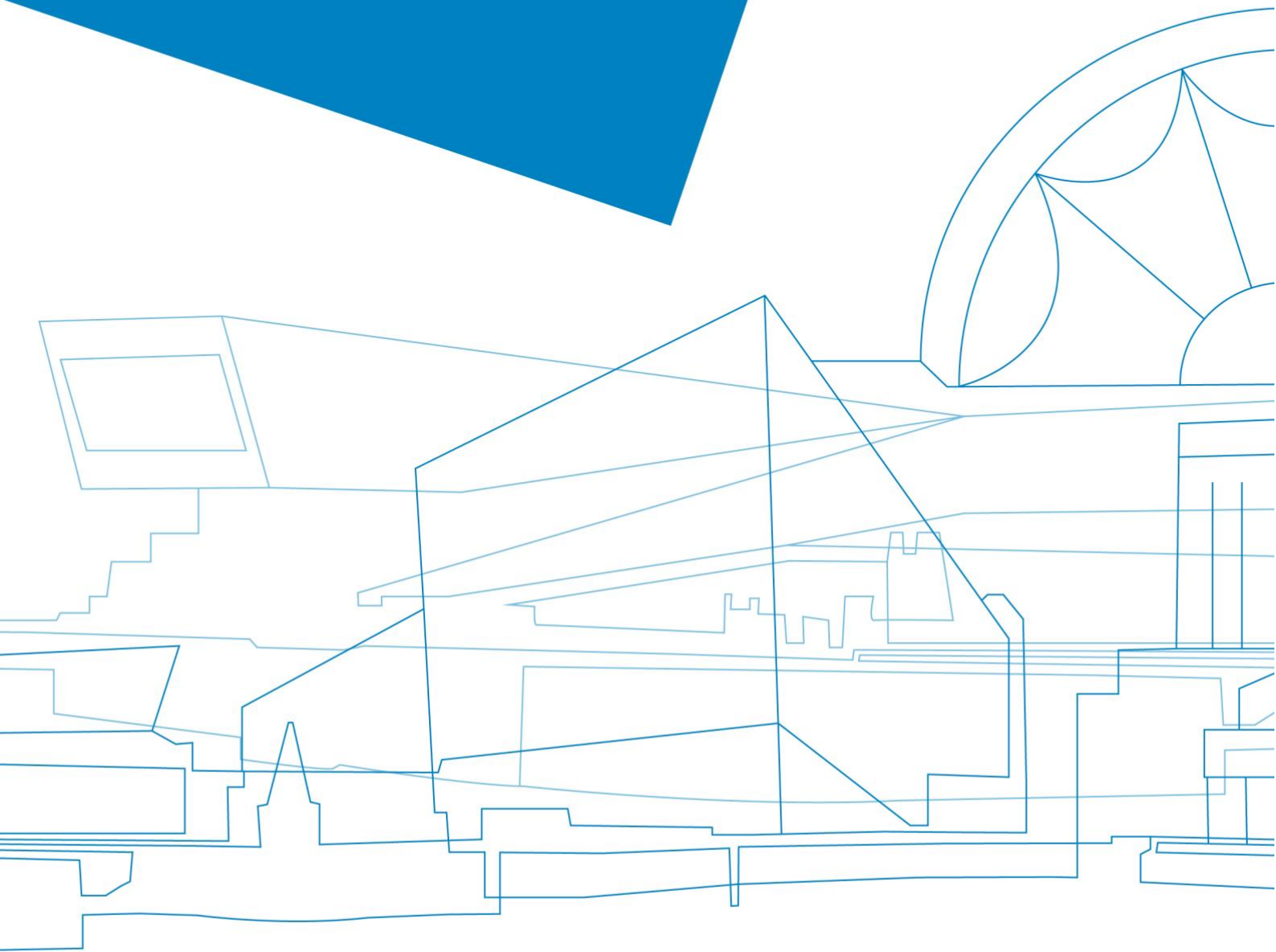


**URBAN
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**Urban Vision Enterprise CIC
Dunsfold Neighbourhood Plan
Review of Policies, Sites and Evidence
V1.1
July 2023**



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1. Introduction

1.1 Purpose of the Report

This report comprises an analysis of the Dunsfold Neighbourhood Plan 2013-2032 regulation 15 Draft (March 2023) and accompanying submitted statements and evidence. The analysis focuses on:

- Plan content, including policies and site allocations;
- Statutory process and legal compliance;
- The adequacy of supporting statements and evidence underpinning the plan.

