

STOKE UPON TERN NEIGHBOURHOOD PLAN 2033

Stoke upon Tern
Neighbourhood Plan Examination
A Report to Shropshire Council

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June 2019



Contents

1, Summary

2, Introduction

3, Basic Conditions and Development Plan Status

4, Background Documents and the Stoke upon Tern Neighbourhood Area

5, Public Consultation

6, The Neighbourhood Plan: Introductory Section

7, The Neighbourhood Plan: Policies

8, The Neighbourhood Plan: Other Matters

9, Referendum

1. Summary

- 1 Subject to the recommendations within this Report, made in respect of enabling the Stoke upon Tern Neighbourhood Plan to meet the basic conditions, I confirm that:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

- 2 Taking the above into account, I find that the Stoke upon Tern Neighbourhood Plan meets the basic conditions¹ and I recommend to Shropshire Council that, subject to modifications, it should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the Stoke upon Tern Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Stoke upon Tern Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Stoke upon Tern Parish Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. Were a Referendum to be held and were more than 50% of votes to be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Shropshire Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Stoke upon Tern Neighbourhood Area.
- 5 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”
(Paragraph 183, National Planning Policy Framework)
- 6 As confirmed on page 3 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Stoke upon Tern Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 7 The Neighbourhood Plan relates only to the designated Stoke upon Tern Neighbourhood Area and there is no other neighbourhood plan in place in the Stoke upon Tern Neighbourhood Area.
- 8 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012²) and Planning Practice Guidance (2014).

² A replacement National Planning Policy Framework was published in July 2018. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans, where those plans are submitted on or before the 24th January 2019. The Stoke upon Tern Neighbourhood Plan was submitted to Shropshire Council

Role of the Independent Examiner

- 9 I was appointed by Shropshire Council, with the consent of the Qualifying Body, to conduct the examination of the Stoke upon Tern Neighbourhood Plan and to provide this Report.
- 10 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 11 I am a chartered town planner and have seven years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 12 As the Independent Examiner, I must make one of the following recommendations:
 - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 13 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Stoke on Tern Neighbourhood Area to which the Plan relates.
- 14 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

prior to this date and consequently, it is appropriate to examine the policies of the Neighbourhood Plan against the National Planning Policy Framework published in 2012.

Neighbourhood Plan Period

- 15 A neighbourhood plan must specify the period during which it is to have effect.
- 16 The title of the Neighbourhood Plan refers to the end of the plan period, 2033 and page 4 of the Neighbourhood Plan states that the Neighbourhood Plan:

"...covers the period 2017 to 2033."
- 17 Further, page 2 of the Basic Conditions Statement confirms that the plan period runs to end of 2033.
- 18 Taking the above into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 19 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 20 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 21 Further to consideration of the information submitted, I determined not hold a public hearing as part of the examination of the Stoke upon Tern Neighbourhood Plan.
- 22 However, in order to clarify a number of points in respect of the examination, I wrote to the Qualifying Body and to Shropshire Council and this examination has taken the responses received into account.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*³ following the Localism Act 2011. Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 24 Regulations 23 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
- 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.⁴

³ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

⁴ *ibid* (same as above).

- 25 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), 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 (under Section 61G of the Localism Act);
 - 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 in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 26 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁵
- 27 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

⁵ The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 28 Paragraph 6.3 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan sets out why, in the Qualifying Body's view, the Neighbourhood Plan is compatible with the ECHR.
- 29 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 30 In the above regard, I also note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Many comments were received during the plan-making process and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and resulting changes.

European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:

"Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects."
(Planning Practice Guidance⁶)
- 32 This process is often referred to as "*screening*"⁷. If likely environmental effects are identified, an environmental report must be prepared.

⁶ Paragraph 027, Ref: 11-027-20150209, Planning Practice Guidance.

