumstances vary greatly and that influences the way in which contributions to sustainable development can be made.⁵
32. The Basic Conditions Statement lists a series of five bullet points which summarises in general terms some of the ways in which the Plan contributes to sustainable development. This is by no means a clear statement of the relationship of the policies in the Plan to sustainable development. However, there is inevitably a substantial overlap between the first and second basic conditions as both are concerned with the relationship of neighbourhood plans to the NPPF.

“The making of the plan is in general conformity with the strategic policies contained in the development plan for the area”.

33. As with the previous two conditions the test applies to the Plan as a whole, but also requires consideration of individual policies against relevant strategic policies in order to reach an overall conclusion. The test of “*general conformity*” is fundamentally that

⁴ NPPF Paragraph 6

⁵ NPPF Paragraph 10

the neighbourhood plan policies should not undermine the strategic policies of the Local Plan. The test is spelt out more fully in PPG⁶. It does not preclude some variation from a strategic policy where it is justified by local circumstances providing the proposal upholds the general principle that underlies the strategic policy. The Basic Conditions Statement contains a table that lists by chapter the saved policies of the Local Plan in one column and briefly summarises the content of the neighbourhood plan policies that relate to that chapter. It does not explore the extent to which the neighbourhood plan policies are “in general conformity” with those in the Local Plan, which is in my view what is intended by the use of the word “explaining” in regulation 15 (1)(d) of the NPR. It is this relationship that I need to explore.

“The making of the order does not breach and is otherwise compatible with EU Obligations”

Strategic Environmental Assessment and Appropriate Assessment under the Habitats Regulations

34. PPG indicates that *“where a neighbourhood plan is likely to have significant environmental effects it may require a strategic environmental assessment”*⁷, subsequently referred to as SEA. A SEA requires the preparation of an environmental report. In order to determine whether the plan is likely to have a significant environmental effect, a screening assessment is necessary.
35. Regulation 15 of the NPR requires that the submission of a neighbourhood plan must include:
“(i) an environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans Regulations (EAPPR) or (ii) where it has been determined under regulation 9(i) of these Regulations that the proposal is unlikely to have significant environmental effects (and accordingly does not require an environmental assessment), a statement of reasons for the determination”.
36. Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (CHSR) puts into effect the requirements of Article 6.3 of the EU Habitats Directive and requires that:
“(1) Where a land use plan - is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of the site, the plan-making authority must before the plan is given effect, make an appropriate assessment of the implications of the site in view of that site’s conservation

⁶ PPG What is meant by ‘general conformity’? Reference ID: 41-074-20140306

⁷ PPG Does a neighbourhood plan require a strategic environmental assessment? Reference ID: 11-027-20150209

objectives.” Amendments to these regulations were made in the Schedule 2 to the NPR which inserted Regulation 102A to the CHSR:

“A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.”

37. The submitted documents include a Screening Report dated August 2016 which considers the need for both SEA and Appropriate Assessment under the Habitats Regulations. In both cases the report concluded that the HWNP would be unlikely to have significant environmental effects and that neither SEA or Appropriate Assessment under the Habitats Regulations would be necessary. The statutory consultation bodies were consulted on the report and their responses in September 2016 confirmed the conclusions of the report.
38. It was unclear to me, from the documentation that I received, who had prepared the screening assessment and when a determination that SEA and HRA would not be necessary had been made. It has been clarified to me that the screening assessment was prepared by the consultants to HWPC, “Your Locale” and that it was not until April 24 2017 that NEDDC formally confirmed to HWPC that SEA and HRA would not be necessary. I am satisfied that Table 2 and in particular Section 8 of that table are capable of being read as the Statement of Reasons for a determination that SEA is not required. I am also satisfied that there is no reason to consider that an Appropriate Assessment under the Habitat’s Regulations is necessary.
39. I conclude that the making of the Plan would not breach and would be otherwise compatible with EU obligations.

Human Rights

40. I have not found any reason, or received any representations to suggest that the Plan in any way contravenes the European Convention on Human Rights.

The Purpose of the Plan and What it Aims to Achieve

41. Sections 4 and 5 of the submitted Plan provide the context for the policies which follow. They relate the Plan to the existing policy context in terms of local and national planning policy and of the main purpose of the planning system, to contribute to sustainable development. Section 4 sets out 8 purposes which clearly state what the Plan policies are intended to achieve. Apart from the last one these are entirely appropriate aims for neighbourhood plan policies. The last one is to “seek ways of

addressing the problems of traffic congestion”. While there may be some potential to prevent serious worsening of problems associated with traffic congestion, the resolution of existing problems is more likely to be related to traffic management measures or transport investment which is not directly related to new development. These aims are not policies in their own right and it is therefore not necessary to modify them to meet the basic conditions, but my reservations on this point will be relevant in my consideration of the policies designed to achieve this aim.

42. Section 5 helpfully sets out examples of the ways in which the policies of the Plan will contribute to sustainable development.

The Policies of the Plan

43. I have considered all the policies of the Plan against the basic conditions, having regard to the evidence provided to justify the policies. Where necessary I have recommended modifications. I am only empowered to make modifications to meet the basic conditions or to correct errors.⁸ I may however suggest modifications to improve the clarity of the wording of policies as one of the important elements of PPG is that “*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 or the specific neighbourhood plan for which it has been prepared*”⁹.
44. PPG also indicates that “*Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn on to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan...*”¹⁰ Several of my recommended modifications have had regard to these aspects of PPG.
45. In considering the policies I have taken account of all the comments made during its preparation with a particular focus on comments made in response to the regulation 16 consultation on the submitted plan. While I have not referred directly to all the comments made I have given attention to all of them.

⁸ Paragraph 10 of Schedule 4B inserted into the Town and Country Planning Act 1990 by the Localism Act 2011.

⁹ PPG Neighbourhood Planning How should the policies in a neighbourhood plan be drafted? Reference ID: 41-041-20140306

¹⁰ PPG Neighbourhood Planning What evidence is needed to support a neighbourhood plan? Reference ID 41-040-20160211

46. NEDDC has submitted fairly extensive comments on the policies of the Plan and many of these relate to the relationship between the Plan and the emerging Local Plan. Comments refer to potential duplication or conflict between the neighbourhood plan and the emerging plan. In several cases it is suggested that policies are unnecessary because they will eventually be superseded by the emerging Local Plan.
47. It is important to emphasise that the emerging Local Plan is not yet part of the development plan. The latest version of the emerging Local Plan is the Consultation Draft which was subject to consultation between 24 February and 17 April 2017. While it is a material consideration in the determination of planning applications, particularly as the existing Local Plan is significantly out of date, the weight attached to it is limited as it is not yet at an advanced stage of preparation and its policies are subject to change before it is adopted. The timescale for the adoption of the Local Plan cannot be certain and it is probable that the neighbourhood plan will be made before the Local Plan is adopted. Its policies would then carry more weight than those of an emerging Local Plan. It is therefore misleading to refer to policies which may eventually be superseded as unnecessary and the possibility that one of its policies may eventually duplicate or even conflict with a policy in the Local Plan does not in itself mean that it is in conflict with the basic conditions now. However, it is important that any policy has regard to the evidence base of the emerging Local Plan.¹¹

A Sustainable Holymoorside and Walton Parish

Policy Statement S1 Presumption in favour of Sustainable Development

48. This policy statement restates the presumption in favour of sustainable development in the NPPF. However, as currently phrased it is ambiguous as it refers to “the Council” without making it clear which Council. The implication from the supporting text in the previous paragraph is that it refers to the Parish Council and it has been confirmed to me that this is the case (Appendix 1). However, neighbourhood plan policies are intended to provide guidance to decision makers on planning applications and this is simply a statement of intent on behalf of the Parish Council who are not decision makers in this context. It is also not necessary to repeat national policy. I appreciate that it is presented as a Policy Statement rather than a Policy, but in format it is indistinguishable. The supporting text clearly sets out the intentions of the Parish Council and can be retained.

