

High Peak Borough Council Officer Comments

Whaley Bridge Neighbourhood Plan (Regulation 16) Consultation Response 21st June 2023

The Borough Council recognises the hard work and dedication that has gone into producing this Submission Version Neighbourhood Plan. The document is well presented and the inclusion of maps and other information to support the policies is very useful.

General Comments

The Neighbourhood Plan (NP) details the vision and aims for the Neighbourhood area and sets out policies which aim to deliver the aspirations and needs of the local community. The NP will form part of the development plan for the area together with the adopted High Peak Local Plan (LP) and the Peak Park Core Strategy. The NP needs to be consistent with the overall spatial strategy in the Local Plan and Peak Park Core Strategy.

Note that the adopted High Peak Local Plan 2016 has been declared partially out of date. The following policies are considered out of date when considered against the latest national policy and evidence and therefore will be given less weight when determining planning applications:

- Policy S3 (Strategic Housing Development)
- Policy S4 (Maintaining & Enhancing an Economic Base)
- Policy H4 (in part) (Affordable Housing)

The remainder of the policies in the Local Plan are deemed up to date as they are broadly in line with current national policy and evidence. A Local Plan review is now underway to update the policies deemed out of date and consider the scope for wider amendments. At the time of writing, this review is at a very early stage with only 'Early Engagement' having taken place between 19th January and 3rd March 2023. There are currently no draft policies to consider and in any case at this early stage in the process they would not carry any weight. Consequently, for the purpose of assessing whether basic conditions have been met, it is the strategic policies set out in the 2016 Local Plan which should be used.

As advised at Regulation 14 stage, it is assumed that all landowners affected by sites proposed for designation in the NP have been consulted.

The Neighbourhood Plan needs to comply with the Basic Conditions, as set down in legislation. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The plan will be tested against these during the examination process. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are as follows: -

- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

National Planning Practice Guidance on Neighbourhood Planning (Paragraph: 041 Reference ID: 41-041-20140306) contains the following reference:

“How should the policies in a neighbourhood plan be drafted?

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

This has been used by High Peak Borough Council (HPBC) to consider the content of the Neighbourhood Plan. HPBC has also reviewed the comments it made in response to the previous (Regulation 14) draft of the neighbourhood plan and any which are still relevant and outstanding have been raised again at this stage.

Item number	Page number, paragraph, number or policy issue	Officer Comments	Consistent with Strategic HP LP Policies and / or NPPF (Y/N)
1	Page 4 Paragraph 1.1 Paragraph 4	Second sentence reads “The Neighbourhood Plan Steering Group <u>was</u> formed in September 2018 and the early community engagement began in Summer 2019.” Possible typo – insert ‘was’ as shown?	N/A
2	Page 6 Paragraph 1.2	States that the Neighbourhood Plan period runs until the end of 2032. Is there any particular reason why 2032 has been selected? Was it informed by any evidence? It would be helpful to explain that subsequent reviewed plans would also require examination and referendum. It is noted that there is no mention of regularly monitoring the plan to ensure the vision, aims (and objectives – see point 3 below) are being achieved. Has monitoring been considered?	Y
3	Page 15 Paragraph 2.4	It is noted that the plan has a vision and aims but no objectives which is unusual. Is there any particular reason why this is the case?	Y
4	WB-G1 Town Centre and Economy	Point 2 - Should include reference to the scale of development being consistent with the strategic settlement hierarchy. Reference could be made to the strategic Local Plan policy ‘S2 Settlement Hierarchy’ to reflect that Whaley Bridge is defined as a market town (the main focus for development), Furness Vale is classified as a ‘larger village’ and the other settlements in the Parish are part of the ‘other rural area’ in the hierarchy i.e. the least sustainable areas for development.	N – could be made consistent with reference to LP Policy S2.
5	Page 22 Interpretation, paragraph 2, sentence 2	Possible typo - by ‘excepted’ do you mean ‘expected’?	N/A