⁷ The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 33 Shropshire Council carried out a screening opinion and this was appended to the Basic Conditions Statement submitted alongside the Neighbourhood Plan.
- 34 The screening opinion refers to the Sustainability Appraisals carried out as part of the County-wide development plan process. Whilst it is recognised that the plan period for the Neighbourhood Plan extends for a longer period of time than the Local Plan period, the screening opinion notes that the Neighbourhood Plan does not identify any housing or employment allocations not already identified in the development plan.
- 35 The screening opinion concludes that:
- “...it is considered the Stoke on Tern Neighbourhood Plan is unlikely to lead to any significant environmental effects beyond those already assessed through the environmental assessments into the SAMDevPlan...it is therefore considered that an environmental assessment is not required.”*
- 36 In providing the screening opinion, Shropshire Council took into account advice received from the statutory bodies, Historic England, Natural England and the Environment Agency. None of these bodies has raised any concerns in respect of the Neighbourhood Plan and in respect of the requirement to meet European obligations.
- 37 In addition to SEA, a Habitats Regulations assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information⁸. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.
- 38 Shropshire Council produced, consulted upon and submitted a Habitats Regulations Assessment screening report in February 2019. This stated that
- “...all policies in the SUTNP have been screened out as they do not allocate sites for development or determine the size of new development. Instead the policies are concerned with protecting the natural environment, enhancing the natural or cultural environment...”*

⁸ Planning Practice Guidance Paragraph 047 Reference ID: 11-047-20150209.

- 39 The screening report went on to conclude that:

"...the Plan will have no adverse effects, alone or in-combination with other plans or projects, on international sites."

- 40 The statutory bodies were consulted on the screening report and none of them raised any issues in respect of European obligations.

- 41 National guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

"It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)" (Planning Practice Guidance⁹).

- 42 In carrying out the work that it has and in reaching the conclusions that it has, Shropshire Council has not raised any concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.

- 43 In addition to all of the above, I note that, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta ("People over Wind")*, the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.

- 44 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

⁹ *ibid*, Paragraph 031 Reference ID: 11-031-20150209.

- 45 The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.
- 46 These changes came into force on 28th December 2018. This post-dated the submission of the Neighbourhood Plan and the subsequent consultation period.
- 47 I am mindful that Shropshire Council has taken all of the above into account and that it considers the Neighbourhood Plan to be compatible with European obligations.
- 48 Taking this, the above and the evidence before me into consideration, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

4. Background Documents and the Stoke upon Tern Neighbourhood Area

Background Documents

- 49 In undertaking this examination, I have considered various information in addition to the Stoke upon Tern Neighbourhood Plan.
- 50 I draw attention to the fact that a replacement version of the National Planning Policy Framework was published in July 2018, after the submission of the Neighbourhood Plan. The previous National Planning Policy Framework was published in 2012 and the replacement version differs from it in a number of ways.
- 51 However, as noted earlier in this Report, Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining relevant plans, like the Stoke upon Tern Neighbourhood Plan, submitted prior to the 25th January 2019.
- 52 Taking this into account, information considered as part of this examination has included (but has not been limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2012)
 - Planning Practice Guidance (2014, as updated)
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - Shropshire Core Strategy Development Plan Document (2011) (referred to in this Report as "*Core Strategy*")
 - Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) (referred to in this Report as "*SAMDev*")
 - Basic Conditions Statement
 - Consultation Statement
 - Strategic Environmental Assessment Screening Opinion (2018)
 - Habitats Regulations Assessment Screening Report (2019)

Also:

- Representations received

53 In addition, I spent an unaccompanied day visiting the Stoke upon Tern Neighbourhood Area.

Stoke upon Tern Neighbourhood Area

54 The boundary of the Stoke upon Tern Neighbourhood Area is shown on a plan provided on page 3 of the Neighbourhood Plan.