Recommendation: Delete Policy Statement S1

¹¹ PPG Can a neighbourhood plan come forward before an up-to-date Local Plan is in place? Reference ID 41-009-20160211

Policy S2 Settlement Development Limits

49. This policy provides for infill development within the Settlement Development Limits which “*helps to meet the needs of the Parish and secure its sustainability*” subject to a long list of criteria. Many of these cross refer to other policies in the Plan and thus there is an element of repetition. However, the cross references are helpful as they refer a decision maker to important considerations.
50. The principle of development within the Settlement Development Limits is aligned with Policy GS5 of the NEDLP and the HWNP applies the Settlement Development Limit defined in the adopted Local Plan. However, that policy does not limit development with Settlement Development Limits to that which meets the needs of the Parish. I shall return to this in relation to criterion b).
51. As the Local Plan is out of date in terms of the timescale to which it relates, this principle also needs to be considered against the evidence informing the emerging Local Plan. Both Holymoorside and Walton are defined as Category 3 settlements in paragraph 4.33 of the Consultative Draft of the emerging plan. In these settlements “*There will be no allocations (over and above existing commitments), although windfall developments of an appropriate scale may be acceptable in line with criteria based policy SS12 or an adopted Neighbourhood Plan.*” This paragraph does not fall within the proposed policy and, as previously stated, the Draft Plan is still subject to changes before it is adopted.
52. Holymoorside has a fairly spacious character which clearly offers potential for some infill development and there is no evidence that it needs to provide for more development than this to be in general conformity with both the adopted and emerging Local Plans. Walton is more tightly developed as it has a more suburban character. It was apparently originally intended that the Neighbourhood Plan would review and potentially amend the definition of the Settlement Development Limits, but it was decided that any change would be made through the Local Plan.
53. The requirement of the policy that development should help to meet the needs of the Parish which is repeated more fully in criterion b) cannot be clearly justified in terms of the presumption in favour of sustainable development. The Plan itself does not define the particular needs of the Parish and there is nothing in the adopted Local Plan that would limit development to that meeting local needs. It is quite possible that there could be proposals for development that would be sustainable that would not clearly relate to an identified need for the Parish and it would not be appropriate resist this for this reason alone.

54. In relation to d) in many instances the removal of existing boundaries or trees would not be subject to planning control. While it is appropriate for the Plan to effectively encourage the retention of these features, it does not follow that their legitimate removal would be a reason for resisting development.
55. Criterion j) requires development to contribute to reducing crime and anti-social behaviour. It is not reasonable to expect all development to do this, particularly where existing levels of crime and anti-social behaviour are low. Developments which have a neutral effect on crime and anti-social behaviour may well be consistent with sustainable development.
56. The criteria referring to other policies are consistent with the basic conditions subject to any modifications to those policies which are recommended in this report.

Recommendation

Renumber Policy S2 as S1.

Reword the first part of the Policy after "...Holymoorside and Walton" to read:

" (see Appendices 2 and 3), development which is consistent with the sustainability of the Parish will be supported where it: ...".

Delete criterion b) and renumber remaining criteria.

reword criterion j) to read "will not increase the likelihood of crime or anti-social behaviour."

Policy S3 Development Proposals outside the defined Settlement Development Limits of Holymoorside and Walton

57. The whole of the area of Holymoorside and Walton which lies outside the settlement Development Limits is Green Belt and thus subject to the policies in the NPPF in relation to Green Belts. While the supporting text refers to the Green Belt, the policy does not, but the second part of the Policy links it to national and district planning policies.
58. The Policy indicates that development will only be allowed "*in very special circumstances and where they comply with relevant policies in this Plan and district or national countryside planning policies.*" The Basic Conditions Statement fails to relate Policy S3 to paragraphs 79-92 of the NPPF. Had it done so it may have identified that the policy does not accurately reflect the approach in the NPPF. Paragraph 87 of the NPPF states that "*inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances*". However, paragraph 89 of the NPPF identifies certain categories of development as exceptions to the general rule that the construction of new buildings in the Green Belt is

inappropriate. Thus, the requirement for both “*very special circumstances*” and compliance with other policies is misleading. I have therefore recommended a modification to clarify that Green Belt Policies apply outside the Settlement Development Limits and to correct the misinterpretation of Green Belt policy.

59. I have taken account of the comments of Gladman Developments regarding the use of Settlement Development Limits, but while the NEDLP is out of date, its policies remain in force and nothing in the Consultative Draft of the emerging Local Plan suggests that reliance on the existing Settlement Development Limits at this stage would be inappropriate. If there is a change to the Green Belt boundary when the Local Plan is adopted then it will clearly be an important consideration in the determination of subsequent planning applications. As the definition of the Settlement Development Limits may well be closely linked to any changes in the Green Belt I understand the decision to leave the resolution of this issue to the Local Plan as changes to the Green Belt are not within the power of the Neighbourhood Plan.

Recommendation

Re-number Policy S3 as S2

Reword the second sentence of Policy S3 to read “This area is Green Belt where development will only be permitted in very special circumstances unless it is considered “not inappropriate” having regard to national and Local Plan policies for the Green Belt.”

60. I have taken note of the suggestion by Derbyshire County Council that an additional policy should be inserted relating to renewable energy. However, it is open to the qualifying body to determine which policies to include and the omission of a policy on the lines recommended is not contrary to the basic conditions. I am thus not empowered to recommend its inclusion. Even if a new policy was introduced at this late stage it would require further consultation as other parties have not had an opportunity to comment on it.

Housing

Policy H1 Small infill and redevelopment sites

61. This policy supports proposals for new housing on small infill sites or through redevelopment within the defined Settlement Development Limits. It requires proposals to be consistent with other policies in the Plan and refers specifically to Policies S2 and S3. Policy S3 is not relevant as it relates only to development outside Settlement Development Limits. The policy is rather more positive than Saved Policy

H2 of the NEDLP which refers only to infill development on sites in the Urban capacity study or previously developed land but I am satisfied that it is consistent with the presumption in favour of sustainable development in the NPPF.

Recommendation

In Policy H1 close the brackets after “...S2” (to be renumbered as S1) and delete “S3” and the rest of the last line.

Policy H2 Housing Mix

62. This policy aims to guide the type of new housing that is required and in particular to give priority to the provision of smaller homes. This general approach is consistent with paragraph 51 of the NPPF which encourages planning for a mix of housing which reflects local need. In this regard, I do not accept the comment of the District Council that specifying house sizes is unusual in policies for open market housing. However, I do agree that such policies should be supported by clear evidence and applied with some flexibility.
63. Appendix 8 provides some very clear evidence that the proportion of larger dwellings, 4 bedrooms or more, is substantially higher than in North-East Derbyshire as a whole, The East Midlands or England. It also shows that under-occupation of dwellings, as evidenced by the number of spare bedrooms, is higher than in all these areas. This provides clear evidence in support of a policy to encourage smaller dwellings. However, I have some reservations regarding the specific wording of the policy. The first sentence does not provide clear guidance to a decision maker as it does not attempt to define “a recognised housing need mix”. Also, I agree with both NEDDC and Gladman Developments that the strong presumption against larger homes cannot be justified as there may very well be circumstances where individual larger dwellings would amount to sustainable development. I have recommended modifications to reflect these points.

Recommendations

In Policy H2

Delete the first sentence and the last sentence.

