



North East Derbyshire District Council

North East Derbyshire District Council SHIRLAND AND HIGHAM PARISH NEIGHBOURHOOD PLAN

Decision Statement:

Shirland and Higham Parish Neighbourhood Plan Proceeding to Referendum
18 July 2024

1. Summary

- 1.1 In line with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (NPR) North East Derbyshire District Council has produced this 'Decision Statement' in relation to the Shirland and Higham Parish Neighbourhood Plan (the 'Plan') submitted to them by Shirland and Higham Parish Council.
- 1.2 The Plan sets out a vision for the Parish and comprises policies to support and control development needed to help sustain the community. If made, it will become part of the development plan for land use and development proposals within the Parish until 2034.
- 1.3 Following an independent examination of written representations, North East Derbyshire District Council confirms that the Plan will proceed to a local referendum subject to specified modifications set out in the attached table.
- 1.4 In accordance with the examiner's recommendation, and following consideration by North East Derbyshire District Council the Shirland and Higham Neighbourhood Plan will proceed to Referendum scheduled for **18 July 2024**.
- 1.5 This Decision Statement, along with the independent Examiner's report and the plan documents can be inspected in the following:
 - North East Derbyshire District Council's Offices at Mill Lane, Wingerworth between 9am – 4.30pm
 - Shirland Village Hall, Main Rd, Shirland, Alfreton DE55 6BB.
The opening times for the village hall are:
Mondays 11am - 4pm
Tuesdays 3pm - 7.30pm
Wednesdays 6pm - 7pm
Thursdays 6.30pm - 9pm
 - Online via the Council's website: -
[https://www.ne-derbyshire.gov.uk/planning-and-local-plan/planning-policy-and-local-plan/neighbourhood-planning/Shirland and Higham](https://www.ne-derbyshire.gov.uk/planning-and-local-plan/planning-policy-and-local-plan/neighbourhood-planning/Shirland%20and%20Higham)

2. Background

- 2.1. On 10 June 2021 Shirland and Higham Parish Council submitted an application to North East Derbyshire District Council for the designation of the Parish as a Neighbourhood Area. The Parish of Shirland and Higham was duly designated as the Shirland and Higham Neighbourhood Area by North East Derbyshire District Council on 11 October 2021.
- 2.2. The Parish Council subsequently prepared the Shirland and Higham Draft Neighbourhood Plan. Consultation on the Parish's Draft Plan was held for 6 weeks ending on 3 July 2023.
- 2.3. The Submission version of the Neighbourhood Plan for Shirland and Higham was completed and submitted to the District Council on 17 November 2023. North East Derbyshire District Council accepted the Plan was legally compliant and held a 6-week consultation period ending on 28 February 2024, in accordance with Regulation 16 of the Neighbourhood Planning Regulations.
- 2.4. An Independent Examiner was appointed in March 2024 to undertake the examination of the Submission version of the Shirland and Higham Neighbourhood Plan which ran from March to May 2024. The examination was completed with the final examination report sent to the District Council on 1 May 2024.

3. Decisions and Reasons

- 1.1 The Examiner has concluded that, subject to specified modifications, the Plan meets the Basic Conditions and other relevant legal requirements. The Council concurs with this view.
- 1.2 The District Council must consider each of the recommendations made in the Examiner's report and decide what action to take in response. The table attached to this statement sets out the examiner's recommended modifications, his reasoning (summarised by the Council) and the Council's decisions in respect of each of them.
- 1.3 The District Council is therefore satisfied that, subject to the modifications being made, the Draft Neighbourhood Plan meets the legal requirements and basic conditions as set out in legislation; thus, the plan can proceed to referendum.
- 1.4 To meet the requirements of the Localism Act 2011, a referendum which poses the question *"Do you want North East Derbyshire District Council to use the Shirland and Higham Parish Neighbourhood Plan to help it decide planning applications in the neighbourhood area?"* will be held in the Parish of Shirland and Higham. A provisional date of 18 July 2024 has been set for the referendum.