The report considers options and makes recommendations for moving forward.

1.2 Methodology

The process for preparing the report included:

- Initial discussions with the client to clarify the current situation;
- On-line meeting with the local planning authority, Waverley Council;
- Review of the draft plan document;
- Review of the Basic Conditions Statement;
- Review of the Consultation Statement (Engagement Statement);
- Review of the Strategic Environmental Assessment;
- Review of key evidence documents, including the AECOM site selection report, the Dunsfold Site Assessment and Selection report, the Dunsfold Village Design Statement and other relevant reports.

Key issues considered as part of the review include:

- the process followed, with focus on legal compliance against planning law and consultation case law;
- consideration of possible issues in meeting the Basic Conditions;
- how Regulation 14 representations were taken into account;
- scrutiny of the selection process, criteria and evidence behind the site allocations;
- likely effectiveness of policies in the development management process.

Chapter 2 provides an overview of legal compliance for neighbourhood plans and statutory consultation. Chapter 3 comprises a health check of the neighbourhood plan, focused on legal compliance and likely effectiveness of policies. Chapter 4 considers the plan submission in terms of legal validity. Chapter 5 sets out conclusions and options and makes recommendations.

2. Legal Compliance

2.1 The Basic Conditions

Statutory process and requirements for Neighbourhood Plans are set out in:

- the Town and Country Planning Act 1990, as amended;
- the Planning and Compulsory Purchase Act 2004, as amended;
- the Neighbourhood Planning (General) Regulations 2012, as amended.

Policy and Guidance for Neighbourhood Plans is contained in the National Planning Policy Framework 2021 and Planning Practice Guidance. Other relevant guidance includes the National Design Guide 2021.

Neighbourhood Plans must meet the ‘Basic Conditions’ set out in planning legislation and this is tested through the Independent Examination. These are:

- having regard to national policies and guidance.
- contributing to the achievement of sustainable development.
- being in general conformity with the strategic policies contained in the development plan for the area.
- not breaching EU obligations.
- not breaching the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

In addition, plan must be compatible with human rights legislation.

Legal compliance is examined in more detail in later parts of this report.

2.2 Consultation

Statutory consultation must meet the requirements of consultation case law, including ‘Gunning’ principles. Gunning principles arise from a court case in 1985 (R v London Borough of Brent ex parte Gunning) and have been confirmed and clarified in numerous subsequent cases.

Four principles need to be met by statutory consultations:

proposals are still at a formative stage

A final decision has not yet been made, or predetermined, by the decision makers;

there is sufficient information to give 'intelligent consideration'

The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response;

there is adequate time for consideration and response

There must be sufficient opportunity for consultees to participate in the consultation. There is no set timeframe for consultation, despite the widely accepted twelve-week consultation period, as the length of time given for consultee to respond can vary depending on the subject and extent of impact of the consultation;

'Conscientious consideration' must be given to the consultation responses

before a decision is made Decision-makers should be able to provide evidence that they took consultation responses into account.

3. Neighbourhood Plan Health Check

3.1 Plan Structure and Content

General Comments

The Neighbourhood Plan document is reasonably concise, which is useful. However, throughout the Plan there is quite a lot of repetition, so careful editing could make it even more concise and easier to use.

Some parts of the text refer to the 'Neighbourhood Area' (which is correct) and some to the 'Neighbourhood Plan Area'. For consistency and accuracy, the term 'Neighbourhood Area' should be used throughout.

There is some inconsistency between the format of chapter headings, diagram headings and sub-headings. For example. Some diagram headings are the same size as chapter headings. A clear hierarchy of headings would be useful, with strong chapter headings. This would make the Plan easier to use.

There is a lack of clear separation between policies and supporting text. In several places, the supporting text appears to set policy requirements, which is confusing (for example, Paragraph 5.29). This needs to be addressed throughout the Plan. Policy requirements should be in policies only, not supporting text.

The following considers the structure and chapters of the Plan. Policies are dealt with in 3.3 of this report.

