

Neighbourhood Planning Update

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Neighbourhood Planning in Wiltshire

Current status of plans in Wiltshire

- There are 253 Town and Parish Councils in Wiltshire
- 106 Parish and Town Councils are engaged in the different stages of the Neighbourhood Planning process
- 99 Neighbourhood Areas are designated. This includes 6 cluster Neighbourhood Plans covering 14 parishes
- 45 neighbourhood plans have been 'made' (adopted) in Wiltshire Council
- 3 neighbourhood plans are at independent examination

Neighbourhood Plan news updates

- Recent announcements
- Grant support for neighbourhood planning
- Appeals - a number of decisions regarding NPs when applying para 14 of National Planning Policy Framework (NPPF)
- Neighbourhood Plan reviews and their examination

Neighbourhood Plan news (cont.)

2nd November 2021 – House of Lords Built Environment Committee

Christopher Pincher stated:

“We do not have a draft Bill yet, so do not jump the gun too soon. I am very keen on neighbourhood plans for a number of reasons. One is that they tend to be much more engaging than local plans. They can help identify, in a much more collegiate, consensual way, where additionality of homes in local communities might be placed. Local people tend to get, as I say, more involved in them.

One of the challenges with neighbourhood plans is that they tend to be in more rural areas, and they tend to be in the south rather than the north. I am keen that we look at ways in which we can encourage more neighbourhood plans in northern areas and urban areas so that those communities can also benefit from engagement in the planning system. I am very much in favour of finding ways of extending them rather than otherwise.”

10th January 2021 - House of Lords (Built Environment Committee) publish ‘Meeting housing demand’

The report welcomed the Minister’s comments in favour of neighbourhood plans and agreed with his assessment that they tend to engage with the local community more closely than other planning tools.

Research for the Government of 135 neighbourhood plans has shown that far from being protectionist, neighbourhood plans had contributed 18,000 units over and above local plan allocations. Whilst a small sample, more than 2,400 communities across England have started the neighbourhood planning process, this suggests that community engagement can promote more homes being built..’

11th Jan 2022 press release re Urban and deprived areas among those chosen for planning pilots

11 councils to receive funding to boost engagement and participation in neighbourhood planning.

Grants for Neighbourhood Planning

Response (20/01/22) from DLUHC re grants for Neighbourhood Plans:

- “We appreciated your frustration with not having clarity on the programme funding and continuation into the new financial year. Please be assured that all our best efforts are being made to ensure that we can provide more clarity on the programme continuation. We are currently in the final stages of the Spending Review 2021 process which will allocate funds to all programmes across government, and are hopeful that this will conclude shortly.
- We appreciate your patience and understanding and we will ensure up to date information on the programme is disseminated as it becomes available.”

Appeals dismissed

- **Land north of Sandy Lane, Henfield, West Sussex** (Appeal Ref: APP/Z3825/W/20/3261401)

35 houses outside a West Sussex village in contravention of a neighbourhood plan. The council's housing land supply stood at around 4.4 years, the inspector agreed that the presumption in favour of sustainable development in paragraph 11(d) of the NPPF was engaged.....the recently adopted neighbourhood plan allocated housing sites and met all the criteria in paragraph 14 of NPPF, he judged that conflict with this plan should prevail.

- **Land at Lower Weybourne Lane, Badshot Lea, Farnham** (Appeal Ref: APP/R3650/W/20/3262641)

Neighbourhood plan clash key to up to 140 dwelling dwellings refusal on edge of Surrey village. Applied tilted balance in favour of development required under paragraph 11(d) of the NPPF, as the council did not have a five-year supply of housing land, and paragraph 14 in relation to the weight afforded to the neighbourhood plan. In this regard, she found that the neighbourhood plan did not conflict with the local plan because it made sufficient provision through allocations and a windfall allowance to meet the latter's housing requirement.

- **Land off Green Lane, Badshot Lea, Farnham** (Appeal Ref: APP/R3650/W/20/3249930)

50 houses outside the built-up area of a Surrey village. The neighbourhood plan made provision to meet its identified housing requirement, inspector decided that paragraph 14 of the NPPF applied and that the presumption in favour of sustainable development in paragraph 11 was not engaged. The neighbourhood plan tips the balance against the outline plans.

- **Land at Hawthorns, Bells Piece, Farnham, Surrey** (Application Ref: WA/2017/2352)

Recently revised neighbourhood plan prompts the secretary of state to refuse permission for up to 65 houses, including 40 per cent affordable, on the edge of a Surrey town against an inspector's recommendation. Secretary of state noted that although the council still could not demonstrate a five-year supply, a new neighbourhood plan allocated sufficient land to meet housing targets. He referred to paragraph 14 of the NPPF.

