

**Independent Examiner's Report of the  
Tockenham Neighbourhood Plan**

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## **SECTION 2**

### **Summary**

*As the Independent Examiner appointed by Wiltshire Council to examine the Tockenham Neighbourhood Plan, I can summarise my findings as follows:*

- 1. I find the Tockenham Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.*
- 2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Tockenham Neighbourhood Plan go to Referendum.*
- 3. I have read the Tockenham Consultation Statement and the representations made in connection with this subject. I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.*
- 4. I find that the Tockenham Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.*
- 5. The Tockenham Neighbourhood Plan Area is within the area covered by Wiltshire Council. At the time of my examination, the development plan for the area is the Wiltshire Core Strategy 2015-2026 (WCS) which was adopted on 20th January 2015.*

## **SECTION 3**

### **Introduction**

#### **3.1 Neighbourhood Plan Examination.**

*My name is Deborah McCann and I am the Independent Examiner appointed to examine the Tockenham Neighbourhood Plan.*

*I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.*

*My role is to consider whether the submitted Tockenham Neighbourhood Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Tockenham Neighbourhood Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.*

*The Tockenham Neighbourhood Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.*

*The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I concluded that it was not necessary to hold a Hearing.*

#### **3.2 The Role of Examiner including the examination process and legislative background.**

*The examiner is required to check whether the neighbourhood plan:*

- *Has been prepared and submitted for examination by a qualifying body*
- *Has been prepared for an area that has been properly designated for such plan preparation*
- *Meets the requirements to*
  - i) specify the period to which it has effect;*
  - ii) not include provision about excluded development; and*
  - iii) not relate to more than one neighbourhood area and that*
- *Its policies relate to the development and use of land for a designated neighbourhood area.*

*The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).*

*As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:*

*1. The Plan can proceed to a Referendum*

*2. The Plan with recommended modifications can proceed to a Referendum*

*Where a policy does not meet the Basic Conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.” As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with ‘Wider Community Aspirations’. I will not generally refer back to parties on these detailed revisions. I will make modification either in order to meet the Basic Conditions, to correct errors or provide clarification. However, the focus*

*of my examination, as set out in legislation is relatively narrow, I must focus on compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or are overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I am also very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community's intent in producing their neighbourhood plan.*

### *3. The Plan does not meet the legal requirements and cannot proceed to a Referendum*

*I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Tockenham Neighbourhood Plan go to Referendum.*

*In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:*

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004*
- the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect*
- the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.*

*I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:*

- *Has regard to national policies and advice contained in guidance issued by the Secretary of State;*
- *Contributes to the achievement of sustainable development;*  
*and*
- *Is in general conformity with the strategic policies contained in the Development Plan for the area.*

*There is now an additional Basic Condition to be considered. Since the 28th of December 2018, the Neighbourhood Planning (General) Regulations 2012 Such 2 para 1 has stated:*

*"In relation to the examination of Neighbourhood Plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act-*

*The making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017."*

*The Plan must also not breach, and otherwise be compatible with EU obligations and Human Rights requirements.*

*Wiltshire Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e. greater than 50%), voting in favour of the plan, then the Council must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.*



## **SECTION 4**

### **The Report**

#### **4.1 Appointment of the Independent examiner**

*Wiltshire Council appointed me as the Independent Examiner for the Tockenham Neighbourhood Plan with the agreement of the Tockenham Neighbourhood Plan Group*

#### **4.2 Qualifying body**

*I am satisfied that Tockenham Parish Council is the Qualifying Body.*

#### **4.3 Neighbourhood Plan Area**

The Tockenham Neighbourhood Plan Area was designated on the 12<sup>th</sup> of July 2017 under the Neighbourhood Planning Regulations 2012 (part 2 S6). The area covers the administrative boundaries of the Parish of Tockenham the Qualifying Body have confirmed that there are no other neighbourhood plans covering the designated area.

#### **4.4 Plan Period**

The Plan identifies the period to which it relates as 2019 to 2026 in line with the Wiltshire Core Strategy.

