

HILPERTON NEIGHBOURHOOD PLAN

Submission Draft Version

**Questions to the Qualifying Body and Local Planning
Authority on
Hilperton Neighbourhood Plan
by Independent Examiner, Rosemary Kidd**

Responses from Qualifying Body of the Hilperton Neighbourhood Plan

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Hilperton Neighbourhood Plan Examiner's Questions

Following my initial assessment of the Neighbourhood Plan and representations, I would appreciate clarification and further evidence on the following matters from the Qualifying Body and/or the Local Planning Authority. In order to ensure openness and transparency of the examination process, these questions and the responses should be published on the Council's website.

Answers from the Qualifying Body (QB) are given below in blue.

1. The SEA Screening Report and appropriate assessment were undertaken before the boundary of the neighbourhood area was revised. Would the LPA confirm that the boundary change has had no implications for the SEA / HRA screening and appropriate assessment.
2. The SEA Screening Report and appropriate assessment were undertaken in February 2017 on the pre-submission draft plan and state that the plan is not allocating any sites for development. Representations have highlighted the subsequent revisions to Policy 1 and the introduction of Policy 2 and state that they consider there are deficiencies in the documentation amounting to legal flaws. Would the LPA comment on the validity of the remarks made in Representations 17 and 18 on the SEA and HRA processes and review the Screening Reports to confirm whether they adequately reflect the options considered and the policies in the submission draft Neighbourhood Plan. If they do not, would they provide me with updated SEA and HRA reports.
3. Would the LPA comment on whether the SEA and HRA reports have taken account of those prepared for the HSAP?
4. Would the LPA confirm that the three environmental organisations were consulted on the HRA Screening Decision and Appropriate Assessment and supply me with a copy of the Natural England's response.
5. Has the QB undertaken an assessment of whether the Plan has met its obligations under the Human Rights Act? Would you supply me with a copy please.

It is the understanding of the QB that guidance indicates that it is the responsibility of local planning authorities to ensure that a neighbourhood plan is compatible with EU obligations. Published guidance from Wiltshire Council (Neighbourhood Planning Guide 2013, page 19) indicates that this is the responsibility of the Examiner.

However, an assessment was nevertheless made on behalf of the Parish Council and this is attached.

6. Has the Neighbourhood Plan taken account of the housing needs evidence for the Trowbridge Community Area as a whole? Should consideration be given to how the plan area can help to deliver some of the housing need for Trowbridge in view of its proximity as suggested in representations from developers?

Yes. The plan has already done this. Both the Scoping Report and the NDP make clear that evidence including:

- Wiltshire Core Strategy
- Housing Land Supply Statements
- The HSAP and its topic papers

has been used to take account of the housing need of the Trowbridge Community Area as a whole into account. The plan text can be modified to confirm and clarify this (see below).

This is an important issue and the qualifying body attempted to make this clear in both the scoping report and NDP. For example Scoping Report sections 6.69 – 6.70 and NDP 5.28, the supporting text for Policy 2 paragraphs 8.1 - 8.8). However it is accepted that more clarity is required. The position of the NDP could therefore be re-stated by revising paragraph 5.28 and adding additional text at this point (see below). It would also be useful to make more explicit the commitment to review the plan by modifying the text at paragraph 13.1 of the NDP.

Suggested New Text

- 5.28 While affordable housing need in Hilperton Parish (as indicated in the Rural Housing Needs Survey) is modest, in the interests of ‘planning positively’ as required by the NPPF, it is also appropriate to consider whether the NDP could make a contribution towards meeting the needs of Trowbridge Community Area as a whole and of Trowbridge, which is nearby, in particular.**
- 5.29 In terms of Trowbridge Community Area as a whole the housing needs of the local area are already substantially met by existing strategic allocations, including the major urban extension of Trowbridge - Ashton Park. The WCS identified on publication in 2015 just 165 additional houses as being required across the entire community area up until 2026. The latest evidence, the Wiltshire Housing Land Supply Statement (HLSS) March 2018, confirms that the residual requirement for the community area outside Trowbridge is zero. The Housing Land Supply in the Housing Management Area is a robust 6.25 years.**

