

## Delegated Decision

20<sup>th</sup> November 2019

## Response to Pre-submission public consult Oakenshaw Neighbourhood Plan



Ordinary Decision.

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### Report of Regeneration & Local Services

Stuart Timmiss Head of Development & Housing

#### Electoral division(s) affected:

Willington & Hunwick Ward.

#### Purpose of the Report

1. The purpose of this report is two-fold:
  - To advise of the issues posed by the latest draft Oakenshaw Neighbourhood Plan (ONP) which the Greater Willington Town Council are currently consulting upon; and
  - To consider the council's response as Local Planning Authority and holder of assets within the designated Neighbourhood Plan Area.

#### Executive summary

2. Greater Willington Town Council are undertaking their first formal public consultation on their neighbourhood plan and the county council has been invited to make comment. County council officers have sought to support the Town Council, through a working group comprising of the Oakenshaw Community Association, in preparing the plan and have undertaken a series of health checks during the process so far. 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 comprehensive and is set out in the report.
  - b) **Robustness of the ONP 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 with the parts of the evidence base which have been shared with the county council.
- **The Clarity of policies:** A number of amendments to the wording of policies have previously been suggested to the working group in order to improve clarity and have been addressed. Further amendments have also been identified subsequently. 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.

**c) The Effectiveness of engagement.**

The consultation strategy adopted is considered to be fit for purpose. No issues have been identified.

**d) Implications upon the future sustainability of the area.**

This plan takes the opportunity to provide finer grained, locally distinctive policies which supplement and add value to the national and local plan policy context.

**e) Implications on existing and emerging policy**

The degree to which the Inspector for the County Durham Plan will have regard to this neighbourhood plan will be dependent upon the stage it has reached by the time the CDP examination in public is held. This plan has not yet reached a stage where it can be afforded weight.

**f) Implications for council held assets**

No implications have been identified.

## **Recommendation**

4. It is recommended that:

- i) The content of this report is considered and the proposed response to the current consultation on the draft ONP set out in Appendix 2 is accepted.
- ii) That the proposed response is submitted formally to the Greater Willington Town Council
- iii) Officers continue to offer support to the working group to address the matters raised within this report and any other appropriate matters arising from this consultation.

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. In its current form the plan meets these purposes.

- ii) It is essential that the county 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.
- iii) The council has a public duty to seek to protect its assets where it is considered that these would be adversely impacted upon.

## Background

5. The neighbourhood plan is being progressed by a working group made up of members of the Town Council and the Oakenshaw Community Association on behalf of the Greater Willington Town Council. This is the first formal public consultation on the draft plan set out in the neighbourhood planning regulations.
6. The county council has sought to continue to exercise its 'duty to support' the neighbourhood planning group in its plan making activity. This support is an advisory role and it is not mandatory for a neighbourhood planning group to draw upon it. The county council also has a role to play as 'gate keeper' from a procedural perspective. This involves checking at particular stages that all four 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 adopted 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. In preparing the current consultation draft plan a series of public consultations have been undertaken. The county council is satisfied that activity and subsequent outcomes can be relied upon.
9. The county council has undertaken two 'health checks' on the plan itself. The health checks were based upon the advice of the council's multi-disciplinary team of relevant specialists.

### **Proposed response to submitted plan consultation**

10. The proposed consultation response has been co-ordinated by the Spatial Policy Team and builds upon the previous health check findings derived from the relevant specialist and legal officers within the council.
11. A summary of these key issues is set out below and further detail is set out in Appendix 2 (summary of concerns and suggested solutions).

### **Scope of the draft Plan**

12. This plan represents a comprehensive document which seeks to cover the vast majority of planning topics expected to be covered by a full Local Plan. The plan includes the following policies:
  - ONP ENV 1: Maintaining the Open Rural Character and Areas of Separation
  - ONP ENV 2: Local Green Spaces
  - ONP ENV 3: Green Infrastructure and Natural
  - ONP H1: Small Scale Housing Development
  - ONP H2: Large Scale Housing Development Requirements
  - ONP H3: Housing Development Outside of the Existing Settlement Boundary of Oakenshaw.
  - ONP H4: Community led housing provision for Older or disabled people
  - ONP H5: Parking Standards for new Residential Development
  - ONP VC.1: Community Hub
  - ONP VC.2: Community use of the field west of New Row (LGS2)
  - ONP Econ 1: Development and sustainability of local home-based businesses and facilitating working from home through the conversion of existing buildings and well-designed new buildings
  - ONP Econ 2: Improving Digital Connectivity
  - ONP Econ 3: Tourism Development
  - ONP Econ 4: Community Renewable Energy and Enterprise Projects

### **Robustness of the ONP for future decision taking**

13. 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 for taking future planning decisions. The Oakenshaw Neighbourhood Plan will therefore be a significant planning policy document. This section of the report sets out the key issues for consideration to inform the county council's response to this consultation:

- **Whether the draft Plan has been adequately informed by SA/SEA**

The working group intend to undertake a screening assessment to determine whether a Strategic Environmental Assessment will be required after the close of this consultation once the scope of the plan is set. Given the proposed scope and area context it is unlikely that such an assessment will be required.