#### **4.5 Wiltshire Council Regulation 15 Assessment of the Plan.**

*Tockenham Parish Council, the Qualifying Body, submitted the plan to Wiltshire Council for consideration under Regulation 15 on the 5th April 2019. The Council has made an initial assessment of the submitted Tockenham Neighbourhood Plan and the supporting documents and is satisfied that these comply with the specified criteria.*

#### **4.6 The Consultation Process**

*The Tockenham Neighbourhood Plan has been submitted for examination with a Consultation Statement which sets out the consultation process that*

*has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.*

*The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):*

*(a) It contains details of the persons and bodies who were consulted about the proposed Neighbourhood Plan;*

*(b) It explains how they were consulted;*

*(c) It summarises the main issues and concerns raised by the persons consulted; and*

*(d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed Neighbourhood Plan.*

*Having examined the documents and considered the focus of the Neighbourhood Plan I conclude that the consultation process was robust, well conducted and recorded.*

*A list of statutory bodies consulted is included in the Consultation Statement.*

#### ***4.7 Regulation 16 consultation by Wiltshire Council and record of responses.***

*Wiltshire Council placed the Tockenham Neighbourhood Plan out for consultation under Regulation 16 from Tuesday 10<sup>th</sup> September to Wednesday 23<sup>rd</sup> October 2019.*

*A number of detailed representations were received during the consultation period and these were supplied by the Council as part of the supporting information for the examination process. I considered the representations, have taken them into account in my examination of the plan and referred to them where appropriate.*

#### **4.8 Site Visit**

*I carried out an unaccompanied site visit to familiarise myself with the Neighbourhood Plan Area on the 15<sup>th</sup> November 2019.*

#### **4.9 Compliance with the Basic Conditions**

*The Qualifying Body have produced a Basic Conditions Statement. The purpose of this statement is to set out in some detail how the Neighbourhood Plan as submitted meets the Basic Conditions. It is the Examiner's Role to take this document into consideration but also take an independent view as to whether or not the assessment as submitted is correct.*

*I have to determine whether the Tockenham Neighbourhood Plan:*

- 1. Has regard to national policies and advice*
- 2. Contributes to sustainable development*
- 3. Is in general conformity with the strategic policies in the appropriate Development Plan*
- 4. Is not in breach and is otherwise compatible with EU obligations and Human Rights requirements.*
- 5. There is now an additional Basic Condition to be considered. Since the 28th of December 2018, the Neighbourhood Planning (General) Regulations 2012 Such 2 para 1 has stated:*

*"In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act—*

*The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017."*

*Documents brought to my attention by Wiltshire Council for my examination include:*

- *Tockenham Neighbourhood Plan - the main document which includes policies developed in consultation with the community at various engagement events and workshops.*
- *Basic Conditions Statement - sets out how the plan meets the Basic Conditions*
- *Consultation Statement- – sets out how the community, and other stakeholders, have been involved in preparing the Plan.*

#### **4.10 Comment on Documents submitted**

*I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Tockenham Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions.*

#### **4.11 Planning Policy**

#### **4.12 National Planning Policy**

*National Policy guidance is in the National Planning Policy Framework (NPPF). At the time of the preparation of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) February 2019 (as updated).*

*To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan “must be in general conformity with the strategic policies of the local plan”.*

*Paragraph 29 states:*

*“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”*

*The Tockenham Neighbourhood Plan does not need to repeat these national*

*policies, but to demonstrate it has taken them into account.*

*I have examined the and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to minor modification does meet the Basic Conditions in this respect.*

#### **4.13 Local Planning Policy- The Development Plan**

*The Tockenham Neighbourhood Plan Area is within the area covered by Wiltshire Council. At the time of my examination, the development plan for the area is the Wiltshire Core Strategy 2015-2026 (WCS) which was adopted on 20th January 2015.*

*To meet the Basic Conditions, the Tockenham Neighbourhood Plan Neighbourhood Plan must be in “general conformity” with the strategic policies of the development plan.*

*The NPPF 2019 (updated) states:*

*“20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:*

*a) housing (including affordable housing), employment, retail, leisure and other commercial development;*

*b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);*

*c) community facilities (such as health, education and cultural infrastructure); and*

*d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”*

*Neighbourhood Plans should only contain non-strategic policies. The NPPF 2019(updated) states:*

