

HIGHNAM NEIGHBOURHOOD PLAN

Highnam Neighbourhood Plan Examination,
A Report to Tewkesbury Borough Council

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1. Introduction

The Neighbourhood Plan

Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in *italics*.

This Report provides the findings of the examination into the Highnam Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”

(Paragraph 183, National Planning Policy Framework)

The Neighbourhood Plan was produced by a Steering Group working on behalf of Highnam Parish Council. Highnam Parish Council is the *qualifying body* responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Tewkesbury Borough Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Highnam Neighbourhood Area.

Role of the Independent Examiner

I was appointed by Tewkesbury Borough Council, with the consent of the qualifying body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.

I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Highnam Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the content of this Report, I am satisfied that all of the above points have been met.

Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The Neighbourhood Plan is unclear in this regard.

The introduction to the Neighbourhood Plan, on page 2, refers to it being “*taken into account in all future Planning Decisions up to 2031.*” Consequently, it is apparent that the Neighbourhood Plan runs to 2031. The emerging Joint Core Strategy for Gloucester, Cheltenham and Tewkesbury, covers the plan period 2011-2031. Taking this and the fact that the Neighbourhood Plan does not seek to allocate any land for development into account, I recommend:

- **Cover page, add “2011-2031” below the Neighbourhood Plan title**
- **Introduction, last line, change to “...into account *in determining planning decisions in the Neighbourhood Area during the plan period, 2011-2031.*”**

Subject to the above recommendations, the Neighbourhood Plan satisfies the relevant requirement in this regard.

Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of all of the relevant information, I confirmed to Tewkesbury Borough Council that I was satisfied that the Highnam Neighbourhood Plan could be examined without the need for a Public Hearing.

2. Basic Conditions and Development Plan Status

Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ following the Localism Act 2011 and require that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area;
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations.

I have examined the Neighbourhood Plan against each of the basic conditions above.

The wording of the basic conditions forms an essential part of planning legislation. It is the result of careful consideration and it is important that the basic conditions are not misinterpreted. In respect of this, the Introduction is confusing. It refers to emerging planning policy and suggests that the Neighbourhood Plan would comprise “*the final part of (a) planning structure.*” This is not the case.

The Neighbourhood Plan, were it to be made, would comprise part of the development plan, which itself, comprises adopted planning documents. The adopted development plan for the area does not include emerging planning documents.

In the above regard, I am mindful that on page 4, the Neighbourhood Plan states that:

“Care has been taken to ensure that the NDP conforms with, and is in accord, with both the Joint Core Strategy and the Tewkesbury Borough Council plan, as they exist in draft at the time of writing.”

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

The basic conditions do not require a neighbourhood plan to be in general conformity with emerging planning documents and consequently, a neighbourhood plan is not tested against the policies in an emerging planning document. Whilst it is good practice to take into account available evidence informing emerging planning policy, as worded, the references provided in the Neighbourhood Plan detract from the document's clarity.

For clarity, I recommend:

- **Page 2, delete lines 3 to 11 and replace with *“The Neighbourhood Plan must have regard to national policy and guidance, including the National Planning Policy Framework, which provides the Government’s overarching approach to planning. It must also be in general conformity with the strategic policies of the development plan – in Highnam’s case, this means the saved policies of the Tewkesbury Borough Local Plan to 2011. It is also relevant to note that various relevant information was taken account of during the plan-making process, including that relating to the first draft Tewkesbury Borough Plan and the emerging Joint Core Strategy.”***
- **Page 4, delete last paragraph and replace with *“The Neighbourhood Plan is in general conformity with the strategic policies of the saved Tewkesbury Borough Local Plan.”***

With regards the above, I note that the Neighbourhood Plan does not seek to allocate land for housing and that there is no need for it to refer to what might comprise Highnam’s housing land requirement in future plans.

In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body’s opinion, the Neighbourhood Plan meets the basic conditions.

European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal². However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.

With the above in mind, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.

“Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.” (Planning Practice Guidance³).

This process is often referred to as a screening report, opinion, statement or assessment. If the screening statement identifies likely significant effects, then an environmental report must be prepared.

Highnam Parish Council submitted a request to Tewkesbury Borough Council for the Neighbourhood Plan to be screened on 6th February 2015. Tewkesbury Borough Council subsequently undertook a screening assessment. This concluded that

“...the Highnam Neighbourhood Plan does not require a Strategic Environmental Assessment.”

The views of the statutory consultees, Natural England, Historic England and the Environment Agency, were sought as part of the screening assessment. Tewkesbury Borough Council notes that:

“It was confirmed by Historic England, Natural England and the Environment Agency that the HNP was not likely to have significant environmental effects and that SEA was thus not necessary.”

² Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance

³ Paragraph 027, ibid

A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites. In considering the need for Habitats Regulations Assessment, the screening statement identifies that the:

“Nearest European designated sites to the Highnam NP area are Walmore Common SPA...and the Severn Estuary SPA/SAC...Both sites are outside of the NP area, lying approximately 5km and 12km to the south of the parish boundary respectively.”

