

John Slater Planning Ltd

Health check template

Report on Stonehouse NP for Stonehouse Town Council

Summary of Recommendations

- This is a well laid out and very readable neighbourhood plan which I do not believe that there are any underlying fundamental issues that will prevent it passing its examination. It paints a picture of the town and its facilities and describe how much the residents value it, without being too verbose. There is clarity as to what the Neighbourhood Plan is trying to achieve. It is evident that the plan has evolved through the consultation exercise and there has been active engagement with the District planners especially. It appears to have the support of residents.
- I have produced a commentary on individual policies for the Town Council's consideration as part of this report. However, there are a number of key themes which have emerged which I must highlight at this stage.
 - A neighbourhood plan is required by legislation to be a plan for *the use and development of land*. It's policies are to be used by decision makers when determining planning applications. That is the question that will form the basis of the referendum question. On the whole the plan has restricted itself to land use planning matters but there are policies which extend beyond the remit of the Local Planning Authority and relate to matters that are the responsibility of the Highway Authority. It is entirely proper that the document should address these issues and articulate the town's aspirations but, in line with PPG advice, these should not be submitted as development plan policy and to be subject to referendum, but rather can be included as "Community Aspirations", "Community Projects", "Community Action" or some other title. Some plans put these issues into an Appendix or other plans differentiate those matters, by having these sections in different coloured boxes or a separate chapter suitably differentiated from the development plan. I will make them clear on a policy by policy basis where I think this would be appropriate. I must stress that I am not discounting the matters as legitimate aspirations but they are not appropriate as neighbourhood development plan policies.
 - The neighbourhood plan is as much as part of the development plan as the Local Plan. Once made, it will "trump" any non-strategic local plan policy where there is a conflict. However, there are instances where the neighbourhood plan policy has a requirement for a proposal to comply with a Local Plan policy. Where this is part of a locally distinct policy and is just one criteria, then I can see that it serves as shorthand and indeed I note that the Examiner on the Easington NP accepted that wording. My personal preference is for a self-contained policy covering an issue, rather than making compliance with this plan's policy, conditional upon satisfying a specific policy in a different part of the development plan. However, this is not a matter that goes to the basic conditions and is a matter of style rather than substance.
- I have made a number of my comments as suggestions that seek to improve the plan – this is appropriate as part of a Healthcheck on a plan before it has been finalised. It is made in the spirit of being helpful, from an experienced practitioner who is looking at the plan "with a fresh pair

of eyes". I have tried to make it clear where I consider matters may affect the consideration of the basic conditions. In a number of cases I have recommended that policies or parts of the policy, being deleted as development plan policy but the issue should not be seen as being "lost" just moved to a more appropriate place in the document.

- This is document has the basis of being a strong Plan for Stonehouse, and whilst one examiner cannot pre-empt how another examiner will consider a plan, I would feel confident in the plan reaching a successful outcome, especially if my suggestions are taken on board.

Part 1 – Process

	Criteria	Response/Comments
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	The area was formally designated by Stroud District Council on 12 th September 2013
1.2	If the area does not have a parish council, have the necessary statutory requirements been met in terms of the designation of the neighbourhood forum?	The plan is being prepared by Stonehouse Town Council, which as a parish council, is a qualifying body under the legislation
1.3	Has the plan been the subject of appropriate pre-submission consultation and publicity, as set out in the legislation, or is this underway?	It appears that the plan has been the subject of extensive community engagement both with the residents and businesses and other stakeholders including statutory consultees. This will need to be summarised in the Consultation Statement and it will be important to show how that consultation has helped shaped the plan.
1.4	Has there been a programme of community engagement proportionate to the scale and complexity of the plan?	As above
1.5	Are arrangements in place for an independent examiner to be appointed?	Not known and this will be a matter for Stroud District to facilitate but with the agreement of the Town Council
1.6	Are discussions taking place with the electoral services team on holding the referendum?	Not known at this stage and this again is a matter for the District Council to arrange.