*“Non-strategic policies*

*28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.*

*29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”*

*Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.*

*The distinction between strategic and non-strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e)) When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.*

*Planning Policy Guidance paragraph 41-076-20140306 sets out that:*

*“Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:*

- whether the policy sets out an overarching direction or objective*

- *whether the policy seeks to shape the broad characteristics of development*
- *the scale at which the policy is intended to operate*
- *whether the policy sets a framework for decisions on how competing priorities should be balanced*
- *whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan*
- *in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan*
- *whether the Local Plan identifies the policy as being strategic”*

*I have examined the Tockenham Neighbourhood Plan and consider that, subject to modification, the plan is in general conformity with the Strategic Policies of the Development Plan and does meet the Basic Conditions in this respect.*

#### **4.14 Other Relevant Policy Considerations**

##### ***European Convention on Human Rights (ECMR) and other European Union Obligations***

*As a ‘local plan’, the Neighbourhood Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC.*

The Steering Group sought and obtained a SEA Screening Assessment for the Tockenham Neighbourhood Plan from Wiltshire Council. Wiltshire Council carried out a Strategic Environmental Assessment (SEA) screening exercise in consultation with relevant statutory bodies the conclusion of the screening was that a SEA was not required under European Directive 2001/42/EC.

##### ***Habitats Regulations Assessment (HRA)***

*In July 2019, Wiltshire Council as the competent authority carried out HRA to comply with Regulation 105 of the Habitats Regulations 2017. Under these*

*Regulations, a competent authority must consider whether a relevant plan is likely to have a significant effect on any European sites before deciding to give any consent, permission or other authorisation.*

*The conclusion of the assessment was:*

*“Given the location, small scale and nature of the proposals put forward within the NDP, no mechanism for impact exists, therefore all policies have been screened out and a conclusion of “no likely significant effects” on European Sites or their qualifying features as a result of the NDP can be recorded.”*

### ***Sustainable development***

Paragraphs 7 to 14 of the NPPF (Feb 2019 as updated) identify the components of sustainable development, and how planning applications and local plans can meet these requirements.

The Basic Conditions Statement sets out how the neighbourhood plan addresses the requirement to achieve sustainable development.

*My conclusion is that the principles of Sustainable Development required in the NPPF have been taken into account in the development of the plan and its policies and where issues have been identified they were addressed by revisions to the document prior to submission. I am satisfied that the Tockenham Neighbourhood Plan subject to the recommended modifications addresses the sustainability issues adequately.*

*The Neighbourhood Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.*

*I am satisfied that the Tockenham Neighbourhood Plan has done so.*

*I am therefore satisfied that the Tockenham Neighbourhood Plan meets the basic conditions on EU obligations.*

### ***Excluded development***

*I am satisfied that the Tockenham Neighbourhood Plan does not cover*



*County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.*

### ***Development and use of land***

*I am satisfied that the Tockenham Neighbourhood Plan, subject to modification covers development and land use matters.*

### ***General Comments***

*Planning Guidance on preparing neighbourhood plans and policies is clear, it states:*

*“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.*

*Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”*

*In order to provide clarity and to ensure that the policies in the Tockenham Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.*

*As I have found it necessary to modify a number of policies it may also be necessary to modify the supporting text within the plan to align with the*

*modified policies, where this is necessary. The details of these modifications are set out within my comments on the related policies. My comments on policies are in blue with the modified policies in red.*

#### **4.15 The Neighbourhood Plan Vision, Strategic Aims and Policies**

##### **VISION Statement**

##### **Neighbourhood Area Vision Statement**

*Tockenham will continue to flourish as a working village, proud of its long heritage, open rural and scenic location and strong sense of community.*

*Further development will be minimal and sustainable, in general keeping with Tockenham's rural 'small village' status under the Wiltshire Core Strategy, and to meet the needs of residents.*

*Housing growth will be driven by residents to maintain resilience, meet appropriate local employment opportunities and enable flexibility for both the young and older members of the community to continue to reside within the parish.*

*We will safeguard our most important green spaces, open landscapes and far reaching views and maintain safe passage along our narrow but vital roads and network of footpaths.*