It goes on to conclude that:

“Effects on European sites have been screened out by virtue of the distance from the NP area to protected sites and that the NP does not propose sites for development. It is therefore concluded that HRA is not required...”

In the above regard, Natural England confirmed that it:

“...welcomes the consideration give to the Habitats Regulations. We are satisfied that the conclusion of the Local Planning Authority (as competent authority) that there are no likely significant effects on European sites is appropriate, and therefore advise that further Habitats Regulations Assessment is not required.”

In addition to all of the above, national guidance establishes that ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations is placed on the local planning authority,

“The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.” (Planning Practice Guidance⁴)

Tewkesbury Borough Council has considered the Neighbourhood Plan’s compatibility with EU obligations and like the statutory consultees referred to above, has no concerns in this regard.

Taking everything into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

⁴ Paragraph 031, Reference: 11-031-20150209, Planning Practice Guidance

3. Background Documents and the Highnam Neighbourhood Area

Background Documents

In undertaking this examination I have considered various information in addition to the Highnam Neighbourhood Plan. This has included:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- Tewkesbury Borough Local Plan to 2011 (Adopted March 2006) (Saved Policies)
- Documents relating to the emerging Joint Core Strategy for Gloucester, Cheltenham and Tewkesbury / Tewkesbury Borough Plan (2011-2031)
- Basic Conditions Statement
- Consultation Statement
- Screening Statement for the Highnam Neighbourhood Plan

Also:

- Representations received

In addition, I spent an unaccompanied day visiting the Highnam Neighbourhood Area.

Highnam Neighbourhood Area

The Neighbourhood Plan does not contain a plan showing the boundary of the Highnam Neighbourhood Area. Whilst I note that a plan of the Neighbourhood Area is provided in Appendix c of the Basic Conditions Statement and that a plan relating to another matter indicates the Parish boundary, it would add to the clarity of the Neighbourhood Plan if a specific plan showing the Neighbourhood Area was provided.

I recommend:

- **Include the plan from Appendix c in the Basic Conditions Statement in the Neighbourhood Plan, on page 4, underneath “*Plan Content and Status*” and provide the new title “*Neighbourhood Area*”**

The boundary of the Neighbourhood Area coincides with that of Highnam Parish.

Further to an application made by Highnam Parish Council, Tewkesbury Borough Council approved the designation of Highnam as a Neighbourhood Area in January 2014.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Highnam Neighbourhood Plan Consultation

A Consultation Statement was submitted to Tewkesbury Borough Council alongside the Neighbourhood Plan, in line with legislative requirements. As required by the neighbourhood planning *regulations*⁵, this sets out who was consulted and how, together with the outcome of the consultation.

Following a presentation by Gloucestershire Rural Community Council, Highnam Parish Council established a sub-committee to progress the production of the Neighbourhood Plan. The sub-committee comprised Parish Councillors and volunteers from the community, with support from the Parish Clerk.

A launch event was then held in March 2014. A series of display boards outlining aspects of the plan were presented and comments from the public sought. Members of the public were also invited to take part in the plan-making process.

The launch event was followed up by a questionnaire, delivered to every household in the Parish. More than half of the questionnaires, 752 out of 1360, were completed and returned. The responses were considered by Gloucestershire Rural Community Council on behalf of the Parish Council and the findings were presented to, and discussed with, the community at a "Community Day" event held in June 2014. Around 250 people visited the event.

The draft plan was then produced and presented at an event attended by 183 people held on the 28th February 2015 in the Old School. The draft plan was distributed, in leaflet form, to all households and businesses in the Parish and was also provided on the Parish Council website for the duration of the six week consultation period.

⁵Neighbourhood Planning (General) Regulations 2012.

The Consultation Statement provides a record of comments that were made during the consultation period, along with the Parish Council responses to them.

Public consultation throughout the plan-making stages was supported by information provided on the Parish Council website, together with regular updates at Parish Council meetings and publication of articles in the Parish magazine.

The Consultation Statement demonstrates that engagement was encouraged, matters raised were considered and that the reporting process was transparent. There is evidence to demonstrate that public consultation formed an essential part of the production of the Neighbourhood Plan and influenced the Policies within it.

Taking everything into account, I am satisfied that the consultation process was appropriate.

5. The Neighbourhood Plan – Introductory Section

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.

I make a recommendation regarding the Introduction earlier in this Report. For clarity, I recommend:

- **Change the title at the top of page 3 to “Demography”**

A recommendation is made above with regards adding a plan to page 4 and changing the final paragraph on that page.

The Plan refers to Objectives in each of the headings to the Policy sections and also provides numbers for each of the Objectives. I find that this causes the potential for confusion with the Neighbourhood Plan’s Policies. The Objectives are not Policies and do not carry the same material weight as the Neighbourhood Plan’s Policies. There is no need to provide numbers for the Objectives and this potential for confusion can therefore be avoided. I recommend:

- **Remove all Objective numbers (eg H1, H2, T1 etc) from the Neighbourhood Plan**
- **Remove “:Objectives and Policies” from the title of each Policy section (where used)**

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Housing

No substantive evidence has been provided to support the use of the phrase “...swamped by inappropriate development” in the introduction to the Housing section. The introduction detracts from the clarity of the Neighbourhood Plan and fails to reflect the assumption in favour of sustainable development.