Appeals dismissed (cont.)

- **Land at Purton Road, Swindon, Wiltshire** (Appeal Ref: APP/Y3940/W/18/3202551)

Positive neighbourhood plan prevents proposal for up to 81 dwellings and associated infrastructure in shortfall area. The council could only demonstrate around 4.5 years of housing land supply, the local plan was more than five years old with unreviewed strategic policies and the housing policies restricting development in the countryside were inconsistent with the NPPF. The neighbourhood plan was recently made and provided positively for the delivery of housing in the area. This and the fact the council exceeded the requisite three-year housing land supply identified in paragraph 14 of the NPPF meant the inspector concluded the adverse impact of allowing development in conflict with the neighbourhood plan weighed heavily against the development.

- **Land to the east of the Eastfield Drive, Hanslope** – (Appeal Ref: APP/YO435/W/19/3236891)

Neighbourhood plan scuppers outline proposal for 200 houses outside a Buckinghamshire village. Having regard to NPPF paragraph 14 advice that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, he dismissed the appeal.

- **Land west of Pond Close, Overton, Hampshire** – (Appeal Ref: APP/H1707/W/21/3274922)

Outline proposal for 75 dwellings was refused in open countryside adjoining a Hampshire village for harm to landscape character, scenic and visual quality. The council could not show a five-year supply of housing land, and the made neighbourhood plan was more than two years old, the inspector afforded this housing policy conflict limited weight. The proposal conflicted with local and neighbourhood plan which aimed to recognise the intrinsic character and beauty of the countryside, the inspector gave full weight to this conflict.

NP review examinations (material change)

ALTON NEIGHBOURHOOD DEVELOPMENT PLAN REVIEW 2011-2028 ('Made' November 2021)

- Removed two made allocations because at advanced stages of build out and complete or almost complete
- Retain two 'made' Plan allocations as result of being at early stages of being built or not yet commenced
- Modify two 'made' plan allocations and make two new housing allocations - the losses consisted of 21 dwellings from the original land (as a result of site constraints at the planning application stages) and the gains consisting of two additional proposed site allocations totalling 326 dwellings. Both new site allocations have come forward through the planning application process.

ALDINGBOURNE NEIGHBOURHOOD DEVELOPMENT PLAN 2 (2019-2031) ('Made' 14th July 2021)

- Policy contained a new allocation for 37 dwellings.
- The site was surrounded on all sides by existing development.
- Did not encroach on any constraining designation.
- The examiner's concluded that the proposed modifications (whilst in most cases "material") were not so significant or substantial as to change the nature of the NP.

Neighbourhood Plans - looking forward

- Awaiting more details from Government in terms of future scope and power of neighbourhood plans within the (reformed) planning system
- With a stronger emphasis in the White Paper regarding early community engagement in planning proposals, anticipate that neighbourhood planning and local community groups will continue to have an important input into the planning and place shaping process

Updating Wiltshire's Local Plan

- 2 plans in preparation:
 - (i) Wiltshire Local Plan Review (review of Wiltshire Core Strategy)
 - (ii) Gypsy and Traveller Plan (providing for housing needs incl. allocating sites)
- Timelines in Local Development Scheme (LDS) - revised November 2021
- Following consultations early 2021 - developing evidence to shape draft Plans for publication during 2022

Local Plan Review - where are we?

- Consultation undertaken 13 January to 9 March 2021
- Cabinet on 29 June 2021 considered consultation response & next steps
- Commitment to further work to develop evidence base, including:
 - (i) Testing upper and lower levels and spatial distribution of the range of housing need for the plan period;
 - (ii) Review of employment evidence underpinning need for employment land;
 - (iii) Assessment of potential for: renewable energy, zero carbon energy and off grid energy networks.

LDS Milestones for Local Plan Review

- Now to Sept 2022 - working on going to shape evidence and prepare draft Plan (including Sustainability Appraisal and Habitats Regulations Assessment)
- Proposed Oct 2022 Cabinet and Council consider draft Plan (incl. evidence)
- End 2022 Publication and consultation on draft Plan
- June 2023 Submission to Secretary of State for independent Examination
- End 2023 Adoption

LDS Milestones for Gypsy and Traveller Plan

- Now to April 2022 - prepare draft Plan and evidence supporting it (including Sustainability Appraisal and Habitats Regulations Assessment)
- Proposed May 2022 Cabinet and Council consider draft Plan
- June/July 2022 Publication of draft Plan for consultation
- Q4 2022 Submission to Secretary of State for independent Examination
- End Q2 2023 Adoption