Decision Statement Shirland and Higham Parish Neighbourhood Plan:
Table of Examiner's Recommendations, North East Derbyshire District Council's decisions and proposed amendments

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons (Summarised by the Council)	NEDDC's decision	Action to be taken
Section 20, Page 61	<u>Modification 1</u> Transfer Aspirational Policy 1 and associated explanatory text to Appendix D of the Neighbourhood Plan	National policy sets out that wider community aspirations, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and that it should be made clear in the Plan document that they will not form part of the statutory development plan. In accordance with national policy, Aspirational Policy 1 should be moved to Appendix D.	Agree	Amend according to examiner's recommendation
Page 17, Policy 1: Sustainable Development	<u>Modification 2</u> In Policy 1 in part 2a insert " <i>built and</i> " before " <i>rural</i> "	To ensure the policy has sufficient regard for national policy and for both the built and rural character of the Neighbourhood Plan area.	Agree	Amend according to examiner's recommendation
Page 26, Policy 3: Protecting the Landscape Character	<u>Modification 3</u> In Policy 3 • Replace part 1 with: <i>"Development proposals that adversely affect the undeveloped character of the Significant Green Gaps identified on Map 2 of the Neighbourhood Plan will not be supported. Development proposals must demonstrate how they take account of the contribution the Significant Green Gaps make to the wider character of the neighbourhood"</i>	In his report the Examiner considered the suitability of the proposed SGGs and found that with two exceptions they were suitable for designation as SSGs. Following his assessment, the Examiner recommends a modification to delete Significant Green Gap 1a, and the eastern part of Significant Green Gap 7 from Map 2. Additionally, the Examiner further recommends that the term " <i>planning permission will not be granted</i> " as used in the text of the policy is inappropriate, and has recommended a modification to the overall wording in Part 1 of the policy to provide more clarity and to ensure the policy has sufficient regard for national policy.	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons (Summarised by the Council)	NEDDC's decision	Action to be taken
	<p><i>area through separation of settlements."</i></p> <ul style="list-style-type: none"> • in part 2 after "Map 3" insert "<i>illustrated in Appendix B of the Neighbourhood Plan,</i>" and replace the second sentence with "<i>Development proposals should not significantly adversely affect a Key View including views of any notable feature or heritage asset within the view.</i>" • continue part 3 with "network" <p>On Map 2 (and adjust Table 2 of the Neighbourhood Plan accordingly):</p> <ul style="list-style-type: none"> • delete Significant Green Gap 1a, and • delete the part of Significant Green Gap 7 east of the unmade footpath that runs south from land between 75 and 83 Kingsley Crescent, Stonebroom <p>Modify Map 3 so that the blue shaded view cones are more clearly identifiable.</p>	<p>Part 2 of the policy refers to the view cones in which development that will affect the key views shown on Map 3 should include an objective assessment of the effects of proposals on the landscape character. In his report the Examiner recommends several modifications to both Map 3 and the wording of the policy.</p> <p>These modifications have been made to ensure that the policy has sufficient regard for national policy and is clearly written and unambiguous as required by paragraph 16 of the National Planning Policy Framework (NPPF).</p>		
<p>Page 30, Policy 4a: Protecting and</p>	<p><u>Modification 4</u> In Policy 4a delete part 1, and rename the policy as Policy 4.</p>	<p>The requirement for developers to deliver 10% Biodiversity Net Gain is a national requirement and paragraph 16f of the NPPF states that plans should serve a clear purpose and avoid unnecessary</p>	<p>Agree</p>	<p>Amend according to examiner's recommendation</p>

