

Delegated Decision

28th February 2019

Consultation response to Witton Gilbert Neighbourhood Plan

Ordinary Decision.



Report of Regeneration & Local Services

Ian Thompson Director of Regeneration & Local Services

Electoral division(s) affected:

Esh and Witton Gilbert.

Purpose of the Report

1. The purpose of this report is two-fold:
 - To advise of the issues arising from the draft Witton Gilbert Neighbourhood Plan (WGNP) that has been formally submitted by Witton Gilbert Parish Council to Durham County Council; and
 - To consider these issues as the basis of the council's response as local planning authority and holder of assets within the designated neighbourhood plan area.

Executive summary

2. Witton Gilbert Parish Council have formally submitted their neighbourhood plan to the county council. In accordance with the regulations in force the county council is currently undertaking the required six-week public consultation on it. The county council is also a consultee on this matter and as such this report seeks to set out the scope of the plan, the key matters for consideration and any issues arising that should form part of the county council's formal response.
3. The following matters have been considered:
 - a) Scope of the plan.**

The scope of the plan is set out in the report and no issues have been identified.
 - b) Robustness of the WGNP for future decision taking:**

- Whether the draft Plan has been adequately informed by SA/SEA. No issues have been identified.
- The appropriateness of the evidence base. No issues have been identified.
- The Clarity of policies. Whilst there are no major concerns in relation to the general thrust of the policies a number of amendments to the wording of policies have previously been suggested to the working group in order to improve clarity. Whilst many of these have been addressed there are still some outstanding matters. With this in mind it is proposed that a detailed account of these matters on a policy by policy basis is submitted as part of the council's formal response to this consultation. Please refer to Appendix 2 of this report. These recommendations will then be passed on to the Examiner who will take a view on whether they should in fact be incorporated in the final plan. However, these are not considered to put the plan at risk of failing the Basic Conditions which the examiner will test the plan against.

c) The Effectiveness of pre -consultation engagement.

No issues have been identified.

d) Implications upon the future sustainability of the area.

No issues identified.

e) Implications on existing and emerging policy

None identified

f) Implications for council held assets

WGPC have discussed the inclusion of any council owned sites with the Assets Team. The Assets Team have undertaken an interrogation of the council's land terrier in the context of the draft plans content. As a result of the supporting text for Policy 9 (Protection of Local Green Spaces) was amended.

4. The parish council's neighbourhood plan working group has liaised very closely with council officers in the preparation of this plan over several years. The plan has been revised during that time. As a consequence, no significant issues have been identified which would amount to significant objection to this version of the plan.

Recommendation

5. It is recommended that the matters raised within this report are endorsed as the basis for the formal response to the current consultation on the draft

WGNP. Therefore, having had regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate subject to issues raised in Appendix 2 being addressed to 'make' the WGNP subject to the revisions set out in appendix 2.

For the following reasons:

(i) Upon adoption, a neighbourhood plan becomes part of the statutory development plan for the area that it covers and will form part of the starting point upon which future planning decisions are reached. It may also influence the content of the emerging CDP. Its purpose should be to provide a more area specific focused and relevant suite of policies and proposals. These should accord with national policy and supplement by providing further detail to the existing local plan for the area, the City of Durham Local Plan. In its current form the WGNP would meet these purposes.

(ii) It is essential that the Council as local planning authority exercises its right to make representations to strive to ensure that the resulting plan is procedurally compliant, robust, credible and clear for so that it can be effectively implemented by the council, as decision taker, provide certainty to developers, stakeholders and residents as well as being defensible at appeal.

Background

6. This county council has sought to exercise its 'duty to support' Witton Gilbert Parish Council in an advisory capacity as it prepares a neighbourhood plan for its area. The council also has a role to play as 'gate keeper' from a procedural perspective. This involves checking at particular stages that all 4 specific criteria known as 'Basic Conditions' have been met, namely having had regard to national policies and advice contained in guidance issued by the Secretary of State:
 - 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 of the authority (or any part of that area).
 - The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
 - Prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
7. This 'gate keeper' role does not extend to rejecting a plan because of contention between parties about policy approach and/or content of the plan, unless it is contrary to strategic policies in the current saved City of Durham Local Plan for the area. It is the role of the independent examination for areas of dispute over content to be considered in the context of the above Basic Conditions.

8. The WGPC have delegated the preparation of the plan to a smaller working group made up of parish councillors and residents. In preparing the current draft plan the working group has undertaken a series of public consultations to identify issues to be addressed. A Screening Report on a draft of the neighbourhood plan has concluded that the WGNP will not result in likely significant effects to the environment, including European protected wildlife sites and therefore SEA and Appropriate Assessment (a stage within HRA) were not required.
9. The county council has undertaken 'health checks' on previous iterations of the draft plan. The health checks were based upon the advice of the council's multi-disciplinary team of relevant specialists.
10. The latest version of the plan has been formally submitted to the county council. The necessary procedural checks have been undertaken and the county council is currently consulting on the plan until 5th March 2019 in line with current neighbourhood planning regulations.