- 5.30 However Core Policy 29 makes clear that additional housing for Trowbridge will be required – an additional 950 units being identified. The Housing Land Supply Statement (HLSS) March 2018 establishes an updated figure of 1452. This need is however already being addressed by the emerging Housing Site Allocations Plan (HSAP) which seeks to allocate 800 homes and calculates that windfall developments will provide the remaining homes needed. With reference to windfalls the HLSS confirms that there is a prevailing upward trend in windfall permissions and delivery and that windfall delivery will be facilitated by the effect of *‘relaxing permitted development rights and the recently proposed Government to increase housing supply’*.
- 5.31 Given the above context, in particular the active and ongoing role already taken by the HSAP in meeting need in Trowbridge, there is no need for the NDP to consider in more detail anything other than local need in accordance with its large village status under WCS Core Policies 1 and 2. Because this need is so modest and local windfall developments so numerous (see Appendix 9) it has not be found necessary to formally allocate sites for homes at this time. This however is subject to later plan review during the plan period.
- 5.32 The community is aware of the need to build flexibility into the NDP and also to ‘plan positively’ in ensuring an adequate supply of new homes into the future. It does this in three ways.
- 5.33 Firstly the plan makes a commitment to review within 3 years of being ‘made’. This review will consider housing need and supply and the whether it is necessary to allocate more sites locally.
- 5.34 Secondly, while the NDP does not formally allocate HSAP site H2.3 ‘Land West of Elizabeth Way’, a proposal to allocate land that may provide 205 new homes, the community has made a very great sacrifice in accommodating it. It must be realised that the Hilperton Gap - the area both sides of Elizabeth Way, has for many years been precious to the local community and it was originally proposed to protect all of it with a landscape protection policy (Policy 1). It was only to avoid conflict with the emerging HSAP that the sacrifice was made of re-drawing the boundary of the landscape protection policy to cover the area to the east of Elizabeth Way only, thereby avoiding conflict with the HSAP site. This has been a hard decision for the QB to take, particularly since there is a need to ensure that any policy selected is capable of passing referendum. However, the NDP has made this difficult choice in the interests of joined-up planning, to avoid appearing to block the policies of the strategic plan, to create a plan that will pass examination and in the interests of positive planning and sustainable development. It was also felt expedient, given the current appetite for development locally, to proceed with a plan to protect the eastern half of the Hilperton Gap without delay.

5.35 Thirdly the NDP contains a policy (Policy 2) that encourages the delivery of windfall housing and confirms the willingness of the parish council to engage in dialogue with developers.

The above text should explain the NDP's approach to housing allocation. The following revision is suggested to section 13 to make more explicit the commitment to monitoring and review.

13.1 However, the QB will also be carrying out monitoring for its own benefit and that of the future usefulness of the plan. Monitoring will.

- **Monitor the predicted significant effects of the plan**
- **Track whether the plan has had any unforeseen effects**
- **Ensure action can be taken to reduce / offset any significant negative effects**
- **Ensure the evidence base is kept up-to-date**
- **Consider the need for updating or amending the plan**
- **Review the need for sites if required by future housing need.**

The first review will take place within 3 years of the plan being 'made'.

Revise Appendix 1 of the NDP and SR to include:

**Wiltshire Housing Land Supply Statement March 2018
HSAP Topic papers**

Revise paragraphs 11.12 and 11.20 (policy justifications) to include:

Wiltshire Housing Land Supply Statement March 2018

7. What is the status of the proposed housing site to the west of Elizabeth Way? Would the LPA provide me with a map showing the correct boundary of the proposed allocation.
8. Would the LPA confirm whether the details in Appendix 9 on windfall housing are up to date? Are all the sites deliverable within the plan period?
9. Are the sections in the plan on Paxcroft Mead still relevant following the review of the boundary of the plan area? Would the QB advise me on whether any should be retained.

Yes. Part of Paxcroft Mead is still within the plan area (north of A361).

10. Would the LPA and QB comment of the following proposed revision to paragraph 11.4 to better explain the role of the planning policies and community actions:

This is accurate, succinct and is duly accepted.