I recommend:

- **Delete the introductory sentence below the title to the Housing section**

Policy H1a

In the interests of delivering a wide choice of high quality homes, widening opportunities for home ownership and creating sustainable, inclusive and mixed communities, Paragraph 50 of the Framework requires planning for:

“...a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.”

However, national policy also requires development to be viable and deliverable. In this regard, the Framework states that development “*should not be subject to such...policy burdens that (its) ability to be developed viably is threatened*” (Paragraph 173).

Whilst Policy H1a promotes the delivery of a range of housing types and tenures, it goes on to require such a range, including the provision of bungalows and other homes specifically designed for older people, on every residential development of more than one dwelling. This requirement places a significant requirement on residential development proposals, but is not supported by any substantive evidence to demonstrate that it has regard to national policy or is in general conformity with the Tewkesbury Borough Local Plan.

In the absence of any detailed evidence in support of the approach set out in Policy H1a, I am unable to conclude that the approach set out in Policy H1a is viable. Consequently, I find that the Policy does not meet the basic conditions.

I recommend:

- **Delete Policy H1a**

Policy H1b

Policy H1b requires the provision of affordable housing on all sites of more than one dwelling. No justification, in the form of information relating to deliverability or viability, is provided to support the Policy.

Planning Practice Guidance requires land use planning policies to be precise and concise⁶. Policy H1b simply refers to “*an appropriate amount of Affordable Housing.*” This is an ambiguous, rather than precise, requirement. It does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

The Policy goes on to require “*priority for people with connections to the Parish.*” These connections are undefined. Instead, the Neighbourhood Plan refers to another document outside its control. This is inappropriate and detracts from the clarity of the Neighbourhood Plan.

Taking all of the above into account, Policy H1b does not meet the basic conditions.

I recommend:

- **Delete Policy H1b**

⁶ Ref: Planning Practice Guidance 41-041020140306.

Policy H1c

In seeking to deliver a wide choice of high quality homes, Chapter 6 of the Framework promotes planning for the needs of different groups in the community, including people wishing to build their own homes (Paragraph 50).

Policy H1c has regard to this, although, as worded, the Policy is unclear. It states that *“opportunities will be taken to accommodate a wide range of dwelling types.”* No indication of what such opportunities might be, or how they might be taken, is provided. Consequently, the Policy, as worded, is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal.

I note that, in the context of Policy H1c, *“home/work”* is more generally recognised as *“live/work.”*

I recommend:

- **Policy H1c, change to *“Within residential developments, the inclusion of sites for self-build and/or live/work units is encouraged.”***

Policy H2a

As set out above, national policy and guidance requires planning policies to be concise and precise.

Policy H2a is worded as a statement, rather than a land use planning policy. It states that *“short term planning decisions should not prejudice longer term opportunities”* for things identified in the Local Plan.

No definition of *“short term planning decisions”* is provided and it is unclear what this means. Further, no indication is provided in respect of how such decisions might *“prejudice longer term opportunities”* and the phrase *“longer term opportunities”* is also undefined. The Policy is imprecise and fails to provide a decision maker with a clear indication of how to respond to a development proposal.

In addition to the above, the Policy goes on to introduce an inappropriate reliance upon other policies in another document outside the control of the Neighbourhood Plan.

Taking all of the above into account, Policy H2a does not meet the basic conditions.

I recommend:

- **Delete Policy H2a**

Policy H2b

Good design is recognised by national policy as comprising

“a key aspect of sustainable development...indivisible from good planning”
(Paragraph 56, The Framework)

In addition, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Local Plan Policy GNL1 requires high quality design.

Generally, Policy H2b promotes good design and in so doing, it has regard to national policy and is in general conformity with Local Plan Policy GNL1.

However, part of the wording of the first sentence of the Policy is confusing. It is unclear why Policy H2b applies to any new development *“or conversions.”* Conversions requiring planning permission comprise development.

Taking the above into account, I recommend:

- **Policy H2b, delete “..., or conversions,...”**

Policy H2c

Policy H2c seeks to apply a blanket approach, whereby all homes must provide off street parking for at least two vehicles per household in addition to any garage. This approach would require a one bedroom apartment with a garage to provide a further two parking spaces.

On the face of it, the requirement set out appears onerous. There is no evidence that the approach has regard to national policy, or is in general conformity with local strategic policy.

With regards the setting of local parking standards, the Framework requires accessibility, the type and mix of development, the availability and opportunities for public transport, local car ownership levels and an overall need to reduce the use of high-emission vehicles, to be taken into account (Paragraph 39). There is no evidence to demonstrate that the car parking requirements set out in Policy H2c are the result of taking all of these factors into account.