Proposed response to submitted plan consultation

11. The council's own response to this current consultation has been co-ordinated by the Spatial Policy Team and builds upon the previous health check findings derived from the relevant specialist, legal officers and asset management (to identify the council's views as asset holder within the council).
12. The issues identified as a consequence of this review relate to the following matters:
 - Scope of the draft Plan;
 - Robustness of the draft Plan for future decision taking;
 - Implications upon the future sustainability of the area;
 - Implications on emerging policy and other council strategies; and
 - Implications for council held assets.
13. A summary of these key issues is set out below. A recommended changes schedule is set out in Appendix 2.

(i) Scope of the draft Plan

14. The Neighbourhood Area encompasses the whole of the parish area. The plan includes the following policies:
 - POLICY 1: Settlement Boundary of Witton Gilbert
 - POLICY 2: Housing development in Witton Gilbert Neighbourhood Plan Area
 - POLICY 3: Older People's homes
 - POLICY 4: Development in or adjacent to the Historic Zone & associated site H2
 - POLICY 5: Historic Zone of Witton Gilbert

- POLICY 6: Sustainable Design
- POLICY 7: Biodiversity in the Parish of Witton Gilbert
- POLICY 8: Witton Dene Local Nature Reserve
- POLICY 9: Protection of Local Green Spaces
- POLICY 10: Protecting and supporting Community Assets
- POLICY 11: Safety improvements on the road, cycling and walking network
- POLICY 12: Broadband and Telecommunications
- POLICY 13: New and expanding business development and farm diversification
- POLICY 14: Home working
- POLICY 15: Community energy generation projects

15. The designated Local Green Spaces comprise:

- G1 Witton Dene
- G2 Clink Bank Field
- G3 Newton Street
- G4a Fulforth Park Recreation Ground
- G4b Witton Gilbert Primary School playing field
- G5 White House Farm Dene & Millennium Wood
- G6 Sacriston Lane/Durham Gardens, Anchor Homes
- G7 Sacriston Lane War Memorial
- G8 Sacriston Lane Hillside
- G9 Sacriston Lane Norburn Park
- G10 Rose Lea Recreation Field
- G11 Newton Street Allotments
- G12 Front Street Coach Lane
- G14 Sacriston Lane Allotments
- G15 Sacriston Lane / Louisa Terrace Corner

16. This scope is considered to be appropriate to a neighbourhood plan and does not stray into strategic matters or present any concerning issues. Therefore, the plan is considered to be acceptable in this regard.

(ii) Robustness of the WGNP for future decision taking

17. Upon adoption, a neighbourhood plan becomes part of the statutory development plan for the area that it covers and will form part of the starting point upon which future planning decisions are reached. The WGNP will therefore be a significant planning policy document. The following considerations are considered relevant to judging its robustness:

a) Whether the draft Plan has been adequately informed by SA/SEA

A screening opinion has been undertaken by specialist officers which concluded that the Witton Gilbert Neighbourhood Plan will not result in likely significant effects to the environment, including European protected wildlife

sites and therefore SEA and Appropriate Assessment is not required in this instance. Therefore, the plan is considered to be acceptable in this regard.

b) Evidence base

WGPC have prepared the WGNP using existing evidence bases, consultation events and have prepared documents to justify the settlement boundary and housing policies. The working group have liaised closely with the Spatial Policy Team in relation to these matters. This is considered to have been appropriate in scope, robust and proportionate. Therefore, the plan is considered to be acceptable in this regard.

c) Clarity of policies

The content of this plan will impact upon the Council as decision maker, asset holder and stakeholder in matters including regeneration and long-term sustainability of Witton Gilbert (settlement and parish). It will also impact upon the future decisions of existing and potential businesses and developers as well as residents. Therefore, it is critical that all policies, regardless of their approach are written in a clear manner which will not give rise to unintended negative consequences. Furthermore, the policies should not give rise to ambiguity in decision making.

Whilst there are no major concerns in relation to the general thrust of the policies a number of amendments to the wording of policies have previously been suggested to the working group in order to improve clarity. Whilst many of these have been addressed there are still some outstanding matters. With this in mind it is proposed that a detailed account of these matters on a policy by policy basis is submitted as part of the council's formal response to this consultation. Please refer to Appendix 2 of this report. These recommendations will then be passed on to the Examiner who will take a view on whether they should in fact be incorporated in the final plan.

d) Effectiveness of pre -consultation engagement

It is evident that WGPC have sought to engage the community and landowners throughout this process. This is set out in their Statement of Consultation. Therefore, the plan is considered to be acceptable in this regard.

(iii) Implications upon the future sustainability of the area

18. The draft plan provides an important opportunity to provide a suite of more focused policies that are locally specific to the neighbourhood area. This provides an opportunity for managing the continued sustainability of the area. A key policy focus of the WGNP is the creation of a new settlement boundary and Local Green Spaces. The plan also includes several policies which seek to ensure locally distinctive development which is reflective of the local environment and constraints. No significant effects are anticipated, and the

scope of the plan is relevant to the area. The plan is therefore considered to be acceptable in this regard.