##### **Key Objectives**

*Arising from this vision and the various community consultations, the Key Objectives set for Tockenham will be delivered across five functional areas, namely:*

- Employment and Business Development*
- Transport and Road Usage*
- Facilities*

- *Environment*
- *Development and Housing*

## **COMMENT**

*I am satisfied that the Tockenham NDP vision, aims and objectives were developed from the consultation process and that the policies within the plan reflect the vision, aims and objectives.*

### **4.16 TOCKENHAM NEIGHBOURHOOD PLAN POLICIES**

#### ***Policy Area: Employment and Business Development***

#### **TOCKENHAM POLICY 1 - NEW AND EXISTING EMPLOYMENT**

*Proposals for new employment land, or the conversion and change of use of existing buildings or land to provide new local trade or employment opportunities will be supported provided:*

- *Any significant impacts on the local road network, or on highway safety, can be cost effectively mitigated to an acceptable degree (NPPF, paras 108-109 refers).*
- *The scale of new development is proportional and in keeping with the existing character of both the village and the immediate area of the proposal.*
- *The development does not adversely affect nearby buildings or detract from residential amenity.*
- *The proposed use does not create issues of noise, light pollution or other forms of nuisance to neighbouring properties.*
- *There is no harmful landscape, visual or ecological impact.*
- *The character and appearance of the village is not harmed.*
- *Any proposal for a conversion or changes of use should not significantly*

*alter the character and appearance of the local area, especially where the development affects a listed structure.*

- *Materials used should not adversely impact on the rural aspect of the parish.*
- *Any new development proposals should be associated with existing buildings.*

#### **COMMENT**

***This policy lacks clarity and includes elements of repetition. Designated and Non-Designated Heritage Assets are already protected under national policy and guidance. For clarity the policy should be modified as follows:***

#### **TOCKENHAM POLICY 1 - NEW AND EXISTING EMPLOYMENT**

***Proposals for new employment land, or the conversion and change of use of existing buildings or land to provide new local trade or employment opportunities will be supported subject to:***

- ***Any significant impacts on the local road network, or on highway safety, can mitigated to an acceptable degree (NPPF, paras 108-109 refers).***
- ***The scale of new development is proportional and in keeping with the existing character of both the village and the immediate area of the proposal.***
- ***The development does not adversely affect nearby buildings or harm residential amenity in terms of noise, light pollution or other forms of nuisance to neighbouring properties.***
- ***Any proposal should respect the context, character and appearance of the local area and materials used should reflect the context and rural character aspect of the parish.***

- **New development proposals should, where possible be associated with existing buildings.**

## **POLICY 2 - FARM AND EQUESTRIAN DIVERSIFICATION**

*Proposals which introduce new employment uses to diversify and support the continued use of a farm or equestrian businesses will be supported provided:*

- *Any significant impacts on the local road network, or on highway safety, can be cost effectively mitigated to an acceptable degree (NPPF, paras 108-109 refers).*
- *The proposed use is appropriate and in keeping to its surroundings.*
- *The single, combined and cumulative effect of employment uses does not generate unacceptable levels of noise, pollution or nuisance to neighbours.*

## **COMMENT**

**I have no comment on this policy**

**Policy Area: Transport and Road Usage**

## **POLICY 3 - TRANSPORT**

*All new development proposals should demonstrate:*

*That enough off-street parking is provided in line with WCS policies and standards to prevent the need for further residents to park on the roads.*

*Where, due to site constraints or in the interests of design, satisfactory on-site parking cannot be provided, contributions toward identified and suitable public parking facilities elsewhere in the village may be acceptable through planning obligations. This additional parking should be located to reduce congestion and improve access to local facilities.*

*If significant vehicle movements are likely to be generated, a travel plan will*

*be provided and the application supported by a transport statement or transport assessment (NPPF, para. 111).*

*All new developments will demonstrate how they link to the existing rights of way (footpaths, bridleways and cycle routes) and how any adverse impacts will be mitigated.*

## **COMMENT**

***The introductory sentence of this policy refers to “all” development. Not all development will generate a parking requirement and for clarity and to meet the Basic Conditions the policy should be modified as follows:***