Further, I note that there is nothing to demonstrate that the approach would be viable or deliverable in all cases, having regard to Paragraph 173 of the Framework.

Taking the above into account, I recommend:

- **Delete Policy H2c**

Policy H2d

Whilst technical standards provide a helpful tool, a recent Ministerial Statement⁷ established that house building standards will be incorporated into new building regulations. It went on to state that the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need and that:

“Neighbourhood plans should not be used to apply the new national technical standards.”

In the light of the above, I recommend:

- **Policy H2d, change to *“New housing development is encouraged to have regard to building performance, space standards and green energy systems.”***

⁷ Ref: Ministerial Statement 25th March 2016.

Transport

The introduction to the Transport section does not relate to the subsequent Policies. I recommend:

- **Delete the introductory sentence below the title to the Transport section**

As a point of clarity, there is no evidence to demonstrate that the *Objective* set out in the Transport section can be “ensured.” I recommend:

- **Change Objective to “*For development not to exacerbate...possible, contribute to their alleviation.*”**

Policy T1a

Policy T1a is ambiguous. It refers to “*large scale traffic generating projects*” without defining what these might be. It is possible that a large scale project might only generate a small amount of traffic, in which case it is unclear why the rest of Policy T1a would be relevant.

The Policy only applies “*where necessary.*” However, no detailed information is provided with regards when or where it might be necessary for the Policy to apply. This is confusing and fails to provide a decision maker with a clear indication of how to respond to a development proposal.

The Policy goes on to refer to “*measures such as road improvements which will mitigate severe impacts on congestion related to the development.*” No indication of what such “*road improvements*” might comprise is provided. Furthermore and fundamentally, the Policy reference to “*severe impacts on congestion related to the development*” fails to correspond to the opening part of the Policy. There may not be any severe impacts on congestion related to the development, adding to the confusing nature of the Policy.

In considering Policy T1a against the basic conditions, I am also mindful that the Highway Authority has expressed doubts with regards significant development exacerbating congestion. There is no substantive evidence in the Neighbourhood Plan in support of this Policy assumption.

Taking all of the above into account, Policy T1a is imprecise and fails to meet the basic conditions.

I recommend:

- **Delete Policy T1a**

Policy T1b

National policy states that:

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”
(Paragraph 32, the Framework).

The Neighbourhood Plan does not provide any evidence to demonstrate that the residual cumulative impacts of *“any future development in the area of Two Mile Lane”* would be severe. Consequently, Policy T1b is in direct conflict with the Framework and does not meet the basic conditions.

I recommend:

- **Delete Policy T1b**

Policy T1c

Similarly to the previous Policy, the Neighbourhood Plan does not provide any substantive evidence in respect of *“any future large scale development on the land to the west of the village of Highnam abutting the B4215”* having severe cumulative residual impacts.

The Policy conflicts with, and does not have regard to, Paragraph 32 of the Framework. I recommend:

- **Delete Policy T1c**

Policy T1d

Policy T1d comprises a general statement of intent. It is not a land use planning policy.

I recommend:

- **Delete Policy T1d**
- **Replace Policy with “Community Action. The Parish Council will support Park and Ride proposals at the junction of the A40 and A48 inasmuch as they would help to alleviate congestion on the A40.” For clarity, this is not a Policy**

Policy T2a

Paragraph 75 of the Framework establishes that:

“Planning policies should protect and enhance public rights of way and access.”

Policy T2a has regard to this. Rather than be ‘personalised’ to a particular organisation, the Policy should relate to land use. I address this in the recommendation below.

I note that the Canal Trust is supportive of the Policy.

I recommend:

- **Policy T2a, change to “New public paths constructed as a result of work relating to canal restoration should be linked to the...”**

Policy T2b

As worded, Policy T2b places an onerous requirement on all development. In the absence of any evidence to the contrary, I consider that it would not be relevant, possible, viable or deliverable, for many forms of development to *“ensure the maintenance of existing footpaths and rights of way.”*

Further to the above, there is no information to demonstrate that the requirements of the Policy have regard to Paragraph 204 of the Framework, which requires planning obligations to be necessary, directly related to the development, and fairly and reasonably related in scale kind to the development.

Notwithstanding this, I note that the gist of the Policy has some regard to Paragraph 75 of the Framework's requirement for planning policies to protect and enhance public rights of way and access.

Having regard to all of the above, I recommend:

- **Policy T2b, change to *"The protection and maintenance of existing footpaths and public rights of way will be supported."***

Policy T2c

Policy T2c has regard to Paragraph 75 of the Framework, referred to above.

No changes are recommended.

Business and Enterprise

The introductory sentence to this section does not fully relate to the Policies that follow. I recommend:

- **Introductory sentence, delete “*or energy generation related schemes.*”**

For consistency and clarity, I recommend that the Policy numbering follows that used in the rest of the Neighbourhood Plan. I use this revised numbering below.

Policy B1a

Chapter 1 of the Framework, “*Building a strong, competitive economy,*” sets out a commitment to achieving economic growth. It requires the planning system to do everything it can to support sustainable economic growth (paragraph 19).

