

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 Wiltshire Council

June 2018

Hilperton NP Wiltshire Council Response to Examination Questions

- 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.**

The Council can confirm that the revision to the neighbourhood area raised no implications in respect of the SEA/HRA screening opinion.

- 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.**

The Council do not agree with the assertion that the QBs decision to amend draft Policies 1 and 2 amounts to a flaw in legal process. The Council, as the Competent Authority, considers it has consistently assessed the emerging Neighbourhood Plan and recommended changes to address the test of likely significant effects. It has been concluded through the Neighbourhood Plan preparation process that there is no need for the QB to undertake a full SEA or Appropriate Assessment. A copy of the County Ecologist's response to the draft Neighbourhood Plan policies has been submitted with this document.

- 3. Would the LPA comment on whether the SEA and HRA reports have taken account of those prepared for the HSAP?**

The Council can confirm that the SEA/HRA reports have taken into account those prepared to support the draft Wiltshire Housing Site Allocations Plan.

- 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.**

The Council can confirm that the three environmental bodies were consulted in respect of the SEA Screening Decision, but not the HRA Screening Decision. As outlined in response question 2, the Council have consistently assessed the potential environmental effects of the Neighbourhood Plan and have recommended suggested changes to lessen such effects.

The Council have worked with the QB to clarify the intent and effect of Policies 1 and 2. It is considered that provide these policies are amended to reflect the recommendations presented by the Council then there is no need to undertake an Appropriate Assessment.

The Council will update the HRA in response to Examiners Report and the Referendum version of the Neighbourhood Plan.

- 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.**

Yes. A report on these matters has been prepared and is submitted with this document.

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?

Table 5.17 of the Wiltshire Core Strategy (WCS) represents a snapshot in time to illustrate progress against the housing requirements for the Trowbridge Community Area¹. Footnote 56 is attached to the table against the row showing figures for Trowbridge Town. The footnote reads "*Housing numbers for Trowbridge include those planned for the village of Hilperton.*" and is a reference to the development originally allocated (i.e. 'planned') in the West Wiltshire Local Plan 2004 at Castlemead. However, although located within the parish of Hilperton, Castlemead clearly forms an extension to Trowbridge and has now been delivered in full.

Footnote 56 does not refer to all housing development in the parish of Hilperton. It would be illogical to count further development located at the village of Hilperton itself against the Trowbridge Town indicative housing requirement, when it falls within the community area remainder (CAR). Housing completions in the Large Village of Hilperton should be treated the same as other villages within the Trowbridge CA such as North Bradley and Southwick. Consequently, it is not considered necessary for the Hilperton NP to take account of the housing for the Trowbridge Community Area as a whole.

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?

At the time of preparing the site allocation boundary the exact alignment of the road was not known. A revised site allocation boundary has now been prepared (attached) so that the boundary accurately reflects the line of Elizabeth Way.

The draft Wiltshire Housing Site Allocations Plan along with a Schedule of Proposed Changes (including the proposed revision to the boundary of the proposed site allocation at Elizabeth Way) will be presented to Cabinet on 3 July and Council on 10 July.

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?

For the 16/01633 site (Land at The Grange) a new application for 20 units (18/00985/FUL) was registered by the Council on 1 February 2018. It may be worth pointing out there are also a number of small (<10 units) housing sites in the parish with a live permission (based on the Council's data from the latest complete monitoring year 2016/17 there are 7 sites with 9 net units with a live permission.)

The only site of those stated that the Council include in its delivery trajectory (to 2026) is the first entry (17/01250 – Land South of Devizes Road). However, the NPSG may have other information that supports the deliverability of the other sites.

11/01373/FUL (Church Farm) – permission lapsed in July 2015 without being implemented.

¹ This information is updated annually and presented within the Council's Housing Land Supply Statement

17/05333/FUL (46 Towpath Road) – the proposal is for rooms in an HMO with some shared facilities and 1 studio flat. The Council only monitor self-contained residential units against its housing requirements, which does not include rooms. The 1 studio flat was permitted in the monitoring year 2017/18 so it is not currently included in the Council’s delivery trajectory.

16/01633/OUT (Land at The Grange) – application refused. The reason for refusal indicates that the site is not a suitable location, and therefore is not considered deliverable or developable. A new application for fewer units (18/00985/FUL) was registered by the Council on 1 February 2018.

Adjacent to 304b Marsh Road – the response to the Planning Sphere representation in the consultation statement indicates residential development at this site would not be supported in the NP.

The table below presents data from the Council’s latest [Housing Land Supply Statement](#).