55 Shropshire Council formally designated the Stoke upon Tern Neighbourhood Area on 19th May 2015.

56 This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

5. Public Consultation

Introduction

- 57 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 58 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Stoke upon Tern Neighbourhood Plan Consultation

- 59 A Consultation Statement was submitted to Shropshire Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*¹⁰.
- 60 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Stoke upon Tern Neighbourhood Area, having regard to Paragraph 183 of the National Planning Policy Framework ("*the Framework*").
- 61 Stoke upon Tern Parish Council commenced community engagement with a stall at the Wistanswick Fete, in July 2015. A series of five community events were held across the Parish during August and September 2015, to consider community aspirations and issues, and to shape the scope of the emerging plan.
- 62 A community questionnaire was distributed in September 2015 and this was accompanied by a newsletter and followed up with a stakeholder event and follow-up newsletter. A further questionnaire during January and February 2016 sought the views of businesses within the Parish.

¹⁰ Neighbourhood Planning (General) Regulations 2012.

- 63 Community meetings and workshops took place between March and June 2016 and a housing needs survey was included in a newsletter distributed in June 2016.
- 64 Pre-submission consultation took place during October and November 2017.
- 65 The Consultation Report provides evidence to demonstrate that public consultation formed an important part of the overall plan-making process. Consultation was well-publicised. Matters raised were considered and the reporting process was transparent.
- 66 Taking all of the above into account, I am satisfied that the consultation process was appropriate and complied with the neighbourhood planning regulations referred to above.

6. The Neighbourhood Plan – Introductory Section

67 The third paragraph of the Executive Summary strays away from land use planning matters and for clarity, I recommend:

- **Page 1, delete third paragraph**

68 The penultimate sentence of the first paragraph on page 2 is grammatically incorrect, I recommend:

- **Change to “The Government’s intention...area *and the Localism Act sets out important legal requirements. In accordance with the Localism Act, the Neighbourhood Plan must...*”**

69 All policies in the Neighbourhood Plan must relate to land use planning matters.

70 I recommend:

- **Page 2, change penultimate para to “*It can also take account of concerns that go beyond land use considerations and demonstrate support for wider strategic improvements.*”**

71 The paragraph at the end of page 2 is not quite correct.

72 I recommend:

- **Page 2, last para, delete last sentence and change preceding two sentences to “...screened by Shropshire Council for SEA *and HRA. The screening reports confirmed that neither SEA nor HRA were required.*”**

73 In respect of the production of a Neighbourhood Plan, the Neighbourhood Planning (General) Regulations 2012 are not optional.

74 I recommend:

- **Page 5, delete third sentence (“Neighbourhood...date”)**

75 Part of the supporting text on pages 5 and 6 has been overtaken by events, I recommend:

- **Delete last sentence, starting on page 5 (“In producing...CIC.”)**
- **Delete from start of first full para on page 6 to the end of the page (“The Parish...of the Council.”)**

76 The heading at the top of page 7 is not quite correct.

77 I recommend:

- **Delete “Core Strategy” and replace with “Local Strategic Policy”**

78 Page 10 comprises an unnecessary list that adds little by way of information to the text on page 8.

79 I recommend:

- **Delete page 10**

80 There are typographical errors on pages 18 and 19, I recommend:

- **Page 18, line three, change to “...also several...”**
- **Page 19, 8 lines from bottom of page, change to “...footpaths...”**

81 The basic conditions are set out on page 2 and the development plan is identified on page 7. There is no need to repeat this information on pages 21 and 22. Whilst there is no harm in emphasising the basic conditions, given their importance, I am mindful that the basic conditions are set out again on page 22. Also, part of the opening sentences on page 21 have been overtaken by events.