Other news - 'Achieving well designed places'

- Greater emphasis on design in National Planning Policy Framework
- Wiltshire wide design guide and codes being prepared
- LDA Design working with the Council
- Preparing guidance for neighbourhood plans on developing locally distinctive design codes
 - Workshops to be undertaken with representative group from Parish and Town Councils to help shape
 - Expressions of interest to aidan.clarke@wiltshire.gov.uk
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Wiltshire Council support for neighbourhood planning

- In process of updating website to improve user experience (feedback welcomed)
- Developing series of guidance notes to support self-help (to be released in tranches)
- Named Council contact - either Neighbourhood Planning Manager or Officer within Spatial Planning Service (also encouraging like minded groups/similar areas to come together)
- Regular meetings of this group - to be expanded to others
- Taking plans/orders through statutory stages: Area Designation, consultation at Regulation 16 stage, Examination, Referendum and bringing plans into force

Relevant recent planning appeal decision

Land at Filands, Malmesbury three cojoined appeals: 'Appeal C' allowed 5 Jan 2022

Background:

- c. 70 dwellings
- outside 'limits of development' of Malmesbury 'Market Town' (WCS)
- not allocated in Malmesbury Neighbourhood Plan 2015 (MNP)

Relevant recent planning appeal decision

Land at Filands, Malmesbury (cont.)

The appeals site falls within the Malmesbury Neighbourhood Plan area, within the 'Malmesbury Town' part of the MNP area. Five allocated housing sites are within this area, none of which cover the appeal site. There are no specific policies within the MNP which prohibit residential development coming forward outside of the allocations, but equally there are no policies which support it. The MNP is silent with regard to such development, although it is implicit that the allocated housing sites are deemed sufficient to meet the housing need for Malmesbury. I consequently find no direct conflict with the MNP in these respects.

Relevant recent planning appeal decision

Land at Filands, Malmesbury (cont.) -

Malmesbury, through a combination of permissions, completions and allocations in the MNP, is providing more housing than has been allocated to the area. However, this is mostly due to the provision of housing along the various Filands Road sites, none of which are allocated in the MNP. These sites have relieved the MNP of the need to formally allocate all of its true housing requirement.

..... This is largely a distraction in any event. Wiltshire Council as a whole is failing to meet its housing land supply requirement. The marginal over-provision in Malmesbury, itself only a product of permissions being granted on unallocated sites, does not weigh heavily against this.

Relevant recent planning appeal decision

Land at Filands, Malmesbury (cont.) -

.....the only conflict with the Development Plan I have found is with the locational policies ...[CP1, CP2 and CP13 of WCS]. Whilst these policies are the most important policies for determining the appeal, they are out-of-date which diminishes the weight that I apply to the conflict. In any event, the Council confirmed that parts of its action plan to respond to the lack of a five year housing land supply is to allow applications in situations where the only conflict is the location being outside of a defined settlement limit. In the overall planning balance, I consider that the adverse impacts that I have identified are significantly and demonstrably outweighed by the benefits, when assessed against the policies in the Framework taken as a whole. For the reasons set out above, I conclude that Appeal C should succeed.

Relevant recent planning appeal decision

Land at Filands, Malmesbury (cont.) – five year land supply conclusion

The Inspector has set a line in the sand on five year land supply –

The agreed five-year housing need incorporating a 5% buffer is 10,533 dwellings. I calculate the housing supply to be 9,605 homes (the Council's deliverable supply number) minus the 316 homes that I have identified to be removed This equals 9,289 homes, which in turn provides a housing land supply figure of 4.41 years for the purposes of these appeals.

NPPF - Presumption in favour of Sustainable Development

11. Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are **out-of-date***, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

NPPF - Presumption in favour of Sustainable Development

'out of date' -

This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

NPPF - Presumption in favour of Sustainable Development

14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided **all of the following** apply:

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
- c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and
- d) the local planning authority's housing delivery was at least 45% of that required¹⁰ over the previous three years.

Moving forward

To remedy the lack of a five-year land supply the local planning authority continues to look to:

- Kick-start stalled permitted and focus on delivery of allocated sites;
- Positively consider planning applications on appropriate sites outside of defined settlement boundaries where there are no major policy obstacles other than conflict with the housing delivery policies of the Wiltshire Core Strategy and where short term delivery is certain;
- But continue to resist development where there is conflict with development plan policies in accordance with NPPF paragraphs 11(d) and 14.

We will continue to scrutinise each planning application on its merits.

Discussion