“Section 11 of the NDP includes the planning policies which once the NDP is made will form part of the development plan alongside the Wiltshire Core Strategy and Local Plan. These policies will be used in determining planning applications. Section 12 of the NDP includes Community Actions which set out actions for the Parish Council to work with other organisations to help deliver various improvements that have been highlighted through the community consultations that cannot be delivered through planning policies.”

Policy 1 – Landscape Setting

11. It is considered that there is a degree of conflict and confusion in the first three paragraphs of Policy 1. The first paragraph preserves the area for agriculture, biodiversity and informal recreation. Whereas the second and third paragraphs recognise that exceptional forms of development such as rural exceptions affordable housing may be acceptable in rural areas. Other forms of housing and economic development are also acceptable under the NPPF and Core Strategy policies. I am proposing that these paragraphs should be combined and simplified to reflect national and strategic policies for development in the countryside. Would the QB and LPA comment on the following proposed revisions which will relate to the area nearest to Hilperton to the east of Elizabeth Way.

“The landscape setting and rural character of the area to the west of Hilperton village shown on the Policies Map will be safeguarded. Development in the area should accord with NPPF paragraphs 28 or 55 or relevant strategic local policies for the countryside and should satisfy the following criteria:

This modification is an improvement and is accepted. The preference of the QB is that there be no development in this area.

How is the first bullet point of Policy 1 that the “openness and landscape value of the landscape setting of Hilperton must not be compromised” to be interpreted by decision makers?

It was felt that this was already clear. However, the main point is that the area should be retained as an open and undeveloped space.

12. Second bullet point - Apart from the footpaths and cycleway are there any other informal recreation facilities in the Hilperton Gap to the east of Elizabeth Way?

Most of the fields on both sides of Elizabeth Way are in constant public use for informal recreation, in their entirety and not limited to the cycleways and footpaths.

Locals can be seen jogging, playing ball games, blackberry picking, meeting friends socially and for dog walks, running their pets off their leads and flying kites without the hindrance of overhead cables.

The local nursery, primary school, Scouts and Brownies all use these areas for nature trails, treasure hunts, practising skills for badges and even camping. At certain times of the year the fields are used for making snowmen and igloos and having large snowball fights whilst in the summer many families play frisby and French cricket and kicking a ball around.

These pastimes were also evidenced in a recent Village Green application where 44 locals wrote letters to this effect stating that they themselves have used the fields for these things and also been witness to these activities by many from the village.

Between the fields is an intensively farmed agricultural strip. Recreational users respect this activity by keeping to the footpaths and keeping children and animals away from the crops.

13. How is the “setting of the Church” in the 4th bullet point to be interpreted?

It might be better to replace this bullet with:

‘The rural setting of the listed church of St Michael and all Angels and in particular its role as local landmark, should be preserved or enhanced’.

14. In the criteria of Policy 1 concerning the development site west of Elizabeth Way, the first criterion seeks to restrict development to open land uses. This appears to go beyond the recommendation of the Landscape and Visual Analysis Report and it is considered that this is a blanket restriction on development on this area not supported by robust evidence. Would the QB comment on the following proposed revision to this bullet point to reflect the advice of the background evidence:

“Any proposals for development in the area to the south of Middle Lane should be laid out and designed to maintain a green edge to the settlement and to minimise its impact on the setting of the village, landscape features and historic assets.”

This is acceptable with the suggested minor revision at the beginning.

15. What evidence does the QB have to justify the restriction of new buildings to two storeys in Policy 1?

The justification came from a general reading of the Landscape and Visual Analysis report and from the community engagement (Consultation Statement paragraph 2.13) However, there is no specific justification of significant weight for this and, while the QB would prefer to retain it, it could be deleted if the Inspector considers this essential.

16. Would the LPA comment on whether they consider that these additional planning requirements (as proposed to be modified) are deliverable and sufficiently flexible so that they would not place unnecessary restrictions on the proposed housing allocation.

17. Would the LPA and QB comment on the relevance of using the Hilperton VDS in the consideration of the design of the development west of Elizabeth Way as the development will be related to Trowbridge rather than Hilperton?