82 For clarity, I recommend:

- **Page 21 delete “Context” and eleven lines that follow (“Neighbourhood...Conditions.”)**
- **Page 22, delete “Local Strategic Policy” and nine lines that follow (“The adopted...Plan”)**

- 83 It is not necessary to set out how the Policies are presented. Further, the text that does this on page 22 does not relate very well to how the Policies are set out. Also, development management is a function of the Local Planning Authority, not the Parish Council.
- 84 I recommend:
- **Page 22, delete last seven lines (“The Neighbourhood...development in”)**
- 85 The final section on page 23 is partly repetitive and in part, does not make sense. The Neighbourhood Plan does not allocate any sites.
- 86 I recommend:
- **Page 23, delete last ten sentences and related heading**

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Housing and Design

- 87 The “*Rationale and Evidence*” paragraphs set out in the introductory section to the Housing and Design chapter of the Neighbourhood Plan do not quite reflect the Policies that follow and is repetitive in parts.
- 88 I recommend:
- **Rational and Evidence, second sentence, change to “*Issues raised included the design...*”**
 - **Change third sentence to “*The policies in this section seek to inform future development, including the need to provide for a balanced mix of new homes...*”**
 - **Change last sentence to “*...rural character and the Neighbourhood Plan aims to protect the existing character and to...*”**
- 89 The Neighbourhood Plan does not allocate any land. None of the Policies of the Neighbourhood Plan refer to “*Community Hubs.*”
- 90 Given the above, as set out, the reference on Page 24 to Community Hubs appears confusing. The text provides the Neighbourhood Plan’s own definition of “*Community Hubs*” and states that they will “*provide the focus of future development, enabling sustainable growth within the neighbourhood area.*” The text then goes on to state that there are three Community Hubs within the Neighbourhood Area.
- 91 In the absence of any relevant Policy, this appears both confusing and misleading. It detracts from the clarity of the Neighbourhood Plan.
- 92 I note earlier, in consideration of European obligations, that the plan period for the Neighbourhood Plan extends beyond that of the SAMDev. Rather than introduce confusion, the introductory section of the Housing and Design section could more helpfully reference the fact that more housing is likely to be required during the period 2026-2033, beyond the end date of the SAMDev.

- 93 I am mindful of Shropshire Council's comments in the above regard and take these into account in the recommendations below.
- 94 In addition to the above, the same section of supporting text refers to removing "*development boundaries*." This adds further confusion as there are no relevant development boundaries in the Neighbourhood Area.
- 95 I recommend:
- **Pages 24 and 25, delete from "Furthermore, Shropshire Council..." to...identified Community Hubs shown in this plan."**
 - **Replace with "*The Neighbourhood Plan does not allocate any land for development. However, having regard to national policy advice¹¹, taking into account current strategic policies of the development plan and related evidence, the Neighbourhood Plan recognises that it is likely that development will take place within the Neighbourhood Area during the plan period. This could include development at the site allocated in Shropshire Council's SAMDev at Dutton Close, as well as significant development at Clive Barracks which, as noted earlier in the Neighbourhood Plan, is due to be vacated during the coming years.*"**

Whilst the SAMDev runs to 2026, the plan period for the Neighbourhood Plan extends to 2033 and it is likely that further land for development, over and above that allocated in the SAMDev, will be required for development during the period 2026-2033. The Parish Council would be supportive of future development at Clive Barracks, subject to it conforming with Neighbourhood Plan and other relevant development plan policies.
 - **Change title of plan on page 25 to "*Dutton Close and Clive Barracks*"**
 - **Delete Warrant Camp from plan on page 25**

¹¹ Paragraph: 009 Reference ID: 41-009-20160211.

Policy H1: Addressing Identified Local Housing Needs

- 96 National policy advice requires planning policies to be unambiguous and precise¹²:

“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.”

- 97 The Neighbourhood Plan is supported by general information, which identifies some demand for affordable housing and housing for the elderly. Policy H1 states that identified housing needs must be met. However, there is an absence of precise information in respect of what these housing needs are. The Neighbourhood Plan appears unclear in this regard.

- 98 Further, there is no substantive evidence, in justification of the Policy, to demonstrate that the requirement to provide affordable housing and housing for older people, is supported by any evidence in respect of viability and deliverability, having regard to Paragraph 173 of the Framework, which states that:

“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision taking. Plans should be deliverable.”

- 99 Simply stating that new housing will address needs, which themselves appear ambiguous, fails to provide a clear and precise approach.