### ***POLICY 3 – TRANSPORT***

***New development proposals which generate a parking requirement should:***

***Provide off-street parking in line with development plan policies and standards to remove the need for on street parking.***

***Where, due to site constraints or in the interests of design, satisfactory on-site parking cannot be provided, contributions toward identified and suitable public parking facilities elsewhere in the village may be acceptable through planning obligations. This additional parking should be located to reduce congestion and improve access to local facilities.***

***If significant vehicle movements are likely to be generated, a travel plan will be provided and the application supported by a transport statement or transport assessment (NPPF, para. 111). This should include details of how any adverse impacts will be mitigated.***

***Where appropriate, proposals should demonstrate how they link to the existing rights of way (footpaths, bridleways and cycle routes.***

### **POLICY 4 - PUBLIC RIGHTS OF WAY**

*To improve public rights of way (footways, bridleways and designated cycle routes) to encourage more people to walk and cycle safely, both between village amenities and other villages and towns.*

#### **COMMENT**

*Policy 4 is not worded as a policy which could be applied to the determination of a planning application. It is more of a community aspiration but could be retained as a policy if modified as follows:*

*Proposals which include the improvement of public rights of way (footways, bridleways and designated cycle routes) to encourage more people to walk and cycle safely, both between village amenities and other villages and towns will be supported.*

#### **Policy Area: Facilities**

#### **POLICY 5 - FACILITIES**

*Tockenham village hall, church, play area and allotments (as identified on Map D) are important community resources which will be protected from development, unless a proposal of equivalent or greater community value is proposed to replace or enhance them.*

*Where receipts from the Community Infrastructure Levy are generated in respect of future development within the village, they will be utilised for ongoing maintenance and enhancement of village hall, play area or other community facilities.*

#### **COMMENT**

*The second paragraph of this policy deals with CIL priorities which are not land use policy. These priorities can be included in the plan, either in the community projects/ aspirations section in the body of the text. For clarity and to meet the Basic Conditions this paragraph should be deleted from the policy.*

## **Policy Area: Environment**

### **POLICY 6 – SETTLEMENT IDENTITY**

*Development proposals should be sensitive to the defining rural characteristics of the village and demonstrate how they maintain the character, natural environment and landscape settings within the parish.*

*All development should show how it:*

- Protects the separate identities of each area of the village.*
- Assists in safeguarding from encroachment into the countryside.*
- Takes cognisance of the Wiltshire Farmstead Project.*

### **COMMENT**

*The policy as currently worded does not refer to a definition of the characteristics in the village and would therefore be difficult to apply in the determination of a planning application. The North Wiltshire Landscape Character Assessment Report does provide a reference document which and reference to this within the policy would add clarity. The policy also refers to the Wiltshire Farmstead Project without any context for this reference. The supporting text should be modified to include reference to both the North Wiltshire Landscape Character Assessment Report and the Wiltshire Farmstead Project. For clarity and to meet the Basic Conditions, the policy should be modified as follows:*

### **POLICY 6 – SETTLEMENT IDENTITY**

*Development proposals should be sensitive to the defining rural characteristics of the Parish as identified in the North Wiltshire Landscape Character Assessment and demonstrate how they maintain the character, natural environment and landscape settings within the parish by:*



- ***maintaining the separate identities of each area of the village.***
- ***avoiding visual and physical intrusion into the open countryside.***
- ***Where appropriate, taking cognisance of the Wiltshire Farmstead Project to ensure the retention of the character of historic farmsteads which is vulnerable to new development***

## **POLICY 7 - SPECIFIC AREAS FOR PROTECTION**

*The following areas of land and features contribute to the sense of place, character and community within Tockenham:*

- *The openness of the field that lies central to the built-up area in the village core (Map F)*
- *The view of open countryside that surround Tockenham (e.g. Clyffe Hanging - Map F)*
- *Listed buildings of historic value – including the Church, Queen’s Court, Tockenham Manor, Meadow Court and Manor Farm (Map B)*

*Development should not compromise the essential character of these areas.*

## **COMMENT**

***During the course of my examination I sought clarification from the Qualifying Body with regard to this policy as follows:***