Reword the middle sentence to read: “New Housing development of more than one dwelling will be required to demonstrate how it relates to the need identified in Appendix 8 for smaller homes (three bedrooms or less), especially for young families and young people and for older people who wish to downsize, or the needs identified in a more up to date assessment of housing need.”

Policy H3 Affordable Housing

64. Policy H3 requires that development proposals for sites of 10 or more homes should provide affordable housing to meet a clearly identified need. It also requires priority to be given in the allocation of affordable housing to residents of the parish, and makes provision for a financial contribution to affordable housing in lieu of on-site provision where it can be demonstrated that onsite provision is not practical.
65. Policies for the provision of affordable housing are encouraged in the third bullet point of paragraph 50 of the NPPF and Saved Policy H7 of the NEDLP seeks the provision of affordable housing on sites of 0.1 hectares or more, the amount to be negotiated on the basis of several criteria including the viability of the development. The County Council correctly points out that the threshold for requiring the provision of affordable housing should be 11 dwellings or more and not 10 dwellings or more. A correction to reflect this would align with Policy LC2 of the emerging Local Plan where the amount of affordable housing that is proposed is 40% of any new development in the western part of the district subject to several criteria including viability. As suggested by NEDC to remain up to date the policy needs to refer to the up to date Local Plan policy.
66. The allocation of affordable housing is the responsibility of the housing authority and thus the intention to give priority to residents of the Parish in allocations is not an enforceable planning policy.
67. The requirement for any conclusion that it would not be possible or appropriate to provide affordable housing on site to be reached in consultation with the Parish Council is both unnecessary and inappropriate. It is unnecessary because local planning authorities have a statutory duty to consult parish councils on planning applications in their area. Thus, the Parish Council will have the opportunity to comment on this issue, as on any other. However, it is inappropriate to make specific reference to the role of the Parish Council in relation to a particular issue as it sets the Parish Council apart from other statutory consultees and it is not within the power of a neighbourhood plan to impose new procedural requirements on local planning authorities.
68. Subject to modifications to reflect these points I am satisfied that the policy meets the basic conditions.

Recommendation

In Policy H3 at the end of the first sentence add “in accordance with the requirements of the most up to date adopted Local Plan policy.”

Delete the second sentence and in the third sentence delete “in consultation

with the Parish Council”.

Policy H4 Rural Exception Sites for Affordable Housing

69. This policy supports proposals for the provision of affordable housing on small rural exception sites subject to several criteria. The provision of affordable housing in this way is consistent with NPPF policies for rural housing and the Green Belt.¹² The criteria to be applied closely reflect those in saved policy H9 of the NEDLP. I note the District Council’s concern that it is necessary to define more clearly the way in which local need can be demonstrated and, as in the previous policy the specific requirement to consult the Parish Council on this issue is inappropriate. Subject to an amendment to reflect these points I am satisfied that the Policy meets the basic conditions.

Recommendation

In Policy H4 modify criterion a) to read: “It can be demonstrated to the satisfaction of the District Council that it meets a Parish need which would not otherwise be met and has been clearly identified in an up to date survey of housing need.”

Employment and Economy

Policy E1 Existing Employment Uses

70. The policy resists the loss of existing employment uses unless it can be demonstrated that the site is unsuitable for, or there is no market demand for, employment uses. This policy has regard to paragraph 22 of the NPPF which discourages the long-term protection of sites where there is no reasonable prospect of them being used for employment purposes. Although phrased differently it is consistent with the general purpose of Policy E7 of the NEDLP which resists the change of use of employment land unless the local planning authority is satisfied that there is an adequate supply of land. It thus meets the test of general conformity with Policy E7.
71. The District Council has commented that the policy goes beyond the protection proposed in policies WC2 and WC3 of the emerging plan which refer to named primary and secondary employment sites. Again, these policies are liable to change and the test of general conformity is with the adopted development plan. Also, Policy WC2 does not specify how the sites referred to will be protected. It is the nature of employment sites in a rural setting that they tend to be small scale and dispersed, but that does not make them unimportant at a local level. While policies at a district level are appropriately focussed on strategically important sites, the protection of smaller

¹² NPPF paragraphs 54 and 89 (4th bullet point).

local sites does not undermine this policy and it is appropriate for a neighbourhood plan to contain non-strategic policies to be applied locally.

72. I note the concerns that the policy as phrased may be unreasonably restrictive in relation to business uses linked to domestic properties and I have recommended an amendment to reflect this. It is also the case that some changes of use from employment related uses may be permitted development, but the policy could not be applied in these cases. I accept that the wording to define “actively marketed” needs to be clarified and that the wording used in Policy SCF1 could be used. However, I am not satisfied that Policy SCF1 would adequately cover the scope of this policy as there may well be, now or in the future, employment uses that are not listed there. The modifications I have recommended will enable the policy to meet the basic conditions.

Recommendations

In Policy E1 after “...supported unless” reword the policy to read “the use is ancillary to a residential use, or it has been demonstrated that the current use is not viable and that all reasonable steps have been taken to let or sell the site or building for employment purposes for a period of at least 12 months.”

Policy E2 New Small-Scale Employment Uses

73. Policy E2 supports the establishment of new, or the expansion of existing small-scale employment uses where they would not have a harmful effect on residential amenity and the character of the village. This is a positively worded policy that is consistent with paragraph 28 of the NPPF. It is also in general conformity with policies E8 and E9 of the NEDLP. However, as currently worded it is more open ended than Green Belt policy with regard to development outside the Settlement Development Limit. It also refers mistakenly to Policy W2 rather than Policy S2. As a more minor point I believe “fumes or smells” would more clearly express what is intended. Also, to grammatically agree “it” on the second line of the policy should be replaced by “they”.

Recommendation

In Policy E2:

In the second line after “...will be supported where” delete “it” and insert “they” and change “fumes and smells” to “fumes or smells”;
after “...required to comply with” in the penultimate line, reword to read “the provisions of Policy S1 or S2, as appropriate” (as renumbered).

Shops and Community Facilities

Policy SCF1 Important Shops, Community Services and Facilities

74. The policy aims to ensure that important community services and facilities are not lost unless suitable alternative provision is made or they can be shown to be unviable. The

aim of the policy is entirely consistent with the fourth bullet point of paragraph 28 of the NPPF. It is also in general conformity with Policy CSU3 of the NEDLP. I am satisfied that the wording of the first section of the policy is consistent with the basic conditions, except for the reference to consultation with the Parish Council for the reasons previously set out in relation to policies H3 and H4.

75. The second part of the policy lists the facilities to be protected. For the most part, it is clear to me that these are important facilities for the community and are an integral part of either Holymoorside or Walton. However, like the District Council I am not convinced that some of the facilities listed fit this definition. Golf Courses normally serve a wide area rather than a small community and, while the two golf courses identified lie within the parish, they are not closely related to the settlements of Holymoorside and Walton. Similarly, it seems to me that the Ladywood Garage and shop is a facility serving passing trade along the A619 as well as the local community. Also, Walton Motors is positioned to serve the Chesterfield built-up area as well as Walton. All of these are also places offering some employment, and in this sense, they benefit from the protection offered by Policy E1. I accept that this is also true of some other facilities on the list such as the two public houses and Kendall Stores, but it is clear to me that these are much more clearly village facilities.

Recommendation

In the first paragraph of Policy SCF1 delete “in consultation with the Parish Council”.

Delete Ladywood Garage and Shop, Walton Motors, Chesterfield Golf Course and Stanedge Golf Course from the list of facilities, services and shops.