The QB would prefer that all new development in the plan area referenced the VDS. However, it is recognised that the new development will be much closer to Trowbridge than to Hilperton Village. While the QB would prefer this requirement to be retained therefore, the policy could nevertheless be re-worded if the examiner thinks it essential, possibly as follows:

'Applications for development, with the exception of development west of Elizabeth Way, must throughout the Parish demonstrate how they have paid attention to the village design statement as appropriate with particular need to show how the design reflects the local Hilperton as opposed to Trowbridge Context and character'.

Policy 2 – Housing

18. I have a number of concerns about Policy 2:

- The policy does not provide guidance on where windfall housing development will be acceptable. To accord with local strategic policy reference should be made to development being in the settlement boundary primarily, and in the countryside only where it accords with national and Local Plan policies. (However see Question 22 below)

This modification would add clarity and is accepted.

- Avoidance of the use of "will be permitted".

This was included in order to create a positive policy. It is not understood why this should be unacceptable. However it could be replaced if deemed necessary.

- Avoidance of repeating “subject to compliance with other policies of the NP and CS”.

A modification removing this would be acceptable.

- It is considered that the requirement that self build houses should be retained by their builders for a minimum of 5 years is not enforceable and should be deleted.

Agree to deletion.

- What is the evidence to stipulate a preference for these 3 types of housing?

1. **Self-build homes** have already contributed to the existing village. For example the houses at Marshmead which were all self-built in 1953. The reason for proposing this is to reflect that local tradition but also to put forward another means of delivering cheaper, more affordable homes (research indicates that self-built homes can be 25-40% cheaper than market housing. In the UK 25,000 people a year now build-it-themselves). *

e.g.

<https://www.theguardian.com/money/2004/mar/20/property.homebuying>

Research was carried out by the QB and it was discovered that the Government supported this form of housing in order to help deliver the homes the country needs. For example the Self-build and Custom Housebuilding Act 2015 now requires LPA's to keep registers of suitable land. Self-build also forms part of the Government's solution to the housing crisis as can be seen in the 2017 White Paper. 'Fixing our Broken Housing Market.' This aspect of the policy is therefore designed to reflect local precedent, take forward Government policy and to help deliver more homes at lower cost.

2. The matters of **environmental sustainability and renewable energy** were raised at the meeting to consider the NDP 26 November 2015. The Consultation Statement (for example paragraph 2.24) establishes that concern for the environment was an issue, especially related to housing. This aspect of the policy is designed to address that concern.

3. The HNS (Chart 5) indicates a wish for accommodation for older people. This is to facilitate people being able to remain in the parish close to family and friends as they get older. The matter was also raised during community engagement as explained in the CS.

- There is no accepted definition for affordable self build housing. This is not a form of affordable social housing. How do the plan makers propose that such sites are to be delivered?

On reflection the word 'affordable' could be removed from this part of the policy to avoid confusion. The policy is intended to encourage self-build homes which research has suggested are cheaper, and so literally more 'affordable'. This is not necessarily a form of 'affordable housing' as meant by the normal planning policy definition of that term. The delivery of such sites would be through the normal planning applications process.

- There is no indication of the number of dwellings that are to be delivered through the Plan.

The plan does not allocate sites, so it is not understood how it could possibly set an accurate figure for delivery. The past track record of windfalls is clear that the plan has adapted its policies to acknowledge the LPA proposal to allocate land to the West of Elizabeth Way for 205 dwellings.

Beyond this however it is not considered necessary or practicable to indicate a number of homes for delivery, nor is this required by regulations. The real question is whether local needs will be met and need and supply kept in balance. The review of the plan within 3 years, by which time the HSAP should have been published, will allow this question to be answered more accurately. At that point sites could be allocated and numbers indicated.

19.

Part c) refers to "retirement homes, sheltered housing or other homes specifically designed for the retired population. Is it intended that this includes residential care homes? Would the LPA and QB confirm the appropriate local terminology for this type of housing e.g. would it be more appropriate to refer to extra care housing or housing over 55s? These types of housing usually require a large site to be commercially viable. Has the QB considered whether it would be feasible to deliver this type of housing e.g. whether there are any suitable sites in the plan area?