3.2 Chapters

Foreword

The Foreword is written as a commentary on recent issues affecting the area rather than setting the scene for a statutory planning policy document. In addition, it addresses excluded matters for neighbourhood planning (mineral extraction). Redrafting would be useful, with a focus on the Neighbourhood Plan as statutory planning policy.

Evidence Base Documents

This is a useful list of key evidence documents. Waverly Council suggested additional documents in its Regulation 14 response.

Policies

This is a useful summary list of later policies.

Introduction

This chapter contains several inaccuracies, for example describing the Localism Act as guidance, referring to two of the Basic Conditions only, and making reference to a 'higher level' development plan. The text then goes on to address various issues related to later policies. There is limited correlation between the sub-headings and actual text. A careful redraft would be useful.

The Introduction does fulfil the requirement to state the period that the plan will be in effect, but lacks precision (when in 2032? For example, it could say the end of 2032).

In Paragraph 1.13, it is unclear when or whether the Parish Council approved the Regulation 14 and Regulation 15 versions of the Plan and supporting statements. It would be useful to clarify this, for the avoidance of doubt.

A Portrait of Dunsfold

This is a concise and useful overview of the area.

Planning Policy Context

The text addresses legislation, policy and guidance in vague terms. It is questionable whether this chapter is necessary or helpful.

Vision and Key Planning Principles

The vision is somewhat vague and unclear in meaning.

Planning Principle PP7 appears to relate to making representations rather than a Parish Council role in determination of applications, as suggested.

It is unclear why some policies are in the Vision chapter, rather than the following policy chapters. It is also unclear how they relate to later policies dealing with similar themes.

Housing

Some of the housing objectives apply to the preparation of the neighbourhood plan, some to requirements for development. This is confusing. Objectives should focus on development, as a basis for the policies.

There appears to be a muddying between evidence and outcomes from community engagement. The text appears to undermine the AECOM site assessment, which is a key evidence document.

Natural Environment

This contains explanatory text and environmental policies.

Environment, Sustainability and Design

Some of the objectives read like policy or statements.

It is unclear how the different design policies relate to each other and there is some duplication (see comments on policies in 3.3 of this report). Whilst a useful range of issues is addressed, it may be difficult to apply the policies. A more integrated approach to design may be beneficial.

Employment and Business Support

This contains explanatory text and employment policies.

Transport and Getting Around

Many of the objectives deal with traffic management and matters outside of the control of developers.

Recreation, Leisure and Wellbeing

Some of the objectives relate to projects/proposals, rather than planning policy matters.

Infrastructure and Delivery

Not all of the objectives are related to planning policy.

Monitoring and updating the Neighbourhood Plan

At 11.20, neighbourhood plans are 'made', they are not adopted.

Given the reliance of policies on external documents, the suggested review of the Dunsfold Design Statement would be likely to erode the policies of the Neighbourhood Plan (see later comments in 3.3).

Glossary

This should be checked to ensure all terminology and definitions are compatible with those in planning policy and guidance. Some definitions may quickly become out-of-date.

3.3 Policies

Policy PO1: Core Planning Principles

This appears to be a landscape protection policy, with rather vague wording and an emphasis on visual impact rather than other adverse landscape impacts. The policy appears to pre-empt a decision on extension of the AONB. It is not clear how this policy relates to later policies addressing landscape and natural environment. The policy is likely to be amended or deleted at the examination stage.

Policy PO2: Spatial development of Dunsfold

The first paragraph comprises statements rather than policy.

Waverley Council has pointed out that the policy may be over-restrictive. Part of the policy appears to draw on NPPF green belt policy. The policy is likely to be amended or deleted at the examination stage.

Policy PO3: To prevent coalescence of Dunsfold settlement with Dunsfold Park

As worded, this policy is unlawful. Waverley Council has already pointed out that the policy may be over-restrictive. A neighbourhood plan can't apply NPPF policy – Paragraph 80 already applies in the circumstances set out in the NPPF. Redrafting could help to create a legally compliant and more effective policy.

HO1: Provision of Housing

The policy wording is quite confused. It reads as justification for policy rather than policy. There is some inconsistency in the figures (103/108 houses).

See also 3.4 of this report (site allocations).

HA1 Alehouse

The policy sets out contextual issues to be considered, but without stating clear requirements for development to meet (for example on scale, massing, siting, landscape, etc.).