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6	WB-G2 Community Facilities	<p>Point 2 - Should include reference to the scale of development being consistent with the strategic settlement hierarchy. Reference could be made to the strategic Local Plan policy 'S2 Settlement Hierarchy' to reflect that Whaley Bridge is defined as a market town (the main focus for development), Furness Vale is classified as a 'larger village' and the other settlements in the Parish are part of the 'other rural area' in the hierarchy i.e. the least sustainable areas for development.</p> <p>Point 4 – as recommended in the Council's Reg 14 response, it is assumed that all landowners of the sites listed have been contacted to make them aware of this proposal.</p> <p>Make reference to this policy augmenting with HP LP Policy CF5 in the interpretation.</p>	N – could be made consistent with reference to LP Policy S2.
7	WB-G3 Residential Development	<p>Point 2. It is acknowledged that the wording has been amended to reflect the Council's Reg 14 comments: "The suitability of a location could vary from person to person depending on their mobility making it hard to apply this policy to proposed developments. Would it better to say distance from shops and services. Could give a more defined set of criteria on accessibility to services and facilities and clarify what would be suitable. Need to be clear on what suitable locations are".</p> <p>However, the wording could still be more specific about the meaning of 'suitable locations' to include distance from shops and services and any other relevant criteria to make this point clearer for the policy user.</p> <p>These comments made at Reg 14 stage are maintained:</p> <p>"The wording of points 4 and 5 regarding bin and cycle storage states all new dwellings must include various storage facilities this is very restrictive and does not allow for situations where it may not be appropriate not to mandate the provision of these facilities. The policy needs to be flexible to be able to respond to different types of development".</p> <p>"Point 5 repeats point 3 of policy WB- T1 Transport and Movement".</p>	Y

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8	WB-H1 Heritage	<p>It is noted that the Council's recommendation from Reg 14 stage, to state that the policy is intended to augment policy EQ7 of the High Peak Local Plan and development needs to be in accordance with policy EQ7 (in order to ensure that it is consistent with the NPPF) has been followed.</p> <p>Minor presentation issue – number 4 in the policy is blue and all the other numbers are black.</p>	Y
9	WB-E1 Sustainable Design	<p>These comments made at Reg 14 stage are maintained:</p> <p>Should points 2-9 be sub-bullets of Point 1 as they detail the requirements to meet this point – “.....meeting the following requirements of this policy.....”?</p> <p>The policy wording states ‘development must’ this is too restrictive and in some cases does not reflect the more nuanced approach in the NPPF or the Local Plan, it does not allow for changing circumstances or situations where certain types of development may be acceptable in certain circumstances. Policies need to be able to respond to changing circumstances.</p> <p>Points 1, 2, 5 and 9 change ‘must’ to ‘should’ or similar non prescriptive wording.</p> <p>Not all the bullet points in the ‘ways of building’ section are planning matters. This should be acknowledged or the non-planning matters removed from the list.</p>	N
10	WB-3 Natural Environment	<p><u>Point 1</u></p> <p>“Development must preserve or enhance and not harm the rural and open landscape character of the area, including the Peak District National Park and its setting” is not consistent with HP LP strategic policy S1. Use of the words ‘must’ and ‘open’ conflict with this policy which is about achieving sustainable development. The LP policy lists a number of bullet points as to how sustainable development will be achieved. Bullet 4 covers “taking account of the distinct Peak District character, landscape.....”. Bullet 9 covers “minimising the risk of damage to areas of importance for nature conservation and / or landscape value, both directly and indirectly...”</p>	N

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		<p>The words 'must' and 'open' are inflexible and do not allow for situations where certain types of development may be acceptable. Any development on fields around a settlement would affect the 'open' landscape character of the area. One of the elements of achieving sustainable development set out in Policy S1 of the HP LP is 'meeting most development needs within or adjacent to existing communities' which presents a potential conflict. Use of the terminology "<i>..must..preserve or enhance</i>" is also queried in the context of whether it is NPPF compliant.</p> <p>Perhaps the wording used is due to the plan also including some land within the PDNPA? It is acknowledged that NPPF paragraph 176 sets a greater weight for preserving and enhancing landscape in the National Parks. It is suggested that landscape in the national park and outside of the national park are dealt with in separate paragraphs of the policy so that policy wording is not so stringent for land outside of the national park.</p> <p><u>Point 2</u> "Development must enhance and have no adverse impact on the area's extensive tree canopy and woodlands." Again the use of 'must' is considered to be too stringent as it does not allow for situations where certain types of development may be acceptable. It is a bit unclear to the user as to which trees this policy is referring to. It is noted that ancient woodland is marked on the accompanying diagram. In addition to this is the policy just referring to groups of trees? Clarification in the interpretation section would be useful. It is noted that the interpretation states that the policy augments with policy EQ9 of the HP LP. Is this the clarification?</p> <p>The NPPF (paras 174-182) seeks to protect and enhance biodiversity and recognises a hierarchy of international, national & local designated sites. It does not completely prohibit all development which has an adverse impact on biodiversity but considers mitigation, compensation and the wider benefits development and applies different approach to designated sites in line with the hierarchy. The policy</p>	