In supporting the growth of Highnam Business Park, Policy B1a is a positive Policy that has regard to the Framework.

As worded, the phrase “*appropriately scaled*” is ambiguous. In this respect, a footnote to the Policy confirms support for the Business Park to grow to up to twice its current size.

Taking the above into account, I recommend the following changes for clarity:

- **Policy B1a, change to “*Proposals to extend Highnam Business Park up to around twice its current size (see Plan below) will be supported.*”**
- **Include a new Plan, showing the location and boundary of Highnam Business Park, including annotation marking its current size, in hectares**

Policy B1b

Like the previous Policy, Policy B1b is a positive Policy that has regard to Chapter 1 of the Framework. Further, by supporting ongoing Canal restoration, the Policy has regard to Paragraph 28 of the Framework, which supports rural tourism and leisure developments.

However, the Policy should relate to the use of land and buildings, rather than to a named organisation. Also, in the absence of directly related supporting information, the phrase “*appropriately designed and scaled*” is subjective and ambiguous.

In addition to the above, as set out, there is no indication of where the provision of offices and workshops will be supported. In this regard, the Policy is imprecise.

I recommend:

- **Policy B1b, change to “*The provision of offices and workshops in Over, at the site identified on the plan below, will be supported. The continued restoration of the Herefordshire and Gloucestershire Canal in the Neighbourhood Area will also be supported.*”**
- **Include a new plan, showing the location and boundary of the specific site where the provision of offices and workshops is supported**

Policy B1c

Whilst Policy B1c also presents a positive approach to economic growth, having regard to the Framework, similarly to the previous Policies, it is imprecise with regards identifying the specific area where business expansion will be supported.

Also, the Policy includes the subjective and ambiguous phrases “*reasonable expansion...appropriately designed in scaled.*” In this regard, I note that other Policies in the Neighbourhood Plan and in the Tewkesbury Borough Local Plan address matters relating to design and local character.

Further, the Policy refers to businesses being supported. There is no information relating to how businesses themselves will be supported and no evidence to demonstrate that this comprises a land use planning matter.

Taking all of the above into account, I recommend:

- **Change B1c to “*The expansion of existing business units in Over, within the site identified on the plan below, will be supported.*”**
- **Include a new plan, showing the location and boundary of the specific site within which business expansion is supported**

Policy B1d

Similarly to the previous Policies, Policy B1d has regard to the Framework’s support for economic growth and tourism and leisure development, but includes the ambiguous phrases “*appropriately designed and scaled...supported in principle*” which result in an imprecise Policy.

For clarity, I recommend:

- **Change Policy B1d to “*The expansion of the farm shop and visitor centre at Over Farm, within the site identified on the plan below, will be supported.*”**
- **Include a new plan, showing the location and boundary of the specific site where the expansion of the farm shop and visitor centre is supported**

Policy B1e

Paragraph 21 of the Framework requires planning policies to:

“...facilitate flexible working practices such as the integration of residential and commercial uses within the same unit.”

Policy B1e has regard to this. As worded the phrase “*limited numbers*” is imprecise and fails to provide a decision maker with a clear indication of how to respond to a development proposal. I note that the Policy simply encourages provision of live/work units and that this could serve to provide decision makers with some flexibility in terms of limiting numbers.

Also, the Policy, as worded, introduces uncertainty through use of the phrase “*could make use of*” and it is not clear how the re-use of a farm building could be integrated into an existing settlement, given that, by their very nature, farm buildings tend to be located within farms. Further, no detail is provided in respect of when live/work units “*could make use of commercial properties where possible*” and consequently, this part of the Policy lacks precision.

Taking all of the above into account, I recommend:

- **Policy B1e, change to “*The building of live/work units is encouraged.*”**

Community Facilities

Policy C1a

Chapter 8 of the Framework, “*Promoting healthy communities,*” recognises that the planning system can play an important role in creating healthy, inclusive communities. In Paragraph 70, the Framework requires planning policies to:

“...plan positively for the provision of...community facilities...and...local services to enhance the sustainability of communities and residential environments.”

By supporting the growth of Highnam Surgery, Policy C1a has regard to national policy. However, the wording of the Policy is confusing, in that it supports the surgery itself, rather than relates directly to land use planning matters; and goes on to link any car park extension to an undefined future development, that may or may not take place. I note that this latter part of the Policy effectively serves to fetter the potential extension of the surgery’s car park and conflicts with the Neighbourhood Plan’s intended support for expansion.

As with previous Policies, Policy C1a includes the ambiguous phrase “*appropriately designed and scaled,*” which prevents the Policy from being precise.

For clarity, I recommend:

- **Change Policy C1a to “*The extension of Highnam Surgery and/or its car park will be supported.*”**
- **Include a new plan, showing the location and boundary of the Highnam Surgery and car park site**

Policy C1b

As with the previous Policy, the intention of Policy C1b, to support the expansion of the School, has regard to national policy. Indeed, Paragraph 73 of the Framework affords:

“...great weight to the need to create, expand or alter schools...”