It is unclear why the minimum age requirement is included or how it would be enforced. It is unclear what 'density appropriate for older residents' means. This could be interpreted as high density, low density or anywhere in between.

See also 3.4 of this report (site allocations).

HA2: Coombebury

The policy sets out contextual issues to be considered, but without stating clear requirements for development to meet (for example on scale, massing, siting, landscape, etc.).

The concerns and proposed amendment to wording suggested by Waverley Council at the Regulation 14 stage appear not to have been taken into account (see also 4.2 of this report).

See also 3.4 of this report (site allocations).

HA3: Wetwood Farm

This appears to be a greenfield site, remote from existing settlements. Waverley Council raised concerns over site selection.

The policy sets out raises contextual issues to be considered, but without stating clear requirements for development to meet (for example on scale, massing, siting, landscape, etc.).

See also 3.4 of this report (site allocations).

HA4: Springfield

The policy sets out raises contextual issues to be considered, but without stating clear requirements for development to meet (for example on scale, massing, siting, landscape, etc.).

The concerns and proposed amendment to wording suggested by Waverley Council at the Regulation 14 stage appear not to have been taken into account (see also 4.2 of this report).

See also 3.4 of this report, on site allocations.

HO2: Self-Build Houses/Custom Build Houses

The policy is likely to be inconsequential, or even to discourage self-build by limiting locations.

The concerns raised by Waverley Council at the Regulation 14 stage appear not to have been taken into account (see also 4.2 of this report).

HO3: Windfall Housing

The policy is more restrictive than NPPF policy.

A neighbourhood plan can't apply NPPF policy – Paragraph 80 already applies in the circumstances set out in the NPPF.

The concerns raised by Waverley Council at the Regulation 14 stage appear not to have been taken into account (see also 4.2 of this report).

Policy HO4: Mix of Housing Size

The policy is likely to be inconsequential due to the vague wording. There may be a risk that it could be interpreted as setting lesser requirements than Local Plan policy.

It is unclear why the policy does not seek to apply the findings of the AECOM Housing Needs Assessment.

The concerns over housing mix and the relationship to the Local Plan, raised by Waverley Council at the Regulation 14 stage, appear not to have been taken into account (see also 4.2 of this report).

NE01: Habitats and Biodiversity

The wording is unclear in places.

Waverley Council's questions over biodiversity have not been answered (see also 4.2 of this report).

NE02: Trees, Woodland, Hedgerows and Landscaping

The relationship between this policy and NE1 is unclear. An integrated policy may be easier to apply.

The wording is vague. For example, it is not clear what 'larger gardens' means.

Waverley Council's concerns over gardens and wording have not been answered (see also 4.2 of this report).

NE3: Flood Risk

The neighbourhood plan cannot amend Government specified submission requirements.

Some of the policy is inconsequential, for example requiring planning practice guidance to be considered (this must be considered anyway).

The policy does not set criteria or thresholds for sustainable drainage features. Waverley Council's concern over this has not been taken into account (see also 4.2 of this report).

NE04: Light Pollution and Dark Skies

Most lighting does not require planning permission, including external floodlighting where the fittings are not visible. This will limit the impact of the Policy. Nonetheless, it is still worth including.

NE05: Noise Pollution

It is unclear what the first sentence refers to. The examples in the text following the policy refer to highway works to the existing network, so would often not require planning permission and usually would be outside of the control of developers.

The second part of the policy could be written more effectively in terms of adverse impacts on amenity, also including issues like vibration.

Like many of the Plan's policies, the wording is vague.

ES01: Character and Design

The policy sets vague requirements for design. It is selective on the aspects of design addressed, especially against the context of the National Design Guide 2021. Other character and design issues are addressed in later policies, rather than in this 'character and design' policy. It is unclear why this is.

The policy makes reference to the Dunsfold Village Design Statement. This is unlikely to be effective, as it assumes that developers and decision makers will read the whole external document and pick out the parts that are important to the Parish Council. This is unlikely to happen in practice.

In addition, the Dunsfold Village Design Statement is largely descriptive, though it does contain some design guidelines. It therefore functions more as an evidence document. It would be far better to pick out the key guidelines from the Dunsfold Village Design Statement and convert them into a carefully drafted policy.

ES02: Landscape and Visual Impact

It is unclear how ES02 relates to ES01 and there is some cross-over between them. A single integrated design policy may be more effective. As with ES01, the policy sets vague requirements for design. There also appears to be some duplication with other landscape policies in the Plan.