Reference	Site Address	Proposal	Units still to be developed	Units still to be lost
W16.10824	'The Cottage' 259 Hill Street Hilperton	Proposed Replacement Detached Dwelling	1	1
W14.0288	Land Adjacent to 71 Wyke Road	Erection of single bungalow.	1	0
W14.2459	Land Adjacent 4 Nursery Close	Detached dwelling with associated car parking and turning facilities	1	0
W15.2410	Barns At Hill Farm Whaddon Lane	Change of use of 2 barns to 3 dwellings	3	0
W16.0447	21 Marshmead Hilperton	Proposed two storey detached dwelling adjacent to 21 Marshmead.	1	0
W16.2045	Land West of 4 Marshmead Hilperton	Erection of one detached dwellinghouse.	1	0
W16.6173	Woodcote House 112 Church Street Hilperton	Change of use of Coach House and extension to form separate dwelling.	2	0

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.

QB to comment

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:

“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.”

Wiltshire council considers that the proposed revision to paragraph 11.4 would be an improvement to the current text. The proposed revision more clearly reflects the advice provided in the Planning Practice Guidance, specifically Paragraph: 004 Reference ID: 41-004-20170728.

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:

Wiltshire Council would welcome the proposed revisions to Policy 1 subject to the following minor amendment:

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 NPPF² paragraphs 28 or 55 or relevant strategic ~~local~~ policies for the countryside and should satisfy the following criteria:

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?

QB to respond

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?

QB to respond

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

QB to respond

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

² The NPPF is due to be published in revised form in July. As such, references to existing paragraphs will need to be reconsidered in the light of the revised NPPF.

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:

“Development in the area to the south of Middle Way 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.”

QB to respond.

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

QB to respond, although please note that Wiltshire Council is not aware of any evidence to support a policy restricting height of new buildings to two storeys. It is considered that the policies set out currently in paragraph 55 of the NPPF and Core Policies 51 and 57 of the Wiltshire Core Strategy are sufficient to address the issue.

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.

Wiltshire Council considers the proposed revisions to Policy 1 to be sufficiently flexible to allow for the right development to take place in the right location, where a need has been identified, subject to the following minor amendment:

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:

However, the comments submitted by Wiltshire Council (dated 29 January 2018) on the bullet points 1 – 6 are still considered pertinent and the policy would benefit from being amended further to ensure that it provides the necessary clarity to inform decision making.

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 Hilperton VDS is referred to within the supporting text for Policy 1 but the HDNP does not currently include a requirement to use the VDS in the consideration of the design of development West of Elizabeth Way. Wiltshire Council does not see any benefit in adding a requirement for the VDS to be taken into account in relation to development that clearly relates to Trowbridge and considers that Core Policy 57 provides an appropriate policy framework.

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)

- Avoidance of the use of “will be permitted”.
- Avoidance of repeating “subject to compliance with other policies of the NP and CS”.
- 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.
- What is the evidence to stipulate a preference for these 3 types of housing?
- 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?
- There is no indication of the number of dwellings that are to be delivered through the Plan.

QB to respond.

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 eg would it be more appropriate to refer to extra care housing or housing for 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 eg whether there are any suitable sites in the plan area?

Wiltshire Council does not have a specific local definition but would suggest that the terminology used in the planning practice guidance (sheltered, enhanced sheltered, extra care, registered care) could be used as an alternative wording.

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:

Wiltshire Council would welcome revision of Policy 2 to provide additional clarity and to ensure that it is effective and consistent with national and local policy. However, further evidence (and consultation) would be required to establish an agreed number of dwellings to be planned for at Hilperton up to 2026. The WCS has set an indicative requirement of 165 dwellings for the community area remainder. As at April 2017 Trowbridge Community Area remainder has seen the delivery of 256 dwellings with existing commitments (in the form of planning permission) for a further 32 homes. Any identified figure to be included within the policy should therefore be from locally derived evidence, starting with the Rural Housing Needs Assessment and Housing Register.

Wiltshire Council considers that, without any evidence to support a specific number of additional dwellings to be provided at Hilperton up to 2026, the policy should not include an at least figure. It is suggested that the wording could be amended further to read:

New housing development within the settlement boundary of Hilperton and exceptionally, where there is an identified need, 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:

- 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.**

QB to respond

This is an interesting question. National Policy sets out the special circumstances where there is a NP in place where a 3-year supply needs to be demonstrated. However, this depends on the following criteria being met:

- *The written ministerial statement is less than 2 years old, or the neighbourhood plan has been part of the development plan for 2 years or less;*
- *the neighbourhood plan allocates sites for housing; and*
- *the local planning authority can demonstrate a three-year supply of deliverable housing sites.*

Taken literally, the Hilperton NP would need to allocate sites for housing in order to qualify. However, in a recent appeal decision - land at Rivermead, Downton APP/Y3940/W/16/3161391), the Inspector was happy to accept that, where the identified need had been met, the absence of housing allocations in a NP does not preclude the 3-year requirement from being applied.