- **Effectiveness of pre- consultation engagement**

14. The following concerns have been identified through the consideration of the draft plan:

- **Clarity of policies**

The content of this plan will impact upon the council as decision maker, asset holder and stakeholder. 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, concise manner which will not give rise to unintended negative consequences. Furthermore, the policies should not give rise to ambiguity. Any such deficiencies have the potential impact upon effectiveness of the plan and making it the source of much otherwise avoidable debate at appeal. A detailed account of matters of clarity and potential solutions on a policy by policy basis is submitted as part of the county council's formal response to this consultation. This is set out in Appendix 2.

### **Implications upon the future sustainability of the area**

15. The draft Plan provides a suite of more focused policies that a locally specific to the neighbourhood area that provide greater depth and opportunity for managing the continued sustainability of the area.

### **Implications on existing and emerging policy and other council strategies**

16. The plan has been prepared with the intention of dovetailing with the existing and proposed local plan policy framework for the area. The group have been mindful that it will be examined against the adopted local plan at the time it is submitted and have accepted officer advice on how to future proof it. Currently the timescales for the preparation of the County Durham Plan (CDP) are ahead of the advancement of the Neighbourhood Plan. Therefore, the Basic Condition regarding conformity with strategic policies in the adopted Local Plan is likely to relate to an assessment of conformity with the CDP.
17. Furthermore, once adopted the ONP would be the most up to date development plan for the area and would supersede any parts of the local plan which do not align with it (regardless of whether they are strategic or non-strategic matters).

### **Implications for council held assets**

18. Consultation has taken place with the Corporate Property and Land Team and no issues have been identified affecting council assets.

### **Next steps**

19. The county council, along with other consultees will need to submit their representations to the ONP by no later than the close of Friday 22<sup>nd</sup> November 2019.
20. The findings of this consultation should be used by the ONP to refine the draft plan. The plan will then advance to submission stage, whereby upon formal submission to the county council, specific procedural checks will be made. Regardless of the county council's views on the plan at that stage it will then have to host a 6- week public consultation and then arrange the independent examination thereafter. As part of that consultation the county council will have the opportunity to submit any outstanding concerns as both Local Planning Authority and asset holder. It is the representations made at that stage that will be considered through an independent examination.
21. In the interests of futureproofing a neighbourhood plan it would be prudent for a neighbourhood planning group to have regard to emerging local plan policy, in this case the County Durham Plan (CDP). This approach is clearly advocated in PPG. However, there is a circular issue in that a neighbourhood plan which is at an advanced stage will undoubtedly be a consideration for the planning inspector when they examine the CDP. As such the council will need to continue to be mindful of this as the CDP advances through examination.
22. 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. As it will form part of the starting

point upon which planning decisions are reached it is critical that the county council seeks to continue to offer its support to the ONP but at the same time clearly convey any issues of concern through the formal public consultation process.

## **Options**

23. Given the county councils statutory role in respect to neighbourhood planning no alternative options have been identified in respect to this matter.

## **Main implications**

24. DCC comments are set out in Appendix 2.

## **Conclusion**

25. Given the significance of a neighbourhood plan on future decision making and in its 'duty to support' it is considered essential that the representations set out in Appendix 2 are submitted to the ONP and that county council officers continue to offer their support to the ONP in finalising the next draft of their neighbourhood plan for further public consultation.

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## **Appendix 1: Implications**

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### **Legal Implications**

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

### **Finance**

None.

### **Climate Change**

The plan is being prepared in the context of national policy and guidance on this matter.

### **Consultation**

This consultation has been undertaken by Oakenshaw Town Council. 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 ONP on all sectors of the community have been considered, including full time residents and businesses.

### **Human Rights**

The implications of the ONP 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 Town Council as the plan proceeds to examination and adoption.

### **Accommodation**

None.

### **Risk**

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

### **Procurement**



No requirement at this stage of the process.