The policy makes reference to the Dunsfold Village Design Statement (see comments on ES01).

ES03: Design Standards

It is unclear how the policies apply together with ES01 and ES02. A single integrated design policy may be more effective and less confusing.

As with ES01 and ES02, the policy sets vague requirements for design. Some of the matters addressed appear to fall outside of planning control.

The policy makes reference to the Dunsfold Village Design Statement (see comments on ES01).

Policy ES04: Space Standards

The Neighbourhood Plan can't apply space standards or apply a policy in an emerging Local Plan – that would require adoption of the emerging Local Plan.

Waverley Council raised the issue of space standards at the Regulation 14 stage.

ES05: Public Realm

It may make the Plan easier to use if ES05 was integrated into a design policy with ES01, ES02 and ES03. An integrated approach to design should be encouraged - the fragmented nature of the design policies may be counter-productive.

Sometimes native species do not offer the best solution from the perspective of climate change and biodiversity. More flexibility could be written into the policy.

ES07: Heritage Assets

The policy mainly repeats national policy and guidance, so is inconsequential. This is a missed opportunity to address heritage issues specific to Dunsfold.

Reference is made to the Dunsfold Conservation Area appraisal, but not to the St Mary's Church Conservation Area appraisal. This was raised by Waverley Council at the Regulation 14 stage, but the issue has not been addressed.

As developers and decision makers will not necessarily pick out the parts of the conservation area appraisals that are most relevant, it would be better to draft policies for the two conservation areas setting more specific character requirements, whilst avoiding being over-prescriptive or suppressing creativity or green design.

ES08: Sustainable Design

Despite the title, this policy is focused on building design and performance only, rather than sustainable design in its wider sense. For example, it does not deal with walkable neighbourhoods (mixed use and pedestrian movement). It may be better to amend the policy title to reflect this narrow focus.

The concerns raised by Waverley Council at the Regulation 14 stage appear not to have been taken into account (see also 4.2 of this report).

Policy ES09: Areas of Strategic Visual Importance

The Neighbourhood Plan can't apply a policy in an emerging Local Plan – that would require adoption of the emerging Local Plan.

The concerns over ASVIs raised by Waverley Council at the Regulation 14 stage appear not to have been taken into account (see also 4.2 of this report).

Policy EB01: Local Employment Space

Much of the policy repeats earlier policy requirements (noise, air, light, rural), which is confusing. The requirement for no impact is contrary to NPPF policy.

It is unclear how HGVs could be assessed and controlled. This could be redrafted perhaps.

It is unclear how the latter part of the policy would be assessed. It is unclear what 'maintaining the rural environment' means against the context of the policy.

The blanket requirement for on-site parking for employees and delivery vehicles could be non-viable for some small and local businesses or prevent reuse of heritage assets or create harm to the historic environment.

Policy EB02: Equestrian Related Development

It is unclear why equestrian development is being treated differently to some other forms of rural enterprise involving use of open landscape.

Policy EB03: Communications

This is a statement rather than policy and falls outside of the control of developers.

Policy EB04: Advertisements

Concerns over the policy raised by Waverley Council at the Regulation 14 stage appear not to have been taken into account (see also 4.2 of this report).

The policy is likely to be deleted at examination stage.

Policy TG01: Highways and Traffic Calming

The policy deals with traffic management issues largely outside of the control of developers.

The policy supports enhancement of footpaths, but does not address possible harmful impacts of development on footpaths.

Policy TG02: Sustainable Transport

There appears to be some cross-over with TG01. A single integrated transport policy would be better.

Policy TG03: Car Parking Standards

It is unclear whether the intention is to modify parking standards, which are likely to be strategic local policy. This could raise issues over general conformity.

The comments made by Waverley Council at the Regulation 14 stage appear not to have been taken into account (see also 4.2 of this report).

Policy TG04: Improved Bus Services

The policy addresses services outside of the control of developers.

Policy RL01: Community and Leisure Facilities

The policy is similar to Local Plan policy LRC1, though setting more vague requirements. It is perhaps unlikely that the intention was to weaken protection of local facilities, but this could be the outcome.

Policy RL02: Retention of Assets of Community Value

The wording of the policy is quite vague. It is unclear why Assets of Community Value are treated differently to other important community assets.