The plan does not allocate sites and so has not considered the matter of specific local sites for this or any other type of housing. The intention was to reflect the wishes of the community for this type of housing in order that developers may be aware of this and to help expediate the planning process. Should this approach not produce necessary developments then this issue would be considered during the first plan review. The desire was provide residents with more chance of being able to remain within the parish as they get older. The QB would accept any reasonable form of wording to achieve this.

20. Would the LPA and QB comment on the proposed revisions to Policy 2 to address the following concerns about the policy

New housing development within the settlement boundary of Hilperton and exceptionally in the countryside where it satisfies national and strategic policies will be encouraged to deliver at least XX dwellings, particularly the following types of housing:

No. This is not considered to be necessary. It is not the intention of the QB to set a target for homes. There is no requirement in the Regulations that would demand this and there are no specific sites allocated against which to quantify performance. Had this been the intention, then appropriate evidence justifying the figure would have been provided. A housing figure might be more appropriate at the first review of the plan, once quantifiable delivery of homes through the HSAP is clearer.

21. Has the QB considered that notwithstanding the proposed modifications to the policy set out above that makes reference to windfall development being in the settlement boundary, windfall sites outside the settlement boundary may be approved should the LPA fail to demonstrate a 5 year supply of deliverable housing sites. The plan provides no criteria to consider the suitability of such sites.

This was considered but it is felt to be unnecessary. The LPA can deliver a land supply in excess of 5.25 years and the emerging HSAP has been specifically designed to ensure that this is the case for many years to come. The area outside the settlement boundary is already protected by Wiltshire core strategy polices (which the LPA have shown themselves willing and able to defend successfully on many occasions) and it seems unnecessary to duplicate or add to these when the QB believes them to be sufficient.

22. Apart from the details of housing sites in Appendix 9, has an assessment of potential windfall or infill sites has been undertaken?

Not at this time. An updated list of the known windfall sites is given below and considered to provide an adequate supply for the limited requirement (13) from the 2016/17 HNS. It should be noted that 3 of these schemes came forward during the preparation of the NDP. There are positive indications that further sites will come forward for consideration of need later in the plan period

1. Land at the Grange, Devizes Road, Application 18/00985/FUL – 20 Homes This appears to have addressed the objections which caused an earlier application for this site to be rejected on appeal (16/01633). The parish council/qualifying body supports the new application. It is anticipated that this scheme will be delivered early in the plan period.
2. Land adjacent to 304b Marsh Road (PlanningSphere and Ashford Homes) - 24 Homes. The submission from the Agent can be found in NDP's Consultation Statement. Realistically this site has issues to do with the current settlement

- boundary and would require change of use.
3. Maxcroft Farm a proposed development of 200 houses by Barratt Homes on the North East side of Hilperton of which at least 30 would be affordable. A prospectus of this development is included in the Consultation Statement. The developers are currently in discussion with the LPA.
 4. Church Farm. An application (W/11/01373/FUL) for 20 homes was made and granted but lapsed. This is an excellent and sustainable site within the village. The parish council would support re-submission of the application.
 5. Work commenced on application 17/01250 - 15 houses, 5 affordable in Devizes Road on 1st May 2018. This site is immediately adjacent to application 18/00985/FUL mentioned in 1. above They should be ready for occupation within 12 months or less.

The parish council encourages dialogue with developers and has had presentations by the agents of the first three schemes listed above. We feel that the statement in the NDP that immediate local needs (identified in the Housing Needs Survey as 13 homes), will be more than met. by the NDP is justified. Any additional needs emerging later in the plan period can be met through plan reviews.

23. Paragraph 11.16 states that “a zero housing requirement remained”. Would the LPA provide me with the current position on housing supply in the Trowbridge Community Area. Would the LPA provide me with an up to date statement that reflects the comments in their representation on the opportunities to develop housing in the plan area and propose how paragraph 11.16 may be reworded to reflect the current position.

This is still the current position for the Community Area Remainder. Only Trowbridge itself has an outstanding housing requirement. This information is contained within the HSAP and also the Housing land Supply Statement March 2018.