***“Policy 7 is accompanied by Map F; this map does not clearly identify the extent of the areas the policy relates to. It is not clear what evidence supports the identification of these areas in particular or how the policy is intended to apply in the determination of a planning application.***

***Please can the Qualifying Body provide clarity on these issues”.***

***The QB provided the following response:***

***“Living in a rural community was given by residents as the singular most important reason for living in Tockenham. (36% in Tockenham***

*Community-Led Plan 2015) This was repeated frequently throughout the ongoing consultation for the Neighbourhood Plan (e.g. The Issues Report produced by Common Places) –with “being surrounded by open countryside” as the most important aspect of this. The Steering Group identified the two areas shown in Map F as of particular significance – both in the need to protect our open countryside, and as areas that represent the character of Tockenham.*

*a) The field that lies central to the core of the village continues to provide open space- even in the middle of a built-up area. It is quite unique in that it is surrounded by roads on all sides – adding to the character of the development here. In this agricultural region, the field provides a source for farming, as well as space for the community to walk dogs etc. Very importantly, it also supplies the space to set up our Annual Village Fair – which provides valuable income to support our church and village hall. The village allotments and play area – both important community assets - also sit in one corner of the field.*

*In the 50’s, eight bungalows were built along the edge of another corner of the field, opposite existing properties. Two more bungalows were added in the 70’s. So, with regard to future planning applications, it could be possible to add a further two or three bungalows alongside the existing ones, continuing along the edge of the field. This could be seen as a form of infill – but should not detract from the open space provided by this very special field.*

*b) I am afraid that the second point under Policy 7 is badly worded and would be clearer if it simply stated – “The view of open countryside across to Clyffe Hanging”. To explain, the village of Clyffe Pypard lies to the south of Tockenham and sits in the middle of a steep escarpment, giving stunning views from our village and representing a very important feature of living in Tockenham. These views are really appreciated by our residents as they look out/ walk/ drive in this direction.*

*Equally, we concede that Map F is confusing on this point. It should probably not be portrayed in a solid block format, but rather as arrows reaching across to the views ahead.*

*With regard to future planning applications, we are not looking to block ANY building within this area. We would just like to prevent larger, unsightly structures that would distract from the view. We realise that, within the shaded area, lays the pocket of development called Greenway – which has been identified as an area for sustainable development. We would certainly not want to prevent the odd residential infill/conversion within Greenway itself. We just wish to preserve the beauty of the view and the sense of openness that this area represents.*

*I hope that this helps give you a clearer understanding of what we are trying to convey with this Policy. Please do not hesitate to contact us again for further clarification.”*

*From this clarification I would conclude that the area the field referred to in bullet point one may have met the NPPF tests to be designated as a Local Green Space however I am unable to modify the policy to that extent. Designated (Listed) and Non-Designated Heritage assets are already protected under national planning policy and guidance. For clarity and to meet the Basic Conditions the policy should be modified as follows:*

### ***POLICY 7 – Special Area and Views***

***The following areas of land and features contribute to the sense of place, character and community within Tockenham:***

- The field that lies central to the built-up area in the village core (Map F)***
- The view of open countryside across to Clyffe Hanging Map F)***

***Development should not compromise the essential character of these areas.***

## **Policy Area: Housing Development**

### **POLICY 8: DEVELOPMENT AND HOUSING**

*Limited additional new dwellings and building conversions will be supported if they meet the locally identified housing needs or the demands for ‘affordable housing’ under the Wiltshire Core Strategy, particularly regarding the needs of young families or older people. All new development proposals will:*

- Be in or adjacent to the existing core of the village or in outlying areas, adjacent to other pockets of development that already exist. (See map E).*
- Be in the form of infill / co-located developments, or on brownfield sites.*
- Generally, be of 1-3 homes per site, with an upper limit of approximately 10 during the lifetime of the Plan. Sites larger than this would not be appropriate in scale to this rural location with limited facilities.*
- Be constructed from the highest quality materials in accordance with Core Policy 57, taking account of local design and scale as appropriate.*
- Demonstrate, wherever possible, that they provide adequate on-site parking to prevent increase in the current level of street parking.*

*All new development should preserve and enhance the rural character of that part of the village, respect the historic assets in the village and preserve local landscapes and open spaces. There should be no detrimental effect on residential amenity.*