Policy ID01: Infrastructure Delivery

The wording of the policy is vague and it is unclear how compliance would be assessed. The policy is likely to be amended or deleted at the examination stage.

Policy ID02: Dunsfold Surgery

The policy does not include any locational or other requirements or require impacts to be considered.

Policy ID03: Mobile Phone Masts

The scope of the policy is unclear. The policy implies consideration of impacts on landscape, but not other impacts. Many masts are subject to permitted development rights.

Policy ID05: Power Supply

The scope of the policy is unclear. There is no consideration of impacts.

Policy ID06: Wastewater Capacity

The meaning of the first sentence is unclear. The second sentence is a matter for the developer to discuss with the utility service provider.

Policy ID07: Renewable Energy

The scope of the policy is unclear. Impacts to be considered include on landscapes and heritage, but not on amenity. This could support harmful development.

The concerns raised by Waverley Council at the Regulation 14 stage appear not to have been taken into account (see also 4.2 of this report).

3.4 Site Allocations

Background

An AECOM site assessment report was procured through the national neighbourhood planning programme. This includes a RAG analysis, based on whether sites are suitable, achievable and available.

Quite often neighbourhood planning working groups develop their own site selection criteria and then use the site assessment report as the key evidence document in applying this criteria.

In this instance, the working group appears to have rejected the AECOM findings, at least in part, and revisited the RAG analysis, though using different criteria and on an issue-by-issue basis. The working groups site assessment report (March 2021) includes selection criteria to undertake a RAG analysis against various criteria. This has created a blurring between site assessment and application of site selection criteria. Consequently, there are different sets of RAG ratings, prepared using different methodologies. This is very confusing.

Selection Criteria

The overarching principle is based on landscape character and refers to a prospective decision to extend the AONB. It is unclear how this was used in selecting sites.

DPSAP1: Scale and Density – This relates to the size of sites, with preference for sites that could accommodate 10 or less houses. However, the assessment criteria also includes density of built form. Given that this is an assessment of sites rather than actual development proposals, this clearly does not work.

DPSAP 2: Land Use - This favours brownfield sites, which reflects the NPPF. It is less clear what the second sentence means (regarding certain uses and landscape character) or how it was assessed. Despite this assessment criteria, the site selection has focussed on greenfield sites. There is inconsistency in the site ratings.

DPSAP 3: Location and Coalescence: This is a clear criterion, addressing proximity to the village. One of the selected sites (Wetwood Farm Poultry) is clearly separate from the village, but still given a green rating (at odds with the AECOM finding).

DPSAP 4: Natural Environment – This relates to ‘natural environment assets’ and ‘landscape impacts’. It is unclear what ‘additional individual features’ means.

DPSAP 5: Flood Risk – This addresses flood risk. All sites are identified as Zone 1.

DPSAP 6: Heritage – This addresses impacts on heritage. It does not appear to include settings of listed buildings unless they are in or adjacent to sites. The SEA Environmental report suggest that there are heritage dimensions to all of the sites selected. There is a mismatch with the assessment criteria, which also deals with ‘linear built form’. Also, it fails to take account of possible positive impacts.

DPSAP 7: Community Facilities and Services – The assessment criteria focuses on loss of community facilities, rather than the more usual approach of being in walking distance of existing community facilities.

DPSAP 8: Access and Highways – This considers safety of access and impact on vehicular movements.

DPSAP 9: Infrastructure – The assessment criteria refers to ‘strategic infrastructure provision’. It is unclear what this means, but it is difficult to envisage that development of relatively small sites could have impacts at a ‘strategic’ level.

DPSAP 10: Deliverable and Developable – This has different conclusions to the AECOM report, despite issues being identified for some sites.

Selected Sites

Four sites were included in the submitted (Regulation 15) version of the Plan (one site was dropped from the regulation 14 version). These sites are:

- HA1 Alehouse
- HA2: Coombebury
- HA3: Wetwood Farm
- HA4: Springfield

Alehouse, Coombebury and Wetwood were give amber RAG ratings by AECOM. Springfield was given a green RAG rating. The only other site to be given a green RAG rating in the AECOM report was Binhams Lee (which now has planning permission for development).