Policy SCF2 Assets of Community Value

76. This policy simply requires that where a development proposal may affect an Asset of Community Value, the reason for its listing as such should be taken into account in the determination of any planning application.
77. The District Council regards this policy as superfluous and suggests that it re-iterates the Assets of community Value Regulations. However, I have found no such provision in the regulations, but a non-statutory DCLG Policy Statement indicates that “*The provisions do not place any restriction on what an owner can do with their property, once listed, if it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. However, the fact that the site is listed may affect planning decisions – it is open to the Local Planning Authority to decide that listing as an asset of community value is a material consideration if an application for change of use*”.

78. The policy as drafted appears quite consistent with the support given in the NPPF for the retention of important services and facilities. No facilities have been designated and it may well be that any future designation will relate to one or more of the facilities in Policy SCF1. I can see no reason why the policy fails to meet the basic conditions.

Transport and Accessibility

Policy TA1 Traffic Impact

79. Policy TA1 requires development proposals to demonstrate that they will not cause a serious impact on congestion or road and pedestrian safety. The policy is largely consistent with the third bullet point of paragraph 32 of the NPPF. However, this paragraph also refers to the potential for measures to mitigate any adverse impact and the policy should be modified to more clearly reflect this. The policy is also in general conformity with Policy T2 of the NEDLP, which must be considered alongside the more up to date guidance in the NPPF.

Recommendation

In Policy TA1 after “...demonstrate that” insert “taking account of any measures to mitigate the impact of the development.”

Policy TA2 Footpaths, Cycleways and Bridleways

80. The policy aims to resist development proposals that would be harmful to the existing network of footpaths, cycleways and bridleways.
81. The importance of footpaths and cycleways is emphasised in the NPPF (paragraphs 35 and 69). However, it is one of many considerations that must be taken into account in the determination of any planning application. There may be circumstances where the public benefits of a development proposal would outweigh the harm to footpaths or bridleways and I have recommended a modification which recognises the balance that needs to be struck.

Recommendation

In Policy TA2 after “...and bridleways will” delete “not be supported” and insert “only be supported where it can be demonstrated that the public benefit of the development clearly outweighs the harm.”

Policy TA3 Footpaths, Cycleways and Bridleways

82. This policy relates to an aspiration to improve the network of footpaths, cycleways and bridleways. However, only action that is related to the development and use of land can be included in a planning policy. The policy refers to development contributions as one appropriate way of achieving this, but it is unclear from the wording of the first part

of the policy what other considerations would influence the way in which planning applications are determined. Moreover, developer contributions through S106 agreements may only be imposed where they meet the legal requirements set out in paragraph 204 of the NPPF. I have therefore recommended a modification which relates the policy more clearly to land use planning.

Recommendation

Modify Policy TA3 to read:

“Where appropriate having regard to the scale and location of the proposal, new developments will be required take advantage of opportunities to incorporate improvements to the network of footpaths and cycleways into their proposals or may be required to contribute to such improvements through a planning obligation, where the legal requirements are met.”

Built Environment

Policy BE1 Listed Buildings

83. Policy BE1 requires development proposals that affect a scheduled Listed Building to conserve and enhance the site of the building and its setting. The supporting text refers to the existence of 17 listed buildings in the parish but does not identify them, simply cross-referring to the Historic England website. The policy also cross refers to the other policies in the Plan, the Local Plan and national policies.
84. PPG indicates that it is good practice to clearly identify designated heritage assets at the start of the plan making process. It would be helpful to identify these assets within the Plan to assist decision makers.
85. Paragraphs 132 to 134 of the NPPF set out the approach to be taken to development proposals that will lead to harm to the significance of a designated asset. The emphasis in this approach is on the significance of heritage assets rather than just their existence. While stressing the importance of heritage assets it also provides for a balanced approach to development that may cause harm to them, whereby the extent of harm is balanced against any public benefits. The greater the significance of the asset and the greater the harm, the less likely it is that a proposal will be justified.
86. Policy BE1, while referring to national policy it does not make this clear and is thus somewhat misleading. It also does not add to national policy and therefore does not serve any useful purpose. While I have recommended its deletion the retention of the supporting text is valuable.

Recommendation

In section 12.1 insert a list of the heritage assets in the neighbourhood area and

a map to locate them.

Delete Policy BE1

Policy BE2 Non-Designated Heritage Assets

87. Policy BE2 refers to a list of buildings and sites in Appendix 1 which is entitled “Identified ‘non-designated’ heritage assets and the first two parts of the policy refer to the possible inclusion of these assets on a register of non-designated heritage assets. PPG makes it clear that it is the responsibility of the local planning authority to determine, in consultation with Historic England, the assets that should be included on any local list.¹³ The title of the policy and Appendix 1 is thus somewhat misleading.
88. The first part of the policy is a statement of intent on behalf of the Parish Council and is thus not a policy for the development and use of land. The second part of the policy supports the inclusion of the buildings and sites in Appendix 1 on a Local List. Again, this is not a policy that will provide guidance to decision makers on planning applications. Moreover, the supporting text recognises the need to undertake further work to assess the heritage value of these assets.
89. It is however, entirely appropriate for a neighbourhood plan to identify buildings and structures that the community considers to be of historic interest and to include an appropriate policy relating to them. Any such policy needs to be supported by a map which identifies the location of these buildings as a decision maker or applicant cannot be expected to identify them from the list alone. The list also seems to include some of the sites of archaeological interest referred to in section 12.2 and it would be helpful for the list and map to identify these separately. The requirement in the existing wording that proposals should conserve and enhance the character and setting of the structure is too strong a test having regard to the balanced approach in the NPPF for both designated and non-designated heritage assets. I have therefore recommended a modification to reflect this.

Recommendation

Re-number Policy BE2 as BE1 and renumber policies BE3 to BE5 accordingly. In Appendix 1 change the title to “Unlisted Buildings and Structures of Historic Architectural or Archaeological Interest” and add a map which clearly identifies the location and identity of each of the buildings and distinguishes buildings and structures from archaeological sites (see Policy BE3 below). Change the title of Policy BE2 to “Unlisted Buildings and Structures of Historic or Architectural Interest.” Delete the first two parts of Policy BE2 and modify the third part to read:

¹³ PPG How are non-designated heritage assets identified? Reference ID 18a-041-20140306

“Development proposals that will affect the buildings and structures identified in Appendix 1 will be required to have regard to their historical or architectural importance and to demonstrate that any harm to them cannot be avoided or mitigated and would be clearly outweighed by the benefits of the development.”

Policy BE3 Important Sites of Archaeological and Geological Interest

90. This policy raises similar issues to those raised by Policy BE2. In the NPPF sites of archaeological interest are regarded as heritage assets and, where they are not subject to a statutory designation (e.g. Scheduled Monument, World Heritage Site, Registered Battlefield) may be included on a local list of non-designated heritage assets. The supporting text refers to three scheduled ancient monuments and several other features of archaeological interest, some of which are already included in the list in Appendix 1. To facilitate the application of the policy the list and the map which I have already recommended should separately identify all the known sites of archaeological interest. Two representations have pointed out an error in the supporting text which refers to “Leeds Valley” but should refer to “Loads Valley”.
91. The first part of the policy refers to the maintenance of a schedule of important sites. For the same reasons as in Policy BE2, this is not a land use policy and not within the power of a neighbourhood plan. The second part of the policy refers to sites of geological interest, but the supporting text contains no information or justification relating to these. Such features would often be protected as Sites of Special Scientific Interest (SSSIs). There is no reference to any specific sites of geological interest in this section, but there is on P35 under the heading of biodiversity. It is more appropriately considered in that section, as the NPPF deals with biodiversity and geodiversity together in paragraph 117, and the reference to geological sites under Policy BE3 should therefore be deleted. Subject to this and the inclusion of a cross reference to the list of archaeological sites I am satisfied that the second part of the policy meets the basic conditions.