### **COMMENT**

***The Neighbourhood Plan refers to Tockenham as a “small village” under Wiltshire Core Strategy Policy 1. However, Tockenham is not identified as a “small village” in the Core Strategy and therefore this reference should be removed from the plan.***

*I have received representation from Wiltshire Council in connection with this policy.*

*Wiltshire Council comment:*

*“It is acknowledged that this policy outlines the circumstances the steering group feel housing provision in the neighbourhood area would be acceptable. For the purposes of clarification, the policy notes that development will be supported if it meets the locally identified housing need or demands for affordable housing (under the Wiltshire Core Strategy), going on to outline that the generally acceptable level of development would be 1-3 dwellings.*

*For clarification, a development of 3 homes will fall below the threshold for affordable housing provision in the NPPF i.e. 10 dwellings or more or sites over 0.5 hectares in size to trigger Core Policy 43 Affordable Housing contribution. So, the only way to deliver affordable housing, under the Wiltshire Core Strategy, within the parish to meet need would be to have a specific Affordable Housing Development, either by way of Core Policy 44 ‘Rural Exception Site’ or through a Community Led Development.”*

*Including a limit on the number of houses that could be delivered on each site would be inflexible, could frustrate the delivery of affordable housing and does not have regard for national policy or be in general conformity with the strategic policies of the Development Plan.*

*In addition, Wiltshire Council comment:*

*Given the aim of this section of policy is to direct any development to the most sustainable location in the neighbourhood area, it is suggested this is restricted in the policy to the core of the village and made clear that support is given for infill development only, and not the outlying areas (for reasons listed above). Policy 8 and Map E should be amended to remove reference to the ‘pockets’ other than the core of the village in*

*the interests of clarity, reducing conflict with other policies and sustainability.”*

*I concur with these comments as this approach could promote dispersal of new development away from the main ‘village core’. This could undermine one of the main objectives of the plan which is to protect the integrity of the countryside surrounding the village. This approach fails to have regard for existing policy criteria for delivery of sustainable development.*

*Map E will need to be revised following the modification of this policy.*

*Paragraph 7.3 page 24 of the Plan should be modified to reflect the policy modification as follows:*

***7.3 It was also important that any development should be restricted to areas well-related to the core of the village. A purely infill approach was considered too restrictive but development in current ‘brown field’ sites should take precedence.***

*For clarity and to meet the Basic Conditions the policy should be modified as follows:*

#### ***POLICY 8: DEVELOPMENT AND HOUSING***

***New dwellings and residential building conversions will be supported where they:***

- are in or adjacent to the existing core of the village; or well related to the existing settlement as directed by the exception policies within the Wiltshire development plan***
- are in the form of infill / co-located developments, or on brownfield sites***
- are of an appropriate scale having regard to the rural location and limited facilities.***
- are for affordable housing to meet identified local need in***

*accordance with Wiltshire Core Strategy Policy 44 or any replacement policy in the Development Plan*

- *are smaller homes designed for the needs of young families and older people*
- *are constructed from the highest quality materials in accordance with Wiltshire Core Strategy Policy 57 or any replacement policy in the Development Plan, taking account of local design and scale as appropriate.*
- *provide adequate on-site parking to prevent increase in the current level of on street parking, wherever possible.*
- *conserve and enhance the rural character of the village, local landscapes and open spaces, complies with national policy with regard to designated and non-designated heritage assets and does not harm residential amenity.*

## **SECTION 5**

### **Conclusion and Recommendations**

- 1. I find that the Tockenham Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.*
- 2. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.*
- 3. The Tockenham Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Plans in place within the Neighbourhood Area.*
- 4. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening, meet the EU Obligation.*
- 5. The policies and plans in the Tockenham Neighbourhood Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the Development Plan. At the time of my examination, the development plan for the area is the Wiltshire Core Strategy 2015-2026 (WCS) which was adopted on 20th January 2015.*
- 6. I therefore conclude that the Tockenham Neighbourhood Plan subject to the recommended modifications can proceed to Referendum.*

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*NPIERS Examiner*

*CEDR accredited mediator*

*22<sup>nd</sup> January 2020*