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons (Summarised by the Council)	NEDDC's decision	Action to be taken
Enhancing the Natural Environment		duplication of policies that apply to a particular area. The Examiner considers that Part 1 of the policy does not serve any purpose and so recommends it's deletion. This modification has been made to ensure the policy has sufficient regard for national policy.		
Page 31, Policy 4b: Tree Planting and Replacement	<u>Modification 5</u> Delete Policy 4b.	The Examiner considers that this policy provides no additional protection beyond what is set out in Policy SDC2 of the North East Derbyshire Local Plan. Considering Paragraph 16 f) of the NPPF states that plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area.	Agree	Amend according to examiner's recommendation
Page 33, Policy 5: Designation of Local Green Spaces	<u>Modification 6</u> In Policy 5 replace part 2 with " <i>The determination of development proposals within a designated Local Green Space will be consistent with policies for managing development in Green Belt.</i> " In Appendix F of the Neighbourhood Plan correct the link to a version of Map 5 that can be expanded.	The Examiner considers that the proposed Local Green Space designations have been sufficiently justified and identified. However, to ensure the policy has sufficient regard for national policy, the Examiner recommends a modification to Part 2 of the Policy. The link to an expanded version of Map 5 in Appendix F requires correction, for clarity and accuracy.	Agree	Amend according to examiner's recommendation
Page 39, Policy 6: Protecting Heritage Assets	<u>Modification 7</u> In Policy 6: <ul style="list-style-type: none"> • in parts 1 and 2 insert "<i>Scheduled</i>" before "<i>Monuments</i>" • in part 4 replace "<i>considered favourably</i>" with "<i>supported</i>" 	The Examiner recommends adding in the word ' <i>Scheduled</i> ' before ' <i>Monuments</i> ' in Part 1 and 2 so that the policy has sufficient regard for national policy. The Examiner furthers recommends a modification to correct an error in Part 4 of the policy as parts a) and b) of that part of the policy cannot both be satisfied together (Part 4a should be continued with " <i>or where the original use is reinstated</i> " and Part 4b should be	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons (Summarised by the Council)	NEDDC's decision	Action to be taken
	<ul style="list-style-type: none"> extend part 4 a) with <i>"or where the original use is reinstated"</i> and delete part b) 	<p>deleted). The Examiner also recommends an additional modification to Part 4 of the policy as the term <i>"considered favourably"</i> does not have sufficient regard for paragraph 2 of the NPPF. In his report, the Examiners recommends replacing the term <i>"considered favourably"</i> with <i>"supported"</i>.</p>		
<p>Page 43, Policy 7: Achieving High Quality Design</p>	<p><u>Modification 8</u> In Policy 7:</p> <ul style="list-style-type: none"> delete parts 5 a), 6 c), 7 c); and 8 c) replace part 6 b) <i>"ensure there is no erosion of significance or character when listed buildings or historic buildings / structures within the Conservation Area and its setting are renovated,"</i> reposition part 13 after part 4 and adjust the lettering of parts of the policy; in the starred note replace <i>"1, 2 and 3"</i> with <i>"1 to 5 inclusive"</i> and continue the note with <i>"The following criteria apply in the named character areas that are identified on Map 7 of the Neighbourhood Plan."</i> 	<p>The Examiner recommends a modification to Part 6b of the policy so that the current text is replaced to ensure that the policy has sufficient regard for national policy.</p> <p>Throughout the policy, references are made to Significant Green Gaps and Local Settlement Gaps, both of which are established by Policy 3 of the Neighbourhood Plan and by the Local Plan respectively, the Examiner considers that these references are confusing and unnecessary. Additionally, the references are partial in nature, inconsistent, and imprecise. The Examiner recommends a modification in this respect so that the policy has sufficient regard for paragraphs 16d and 16f of the NPPF. The Examiner recommends that Parts 5a, 6c, 7c, and 8c are deleted.</p> <p>In the interest of improving clarity and correcting errors, the Examiner further recommends that Part 13 of the policy be repositioned after Part 4; and further recommends that the starred note is extended to refer to Map 7 of the Neighbourhood Plan which identifies the location of the named character areas.</p>	<p>Agree</p>	<p>Amend according to examiner's recommendation</p>