## Appendix 2: DCC Comments

OAKENSHAW NEIGHBOURHOOD PLAN (CONSULTATION VERSION)		
Issue	Action	Reason
<b>ONP ENV 2</b>		
Development proposals in these areas will not be permitted unless there are very special circumstances where it can be demonstrated by the applicant that the development will result in significant benefits for the community as a whole.	Change to 'Development proposals in these areas will not be permitted unless there are very special circumstances <del>where it can be demonstrated by the applicant that the</del> <b>which will demonstrate</b> that the development will result in significant benefits for the community as a whole.	Suggested text.
<b>ONP ENV 3</b>		
Proposals for new development will not be permitted that would result in <u>landscape</u> impact, the loss of, or damage to trees of high landscape amenity or biodiversity value unless the need for, and benefits of the proposal clearly outweigh the impact.	Proposals for new development will not be permitted that would result in <b>unacceptable</b> landscape impact, the loss of, or damage to trees of high landscape amenity or biodiversity value unless the need for, and benefits of the proposal clearly outweigh the impact.	Any development would have an impact on the landscape so suggest this is quantified/qualified with the suggested word added in red.
It is not clear if the proposals must meet <u>all</u> of the criteria, or <u>some</u> of the criteria. Some of the bullet points end in 'and', some in 'or' some with neither.	'New development proposals must not conflict with <b>any of</b> the following criteria:' Also, review 'and' and 'or' at the end of each bullet point	Suggested wording. Clarity of the policy.
Bullet point 4: <u>maintain</u> and safeguard existing hedgerows, trees and woodland, as well as planting new trees and hedgerows.	Is this supposed to say 'maintain', or 'retain'? Change to ' <b>retain</b> '.	Suggested wording. Otherwise the policy would be anticipating that the developer of a site needs to maintain the hedge in perpetuity and how would this be safeguarded?
It is not clear whether any new tree/hedge planting must be on site or whether it can be off site.	Clarify in the supporting text.	Clarity of the policy.
<b>ONP H2</b>		
Housing design and external structures and walls blend sensitively with the style and materials used in existing	Change to ' <b>housing development including external structures and walls should</b>	Suggested wording recommended by our design and conservation specialist.

built structures in the immediate proximity.	respond positively to local character and materials’.	
<b>Justification for ONP H2</b>		
The text refers to ‘utilities’, but these are not specified. Is this just in relation to the age of water pipes? Or does it include electricity, gas and broadband?	Explain what ‘utilities’ includes. Have views from Northumbrian Waters being sought?	Clarity of the policy.
Oakenshaw residents have commented on the need to attract investment to improve roads and pathways for safe and suitable access for all people, improve utilities and drainage in <u>local flood risk areas</u> , accessibility to services and develop and improve community infrastructure such as a community centre, parks, and play areas.	When referring to ‘local flood risk areas’ it needs to be clear that this is surface water flood risk and not flood risk from flood zone 2 or 3 river flooding.	Clarity of the policy.
<b>3.4 Housing Development Objectives</b>		
The text refers to ‘utilities’, but these are not specified. Is this just in relation to the age of water pipes? Or does it include electricity, gas and broadband?	Explain what ‘utilities’ includes. Have views from Northumbrian Waters being sought?	Clarity of the policy.
<b>ONP H5</b>		
There is no mention of transition to carbon neutral, low emissions transport.	Could possibly add text referring to electric vehicle charging to facilitate the transition to carbon neutral, low emission transport.	Suggested text
<b>ONP ECON 1</b>		
It is not clear what is meant by ‘well-designed’.	this should be amended to ‘appropriately designed, high quality new buildings’.	Suggested wording recommended by our design and conservation specialist.
Point 1: Materials used are of high quality, appropriate type and design and is sensitive to the defining characteristics of the immediate local built environment, is proportionate to the scale of the settlement, and enhances its immediate	1. Materials used are of high quality, appropriate type and design and is sensitive to the defining characteristics of the immediate local built environment, is proportionate to the scale of the settlement, <b>the scale of the building</b> , and	Suggested text to strengthen the policy.

setting and the rural character of the village;	enhances its immediate setting and the rural character of the village;	
Point 2 and 3 contradict each other and when talking about parking spaces for clients and then restricting client visits.	Change point 3 to <b>'the use of a type and scale which will not give rise to client traffic movements to and from the site which will adversely affect residential amenity'</b> .	Suggested wording.
<b>ONP ECON 3</b>		
Point 4: they are sensitive to the architectural style of existing surrounding buildings or demonstrate innovative modern design solutions that do not detract from existing buildings.	Amend to <del>'they are sensitive to the architectural style'</del> <b>respond positively to local character</b> of existing surrounding buildings or demonstrate innovative modern design solutions that do not detract from existing buildings.	Suggested wording
<b>ONP ECON 4</b>		
Bullet point 1 is more onerous than the requirements of the NPPF and County Durham Plan policy 35 for Wind Turbine development, which require community backing for proposals. Is that the intention?	If this is the intention that the policy is more onerous than NPPF and CDP, then no change is needed. If this is not the intention, then suggestion removal of the word 'significant'.	Clarity of the policy.
Bullet point 3 do not address the potential for cumulative impacts resulting from multiple turbines	Add text to address this	To strengthen the policy.
<b>ONP VC. 2</b>		
Bullet point 2: It is not clear what is meant by 'maintaining flood protection', are there surface water flood defences/SUDS in place?	Explain what is meant by 'flood protection'.	Clarity of the policy.