- 100 The Policy goes on to refer to encouraging local housing needs to be met through the adaptation and conversion of redundant agricultural buildings. National policy (Paragraph 55 of the Framework) supports the re-use of redundant or disused buildings, but does not restrict such re-use to meeting identified local housing needs.

- 101 The Policy does not define what it considers to be housing appropriate to “*downsizing and rightsizing*” and consequently, this part of the Policy appears imprecise.

¹² Planning Policy Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

- 102 Whilst I note that it is not clear, in the absence of any information, how the Neighbourhood Plan might “*encourage*” the conversion or adaptation of redundant agricultural buildings for local needs housing, I am also mindful that, in any case, no evidence has been provided to demonstrate that such an approach might be viable or deliverable.
- 103 Notwithstanding all of the above, national policy, in Chapter 6 “*Delivering a wide choice of high quality homes,*” supports the delivery of housing to meet the needs of different groups in the community and to some degree, Policy H1 has regard to this.
- 104 Taking all of the above into account, I recommend:
- **Policy H1, change the Policy text to “*The delivery of affordable housing of a type and tenure that reflects the latest available local affordable housing needs survey will be supported. The delivery of housing to meet the requirements of older people, including supported living, will be supported.*” (delete rest of Policy)**
 - **Delete “Application of Policy” (which does not support the statement “*will free-up properties*” with evidence)**

Policy H2: Caravan Sites

105 Policy H2 includes the phrase “...will be approved...” The Parish Council is not the Local Planning Authority and does not have the statutory power to determine applications for development. The Neighbourhood Plan cannot grant or refuse planning permission and this is a matter addressed in the recommendations below.

106 Essentially, Policy H2 seeks to provide a supportive planning framework for the extension of existing static caravan sites, as well as for the development of new ones. This has regard to Paragraph 28 of the Framework, which states:

“To promote a strong rural economy, local and neighbourhood plans should...support sustainable rural tourism...include supporting the provision and expansion of tourist and visitor facilities...”

107 As set out, the Policy refers to “no significant adverse impact.” Whilst some of the things that might be considered are listed, it is not clear what such an impact would comprise, the basis upon which it would be judged, and who by. Consequently, this part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

108 Further to the above, the approach does not provide for the balanced consideration of harm against benefits, but simply states that there should be no significant adverse impact (whatever that might be). Thus, the Policy fails to contribute to the achievement of sustainable development.

109 The final part of the Policy appears partially repetitious and includes the vague reference “may be permitted.”

110 The “Application of Policy” section adds little in the way of detail to the earlier supporting text and is unsupported by substantive evidence.

111 Taking the above into account, I recommend:

- **Change wording of Policy H2 to “Proposals for new static caravan sites, or extensions to existing sites, will be supported where it can be demonstrated that development will respect local character, residential amenity and highway safety.” (delete rest of Policy)**
- **Delete “Application of Policy” paragraph**

Policy H3: Homes for Gypsies and Travellers

- 112 Policy H3 states "*permission will be considered for Gypsy and Traveller Accommodation* at two sites in the Neighbourhood Area."
- 113 Whilst the determination of planning applications is a matter for the Local Planning Authority and not the Neighbourhood Plan, any registered planning application must, by law, "*be considered.*"
- 114 Notwithstanding this, Appendix 1 of the Neighbourhood Plan provides details to show that the two sites referred to in Policy H3 already have planning permission.
- 115 It is not the role or purpose of the Neighbourhood Plan to state that applications for development for which planning permission already exists will be supported. Such an approach is entirely unnecessary.
- 116 I recommend:
- **Delete Policy H3**
 - **Delete "Application of Policy"**
 - **Delete supporting text on page 27**
 - **Page 24, line 9, delete "*and provision of Gypsy and Traveller sites*"**

Policy D1: Design

117 Good design is recognised by the Framework as comprising:

“a key aspect of sustainable development...indivisible from good planning.”
(Paragraph 56)

118 National policy also requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Paragraph 58 of the Framework goes on to require development to:

“...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation...”