However, as worded, no indication is provided in respect of what *“appropriately designed and scaled”* development that *“accommodates all present and future pupils from the area”* might be and no reasoning is provided for the Policy only providing *“in principle”* support for *“enhancements.”* Consequently, Policy C1b is restrictive, confusing and imprecise.

For clarity, I recommend:

- **Change Policy C1b to *“The necessary expansion and alteration of Highnam Academy will be supported.”***
- **Include a new plan, showing the location and boundary of the School site**

Policy C2a

As set out above, national policy supports positive planning for the provision of community facilities and services. Policy C2a has regard to this.

As worded, the Policy is ambiguous, as no clarity is provided in respect of what *“appropriate expansion”* might comprise. I also note that the Neighbourhood Plan provides no evidence to demonstrate that national and local strategic policy only affords *“in principle”* support to the expanded provision of community facilities and local services and that, as an undefined term, it is not clear what *“in principle”* actually means, with respect to Policy C2a.

For clarity, I recommend:

- **Change Policy C2a to *“The expansion of the village post office and shop will be supported.”***
- **Include a new plan, showing the location and boundary of the village post office and shop**

Policy C2b

As well as promoting the provision of community facilities and services, national policy affords existing facilities and services protection. Paragraph 70 of the Framework states that planning policies should:

“...guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs...”

Generally, Policy C2b has regard to this. However, as set out, the Policy is unclear.

The first part of Policy C2b refers to the Community Centre, but does not specify where, or what, this comprises. During my site visit, I observed that the Community Centre comprises more than one building and I am mindful that Tewkesbury Borough Council has also submitted a representation in this regard. Further, no detail is provided in respect of how the Community Centre will be “*preserved.*” The opening sentence also includes reference to supporting a Trust and this is not a land use planning matter.

The Policy then goes on to require any development proposals to be supported by evidence of engagement with community groups and partner organisations. However, whilst national policy recognises that early engagement is a positive thing, with significant potential to improve the efficiency and effectiveness of the planning application system for all parties and that good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community, it also states that pre-application engagement cannot be a requirement (Paragraph 189, the Framework).

Further to the above, there is no detailed information setting out when, how, or why it will be “*appropriate*” for (undefined) “*suitable local replacement facilities*” to be provided.

Consequently, as worded, Policy C2b is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.

Taking the above into account, I recommend:

- **Change Policy C2b to “*The Community Centre, as shown on the plan below, is a valued local resource and it will be protected from a change of use. Any change of use of a community facility will be resisted unless it can be demonstrated that it is no longer required, or that it can be replaced with an equivalent or improved facility elsewhere in the Neighbourhood Area. Prospective developers are encouraged to engage with community groups as part of any change of use proposals.*”**

- **Include a new plan, showing the location and boundary of the Community Centre**

Environment and Conservation

Policy E1a

The Framework does not afford blanket protection to agricultural land for its own sake. Rather, it requires that, where significant development of agricultural land is demonstrated to be necessary:

“...areas of poorer quality land (should be used) in preference to that of a higher quality” (Paragraph 112).

In addition to the above, neither national, nor local planning policy places a requirement on applications for development to demonstrate that they would have *“no adverse impact”* on the *“agricultural landscape.”* Such a requirement would fail to allow for a balanced approach, whereby any harm arising from development can be considered alongside any potential benefits, and consequently, Policy E1a may prevent sustainable development from coming forward.

I also note that the Policy does not distinguish between the built-up and undeveloped areas of the Parish. Some parts of the Parish, particularly within Highnam, do not have *“an agricultural landscape”* and the Policy does not define the term *“The wider Parish.”* Consequently, the Policy is imprecise.

Taking the above into account, as set out, the requirements of Policy E1a fail to have regard to the basic conditions.

I recommend:

- **Delete Policy E1a**

In making the recommendation above, I note that other parts of the Neighbourhood Plan and the Tewkesbury Borough Local Plan afford protection to landscape character.

Policy E1b

As considered earlier, Policy H2b of the Neighbourhood Plan supports good design and in doing so, it has regard to national policy. That Policy serves to protect the Neighbourhood Area from development that would be out of character with its surroundings.

In defining “*inappropriate*” development, Policy E1b effectively results in part of the Policy repeating an earlier Policy in the Neighbourhood Plan (Policy H2b). This is both unnecessary and confusing and as such, it detracts from the clarity of the Neighbourhood Plan.

Policy E1b then goes on to prevent “*poor quality development.*” However, without any definition, it is not possible to know what “*poor quality development*” comprises and consequently, how it might “*undermine*” the quality of the Neighbourhood Area’s environment. This part of the Policy is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.

Taking the above into account, Policy E1b does not meet the basic conditions.

I recommend:

- **Delete Policy E1b**
- **Delete the first Objective, relating to deleted Policies E1a and E1b**

Policy E2a

The Neighbourhood Plan does not define the landscape setting to the village of Highnam. Consequently, there is little clarity in respect of how, or whether, it might be “*adversely effected*” by a development. To further obfuscate the Policy, it lists three places. No detail is provided in respect of how these three places relate to the setting of the village of Highnam and why they are relevant to Policy E2a. The Policy is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.