1.7	Is there a clear project plan for bringing the plan into force and does it take account of local authority committee cycles?	Not known at this stage
1.8	Has an SEA screening been carried out by the LPA?	An SEA screening opinion was issued by Stroud District Council on 1 st June 2016 that a full SEA was not required. It is worth checking that the officer issuing the opinion had the necessary delegated authority. The Loxwood Plan ended up in the High Court as the officer at Chichester DC did not have the necessary authority to sign off the screening opinion.
1.9	Has an HRA screening been carried out by the LPA?	The District Council has confirmed its view that the NDP would not give rise to significant effects on European designated sites

Part 2 – Content

	Criteria	Response/Comments
2.1	Are policies appropriately justified with a clear rationale?	I have identified at least one policy dealing with accessibility standards where I do not think that the policy has shown the level of justification required by Secretary of State guidance
2.2	Is it clear which parts of the draft plan form the 'neighbourhood plan proposal' (i.e. the neighbourhood <i>development plan</i>) under the Localism Act, subject to the independent examination, and which parts do not form part of the 'plan proposal', and would not be tested by the independent examination?	There is at least one policy that is definitely not a policy related to the use and development of land – Policy T2 Cotswold loop I have some recommendations as to where policies do not relate to the use and development of land particularly relating to highways matters and these should be included as Community Aspirations.
2.3	Are there any obvious conflicts with the NPPF?	I have identified a number of policies that deviate from the approach advocated by the NPPF particularly related to the natural environment and heritage assets. There is also an issue regarding the threshold when affordable housing can be sought, which departs from the latest national guidance.
2.4	Is there a clear explanation of the ways the plan contributes to the achievement of sustainable development?	I do not have major concerns in this area but the Basic Conditions Statement will need to address this fully at submission stage.
2.5	Are there any issues around compatibility with human rights or EU obligations?	No
2.6	Does the plan avoid dealing with excluded development including nationally significant infrastructure,	Yes

	waste and minerals?	
2.7	Is there consensus between the local planning authority and the qualifying body over whether the plan meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement?	It appears that there has been constructive discussions between Stroud planners and the Qualifying Body. I did not detect any conflict with strategic local plan policies
2.8	Are there any obvious errors in the plan?	I have identified one wrong local plan policy quoted which is wrong. Apart from that there are no obvious errors.
2.9	Are the plan's policies clear and unambiguous and do they reflect the community's aspirations?	In the commentary on individual policy section I have pointed out where policies are not clear and unambiguous. I am satisfied that the plan does reflect the community's aspirations.

COMMENTARY ON STONEHOUSE NP POLICIES

Policy AF1: Protecting Community Facilities

The way that the policy is written it appears that there are two tiers of community amenities and facilities to be protected. The first part of the policy protects **all** existing facilities and it then goes on to refer to specific sites as “particularly locally valued community amenities and facilities”. Does the fact that other amenities are not cited mean that the level of protection is less than those quoted? Is there a benefit from actually identifying some facilities and not others, when you are looking to protect all community facilities? My concern is that as written, would a decision maker or an applicant have clarity as to whether their facility is protected and to what extent?

The caveat refers to two local plan policies – Policy EI6 refers to loss of facilities within buildings (some of which could change their use under permitted development powers without requiring planning permission) and others which deal with open space. It may be better if the policy was split up so it is clear that Policy EI6 covers i) –iii) and Policy ES 13 covers iv) – viii), so the tests are clear. An additional point is that Policy EI6 deals with the loss of individual shops. It would be useful clarification if the plan policy or text made clear that the loss of individual shops would not be considered a loss of a community facility. Question – would the loss of school playing field to put in school buildings result in the loss or enhancement to a community facility?

Policy AF2: Additional Community facilities

The policy seems to be written on the basis that additional facilities will only be provided by the erection of new buildings. However new facilities could be created by the change of use of buildings, in which case the requirement to satisfy criteria ii) biodiversity etc. and surface water run off would not be applicable to a change of use. This can be easily remedied by the insertion of the caveat of “where appropriate”.

Policy AF3: Design and Quality in the Town Centre

One of the requirements of Secretary of State policy guidance is that policies should be clear and be capable of being used by a decision maker with confidence. My concern is whether it is possible for an applicant or decision maker to be clear as to whether a property will affect the appearance of the “gateway” to the town centre. Is it possible to define on a plan, the areas which affect the appearance of these gateways? The other point is the policy covers the public realm and whilst some development will affect the quality of streets and civic spaces, such as outdoor catering, much of these works affecting the pedestrian experience, fall outside planning control, being covered by highway legislation. These areas, such as hanging baskets and planting in the highway, may be better included as Community Aspirations. The final statement in the policy welcoming the diversity of retail provision is

superfluous. Planning control cannot differentiate between a butcher shop, a green grocer or a charity shop. Is the reference to diversity of retail provision relating to Use Class A1 shops or to other retail uses found in Use Class A2-5 in which case it may lead to a conflict with Local Plan Policy E17? For clarity would it not be better to import the % figure into the Neighbourhood plan policy?