119 Further, SAMDev Policy MD2 (“Sustainable Design”) seeks to ensure that all development contributes to and respects locally distinctive or valued character.

120 Generally, Policy D1 encourages good design and in this way, it has regard to national policy and is in general conformity with the strategic policies of the development plan.

121 However, as set out, the Policy places a requirement on all development *“wherever possible and appropriate”* without setting out how possibility or appropriateness might be judged, who by, or on what basis. This results in a vague and imprecise policy, contrary to national advice. It does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

122 The seventeenth criterion in the Policy does not make sense and this is addressed in the Recommendations below.

123 Policy H1 provides reference to so many different things that it could not be applied to development in all of its various shapes, forms and types in anything other than a flexible manner. There is no evidence to demonstrate that limiting the flexible application of the Policy to (undefined) outstanding and innovative development would result in a Policy that is viable and deliverable, having regard to Paragraph 173 of the Framework.

124 Similarly, there is nothing to demonstrate that the requirements set out in the Policy would be relevant to all conversions/adaptions of existing buildings.

125 No indication is provided of what a "*significant development*" might comprise and whilst national policy promotes design review, this is not a requirement. In this regard, national policy refers to *major* development, which is defined by The Town and Country Planning (Development Management Procedure) (England) Order 2010.

126 I recommend:

- **Change second sentence of Policy D1 to: "*To achieve this, development proposals should take account of the following:*"**
- **Change criterion 17 to "*Provide for permeable surfaces in hard landscaped areas.*"**
- **Delete penultimate sentence ("Policy D1...building.")**
- **Change last sentence to "*Independent design review of major development proposals will be supported.*"**

Business and Employment

127 The fourth bullet point on page 31 does not make sense I recommend:

- **Page 31, change fourth bullet point to “...to support continued viability.”**

Policy BE1: Rural Diversification

128 Chapter 3 of the Framework, “*Supporting a prosperous rural economy,*” requires planning policies to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. In the light of this, it states that neighbourhood plans should:

“...support the sustainable growth and expansion of all types of business and enterprise in rural areas...promote the development and diversification of agricultural and other land-based rural businesses...support sustainable rural tourism and leisure developments...promote the retention and development of local services and community facilities...”

129 Policy BE1 is generally supportive of the diversification of the rural economy and in this way, it has regard to national policy.

130 As set out, Policy BE1 opens with a statement rather than a land use policy requirement and goes on to state that “*development will be approved.*” As set out earlier, the role of determining planning applications lies with the Local Planning Authority.

131 Policy BE1 refers to “*no significant adverse impact.*” This is a term frequently used at the broad, strategic level and whilst neighbourhood planning policies provide for a more detailed approach, without any evidence or information, it is unclear what a *significant adverse impact* on businesses or traffic management might be and why these comprise relevant land use planning matters.

132 The “Application of Policy” section adds nothing of value and detracts from the impact of the Policy itself.

133 I recommend:

- **Policy BE1, change text to *“Development that contributes to the diversification of the rural economy will be supported, subject to it respecting local character, residential amenity and highway safety.”***
- **Delete “Application of Policy”**

Policy BE2: Home Based Business

- 134 Policy BE2 seeks to provide a supportive planning framework for homeworking. In practice, most homeworking does not require planning permission.
- 135 Development that does require planning permission would normally be of such a scale, type and/or intensity that it would need to demonstrate that it would be appropriate within a residential environment.
- 136 As set out, Policy BE2 supports the conversion of a house, anywhere in the Neighbourhood Area, to business use, so long as there is no "*significant negative impact.*" In the absence of substantive evidence to the contrary, I consider that this could result in support for inappropriate forms of development.
- 137 No substantive evidence has been provided to demonstrate that such a dramatic departure away from national policy – effectively a presumption in favour of the change of use of a dwelling, or part of a dwelling to business use – is justified. Such information might have included, for example, evidence of to justify the loss of housing when national policy seeks to "*boost significantly*" housing supply.
- 138 Even if the intent of the Policy, not clearly apparent in the wording, is to allow only for ancillary development, thus retaining the main residential use of the relevant property, evidence might have been provided to demonstrate what type of uses requiring planning permission might be appropriate to residential areas. In the absence of this information, there is nothing to demonstrate that the approach set out in the Policy is viable and deliverable, having regard to Paragraph 173 of the Framework.
- 139 I recommend:
- **Change Policy BE2 to "*The inclusion of space for homeworking in new residential properties will be supported.*" (Delete rest of Policy)**
 - **Delete "Application of Policy" (which doesn't relate directly to the Policy)**