Recommendations

In the second line of the supporting text at the top of Page 29 delete “Leeds and insert “Loads”.

In the heading to Policy BE3 delete “and geological”.

Delete the first part of Policy BE3 up to “...and geological interest,”.

Modify the last part of the policy to read: “Development proposals that affect the known sites of archaeological interest identified in Appendix 1 will be required to demonstrate that effective mitigation and/or compensatory measures can be ensured or that the benefits of the development clearly outweigh any harm.

Where appropriate an archaeological assessment or field investigation will be

required.

Policy BE4 High Quality Design Principles

92. This policy sets out criteria to be met in the design of new development. With one exception which I will come to, I am satisfied that the principles expressed meet the basic conditions. However the policy is somewhat repetitious in that it says the same thing in several ways. This does not accord with the PPG guidance that policies should be concise¹⁴. For example, “the characteristics of the site and its surroundings” include “the grain of the surrounding area” and thus points a) and b) can be merged. I have therefore recommended some modifications to address this.
93. Point c) suggests that “designs specific to a generic ‘scheme’ should be avoided.” While I understand the sentiment behind this policy it is not consistent with the presumption in favour of sustainable development to preclude such designs in principle. Moreover, the strategic context means that large scale estate development, where such designs are most prevalent, is not envisaged. Specific proposals should be treated on their merits and the other criteria of the policy, which indicate what good design should do, will be applied to such proposals.

Recommendation

In Policy BE4 a) insert “scale” after “...character,” and replace “fit in with the ‘grain’” with “respond positively to the characteristics of the site and its surroundings”

Delete BE4 b) and c).

Policy BE5 Dry Stone Walls

94. This policy aims to prevent the removal of dry stone walls and encourage new ones. Clearly dry-stone walls are an important feature of the parish and large parts of the wider area around it. They thus contribute to local distinctiveness. However, as NEDDC point out the circumstances in which the removal of an existing dry-stone wall would be subject to planning control are quite limited. As in other policies the requirement for the local planning authority’s conclusion to be reached “in consultation with the Parish Council” cannot be required.
95. The requirement in the last sentence that any dry-stone wall lost should be replaced by a replacement wall elsewhere in the Parish is, in my view, unlikely to be enforceable as it is unlikely to meet the requirement for planning obligations to be “directly related to the proposed development”. It may also require the consent of a third party which

¹⁴ PPG Neighbourhood Planning How should the policies in a neighbourhood plan be drafted? Reference ID: 41-041-20140306

cannot be guaranteed. Subject to amendments to reflect these points, and a modification to indicate the limited circumstances in which it will be applicable, the policy meets basic conditions.

Recommendation

In Policy BE5 after “...impact, on a dry-stone wall” delete “will only be permitted Parish Council” and insert “and this is subject to planning control will only be permitted where it can be demonstrated” and delete the last sentence.

Natural and Rural Environment

Policy NE1 Landscape Character

96. Policy NE1 aims to protect the character of the landscape, which has been identified as a Primary Area of Multiple Sensitivity by Derbyshire County Council. Paragraph 109 of the NPPF advocates the use of the planning system to protect and enhance valued landscapes and the policy is in general conformity with saved Policy NE1 of the NEDLP which aims to conserve or enhance the distinctive landscape character of the District. The policy contains a general requirement for development proposals to respond positively to the local landscape character and sets out criteria to be met.
97. The Policy applies to the areas within and outside the Settlement Development Limits where it would have an impact on the natural landscape. However the policies to be applied to new development differ substantially between these areas. The Peak District National Park Authority has suggested that there is inconsistency between Policy NE5 and Policy S3 (to be renumbered as S2) as it does not refer to the constraints on development in the countryside. It appears from the content of this representation that it actually relates to Policy NE1 and that the subsequent representation in relation to Local Green Spaces which purports to relate to Policy NE1 in fact relates to Policy NE5. While the Plan should be read as a whole, I agree that the policy as it stands is somewhat misleading and that a modification to align the policy with Policies S2 and S3 (to be renumbered as S1 and S2).

In Policy NE1 insert after “Development proposals” “which comply as appropriate with Policy S1 or S2”

Policy NE2 Important Open Views

98. This policy identifies specific views that were identified in consultation as particularly important. The policy is positively phrased in that it does not seek to preclude development that would have an impact on these views, but requires proposals to take account of them.

99. Supporting evidence in relation to these views is provided in Appendix 9, but the title page of this Appendix mistakenly refers to “Supporting Evidence – Local Green Spaces”. The views are illustrated and described in Appendix 9 and their location is identified in the map on P66, however the map does not clearly identify which view is which and its scale is too small to define the location of the view. This presented some difficulties for me in preparing for a site visit and would seriously hamper a decision maker and offer insufficient guidance to an applicant. I have recommended modifications to correct these inadequacies.
100. On my site visit I went to all identified viewpoints. In several cases I noted discrepancies in the information provided and I have sought clarification on these in an email attached as Appendix 1. View 2 is described as being from Holymoorside to Hipper Hall. The view is actually from Holymoore Road towards Bage Hill and Hipper Hall is to the left and behind the view shown. The most notable discrepancy relates to View 4 where the map and title indicate that the view is south-eastwards towards Cotton Mill Hill. However, the photograph shown indicates shows the village (or another cluster of development) in the distance. I could not see this settlement and it is evident from the map that there is not one in the direction stated. The Parish Council and their consultants were unable to resolve this discrepancy and it is clear that the photograph shown is not a view looking south-eastwards towards Cotton Mill Hill from the junction of Moorlawn Avenue and Cotton Mill Hill. In my judgement, the view from that position is not of the quality to be regarded as “especially important”, as the views identified are described in the policy, and should therefore be deleted from the list. The final discrepancy is that the description of view 6 appears to confuse Highfield House Farm and High House Farm. The view shown appears to be from a point around 100m south of the entrance to High House Farm.
101. I am satisfied that, with the exception of View 4, all the views identified are important in defining the character of Holymoorside and Walton. I have taken account of the concerns of Gladman developments that the Policy should not be used to block sustainable development. However, the Policy is worded positively and simply requires that development that would affect the identified views should take them into account.
102. The policy as drafted does not read clearly as “this” in the second line appears to refer to “important views”. It is also not realistic or justifiable to require any new development to enhance these views. I have therefore recommended modifications to address these points and the points made in relation to Appendix 9.

Recommendation

Reword the first part of Policy NE2 to read “Development proposals that would affect the important views listed below and identified in the map in Appendix 9

will be required to take account of their visual significance and ensure that the visual impact of development on these views is carefully controlled.”

Delete “The following views have been identified as especially important”.

Delete the 4th bullet point “towards Cotton Mill Hill”.

Reproduce the Map at page 66 at a larger scale and ensure that it clearly shows which view each arrow is referring to.

Change the title page to Appendix 9 to read “Supporting Evidence-Important Views”

In Appendix 9:

change the description of the location of View 2 to “From Holymoorside towards Bage Hill;

Delete view 4 and renumber the following views.

Under view 6 change the start of the description of the location to “Looking north from Bage Hill from a point about 100m south of the entrance to High House Farm, this offers panoramic...”

Policy NE3 Biodiversity

103. The supporting text and the appendices provide useful background information on biodiversity in the parish that will be of importance to a decision maker. However, the references to the appendices are incorrect and I have recommended an amendment to correct these.
104. The Policy itself effectively summarises but does not add anything to the more detailed policies set out in the NPPF for biodiversity. It therefore does not meet the requirement to be locally distinct.