Policy T1: Pedestrian Routes

Again the improvements to pedestrian routes if they are public highways would not need planning permission. It may be better if the second element dealing with improvements to existing routes were to be covered by Community Aspirations, geared towards persuading the Highway Authority to adopt a particular approach or practice, rather than being aimed at developers and applicants. However, if the routes are incorporated into the development proposal, then it is a matter that is legitimately covered by a neighbourhood plan policy. I fully appreciate the desire to use these routes as wildlife corridors, but there will be instances e.g. when the route goes through a gap between two buildings, where it would not be appropriate or practical for that to be considered as part of a wildlife corridor. This point can be accommodated by inserting “where possible”.

Policy T2: Cotswold Way Loop

This is not a policy that relates to the use and development of land and my recommendation is that it should be deleted as a development plan policy and put into the Community Aspirations section. It is a proposal relating to the waymarking of a long distance route and is a matter for the Highway Authority or Natural England.

Policy T3: New development and pedestrian links to the town centre

The fact that the policy places a requirement to provide safe and convenient crossings of roads and railways may put an obligation on a developer that he is not in a position to be able to deliver because the land, or rights to do the works, may not be under his/her control. As such the requirement is unreasonable and a more nuanced approach is required, such as to *encourage* the provision of such routes, *where possible and deliverable*. The introductory statement “In line with local plan policy E12” is unnecessary, as the policy is appropriate in its own right and the existence of a local plan policy is not in itself a justification for a neighbourhood plan policy.

Policy T4: Design of off road pedestrian and cycle routes

This policy can only apply to new and improved routes that are provided or incorporated within development proposals for which planning permission is required. In which case this qualification could be helpfully be added to the policy and the elements of the policy covering rights of way, cycle and pedestrian routes not affected by development, should go into the Community Aspiration section of the plan.

Policy T5: Proximity of new development to facilities and services

No comments.

Policy T6: Existing cycle routes

The first paragraph would be better put into Community Aspirations as it relates to existing highway infrastructure but the second paragraph is fine.

Policy T7: New development and cycle links to the town centre

The points regarding the unacceptability of imposing a requirement to deal with matters which are outside a developer's control, as raised in relation to Policy T3 equally applies to cycle routes. Whilst a desirable outcome, it cannot be made a policy requirement if the developer does control the land or has certainty of delivery. It could prevent the delivery of strategic housing sites, if left as proposed. The designation of routes as cycle ways is a highway rather than a planning authority matter and should go into Community Aspirations.

Policy T8: Cycle Parking

Whilst the actual removal of cycle parking is not itself development, it is a relevant requirement for a development that results in the loss of cycle parking, to replace it, if it is shown that there is a need for it.

Policy T9: Improving key pedestrian and cycle links

This is a supportive policy rather than a policy requiring something and so I have no comments.

Policy T10: Railway stations

As the policy only relates to Burdett Road Railway Station, the title should be expressed in the singular.

Policy T11: Loss of Parking Capacity

How would a proposal that came forward which replaced the parking be viewed?

Policy H1: Local needs housing (dwelling size and type)

As this is a supportive policy rather than one that places a stipulation that applicants need to meet, means that the thresholds at examination are lower. The neighbourhood plan may wish to signpost applicants, to the actual source of evidence, where they may find out what Stonehouse's local housing needs, demand and demographic profile is.