Policy BE3: Rosehill Road and Warrant Road Industrial Estates

140 As noted earlier, the Framework requires planning policies to support economic growth in rural areas and SAMDev Policy MD4, *“Managing Employment Development,”* recognises employment land as a key resource and supports employment development.

141 Generally, Policy BE3 appears to support the protection and improvement of employment sites in the Neighbourhood Area, although as worded, the Policy is imprecise and unclear. In the absence of any information, it is not clear how a change of use can be compatible with an existing use (as opposed to say an adjacent or neighbouring use). Also, the Policy, as worded, appears to support the loss of employment use on the two industrial sites, in direct conflict with the supporting text in the Neighbourhood Plan.

142 The Policy's requirement for *“contributions”* is not supported by any evidence in respect of necessity and fairness. This fails to have regard to Paragraph 204 of the Framework, which states that:

“Planning obligations should only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.”

143 I recommend:

- **Policy BE3, change second line to: *“Proposals for non-B1, B2 or B8 uses at these sites should respect local character, residential amenity and highway safety and should not result in the overall loss of employment land in the Neighbourhood Area.”* (delete rest of Policy)**
- **Page 33, retain paragraph of text, but delete the heading *“Application of Policy,”* which appears confusing**

Community Assets and Facilities

144 The supporting text on page 34 refers to Policy CAF3. There is no Policy CAF3 in the Neighbourhood Plan. I recommend:

- **Page 34, change penultimate sentence to “*Policy CAF2 seeks to protect community assets.*” (delete rest of sentence)**

Policy CAF1: Local Play, Sports and Recreational Facilities

145 Paragraph 70 of the Framework promotes positive planning for the provision of community facilities, including sports venues and Paragraph 73 of the Framework goes on to state that:

“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.”

146 In addition, Core Strategy Policy CS8, “*Facilities, Services and Infrastructure Provision,*” promotes the development of safe and healthy communities and the provision of facilities to support this.

147 Whilst the intent of Policy CAF1 is to support the provision of local play, sports and recreational facilities, the Policy simply requires all development to consider, deliver or contribute to the provision of these things. There is no substantive evidence to demonstrate the viability or deliverability of such an approach, having regard to Paragraph 173 of the Framework; or to demonstrate that the Policy has regard to Paragraph 203 of the Framework, in respect of planning obligations.

148 Vague references to “*incrementally*” and “*adequately supported*” result in the last sentence of the Policy appearing ambiguous.

149 Page 34 of the Neighbourhood Plan refers to Place Plans, without reference to what these comprise.

150 I recommend:

- **Change wording of Policy CAF1 to *“The provision of new high quality play, sports and recreational facilities and/or the improvement of existing facilities, will be supported.”* (delete rest of Policy)**
- **Page 34, add to last sentence *“The Place Plan is a document prepared by Shropshire Council, in discussion with Town and Parish Councils and infrastructure providers, to support the Local Plan process. It seeks to identify, and where possible suggest funding, for local infrastructure to support development”***
- **Delete Application of Policy sentence, which is vague/lacks detail**

Policy CAF2: Community Assets, Facilities and Services

- 151 National policy supports the development of community facilities. Paragraph 28 of the Framework promotes:

"...the retention and development of local services and community facilities..."

- 152 Further, Paragraph 70 goes on to state that planning policies should:

"...guard against the unnecessary loss of valued facilities and services the community needs..."