Recommendations

on Page 35 In the first paragraph change the reference to Appendix 4 to Appendix 5; in the 3rd paragraph change the reference to Appendix 5 to Appendix 6 and in the 4th paragraph change the reference to Appendix 6 to Appendix 7.

Delete Policy NE3 and replace it with an additional paragraph in the supporting text to read “Planning applications with implications for biodiversity and geodiversity will be determined in accordance with policies in the NPPF, which supersedes the NEDLP, and, when it is adopted the emerging Local Plan.”

Policy NE4 Trees and Woodlands

105. The policy aims to encourage development proposals which increase tree coverage and to prevent the loss of trees and hedgerows of arboricultural, ecological or amenity interest. Like policy NE3, although the supporting text contains useful local background, the policy itself makes little reference to specific local considerations. However, it does not directly replicate the NPPF policy as it does add to it by seeking to provide some clear guidance to decision makers and applicants. The general opposition to any proposal which would damage or result in the loss of trees, hedges and woodlands of value is substantially more restrictive than the NPPF policy which, even in respect of irreplaceable habitats or ancient woodland requires the benefits of development to be set against the loss.¹⁵ This necessitates a modification to meet the basic conditions. Some reordering of the policy to combine the first and third sentences which both refer to positive steps that will be encouraged would make its intentions clearer.

Recommendations

Renumber Policy NE4 as NE3

In Policy NE4 combine the first and third sentences to read: “Development proposals that increase tree coverage (especially of native species) and retain existing trees and hedges by integrating them into the design of the development will be encouraged.

Modify the second sentence to read “Where development proposals would damage or result in the loss of trees, hedges and woodlands of arboricultural, ecological and amenity value, they will not be permitted unless the harm is outweighed by the benefits of the development.”

Policy NE5 Local Green Spaces

106. This policy identifies 15 areas as local green space to be protected and sets out the policy to be applied to these spaces. NEDDC suggest in their comments that the policy does not designate the spaces as Local Green Spaces in accordance with Paragraphs 76 and 77 of the NPPF. However, it is clear to me that it is the intention of the Plan to make this designation and that has been confirmed to me in response to my request for clarification (Appendix 1). A modification to the Policy is therefore necessary to make this clear.
107. In Appendix 10 each of the sites is assessed against a set of criteria which fully cover those in paragraph 77 of the NPPF. The map on Page 85 shows the Local Green Spaces, but it is not titled and the scale is much too small to show the areas

¹⁵ NPPF paragraph 118 6th bullet point.

designated in sufficient detail. I visited each of the spaces listed and considered them against the criteria myself. I acknowledge that there is inevitably an element of subjective judgement in applying these criteria, particularly in terms of defining what makes a space “demonstrably special”, but I have applied the criteria as consistently as I can, having regard to my experience elsewhere. Except where I have stated otherwise I am satisfied that they meet the criteria for Local Green Space designation.

1. Holymoore Road Recreation Ground is a very attractive amenity space used as a football pitch in the winter and it is clear that it is important to the identity of the village.

2. Holymoore Recreation Children’s Play Area is a small, well equipped and well used play area next to the recreation ground, and could have been considered together with it.

3. St Peter’s Church Yard Cemetery is a tranquil space on the edge of the village. It is evidently an important space to the community easily accessible from the village but its sense of detachment because of its position above the road adds to its quality.

4. Holymoorside and Walton Primary School Sports Provision – Dual Use The playing field is located behind the school and I could not see how it could be publicly accessed outside school hours. No detailed evidence is provided about the extent or nature of any dual use and I am not persuaded that it meets the requirement of being demonstrably special to the community. I am therefore not satisfied that it meets the criteria for Local Green space designation.

5. The Alders Housing Green Space This area of grass in front of a group of bungalows for the elderly and screened from the road by a group of mature trees is a very pleasant and quiet place that is clearly an essential feature of the setting for these bungalows.

6. Brook Close Housing Green Space This roughly rectangular area of grass and trees provides a pleasant green pedestrian link between two cul de sacs. It provides green space within an area of residential development that is rather denser than most of the village while at the same time contributing to local connectivity.

7. Heather Way This small rectangular area of grassland is similar in function to the Brook Close space providing a green pedestrian link between two cul de sacs, and is therefore clearly important to the community it serves.

8. Pennywell Drive Green Space This is a small area of grass in front of houses and separated by driveways on a bend in Pennywell Drive. While contributing to a sense of space, I am not satisfied that it is “special” as it is no more than a relatively wide grass verge. I am not satisfied that it meets the criteria for Local Green Space.

9. Chandler Hill Lane Allotments is a large and well-used area of allotments on the edge of the village. It is in an attractive setting offering pleasant views both into and away from the village.

10. Rosedale Children’s Play Area, Walton This rectangular play area lies within a large modern estate development in Walton. It is bordered by mature trees and clearly provides an important green lung and safe play space for the community.

11. Acorn Ridge, Walton Two areas of dense woodland provide a visual and environmental buffer between residential development and the relatively busy Walton Back Lane and Matlock Road. I could find no easy access to these areas of woodland or any evidence that they are significantly. Their function is as a barrier rather than a Local Green Space and I am therefore not satisfied they justify the designation as a Local Green Space for this reason.

12. Beesley View Local Green Space is a rectangular green space within a large residential area where there is little open space and is therefore clearly very important to the community it serves.

13. Pinfold Close There are several linked areas of public amenity space running through the residential development in Pinfold Close. Collectively they create a sense of space and contribute to the identity of this development.

14. The Pinfold is a small circular raised and walled feature at the junction of Holymoor Road and Pocknedge Lane. While it is not really a usable space, and I note the comment of Alan Borman that this is not the original Pinfold, it is evidently a landmark that connects with the historical form and function and therefore makes a significant contribution to local distinctiveness.

15. Land adjacent to Belmont Park Housing This is a small strip of grass verge at the junction of Baslow Road and Holymoor Road. While quite attractive, it is not in my judgement “demonstrably special” and for that reason not appropriate for Local Green Space designation.

108. I have recommended a modification to delete the spaces which I have concluded do not meet the criteria for designation as Local Green Spaces.
109. The policy to be applied to any development proposals relating to the designated requires slight modification. Paragraph 78 of the NPPF indicates that “*local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.*” As explained in relation to Policy S3 Green Belt policy defines certain categories of development that would not be inappropriate. It is development that does not fall within these categories that should only be permitted “*in very special circumstances*”.¹⁶ By their nature very special circumstances cannot be defined or anticipated. Thus the “essential facilities for sport and recreation which do not compromise the function of the Local Green Space” are not very special circumstances.
110. The last sentence in Policy NE5 is also not consistent with the approach to Local Green Spaces set out in the NPPF. The requirement for Local Green Spaces to be “*demonstrably special*” and “*capable of enduring beyond the plan period*”¹⁷ suggests that in most cases it is the combination of the location and the character of the Local Green Space that is important. Thus, for example, space 5 At Alders Housing is defined by its relationship to the housing and its specialness could not be recreated elsewhere. Where spaces meet the criteria for Local Green Spaces the provision of suitable replacement green space elsewhere would not be normally appropriate. Where there was a compelling justification it could be considered as “very special circumstances”.

Recommendations

Renumber Policy NE5 as Policy NE4

Reword the first part of Policy NE5 as follows:

“The spaces listed below and illustrated in the map in Appendix 10 are designated as Local Green Spaces where development will only be supported in very special circumstances, unless it is for uses which do not compromise the function of the Local Green Space.”