Policy H2: Local needs housing in Stonehouse

The first part of the neighbourhood policy is a requirement to comply with the relevant Local Plan. That is an unnecessary policy requirement. Furthermore, I do not believe that the actual Local Plan Policy CP9 is now in line with the latest Secretary of State guidance following the Court of Appeal's judgement in the case of the Secretary of State v West Berkshire Council and Reading Borough Council, dated 13th May 2016. The Secretary of State's guidance is that pooled financial contributions and affordable housing should not be sought from developments of 10 units or less or which have a maximum combined floorspace of no more than 1000sq.m. In terms of the second element, I consider that this requirement is unreasonable as affordable housing is normally promoted in conjunction with a local housing association whose remit will be to provide for those in housing need and I do not think that it is necessary or appropriate for an applicant for affordable housing to have to justify the particular mix of housing that its proposal is promoting as part of a planning application. I recommend that the policy be deleted.

Policy H3: Ease of access in new residential development

The wording of the policy includes a requirement to provide clear access, for example, for refuse vehicles. There may be situation such as infill development within an existing street, where refuse vehicles service the properties from the street and it would be unreasonable to expect anything different for the new houses. The policy can meet its objective, whilst allowing for some flexibility to react to individual situations, by the use of "should" rather than "will".

Policy H4: Accessible housing

The Secretary of State's Written Ministerial Statement, presented to the House of Commons on 25th March 2015, pointed to the new additional Building Regulations dealing with water, access and a new national space standard. It does allow "In cases of very specific and clearly evidenced housing accessibility needs, where individual household requirements are clearly outside the new national technical standards, LPAs may ask for specific requirements outside

the access standard, subject to overall viability considerations”. Planning policies has to be based on evidence and the justification for this policy in this case is “to ensure the provision of sufficient housing to meet the needs of the population of Stonehouse” There has been no evidence of what the particular needs Stonehouse has for access provisions beyond that provided by compliance with the building regulations and that imposing that requirement on 10% of new dwellings on major schemes, would meet evidenced need. Furthermore, no evidence has been submitted as to what the effect of that requirement would have on development viability. I do not consider that the case for this provision has been met and accordingly I recommend that this policy be deleted from the plan. The policy also lacks precision as it does not define what is meant by *fully accessible to all*.

Policy H5: Play area in new residential development

Firstly, this policy merely requires compliance with local plan policy but it looks to encourage on site provision of the required amount of play space. The difficulty with that is that the requirement for on-site play areas depends on the size and type of unit. The need for a children’s play area for 11 one bed flats, which would not be family housing, would be different to a development of 11 three bed houses. Similarly, the Local Plan policy recognises that on site provision may not always be practical. As a counterpoint, the neighbourhood plan states that on site provision is to be welcomed, rather than required.

Policy EM1: Safeguarding Local Employment Sites (Use Classes B1, B2 and B8)

The policy needs to consider whether there needs to be an “or” inserted after criterion ii).

The requirement vi) to have to propose incubator units for “small a(sic) micro start-up businesses and comply with Policy EM2” seems to be an unreasonable and unrealistic requirement, if say a change of use was proposed for a unit to “complementary ancillary uses” such as a sandwich bar serving the industrial estate. Maybe that requirement should relate to development of land for new units rather than on changes of use. I am not sure that the requirements in the last criteria vii) is appropriate as Local Plan Policy E13 is a policy that deals with small employment sites, outside designated sites. This neighbourhood plan policy deals with designated sites. Secondly Policy E14 deals with existing employment sites in the countryside. Without a site visit it is not possible for me to determine whether any of the 5 sites covered by the policy, could be described as being in the countryside.

Policy EM2: Resisting loss of employment space outside designated employment sites

I have no comments on this policy.

Policy EM3: Supporting small and medium sized business

This is a supportive policy and I have no objections. However, it should be recognised that planning control cannot restrict occupation to start-up and SME companies as, generally, planning control deals with the land use rather than the occupiers. Technically, a multinational could rent a small office or business unit in the town without triggering a change of use.

Policy EM4: Town Centre uses

There is a need to closely examine this policy in the context of Policy AF3, as they both deal with the change of use of shops within the town centre. Which policy would a person wishing to change the use have to comply with. There is a typographical error, I believe the relevant local plan policy is EI7 not EI17. As the percentage limit is critical to the acceptability of a change of use, it is misleading that the policy, which appears so supportive for appropriate town centre uses, also contains a strong constraint in terms of the concentration of non-A1 in the area. It would be more helpful if that criterion is incorporated into the neighbourhood plan policy, rather than being signposted to another document.