The Policy goes on to state that “*future housing development should be subject to detailed studies to evaluate the landscape impacts.*” No indication is provided with regards what type of “*future housing development*” this applies to. As worded, it would apply to a single infill dwelling within the village. There is no evidence to demonstrate that such a requirement has regard to Paragraph 193 of the Framework, which limits the requirement for supporting information to that which is relevant, necessary and material to the application in question.

In the above regard, I also note that “*detailed studies*” is an ambiguous and subjective phrase. As such, it adds to the imprecise nature of Policy E2a.

Taking all of the above into account, I recommend:

- **Delete Policy E2a**

Policy E2b

As previously established, having regard to national policy, planning policies should be viable, deliverable and precise. They should provide a decision maker with a clear indication of how to react to a development proposal.

Policy E2b begins by stating that “*landscape views will be maintained...*” This is a sweeping requirement and there is no evidence to demonstrate that it is deliverable. Nearly all development will have some impact on landscape views. Without evidence, I am unable to conclude that the Neighbourhood Plan can contribute to the achievement of sustainable development whilst maintaining all landscape views.

The Policy then goes on to specify five views. These include three views looking away from Highnam village, and two views looking towards Highnam village. A plan shows the place from which the views are taken and indicates the area viewed. Policy E2b seeks to maintain and not adversely impact these views, which to a considerable degree, amounts to the same thing. I note that the requirement to maintain the views effectively precludes the enhancement of them.

Whilst the Neighbourhood Plan indicates the general ‘area of coverage’ of the five named views, there is no information about what is being maintained. Views can change on a frequent basis, dependant upon various things, including the time of day, the weather and seasonal change, and in this respect, no indication is provided with regards how a changing view can be “*maintained.*”

Further to the above, there is nothing to denote what the specific features are of any one view that should be maintained. Consequently, Policy E2b is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal. It does not meet the basic conditions.

I recommend:

- **Delete Policy E2b**
- **Delete plan underneath Policy E4a**
- **Delete Objective E2**

Policy E3a

Generally, Policy E3a has regard to Paragraphs 73 and 74 of the Framework. Together, these Paragraphs recognise the important role that sport and recreational areas have to play in contributing to the health and well-being of communities, affording them appropriate protection.

As worded, Policy E3a includes a requirement for pre-application engagement. This is contrary to Paragraph 189 of the Framework, which recognises that pre-application engagement cannot be a requirement. Also, the reference in the Policy to land or buildings previously in use for recreational purposes does not have regard to national policy, which clearly relates to land or buildings used for sport and recreation, rather than to land and buildings that aren't. In any case, no land or buildings that were previously used for sport and recreation, but aren't anymore, are identified in the Neighbourhood Plan.

Taking the above into account, I recommend:

- **Policy E3a, change to *“Land or buildings currently in use as recreational grounds will be protected from a change of use unless it can be demonstrated that they are no longer required; or that they can be replaced by equivalent or better provision; or that the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”***

Policy E3b

Policy E3b seeks to designate “*important open spaces*” to be protected from development and encroachment of any kind.

Due to the lack of supporting information, it is not clear upon what basis the Neighbourhood Plan seeks to designate the sites identified. In the Basic Conditions Statement submitted alongside the Neighbourhood Plan, Highnam Parish Council states that the spaces “*have been placed on a register under the “Community Right to Bid” legislation*” and that Tewkesbury Borough Local Plan Policy LND5 applies. I note that identifying land on a Community Right to Bid register is not the same thing as a designation in a land use planning policy.

Tewkesbury Borough Local Plan Policy LND5 protects identified open spaces from development that would adversely affect their character and appearance. This is very different from the approach set out within Policy E3b, which seeks to prevent any development at all on the sites identified. Consequently, Policy E3b is not in general conformity with Policy LND5.

In addition to the above, it is relevant to note that the Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Para 77)

Taking the above into account, if designating Local Green Space, plan-makers need to demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

Whilst, further to public consultation, there is some evidence to demonstrate that the local community regards the open spaces identified as special, I am mindful that Policy E3b seeks to designate “*important open space*” and that, nowhere, does the Neighbourhood Plan refer to Local Green Space.

Further to the above, there is no evidence to demonstrate that each of the areas identified has been assessed against the requirements of Paragraphs 76 and 77. Also, in seeking to prevent all development, the intention of Policy E3b is different to that of national policy, which allows for the development of Local Green Space in very special circumstances.

In making the recommendation below, I am also mindful that, during consultation, Tewkesbury Borough Council made specific reference to Local Green Space, but that this did not lead to the plan-makers seeking to change Policy E3b to a Local Green Space policy.

Taking everything into account, Policy E3b is not in general conformity with the strategic policies of the Tewkesbury Borough Local Plan and does not have regard to national policy. It does not meet the basic conditions.