Policies that seek to manage housing development in the absence of a demonstrable 5 (or 3) year supply are also likely to be considered of date, so it is not clear whether there would be any benefit to including such policies in the NP.

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

QB to respond.

- 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.**

The housing supply position for the Trowbridge Community Area (taken from the latest published Housing Land Supply Statement, March 2018, with a base date of April 2017) is as follows:

Area	Indicative requirement 2006 - 2026	Completions 2006 – 2017	Developable Commitments 2017 -2026	Indicative remaining requirement

Trowbridge Town	6,810	3,019	2,339 ³	1,452
Community Area Remainder	165	256	32	0
Trowbridge CA	6,975	3,275	2,371	1,452

Updated Statement

The Large Village of Hilperton falls into the Trowbridge Community Area ‘remainder’. The indicative housing requirement expressed for this area is set out in Core Policy 29 of the WCS but has, in effect, been met and exceeded (as of April 2016). This is set out in the latest published Wiltshire Housing Land Supply Statement (update March 2017).

However, the figure is intended to be read as indicative and hence does not represent a floor, or ceiling in terms of local housing land supply. Indeed, in accordance with Core Policies 1, 2 and 44 of the WCS, there may well be opportunities to accommodate additional housing within the limits of development (‘settlement boundary’) as currently expressed on the WCS Policies Map.

Suggested amendments to paragraph 11.16:

Hilperton *falls within the Trowbridge Community Area Remainder but* is located close to the Principal Settlement of Trowbridge and as such is subject to considerable development interest. *The Wiltshire Core Strategy allocates a Strategic housing allocations for the area are considerable, in particular Urban Extension for Trowbridge at Ashton Park at for up to 2,600 units, which is nearby.* A Housing Land Supply Statement in March 2017 concluded that *the indicative housing requirement for the Trowbridge Community Area Remainder has been met and exceeded.* of the original level of housing proposed for Trowbridge, a zero requirement remained.

- 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.

³ The developable commitments reflect the position set out in Appendix 6 of the Wiltshire Housing Land Supply Statement, published March 2018. The figure includes the anticipated delivery of the proposed allocations for the draft Wiltshire Housing Site Allocations Plan as at the time of publication.

Wiltshire Council welcomes the proposed amendments to the text and has no further comment to make.

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”.**

QB to respond.

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?**

QB to respond

27. **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.**

QB to respond.

Wiltshire Council has nothing further to add to our comments previously submitted on this point.

28. **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.

Wiltshire Council supports the proposed revision to the policy wording subject to the following suggested amendment to allow flexibility to adapt to potential changes in circumstances:

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

In addition to the proposed amendments to the policy, it is suggested that further text is provided within the main body of the draft Plan to clarify the position in respect of CIL to read as follows:

The Parish Council will receive a proportion of the Community Infrastructure Levy (CIL) revenues generated in the parish area, which can be directed towards delivering the local infrastructure priorities. This is 25% of CIL receipts where a neighbourhood is made.

29. 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?

Core Policy 67 of the Wiltshire Core Strategy provides a strategic policy to address the issue of flood risk in Wiltshire. The policy is supported by an updated Level 1 Strategic Flood Risk Assessment (SFRA) prepared by URS, published in July 2013. The Level 1 SFRA is comprehensive and considers risk of flooding from surface water, groundwater, sewers and artificial sources at a strategic level. The SFRA was prepared in consultation with and endorsed by the Environment Agency.

The Wiltshire SFRA does however need to be augmented by detailed flood risk assessment, where required, to support specific sites, as required by footnote 20 of the NPPF. The robustness of these site specific FRAs will be assessed by the Environment Agency as part of their duty as statutory consultee and as required by the NPPF.

The water course (and an area of adjacent land) that runs from an area close to Hilperton CE Primary School and passes through the Hilperton Gap towards Wyke Road in Trowbridge has been identified in the SFRA as being within Flood zone 3 and therefore any proposed development in this area would need to be supported by a Flood Risk Assessment (FRA). The matter of surface water flooding is considered to be sufficiently covered by national and local planning policy.