

Hexham Neighbourhood Plan Examination

15 July 2019

**Request for Clarification from the Examiner to Hexham Town Council and
to Northumberland County Council**

Further to reviewing the Hexham Neighbourhood Plan and supporting information, I would be grateful for the assistance of both Hexham Town Council (re: all Questions) and Northumberland County Council (re: Question 1 in particular) in respect of clarifying a number of matters in writing.

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

Please can all responses be provided within the next four weeks and by no later than 3rd September 2019. If this poses any difficulties due to the holiday season and more time would be helpful, please let me know.

Thank you

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Hexham Neighbourhood Plan**

1) European Obligations (Sweetman Judgement)
(matter for clarification by Northumberland County Council)

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

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

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

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

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

These changes came into force on 28th December 2018 and this pre-dated the submission of the Neighbourhood Plan. As the regulations are now in force, it is important to double-check that, wherever necessary, an *Appropriate Assessment* has been undertaken.

Northumberland County Council has not raised any concerns in the above regard. The Neighbourhood Plan has been supported by Strategic Environmental Assessment Screening Report and Northumberland County Council has carried out a Habitats Regulations Assessment screening, which concluded that a Habitats Regulations Assessment was unnecessary.

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

Of the statutory consultees, Historic England has expressed a concern in respect of the impact of the Neighbourhood Plan on the historic environment – whereby it considers that there is “the lack of a train of thought to conclude an absence of significant environmental effects” and questions whether the environmental report follows paragraphs 036 to 039 of Planning Practice Guidance.

- ***Please can Northumberland County Council confirm that it is satisfied (or is not satisfied) that the Neighbourhood Plan is compatible with European obligations. In confirming (or otherwise) please can Northumberland County Council and Hexham Town Council directly address the point raised by Historic England.***

2) Comments on Regulation 16 Representations ***Optional Response from Town Council***

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

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

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

3) Submission Date

Plans submitted prior to 25th January 2019 are examined against the NPPF 2012; those submitted on 25th January 2019 or later are examined against the NPPF 2019.

- ***Please can you confirm the date that the Neighbourhood Plan was submitted to Northumberland County Council for examination ?***

² NPIERS “Guidance to Service Users and Examiners”

4) **Policy HNP2**

- *Please can you point me to information in justification of the Policy not having regard to the Written Ministerial Statement of 2015 to the effect that technical standards relating to the construction, internal layout or performance of new dwellings should not be progressed within a neighbourhood plan ?*
- *Please can you point me to evidence to demonstrate that the requirements set out in the Policy are relevant, necessary and material to all forms of development, having regard to national policy?*

5) **Policy HNP3**

- *Please can you point me to evidence to demonstrate how the Policy provides for development that might result in some harm to the Conservation Area or its setting, but where such harm is outweighed by benefits arising, having regard to national policy ? Or alternatively, information that justifies not having regard to national policy.*
- *Please can you point me to information that would inform a judgement of “poor design that could be located anywhere.” Could you also please point me to information in justification of requiring development in a Conservation Area or its setting to “re-enforce” local character, having regard to national policy (which does not require such a thing).*

6) **Policy HNP5**

- *Please can you confirm (or otherwise) that the first criterion b) relates only to circumstances where an application for development involving the shop front has been made; and also, please can you point me to information in respect of who will determine whether a shop front is inappropriate and what “older elements” must be restored, and on what basis ? Please can you point me to viability evidence to demonstrate that this requirement is deliverable, having regard to national policy ?*

- *Re: the second criterion b) in the Policy, please can you point me to viability/deliverability evidence; and information in respect of who will determine these factors and on what basis ?*

7) Policy HNP6

- *Please can you point me to any information or justification in respect of the use of the word “preserves” rather than “conserves” ?*
- *Please can you clarify why all development (eg a new shop front, an ATM, an extension) must contribute to the safety of all users of the Market Place and the needs of pedestrians and cyclists ? Please can you point me to any relevant information or details in respect of what elements of the safety of all users of the Market Place the Policy is referring to ?*

8) Policies HNP8 and HNP9

- *Please can you point me to any information in respect of why Policy HNP8 seeks to establish an OAN but does not provide or demonstrate that there is sufficient land to meet the OAN ? Please can you provide evidence to demonstrate that this part of the Neighbourhood Plan contributes to the achievement of sustainable development ?*
- *Please can you clarify why the various capacities are referred to in different ways (could accommodate at least/can accommodate/will accommodate etc) not least as capacities appear to be based on general options appraisals, as opposed to detailed masterplans or planning applications further to, for example, heritage/design/infrastructure/viability/flood risk assessments, etc. ?*
- *Please can you point me to justification for including a provision (final sentence of Policy HPN9) that requires the Local Planning Authority to compare at least two live residential planning applications at the same time and please can you point me to information in respect of how “being looked on more favourably” will work in practice ?*

9) **Policy HNP10**

- *Please can you point me to local policy or to robust viability evidence in justification of a 30% affordable housing provision ?*
- *Please can you point me to information to demonstrate how a “proportional amount” will be calculated ?*
- *Please can you point me to evidence to demonstrate that the brownfield sites allocated can provide two bedroomed bungalows viably and in a way that will meet all requirements set out in earlier policies ?*
- *Please can you point me to evidence justifying the 60/40 social rent/intermediate housing split ?*
- *Is the last sentence of the Policy a general statement more suited to supporting text ? If not, please can you point me to detailed information in respect of where/how s106 monies and housing grants will be used ?*

10) **Policy HNP15**

- *Please can you point me to information in respect of who will enhance Corridors ? The precise boundaries of the Corridors are not clearly defined, please can you point me to information in respect of how they will be protected ?*
- *Most exterior lighting does not require planning permission. Please can you point me to information in respect of how the exterior lighting provision might be controlled ?*
- *Please can you point me to evidence in respect of the fragmentation of the corridors, and provide information in respect of how “further fragmentation” will be judged, who by, and on what basis ?*

11) **Policy HNP17**

- *Please can you point me to evidence, including viability and deliverability, to justify the requirement for 2 for 1 tree replacement; and evidence demonstrating that every tree in the Neighbourhood Area is worthy of retention (including for example, scrub, non-native, damaged, or diseased trees, or trees in a dangerous condition etc ?)*
- *Please can you confirm (or otherwise) that “contribute to the street scene” is intended to refer to a “positive contribution to the street scene ?”*

12) **Policy HNP22**

- *Please can you point me to information to justify the Policy’s support for the development of new A1 being limited to those “which improve the range of shops.” Who will judge this and on what basis ?*

13) **Policy HNP23**

- *Please can you confirm (or otherwise) that Policy HNP25 is intended to apply to both private car parks and public car parks ?*

Thank you