I recommend:

- **Delete Policy E3b and the corresponding plan and list of open spaces**

Policy E3c

National policy supports the provision and use of shared space and community facilities and promotes healthy communities (Chapter 8, the Framework).

By affording protection to existing allotments and providing support for new ones, Policy E3c has regard to this. The wording of Policy E3c is unclear in parts. No indication is provided to clarify what “*appropriately located allotments*” comprise, or in what way “*supported in principle*” differs from “*supported.*” The Policy is imprecise in these respects.

Further to the above, there is no information to indicate why the phrase “*allotments will continue to be provided*” (in addition to the protection of the site upon which the allotments are located) is also a relevant land use planning matter.

Also, the final sentence of Policy E3c is vague and lacks any degree of certainty. There is no evidence to demonstrate that land is available and deliverable for allotments and there is nothing to show that the requirement to seek further land “*as a condition of development if demand appears*” has regard to Paragraph 204 of the Framework, referred to earlier in this Report.

I recommend:

- **Policy E3c, change to “*The change of use of existing allotments will be resisted and the provision of new allotments will be supported.*”**

Policy E3d

Together, Tewkesbury Borough Local Plan policies NCN3 and NCN5 protect key wildlife sites and natural habitats, including important woodlands, from adverse development. Further, national policy, in Chapter 11 of the Framework, “*Conserving and enhancing the natural environment,*” states that:

“The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible...” (Paragraph 109).

In affording protection to an important local woodland, Policy E3d is in general conformity with the Tewkesbury Borough Local Plan and has regard to the Framework. However, the Neighbourhood Plan does not provide any information in respect of how it would “*appropriately manage*” Highnam and Lassington Woods. I address this in the recommendations below.

Also, the final part of the Policy is confusing. No indication is provided with regards what *“the importance of the development”* actually means. Similarly, the phrase *“the value of the substantive interests present”* is undefined and does not provide a decision maker with a clear indication of how to react to a development proposal. The Policy is imprecise in this regard and fails to provide a decision maker with a clear indication of how to react to a development proposal.

I recommend:

- **Policy E3d, change first sentence to *“Highnam and Lassington Woods, shown on the accompanying plan, will be protected from adverse development.”***
- **Delete second sentence of Policy E3d**
- **Include a new plan, showing the location and boundary of Highnam and Lassington Woods**

Policy E3e

Policy E3e is not a land use planning policy. It refers to support for a local aspiration.

I recommend:

- **Delete Policy E3e**
- **Replace with *“Community Action. Highnam Parish Council supports and where possible, will work with other parties, including the Herefordshire and Gloucestershire Canal Trust, towards the proposed establishment of a Country Park through the Leadon Valley.”* For clarity, this is not a Policy.**

Policy E4a

The Framework states that:

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk” (Paragraph 100).

Chapter 10 of the Framework, *“Meeting the challenge of climate change, flooding and coastal change,”* goes on to require land use planning policies to apply a sequential, risk-based approach to the location of development, to avoid, where possible, flood risk to people and property.

Policy E4a states that new development should not exacerbate an existing problem of water run off related to the B4215 and Two Mile Lane. No detail is provided of what this problem comprises or where along the B4215 and Two Mile Lane it exists. The Policy is imprecise in this regard.

The Policy then goes on to require all development to be *“subject to a surface water study.”* It is not clear why such a requirement would be relevant, appropriate or necessary for all development and consequently, the Policy does not have regard to those areas of national policy specified earlier in this Report. I note that the completion of a study does not necessarily equate to the same thing as addressing a problem.

Policy E4a is imprecise and does not apply a sequential risk based approach to the location of development.

I recommend:

- **Delete Policy E4a**

7. The Neighbourhood Plan: Other Matters

The “Risks” section of the Neighbourhood Plan raises a number of possible things that could happen. As drafted, it largely comprises the subjective identification of some things that might, or might not, happen in the future and I find that it adds unnecessary confusion and detracts from the most important part of the Neighbourhood Plan – its Policies.

I note that a reference to monitoring is helpful, but that there are already clear legislative requirements in place with respect to “*attempts to ignore or override the provisions*” of a made neighbourhood plan, which would form part of the development plan for an area.

I recommend:

- **Delete the Risks section and replace with “*The Parish Council will monitor developments during the plan period.*”**

8. Summary

I have recommended a number of modifications further to consideration of the Highnam Neighbourhood Plan against the basic conditions.

Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Neighbourhood Plan;
- the making of the Neighbourhood Plan contributes to the achievement of sustainable development;
- the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area;
- the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, European Union (EU) obligations.

Taking the above into account, I find that the Highnam Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

I recommend to Tewkesbury Borough Council that, subject to the modifications proposed, the **Highnam Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

I am required to consider whether the Referendum Area should be extended beyond the Highnam Neighbourhood Area.

I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

Consequently, I recommend that the Plan should proceed to a Referendum based on the Highnam Neighbourhood Area approved by Tewkesbury Borough Council in January 2014.

Nigel McGurk, May 2016
Erimax – Land, Planning and Communities

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