Policy EM5: Connectivity and infrastructure

I have no comments on the content of the policy, but you may wish to retitle it to “communication infrastructure” as the word *infrastructure* without qualification has wider connotations such as drainage, roads etc.

Policy ENV1: Maintaining and protecting the natural environment

I find this policy vague and imprecise. A decision maker would need to know what are the characteristics and essential qualities of the natural environment of the Plan area. I would refer you to Paragraph 117 of the NPPF which states that planning policies should identify and map the local ecological networks including the hierarchy of international, national and locally designated sites of local importance for biodiversity, wildlife corridors and stepping stones that connect them. It goes on to talk about promoting the preservation and recreation of priority habitats, ecological networks and the protection and recovery of priority species populations. The national advice is that the level of protection should be linked to the level of harm and the significance of the designation. (Para 113 of the NPPF). As proposed the threshold for considering an application is that there is no adverse impact on any of the “characteristics”. As written I do not think the policy would pass the basic conditions test. There are good examples of neighbourhood plan policies that have a more targeted approach to the protection of the natural environment, which follows the national advice.

Policy ENV2: Green infrastructure network

You may wish to consider retitling the policy as “Green and Blue Infrastructure Network”. I am not sure that it is so much a policy as statement, all I can see is that it requires the decision maker to consider the network “as a whole when it is likely to be affected by development”. Is the intention to not allow any development which will have an adverse impact on the value and integrity of the network, as a whole? In which case that is the approach the policy drafting should take.

Policy ENV3: Local Green Space

It is entirely within the gift of the neighbourhood plan to designate local green space. Where there are outstanding objections at Regulation 16 stage, the Examiner will visit the spaces and assess whether it is justified against the criteria set out in para 77 of the NPPF and you may wish to elaborate as to why they are demonstrably special to a local community and identify which community it serves and holds *particular* local significance.

Policy ENV4: Protecting the heritage assets of Stonehouse

Many neighbourhood plans take advantage of the ability to designate non listed buildings that contribute to local character, as *non-designated heritage assets*. It may be worth identifying the buildings that you would want to be covered by that designation. However, the policy as written is not in line with Secretary of State advice, as it states that it will protect all locally valued heritage assets from adverse impact. Listed buildings enjoy their own statutory protection. The approach to be taken for non-designated heritage assets is set out in Para 135 of the NPPF, which is a more nuanced approach, which weighs the significance of the asset against the scale of any loss or harm arising from the proposal.

Policy ENV5: Protecting and Enhancing Stroudwater Canal

I have no comments to make on this policy.

Policy ENV6: Protecting Views and Vistas

I am concerned that the policy as written is too imprecise. I think that an examiner would want to see particular viewpoints identified and the zones of visibility to be protected shown on a plan, otherwise it could be said to protect any view from any place in Stonehouse of, say, the Cotswold Escarpment. I do not consider that a decision maker would currently be able to use the policy with confidence. The viewpoints should be from public rather than private vantage points. Presently it could be used by a neighbour to object to the loss of a private view of the countryside from a window in their property by a

proposed domestic extension. I do not envisage that this is the intent of the policy. It is worth putting the same caveat regarding planning statements and design and access statements as is used elsewhere in the Plan.

Policy ENV7: High Quality Design

As above, not all development proposals are required to submit Design and Access Statements and as written it could be interpreted that only developments that are required to submit such statements are required to meet the requirements of the policy to be of a high quality design. The second paragraph should replace “They” with “the design of all new buildings.....”

Policy ENV 8: Provision of private outdoor amenity space in new development

New residential development of below 10 units are not required to submit a design and access statement. The requirement to submit one is not within the gift of the neighbourhood plan, but is set out in secondary legislation. I would suggest omitting reference to such statements from this policy and instead state that “new residential development should provide adequate well located private amenity space of an appropriate size and type etc.” Would you expect flats and residential units above shops to have a rear garden? I think it is highly unlikely that in an urban area you could achieve a private sitting out area, that is not overlooked by a neighbouring window- you might suggest that the aim should be to avoid overlooking from a ground floor habitable window of a neighbouring property.

Policy ENV9 Allotments

I would question that the requirement for an applicant to demonstrate “effective long term management plans are in place”. If an allotment is an acceptable land use, it is appropriate whether it has a management plans are in place and are indeed are complied with in the future, in any event.

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