From the list of proposed Local Green Spaces delete:

- **Holymoorside and Walton Primary School: Outdoor Sports Provision**
- **Pennywell Drive Green Space**
- **Acorn Ridge, Walton**
- **Land adjacent to Belmont Park housing**

¹⁶ NPPF paragraphs 87-89

¹⁷ NPPF paragraph 78

In the last line of the supporting text that precedes the Policy correct the reference to the Appendix by deleting “9” and inserting “10”.

In Appendix 10 replace the Map on page 85 with a larger scale map which clearly shows the boundaries of the designated Local Green Spaces and / or insert small, larger scale inset maps in relation to each of the sites in Appendix 10.

Summary and Referendum

111. The Neighbourhood Plan for Holymoorside and Walton Has been thoughtfully prepared to address the issues that are of concern to the community. While it does not envisage significant new development other than small scale infill, this reflects the existing Local Plan policy, the direction of the emerging Local Plan and the location of Holymoorside and Walton in relation to the Green Belt.
112. I found the Basic Conditions Statement disappointingly superficial and it could usefully have been much more explicit in explaining the relationship between the Plan and national and Local Plan Policies. It is a document that is intended to serve a very specific purpose to assist the examination and it should be prepared thoughtfully rather than as a mechanical listing exercise.
113. I have found it necessary to recommend some modifications for a variety of reasons. Some elements of policies do not relate to the development and use of land and thus would not provide guidance in the determination of planning applications. In other cases, policies do not have a significant local dimension and thus do not add to the NPPF. Some policies will have limited effect because the matters they seek to influence are often not subject to planning control. In light of the local planning authority’s comments it is important to emphasise that, while I accept that some policies may eventually be superseded by the emerging Local Plan, that does not render them unnecessary at this stage as the Local Plan is some way from adoption.
114. I am grateful to the officers of NEDDC and HWPC and to the consultants of the Parish Council for the support and assistance they have provided in responding to my queries during the examination.
115. I have concluded that, if the modifications that I have recommended are made:
- The Holymoorside and Walton Neighbourhood Plan has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012 and that;

Having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;

The making of the Plan would contribute to the achievement of sustainable development;

The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;

The Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

116. I am therefore pleased to recommend that the Holymoorside and Walton Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.

117. I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. The Plan includes the whole Parish of Holymoorside and Walton and I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”.¹⁸ **I therefore conclude that there is no need to extend the referendum area.**

Richard High 12 September 2017

¹⁸ PPG Reference ID: 41-059-20140306

Appendix 1 e mail exchanges for clarification

From: Richard High [<mailto:richardhigh5@btinternet.com>]
Sent: 09 August 2017 13:15
To: Cooper, Richard (Planning)
Cc: Kate Brailsford
Subject: Holymoorside and Walton NP queries

Dear Richard

I have the following queries in relation to the examination.

1. SEA/HRA – It is not clear from the SEA/HRA screening report who has made the determination under section 9 of the Environmental Assessment of Plans Regulations and therefore who has taken the necessary action under section 11.
2. On P35 there is a reference to the Harewood Grange Stream SSSI and Appendix 5. I can see no direct reference to Harewood Grange or SSSI in Appendix 5, should it be Appendix 6?
3. In Policy Statement S1 there is a reference to “the Council”. Could you please clarify which Council this refers to? The implication of the lower case text in the previous paragraph is that this means the Parish Council, but this would not be appropriate as the Parish Council does not determine applications.
4. Three of the photographs of views caused me some confusion on my visit:
View 4 the map indicates the view is looking SE away from the village from the corner of Moorlawn Avenue and Cotton Mill Lane. However the view from that position is simply of the rising ground across the field with farm buildings associated with the Farm accessed off Bage Hill just visible. The photograph on page 59 appears to show the village in the distance and cannot be the view in a southeasterly direction.
View 6 There seems to be some confusion between Highfield House Farm, to which a driveway leads from Bage Hill, and High House Farm which is about 150m further south. The view shown in the photograph seems to be from a point about 50m south of High House Farm.
View 9 I am certain I got to the viewpoint from which the photograph is taken because the whole of the background fitted exactly. However, I was puzzled as immediately to the left of the gap in the wall there is an established oak tree and the wall appears to have been repaired.

I may have further queries to follow.

Kind Regards

Richard

From: Cooper, Richard (Planning) [<mailto:Richard.Cooper@ne-derbyshire.gov.uk>]
Sent: 11 August 2017 10:25
To: 'Richard High' <richardhigh5@btinternet.com>
Subject: RE: Holymoorside and Walton NP queries

Dear Richard,

Further to our conversation, this is the letter sent to the Parish Council on 24 April 2017. I also attach the email sent before the start of the consultation (24 May).

Richard Cooper.

From: Richard High [<mailto:richardhigh5@btinternet.com>]
Sent: 11 August 2017 10:48

To: Cooper, Richard (Planning)
Cc: Kate Brailsford
Subject: RE: Holymoorside and Walton NP queries

Thank you Richard

Could you ensure that your e mail is copied to the Parish Council, in accordance with the protocol agreed at the outset.

Also could you please confirm who prepared the SEA /HRA Screening report as it is not clear from the document itself?

Kind regards

Richard

From: Cooper, Richard (Planning)
Sent: 11 August 2017 11.13
To: 'Richard High' <richardhigh5@btinternet.com>
Subject: Re: Holymoorside and Walton NP queries

I will do so and copy you in. Do you also wish to have the letter placed on the web site?

I can confirm that the SEA/HRA screening report was prepared by the consultants (Yourlocale) acting for the Parish Council.

Regards, Richard

From: Cooper, Richard (Planning)
Sent: 14 August 2017 14.48
To: 'Richard High' richardhigh5@btinternet.com
Cc: Kate Brailsford; Rachel Robson
Subject: Re: Holymoorside and Walton NP queries

Richard,

In response to your queries I can answer as follows:

1. I have responded initially to this question.
2. Yes, the reference should be Appendix 6 – Statutory Environmental Designations, which includes SSSIs.
3. The consultants acting for the Parish have indicated, and I concur, that the Policy Statement reference to 'Council' means the Parish Council (as inferred in the background justification) but this does not in any way imply determination of an application, only in its consideration of proposals. I note that this is, as with some other policies in the Neighbourhood Plan, only providing guidance for applicants. The District Council has commented on this policy in its consultation response.
4. I am requesting an answer from the consultants and the Parish clerk, as they were involved in taking these photographs.

I hope this assists you.

Richard Cooper

From: Richard High [<mailto:richardhigh5@btinternet.com>]
Sent: 15 August 2017 08:19
To: Cooper, Richard (Planning)
Cc: 'Kate Brailsford'; 'Rachel Robson'
Subject: RE: Holymoorside and Walton NP queries

Dear Richard

Many thanks for this response.

In my initial letter to you I indicated that I hoped to be able to let you have a draft report by 15 August. I am making good progress but I am not in a position to let you have a draft by the end of today. I shall be away from 16-18 August so, subject to responses to my outstanding queries I now expect to be able to let you have a draft report early next week.

I have two further points for clarification

1. In relation to Policy SCF2 Assets of community Value, the District Council states that the policy re-iterates Assets of Community Value Regulations. I should be grateful if you could let me have the detailed source for this statement as I have been unable to locate it.
2. With regard to Local Green Spaces (Policy NE5) the District Council states in its comments that the Plan does not formally designate these spaces but simply seeks to protect them. My reading of Appendix 10 is that it is the intention of the Plan to designate these spaces, but I would welcome the views of the Parish Council on this point.

Kind Regards

Richard

From: Cooper, Richard (Planning) [<mailto:Richard.Cooper@ne-derbyshire.gov.uk>]
Sent: 15 August 2017 11:42
To: 'Richard High' <richardhigh5@btinternet.com>
Cc: 'Rachel Robson' <Rjrobson75@hotmail.com>; Kate Brailsford <holymoorsideandwaltonpc@byconnect.com>; 'Andrew Towlerlton' <andrew.towlerlton@yourlocale.org.uk>
Subject: RE: Holymoorside and Walton NP queries

Richard, thank you.