- 153 To an extent, Policy CAF2 seeks to safeguard community facilities. However, as worded, the Policy appears ambiguous. It allows for the development of community assets *"where there is no loss of community value."*

- 154 The Neighbourhood Plan does not provide any information in respect of how the community value of assets might be assessed such that *"loss"* might be measured and does not provide a decision maker with a clear indication of how to react to a development proposal. Further, the Policy does not allow for the balance of harm against benefits – it may well be that some loss might be more than compensated for by some benefit, but the Policy does not provide for this and as a consequence, it runs the risk of preventing development that may, itself, contribute to the achievement of sustainable development.

- 155 In addition to the above, the Policy supports any kind of development so long as it involves a community asset and doesn't result in loss to that asset's community value. This could result in support for inappropriate forms of development, simply because part of the development involves supporting a community asset. As such, the Policy fails to contribute to the achievement of sustainable development.

- 156 The opening sentence of the Policy comprises a general statement lacking in detail and the final sentence seeks to afford protection to something that does not exist in the Neighbourhood Area

157 I recommend:

- **Policy CAF2, change wording of Policy to “*The retention and/or the enhancement of community assets will be supported.*” (delete rest of Policy)**
- **Delete “Application of Policy,” part of which reads as a Policy, which it is not and part of which refers to matters not addressed by the Neighbourhood Plan**

Natural Environment

Policy NE1: Key Environmental Assets

- 158 The opening sentence of Policy NE1 comprises a general statement rather than a land use planning policy.
- 159 The second sentence of Policy NE1 requires all development to deliver or contribute to access to green spaces and environmental assets. No evidence is provided to demonstrate that this requirement is deliverable and viable, having regard to Paragraph 173 of the Framework; or that it has regard to Paragraph 203 of the Framework, in respect of planning obligations.
- 160 The third sentence of the Policy requires all development proposals to incorporate environmental assets and features. No evidence is provided to demonstrate that such a thing would be possible, viable or deliverable.
- 161 The Policy goes on to require all development to “*take opportunities*” to “*improve and enhance*” (although no information is provided to distinguish these two things) public rights of way. Whilst the phrase “*take opportunities*” appears vague, to some degree, this part of the Policy has regard to Paragraph 75 of the Framework, which states that:
- “Planning policies should protect and enhance public rights of way and access.”*
- 162 The Policy ends with a requirement for information to support planning applications, however, the responsibility for determining what must be submitted in respect of a valid planning application is a matter determined by law and the respective Local Planning Authority, in this case, Shropshire Council. Further, the requirement set out will not be relevant in respect of most planning applications in the Neighbourhood Area and fails to have regard to Paragraph 193 of the Framework in respect of information being relevant, necessary and material to the application in question.

163 Taking all of the above into account, I recommend:

- **Policy NE1, change to *“The protection and/or enhancement of public rights of way and the provision of net gains in biodiversity will be supported. Development must respect local character and minimise impacts on biodiversity.”* (delete rest of Policy)**
- **Delete “Application of Policy” which appears as, but is not, a Policy**

8. The Neighbourhood Plan: Other Matters

164 The recommendations made in this Report will also have a subsequent impact on Contents, including Policy, paragraph and page numbering.

165 I recommend:

- **Update the Contents and where necessary, Policy, paragraph and page numbering, to take into account the recommendations contained in this Report**

166 Page 38 appears as an error. I recommend:

- **Delete page 38**

9. Referendum

167 I recommend to Shropshire Council that, subject to the recommended modifications, **the Stoke upon Tern Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

168 I am required to consider whether the Referendum Area should be extended beyond the Stoke upon Tern Neighbourhood Area.

169 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

170 Consequently, I recommend that the Plan should proceed to a Referendum based on the Stoke upon Tern Neighbourhood Area approved by Shropshire Council on the 19th May 2015.

Nigel McGurk, June 2019
Erimax – Land, Planning and Communities