(iv) Implications on existing and emerging policy and other council strategies

19. The draft plan is considered to be in general conformity with the City of Durham Local Plan (which is the plan that will be used in the examination of this neighbourhood plan as it is the extant development plan for the area). Furthermore, WGPC have worked closely with the council to ensure that the neighbourhood plan will dovetail with the emerging County Durham Plan. Some minor areas of concern in relation to some of the wording in the plan are evident in terms of future proofing it to align with the emerging CDP. These are set out in Appendix 2 and have previously been drawn to the attention of the group. However, these will not have an adverse impact on the delivery of the overall strategy of that emerging plan but will be passed on to the Examiner who will take a view on whether they should in fact be incorporated in the final plan.

(v) Implications for council held assets

20. WGPC have discussed the inclusion of any council owned sites with the Assets Team. The Assets Team have undertaken an interrogation of the council's land register in the context of the draft plans content. As a result of the supporting text for Policy 9 (Protection of Local Green Spaces) was amended following a previous iteration of the WGNP to the council's satisfaction.

Next steps

21. The Council, along with other consultees will need to submit their representations by no later than 5pm on Monday 5th March 2019.

22. Any representations received as a result of this consultation will be forwarded to an independent Examiner who will shortly be appointed to consider whether this neighbourhood plan as submitted meets the specific tests set down by central government known as 'Basic Conditions'. The neighbourhood plan will be finalised having regard to the Examiner's findings and will then be the subject of a public referendum which will ultimately determine whether the plan should be accepted.

23. Upon adoption, a neighbourhood plan becomes part of the statutory development plan for the area that it covers. Its purpose should be to supplement the existing local plan for the area which in this case is the City of Durham Local Plan. As it will form part of the starting point upon which planning decisions are reached it is critical that the council seeks to continue to offer its support to WGPC but at the same time clearly convey any issues of concern through the formal public consultation process.

Options

24. No options have been identified regarding this matter.

Main implications

25. The remaining matters of concern are set out in Appendix 2.

Conclusion

26. Whilst the concerns set out in Appendix 2 do not amount to being so significant as to raise an objection to the plan it is considered that in the interests of securing the best plan for the area that they should be submitted. This will ensure that they will be passed on to the Examiner who will take a view on whether they should in fact be incorporated in the final plan.

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Appendix 1: Implications

Legal Implications

Legal opinion and advice have been provided throughout the preparation of the plan. No issues have been identified at this stage.

Finance

This report has identified a number of council owned sites affected by the WGNP and has considered the potential implications on the council as landowner.

Consultation

The submitted WGNP is currently being consulted upon by the county council. This is the second formal public consultation. As part of compiling this report the Spatial Policy Team has sought the advice of relevant disciplines within the council.

Equality and Diversity / Public Sector Equality Duty

The implications of the WGNP on all sectors of the community have been considered, including full time residents and businesses.

Human Rights

The implications of the WGNP on all sectors of the community have been considered, including full time residents and businesses.

Crime and Disorder

None.

Staffing

The council will need to continue to provide support to the Parish Council as the plan proceeds to examination and adoption.

Accommodation

None.

Risk

The potential implications of the WGNP in its current form on future decision taking, capital receipts and emerging CDP have been identified.

Procurement

None at this stage of the process.

Appendix 2.

WITTON GILBERT NEIGHBOURHOOD PLAN (SUBMISSION VERSION)	
DCC Suggested Changes	Reason
Policy 1 Settlement Boundary of Witton Gilbert	
Deletion of policy wording from ' <i>...and development will not be supported....</i> '	<ul style="list-style-type: none"> The Concept of the proposed settlement boundary is fully supported by the county council. The council acknowledges that this policy has been significantly redrafted in light of discussions with the working group in order that it aligns with both the existing and emerging local plans. However, the council continues to question the need for the exceptions criteria relating to the countryside element of the policy in light of the fact that they are adequately covered by national and local policy. There is a danger that the policy could become out of date quickly should these exceptions differ from those to be set out in the most up to date NPPF or emerging County Durham Plan which in turn would put the longevity of the settlement boundary at risk. Clarity should be provided as to which Policies Map is being referred to.
Policy 12 High Speed broadband and Telecommunications	
POLICY 12: High Speed Broadband and Telecommunications	This policy title refers to telecommunications. However, there is nothing about that issue within the policy text. Therefore title should be amended accordingly in the interests of precision and clarity.
.....unless it can be demonstrated by means of a viability study submitted by the developer that this requirement would undermine the viability of the scheme. either in terms of financial viability or lack of market demand for these products.	Deletion recommended in the interests of being concise.
Policy 15 Community Energy Generation	
Insert: <i>'The NPPF identifies land in grades 1, 2 and 3a of the Agricultural Land Classification as 'Best and most versatile agricultural land'.</i>	The Policy Justification would benefit from being supplemented in this regard to support the text within the policy.