24. I am proposing some revisions to paragraph 11.18 and to combine it with paragraph 11.21 to avoid repetition, to remove the emotive language, to better explain that the affordable housing need could be met through committed and identified windfall sites and to include a reference to monitoring the future housing needs through surveys. Provided that answers to Question 8 demonstrate that the evidence in Appendix 9 is correct, would the QB and LPA comment on the following proposed wording:

The current affordable housing needs of Hilperton as evidenced by the 2017 Housing Needs Survey is for 13 affordable homes. In view of the current housing commitments and potential windfall sites it has not been considered necessary to allocate additional housing sites to deliver affordable housing to meet the local housing need. Appendix 9 includes a list of current commitments and potential windfall sites which demonstrates that they could produce sufficient affordable homes to meet the current need. The need for additional affordable homes in the future will be kept under review through future Housing Needs Surveys. A continuing dialogue with developers of potential sites will be welcomed by the Parish Council and community.

The wording is acceptable.

25. The Neighbourhood Plan refers to “local housing need” in a number of places. It is not clear whether this is intended to refer to all types of housing, both market and social affordable housing or just to social affordable housing as evidenced by the Housing Needs Survey. Would they QB review the use of the term Local Housing Need in the NP and let me know if they wish to revise it to refer to “housing requirement” or “housing to meet local market and affordable housing needs”.

Either of the above suggestions seem appropriate. Perhaps the Examiner would revise it according to what she thinks best.

Policy 5 Infrastructure and Developer contributions

26. Has the QB any evidence to demonstrate the need for the local infrastructure priorities, particularly the medical facility? How it is proposed to deliver these facilities?

The Consultation Statement explains how these were selected, for example paragraph 2.2, table at 3.0. In short, they reflect wishes expressed during community engagement. The lack of suitable local facilities was confirmed in the Scoping Report (table after paragraph 6.91). It must be remembered that the list given is not a requirement but an indication of local priorities.

Delivery is explained in the policy:

‘All new housing and employment development proposals in the area will be expected to contribute towards local infrastructure in proportion to their scale and in accordance with National and Wilshire Core Strategy policy’

In other words, delivery will depend on the proceeds of windfall developments and the HSAP site H 2.3 West of Elizabeth Way. Should these schemes, which could amount to around 300 homes, not produce enough revenue to pay for the infrastructure priorities identified (unlikely) then this is something that would be considered at plan review.

It is not appropriate to set out exemptions from developer contributions in the policy as these are set out in national guidance on CIL. Eco houses are not included in the list of national exemptions.

Accepted.

27. In view of my concerns about the policy as currently worded, I am proposing to recommend modifications to the policy to set out a more general form of wording and to place the list of local infrastructure in the Appendix as a Community Action. Would the QB and LPA comment on the following revised wording of Policy 5:

Developer contributions from Community Infrastructure Levy and Section 106 agreements will be used to deliver local infrastructure identified in the Community Actions.

The QB does not believe that separating the local infrastructure items from the policy is necessary or helpful. The policy does not refer to community actions but to contributions made by developers. For the sake of clarity therefore the list of items should remain with the policy.

28. Would the LPA and QB comment on the points may by the Environment Agency in their representation. Is surface water flooding adequately addressed in the strategic policies?

As noted in the Consultation Statement:

‘The points are noted, however, the part of Paxcroft Brook to the south of the A361 and west of Ashton Road which is referred to is no longer part of Hilperton parish following the boundary review and is therefore no longer to be covered by the NDP. Under these circumstances, it is not felt that the NDP can add anything significant to the policies of the WCS’.

In other words, the area referred to is no longer part of the plan area as it was removed following the boundary review, and a policy concerning the issue would not therefore be appropriate. There are no known significant areas of surface water flooding remaining in the plan area that would benefit from the policy suggested. In addition Wiltshire Core Strategy already covers Flood Risk in Core Policy 67.

The Qualifying Body (QB) would be happy to answer any further questions or discuss any additional suggestions by the Examiner.

Hilperton Neighbourhood Plan Steering Group on behalf of the Qualifying Body,
Hilperton Parish Council. April 2018.

Rosemary Kidd
4 April 2018