I am away from August 22 – 30 (but likely to work later that week), so I am unlikely to be attending to the report before the 30th.

I will attend to Q.1.

On Q.2 I hope that Rachel will be able to answer for the Parish. However, I think that I need to clarify the District's consultation response on Policy NE5. Policy ID4 of the Council's Consultative Draft Local Plan (CDLP) protects Local Green Spaces (LGS), which are only identified in Neighbourhood Plans. Therefore the NP policy NE5, while it may indicate how LGS is protected, should clearly identify LGS for designation. The District Council's view is that only some of these areas warrant designation, but is content that the decision comes through the Examination.

Other areas would in any case be protected under (current) Policy ID3. Emerging work in preparation of the CDLP will identify these in due course. I would have to consult with colleagues as to how this

work has progressed. This may have to wait as the principal officer dealing with recreational space is on leave, due to return on Aug 30th.

Richard, if you can provide advice over LGS & NE5 in your report then delay may be unnecessary, but if you think it needs to be left until August 30th for some direction from ourselves and the Parish, then I am content with that. Of course the Parish may have a different view.

Richard Cooper.

(c.c. Andrew Towleron, Yourlocale)

From: Richard High [<mailto:richardhigh5@btinternet.com>]
Sent: 15 August 2017 11:48
To: Cooper, Richard (Planning)
Cc: 'Rachel Robson'; 'Kate Brailsford'; 'Andrew Towleron'
Subject: RE: Holymoorside and Walton NP queries

Dear Richard

I intend to address the issue of Local Green space in my report.

Kind Regards

Richard

From: Andrew Towleron
Sent: 16 August 2017 13:11
To: Cooper, Richard (Planning); Richard High
Cc: Rachel Robson; Kate Brailsford
Subject: RE: Holymoorside and Walton NP queries

Dear Richard and Richard,

I am pleased to clarify points 1 and 4 as requested. Taking each one in turn:

1. I can confirm that it is the intention of the Neighbourhood Plan to designate the identified areas as Local Green Spaces. This is in accordance with para 76 of the National Planning Policy Framework which states, "local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them" and Policy ID4 in the draft NEDDC Local Plan. I was not aware that the District Council was of a view that only some of them warranted designation. I can assure you that their identification was undertaken following detailed analysis and consultation, and having regard to relevant national and local planning policy. We consider them all to be fully justified.
2. With regard to the issue of the views, I can confirm
View 4: Since the photograph was taken the vantage point from the public highway has been obscured by trees and hedges. This vegetation growth has diminished the view from this point.
View 6: We can confirm that the view is from High House Farm. We would be pleased to amend the supporting evidence accordingly. While, similar impressive views can be obtained from the public highway closest to Highfield House Farm, the view indicated is from where you correctly identify and state.

View 9: I can confirm that you it is the correct view. The confusion may have arisen as there is similar view point from that which the photograph was taken further down the footpath (closer to the village) comprising a wall and gate.

You can just about make out this view point in the photograph containing in the supporting background report. If you look south following the footpath this similar viewpoint is just about visible.

I apologise about the slight delay in replying to you but have been only just returned from leave, and also wished to double check the concerned views prior to responding to you.

I hope these points are useful, and if can be of any further assistance please get in contact.

Andrew Towleron MRTPI

From: Richard High
Sent: 19 August 2017 14:46
To: Cooper; Richard (Planning); Andrew Towleron
Cc: Rachel Robson;
Subject: RE: Holymoorside and Walton NP queries

Dear Richard and Andrew

Many thanks for this reply, which clarifies the points I raised. However, I am still not sure about view 4 . I looked at the view from a few yards into Moorlawn Avenue, but the neither the hill in the distance or the settlement lying between the for ground and the background is visible. The description and the map both say the view is towards the south-east but I cannot see what the settlement could be looking in that direction.

Kind Regards

Richard

From: Andrew Towleron
Sent: 30 August 2017 16.49
To: Richard High; Cooper, Richard (Planning)
Cc: Rachel Robson; Kate Brailsford
Subject: RE: Holymoorside and Walton NP queries

Richard,

Further to our discussions concerning the above. Having discussed this with the Parish Council, can I propose that the concerned View (4) is removed from the List of important views and vistas.

I hope this is satisfactory, and would be pleased to discuss any aspects of this further.

Best wishes

Andrew Towleron

Appendix 2: Letter dated 24 April 2017 from North-East Derbyshire District Council to Holymoorside and Walton Parish Council re SEA/HEA

Ms Kate Brailsford, Parish Clerk,
Holymoorside and Walton Parish Council,

Dear Ms Brailsford,

Holymoorside and Walton Neighbourhood Plan: Submission Draft

Thank you for the submission of the Holymoorside and Walton Neighbourhood Development Plan accompanied by the documents required under Regulation 15 of the Neighbourhood Planning Regulations.

I consider that the Statement of Basic Conditions submitted on behalf of Holymoorside and Walton Parish Council (March 2016) demonstrates that the legal requirements of the Neighbourhood Planning Regulations are complied with, as set out in s2 and s3 (3.1 – 3.3 & 3.6) of that Statement.

The Statement also includes specific reference to EU obligations (s3.4) and impact on a European Site (s3.5). With regard to s3.4 & s3.5 a screening report has been prepared and submitted (in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004).

The District Council, as Responsible Authority, needs to decide whether this screening is satisfactory. I have therefore consulted with the environmental assessment consultation bodies specified in those regulations and on their advice, Derbyshire County Council and Derbyshire Wildlife Trust officers.

On the basis of this I can confirm that they agree that the Plan does not require an environmental assessment. I concur with the view of the screening report; that no significant effects are likely as a result of the implementation of the Holymoorside and Walton Parish Neighbourhood Plan. There is also no requirement to prepare a Habitats Regulation Assessment.

I am therefore satisfied that the statutory requirements set out in paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990 (as amended) have been met. The District Council can now publicise the Plan (in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended)).

Please note, the above relates solely to whether the documents submitted meet the statutory requirements and so is without prejudice to the comments of the District Council, as Local Planning Authority, during

the formal consultation stage.
www.ne-derbyshire.gov.uk

I am preparing arrangements for the Regulation 16 publicity and consultation and I am grateful to you for providing three locations where the documents may be placed as Holymoorside Village hall, Kendall Shop, Holymoorside and St John's Church office, Walton. I will arrange for the documents to be printed and I trust it would be satisfactory to provide them to you to be placed at those locations for the beginning of the consultation period. Please note, I would like two of the three documents returned following consultation, in readiness for the Examination.

In order for the consultation to proceed I will need details of all consultees and all respondents. Can you please arrange for these to be sent as soon as possible in order that they can be informed at the start of the Reg 16 consultation? I anticipate if things go well, that the consultation will commence on either the 12th or 19th May. I will confirm timings nearer the date.

Following the consultation the Plan will be submitted for examination. Therefore I am also beginning the process of appointing an Examiner. I have sent an application form to the Neighbourhood Planning Independent Examiners Referral Service (NPIERS) for your comment and I understand that this has been passed on to Yourlocale. I intend to send the application to NPIERS as soon as I can.

I look forward to progressing the Plan to Examination, and eventual approval by the District Council. If you have any questions please contact Richard Cooper at these offices.

Yours sincerely,

Helen Fairfax
Planning Policy Manager,

North East Derbyshire District Council

c.c. Andrew Towleron, Rachel Robson, yourLocale.