The working group's report gave RAG ratings against each of their criteria. There are apparent inconsistencies in the assessment of specific sites, including:

- Assumed densities.
- Amber and green RAG ratings given to greenfield or mixed sites (Alehouse, Coombebury, Wetwood), which is inconsistent with the assessment criteria.
- Lack of clarity over how areas of great landscape value informed decisions.
- Assessment of heritage assets assumes negative impacts and fails to consider potential for positive impacts (which could be written into site allocation policies).
- Assessment of heritage assets fails to take account of the wider settings of listed buildings.
- Consideration of community facilities is based on loss, rather than proximity or potential positive impacts on viability.
- Infrastructure assessment appears to be based on sewerage capacity (which is a matter for the developer and utility provider) rather than planning infrastructure requirements.
- Very small sites are still considered to have 'strategic' infrastructure implications, which is clearly unreasonable.
- For Coombebury, there is a statement 'Development on the site would not result in the loss of currently active agricultural land. The land is a woodland plantation'. However, the site is then amber against natural environment.

The report fails to draw conclusions, to justify the sites selected. It states that the analysis was used by the Steering Group 'alongside other information, including public consultation feedback and the Strategic Environmental Assessment process'. However, it is unclear what this entailed in practice. There is a lack of clarity or transparency over how sites were selected.

Justification for Site Allocations

There are questions over accuracy, consistency, transparency and lack of clear justification for the sites selected. There are risks in proceeding with the Plan on this basis. There is a possibility of deletion of some or all of the site allocations.

It should be noted that two of the sites lie within the settlement boundary, where development is supported anyway.

3.5 SEA Recommendations

The AECOM SEA Environmental Report made two specific recommendations:

- *Regarding the biodiversity and geodiversity SEA topic, it is recommended that the DNP outlines specifically how the impacts of development on Ancient Woodland will be mitigated. This is because Ancient Woodland covers a large part of the neighbourhood area, which is regarded as a particularly rich habitat for wildlife and the importance of preserving ancient woodland is recognised by the NPPF (Paragraph 175).*
- *Regarding the landscape SEA topic, it is recommended that the site allocation policies be updated to reflect the need to consider the role of tree/ plantation screening, including re-provision as necessary.*

It should be noted that Policy NE02 deals with woodland, but does not mention ancient woodland. However, the site allocation policies do now include mention of ancient woodland and landscape impacts.

It would appear that the SEA recommendations are reflected in the site allocation policies, but with some inconsistency in policy NE02.

4. Plan Submission

4.1 The Basic Conditions Statement

The submitted Basic Conditions Statement appears to be fairly thorough, except in one important respect. The list of Basic Conditions in 1.7 and 6.1 does not include the Basic Condition introduced through regulations, relating to habitats and species (see 2.1 of this report). This is a worrying omission, which needs to be rectified.

The statement tests the plan against a list of human rights legislative requirements. It may have been useful to also test the policies against groups with protected characteristics.

4.2 Consultation Statement

Regulation 15 of the Neighbourhood Planning (General) Regulations 2012, as amended, sets out the requirements for the Consultation Statement. This includes:

(2) In this regulation “consultation statement” means a document which—
(a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan or neighbourhood development plan as proposed to be modified.;
(b) explains how they were consulted;
(c) summarises the main issues and concerns raised by the persons consulted;
and
(d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan or neighbourhood development plan as proposed to be modified.

The submission of the Dunsfold Neighbourhood Plan was accompanied by an ‘Engagement Statement’, which presumably was intended to fulfil the statutory requirement for submission of a consultation statement.

The engagement report includes collective and statistical analysis of support for policies. This is unhelpful and unsuitable as a basis for considering whether or not to modify each of the policies. The most useful basis for such decisions is the reasoning behind each individual comment.

The table setting out the changes made to the Plan addresses the representations collectively and does not explain why specific comments may have led to modifications, or why other comments did not lead to modifications.

A separate 406-page Appendix to the Engagement Statement includes all representations, but no analysis or indication of whether and how the Plan was amended and why.

Waverly Council made very detailed comments on the Plan, but the submitted document failed to address many of the issues raised. It is often unclear whether such comments were considered but that the Parish Council disagreed with them, or whether the Parish Council failed to take account of them.

For these reasons, the submitted 'Engagement Statement' appears to fail to meet the requirement for a 'Consultation Statement' set out in Regulation 15.