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons (Summarised by the Council)	NEDDC's decision	Action to be taken
<p>Page 46, Policy 8: Renewable Energy, Energy Efficiency and Low Carbon Technologies</p>	<p><u>Modification 9</u> In Policy 8</p> <ul style="list-style-type: none"> • replace part 4 with <i>“The inclusion of water efficiency and water re-use measures (including water butts) in development proposals will be supported.”</i> • delete parts 5 d), 5 e), and 5 f) 	<p>The Examiner notes that the Written Ministerial Statement of 25 March 2015 states that neighbourhood plans should not set out any additional local technical standards or requirements relating to the construction, internal layout, or performance of new dwellings. In respect of this Ministerial Statement, the Examiner recognises that Neighbourhood plans should not be used to apply new technical standards and so recommends that Part 4 of the policy, which he believes does apply new technical standards, should be reworded.</p> <p>The Examiner also considers that the references to BNG in Part 5d of the policy is unnecessary. Similarly, parts 5e and 5f duplicate national and strategic policy and in the case of “Significant Green Gaps” duplicate Policy 3 of the Neighbourhood Plan. In respects of these issues the Examiner recommends the deletion of Parts 5d, 5e, and 5f to avoid unnecessary duplication of policies as referred to in paragraph 16f of the NPPF.</p>	<p>Agree</p>	<p>Amend according to examiner's recommendation</p>
<p>Page 49, Policy 9a: Housing Mix and Type</p>	<p><u>Modification 10</u> In Policy 9a replace part 5 with <i>“Proposed new dwellings that meet the M4(2) standards will be supported unless this results in a form of development that is harmful to the character of the area.”</i></p>	<p>Part 5 of the policy states that “All dwellings should be built to M4(2) standards unless it can be demonstrated that it would be unviable or would otherwise result in a form of development that would be harmful to the character of the area.”</p> <p>The Written Ministerial Statement of 25 March 2015 states that neighbourhood plans should not set out any additional local technical standards or requirements relating to the construction, internal layout, or performance of new dwellings. Therefore, to ensure that the policy meets the Basic Conditions, the</p>	<p>Agree</p>	<p>Amend according to examiner's recommendation</p>

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons (Summarised by the Council)	NEDDC's decision	Action to be taken
		Examiner recommends that the text in Part 5 should be reworded.		
Page 50, Policy 9b: Affordable Housing	<u>Modification 11</u> In Policy 9b delete part 3	The Examiner considers that, as the Neighbourhood Plan should be read as a whole, it is confusing and unnecessary for one policy to refer to other policies of the Neighbourhood Plan, including the Shirland and Higham Parish Design Code (which is introduced with its full title through Policy 7 of the Neighbourhood Plan). Paragraph 16f of the NPPF states plans should serve a clear purpose avoiding unnecessary duplication of policies that apply to a particular area, including policies in the NPPF where relevant. Considering this, the Examiner recommends the deletion of Part 3 of the Policy to ensure that the policy has sufficient regard for national policy.	Agree	Amend according to examiner's recommendation
Page 53, Policy 10: Protecting or Enhancing the Provision of Community Facilities	<u>Modification 12</u> In Policy 10 <ul style="list-style-type: none"> • delete <i>"takes into account the most up to date evidence of community need in the Parish and that the proposal"</i> . • continue the policy with <i>"in terms of highway safety and residential amenity"</i> . 	The Examiner considers that Part 3 of the policy that requires development proposals for community facilities to demonstrate that the scheme <i>"takes into account"</i> the most up to date evidence of community need has not been sufficiently justified. In respect of this, the Examiner recommends a modification to this part of the policy so that it has sufficient regard for national policy and is "clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d of the NPPF.	Agree	Amend according to examiner's recommendation