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		<p>should not conflict with this. HP LP Policy EQ5 covers this and it is requested that this policy is also referred to in the interpretation section.</p> <p>The maps accompanying the policy are difficult to read when they are zoomed in to focus on individual sites and this is how they would be used by a developer to examine the natural environment context for their site.</p>	
11	WB- E4 Rural and Landscape Character	<p>These issues were raised at Reg 14 stage and are maintained. The policy wording states development must or words to that effect. This is too restrictive and does not allow for changing circumstances or situations where certain types of development may be acceptable in certain circumstances. Policies need to be able to respond to changing circumstances.</p> <p>Points 1,2 & 3 wording should be changed to replace must with should or similar non prescriptive wording.</p> <p>Points 2 and 4 will (as written) apply to all development this requirement may not be appropriate for small scale developments e.g. residential extensions, the policy wording should make this clear.</p> <p>Points 3 and 4 refer to views and harmful visual impacts and for development to take account of the area's topography. The topography and long distance views diagram is helpful. However there are still some queries about how this policy would be applied. How could development enhance views along the Goyt Valley? Suggest expanding on how development could respond to views/landmarks in the policy. Suggest providing further explanation of the importance of specific views shown on the diagram in the interpretation section. The examiner of the Biddulph Neighbourhood Plan which also has a policy on views recommended applications which are likely to affect the identified views will be expected to demonstrate how the development has taken into account these views in the form and layout of the development. Suggest using a similar approach. The policy wording in its current form is considered to be too vague for a developer to use to inform a development scheme in the area.</p>	N

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12	WB-E6 Local Green Space	<p>Most of these issues were raised at Reg 14 stage and are maintained. The designation of Local Green Spaces (LGS) must be done in line with criteria set out in the NPPF and demonstrated by providing a clear rationale and robust and proportionate evidence to support the designations. LGS should be those spaces that are demonstrably special to the local community where they can be shown to have a particular significance. Local significance is based around beauty, historic significance, recreational value and tranquillity and richness of wildlife.</p> <p><u>Policy Wording</u> NPPF paragraph 103 states that “Policies for managing development within a Local Green Space should be consistent with those for Green Belts.” Would query whether the wording used in the policy fulfils this requirement.</p> <p>“Development must not encroach onto Local Green Space or harm its community value amenity, accessibility or safety, except in exceptional circumstances and where: a. it comprises very small-scale development; b. it relates directly to the community value and use of the space; c. it does not harm the open or green character of the space”.</p> <p>What is ‘very small scale development?’ Need to be more specific as this is potentially open to interpretation. Would a cross reference to relevant parts of NPPF paragraphs 149/150/151 in the policy interpretation help? Possible potential for conflict in relation to part c. What sorts of development may be needed in relation to community value and use of the space? For instance would any new building even something like a shed or small unit to store sports equipment harm the open or green character of the space? What does ‘green character’ in this context actually mean? Further clarification with additional text in the interpretation would be useful.</p> <p>Proposed LGS Sites</p>	N

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		<p><i>General Comments</i></p> <p>A number of the proposed sites already have one or more existing designations such as green belt, TPO, Conservation Area, countryside or as a heritage asset and consideration needs to be given as to what benefit would be had with the further designation of LGS and how the site meets the NPPF criteria. Although policy and guidance does not prevent the designation of sites with existing designations, different types of designations are intended to achieve different purposes and where land is already protected by a designation, consideration should be given to whether any additional local benefit would be gained by making the site an LGS. Evidence must show that the sites are demonstrably special and hold particular local significance as per NPPF paragraph 102.</p> <p>Additionally if the aim is to protect the site from future development then Local Plan policies are relevant.</p> <ul style="list-style-type: none"> • In the countryside and green belt the following policies apply EQ2 Landscape Character, EQ3 Countryside, EQ4 Green Belt. • EQ5 Biodiversity seeks to protect biodiversity and geodiversity interests. • EQ7 Built & Historic Environment seeks to protect heritage assets. • EQ8 Green Infrastructure seeks to protect and enhance networks of biodiversity and green infrastructure. • EQ9 Trees, Woodlands & Hedgerows provides protection for existing trees, woodlands and hedgerows. • C4 Open Space, Sports & Recreation Facilities seeks to protect sports, recreation, play facilities and amenity green spaces. • C5 Provision and Retention of Local Community Services & Facilities seeks to protect community facilities and includes to schools and places of worship. <p><i>Proposed Neighbourhood Plan LGS Designations</i></p>	