With regard to consultation case law, it is likely that the Regulation 14 Consultation met the first three Gunning Principles (see 2.2 of this report). However, the Engagement Statement does not include clear analysis of all representations. This raises doubt over whether the requirement of Gunning fourth principle (conscientious consideration of representations) was met.

5. Conclusions and Recommendations

5.1 Conclusions

The Neighbourhood Plan has been submitted, but not yet subjected to legal checks. The lack of detail and clarity in the submitted engagement statement raises a serious question-mark over whether the submission meets legal requirements.

Many of the policies in the Neighbourhood Plan are capable of meeting the Basic Conditions, with varying degrees of modification, for example to improve clarity and address ambiguity.

A number of policy deletions are possible, including policies relating to non-planning matters such as highway authority functions and provision of utilities. Given the concerns over the site allocation process, site allocation policies may be vulnerable to deletion. There may also be partial or complete deletion of some policies due to incompatibility with national policies (see 3.3).

The Independent Examination will not consider the likely effectiveness of policies in the development management process. Policies may be successful at examination, but still prove to be ineffective or inconsequential in practice. This is an issue to some extent with several of the policies (see 3.3). Many policies are vague or generic in nature.

5.2 Options

At present, the Plan submission is paused, but the plan has not been withdrawn. This means that it remains in the control of the local planning authority, which must make legal checks and then, if the plan meets submission requirements, arrange for the Independent Examination and regulation 16 publicity.

The adequacy of the consultation statement is a key issue, so the Plan may fail legal checks or, if allowed to proceed, then be vulnerable to legal challenge.

The omission of one of the Basic Conditions in the Basic Conditions Statement is also worrying, but could be rectified.

The plan may not be amended by the Parish Council, while it remains submitted. Following the examination, the Plan will only be able to be amended to meet the Basic Conditions and other legal requirements. There will be no opportunity for wider review of policies or sites.

To make more significant changes, including revisiting site allocations, it would be necessary to withdraw the Plan. This would place the plan back in control of the Parish Council. Amendments could then be made to policies and site allocations.

Significant amendments, especially changes to sites allocations, would require the SEA report to be updated. All but very minor changes are likely to require the Regulation 14 Consultation to be repeated. Given the concerns over the Consultation Statement and the way in which representations from the previous Regulation 14 consultation were considered, this may be the safest course of action anyway.

The options are:

Option 1: The Parish Council may withdraw the Plan and undertake modifications, including to policies and site allocations. The SEA would then need to be updated. A new Regulation 14 Consultation on the modified Plan would then need to be undertaken. The Plan could then be resubmitted.

Option 2: The Parish Council could allow the Plan to proceed in its current form, through legal checks and Independent Examination. The Plan may fail legal checks, primarily due to the limitations of the 'Engagement Statement'. Acceptance of the Plan submission in its current form could create risk of legal challenge. The Independent Examination may result in substantial amendments and deletions to policies and site allocations.

If the plan is not withdrawn, the representations from the previous regulation 14 consultation should be reassessed. This would allow a more detailed and legally compliant Consultation Statement to be prepared and would help to demonstrate Gunning compliance. The new Consultation Statement would then need to replace the 'Engagement Statement' to create a legally compliant submission. Also, it would be advisable to submit additional background documentation to demonstrate how the site selections were made. The inconsistencies in the existing documentation would also need to be corrected.

It has been suggested that amendments could be made without withdrawing the Plan and that a limited Regulation 14 consultation could be run to consult on those changes. This is not the case.

Amendment of the Plan at the examination stage would be limited to the modifications and deletions necessary to meet the Basic Conditions and other legal requirements.

5.3 Recommendations

Recommendation 1: The safest option would be to withdraw the Neighbourhood Plan. This would allow the issues raised by this report to be addressed.

Recommendation 2: Once the Plan is withdrawn, the Parish Council could consider whether to continue with the current site allocations or to re-visit the assessment process. In either case, more robust and transparent justification for site allocations should be prepared to accompany the Plan.

Recommendation 3: Once the Plan is revised, the SEA report would need to be updated and the Regulation 14 consultation would then need to be repeated, based on the revised plan.

Recommendation 4: The revised Plan could then be approved by the Parish Council and be resubmitted with a valid Consultation Statement and Basic Conditions Statement.

6. Contact



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