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		<p>LGS1 Roosdyche RIGS – wooded area Site is designated as RIGS, SSSI and a local wildlife site and is within the countryside. Site is already very well protected – query the need for adding an LGS designation in addition to existing designations? What would this achieve?</p> <p>LGS2 Whaley Bridge Linear Park Council owned site. The site is listed as a monument on the Derbyshire Historic Environment Records. It could also help to provide Biodiversity Net Gain – no objection to its inclusion.</p> <p>LGS3 Fernilee Chapel Graveyard Site is a graveyard and use is unlikely to change. Within the countryside. Query the need for adding an LGS designation? Does the site adequately meet the NPPF criteria?</p> <p>LGS4 Shallcross Wood Site to the west of Long Hill is in the Peak District National Park. The part to the east of Long Hill is in the countryside and is ancient woodland. Site is already well protected – query the need for adding an LGS designation in addition to existing designations? What would this achieve? (NB comments relate to High Peak part of site only not land in PDNP).</p> <p>LGS5 Furness Vale Bowling Green, Sport Court and Playground Council owned sites part of which is leased by the bowling club, in current recreational use – no objection to its inclusion.</p> <p>LGS6 Whaley Bridge Cricket Pitch Site is within the countryside. Cricket pitch. No objection to its inclusion.</p> <p>LGS7 Shallcross Incline Greenway The site is listed as a monument on the Derbyshire Historic Environment Records. It is mostly within the built up area boundary. No objection to its inclusion.</p> <p>LGS8 Taxal Churchyard Site is a graveyard and use is unlikely to change. Is within the Peak Park. No comments.</p> <p>LGS9 Whaley Bridge Incline</p>	

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		<p>Council owned site. Within the Conservation Area. Listed as a monument on the Derbyshire Historic Environment Records. No objection to its inclusion.</p> <p>LGS10 Brookfield Pond and Nature Reserve The site is within the countryside it is a local nature reserve and a local wildlife site. No objection to its inclusion.</p> <p>LGS11 Wooded Area to north of Jodrell Rd play area & LGS12 Land to north of Meadowfield Council owned sites. The sites are covered by a TPO and are within the built up area boundary. They could also help to provide Biodiversity Net Gain – no objection to their inclusion.</p> <p>LGS13 Furness Vale School Garden Within the built up area boundary, maintained by the school. No objection to its inclusion.</p> <p>LGS14 Green at centre of Orchard Road Council owned site. Site is within the built up area boundary, a small grassed amenity area. No objection to its inclusion.</p> <p>LGS15 Carr Field, Horwich End Council owned site in an open area in the town with no wildlife designation. Within the built up area boundary and within the Conservation Area, part of the site is flood zone 2 and flood zone 3. Query whether the evidence showing that this site is demonstrably special to the local community and holds a particular local significance is adequate?</p> <p>LGS16 Taxal Beeches Within the countryside & covered by a TPO. No objection to its inclusion.</p>	
13	WB- T1 Transport and Movement	<p>Should points 2-7 be sub-bullets of point 1, which states: “.....meeting the following requirements of this policy.....”?</p> <p>Point 3 repeats part of point 5 of policy WB-G3 Residential Development. Is this necessary – surely it only needs to appear in one policy?</p> <p>The wording of point 3 states that secure covered cycle storage must be provided for all new dwellings and employment space. This is very restrictive and does not allow for situations where it may not be</p>	Y

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		appropriate to mandate the provision of these facilities. The policy needs to be flexible to be able to respond to different types of development. Wording states 'proportionate to the scale of the property' for dwellings but there is no indication of floorspace size this would apply to for employment space so does this mean <u>all</u> new employment space or should a threshold be applied?	
14	Page 75 Paragraph 3.6 Infrastructure Priorities	Refers to Parish Council Priorities for spending infrastructure monies. Note that the scope for developer contributions associated with new developments is set out in Local Plan Policy CF7 Planning Obligations and Community Infrastructure Levy . Earlier this year the Borough Council conducted a public consultation upon a draft Developer Contributions SPD that, once adopted (this is imminent) will accompany this policy.	N/A