

Holton-le-Clay Neighbourhood Development Plan 'Health Check' Review for Holton-le-Clay Parish Council

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CONTEXT

The 'health check' is a desk based review designed to help the qualifying body to identify issues that may cause delay or rejection of Plans or Orders at the submission or independent examination stages.

The 'health check' considers whether there are any obvious problems in meeting the basic conditions and other legal requirements. This 'health check' is less comprehensive than a formal examination and only deals with the Plan and the Basic Conditions and Consultation Statements. It does not include background documentation or processes. A 'health check' does not involve re-writing the Plan but provides general advice on what changes may need to be made. The 'health check' is advisory only and has no legal status.

FINDINGS

Work is underway to achieve a Neighbourhood Development Plan (NDP) for Holton-le-Clay. Pre-Submission consultation on the NDP has been undertaken in various guises since December 2014. Progress has been made to the point where a revised Draft Neighbourhood Plan document has now been prepared dated 2nd June 2016.

From my review of the latest version of the Draft Plan it is evident that considerable effort has been put into working on the Holton-le-Clay Neighbourhood Development Plan. The NDP has been advanced by a Steering Group that includes volunteers from the local community. The Plan has been developed through wide consultation. The inclusive approach to engaging key stakeholders appears to have been most successful.

This 'health check' review has found the NDP to be demonstrably grounded in local opinion. With some adjustment, the Plan has the potential to offer a sound basis for future decision making in respect of planning proposals emerging in the plan area over the next 13 years. It is a particular strength of the Plan that it focuses on issues that are central to local community aspirations.

The findings of this review have led to the making of a number of recommendations on matters to be addressed and these are set out below. Paragraph references relate to the Draft Plan document dated 2nd June 2016.

The observations and comments made are intended to help Holton-le-Clay Parish Council reach a successful outcome with a 'made' plan.

PART 1: PROCESS

Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?

Yes — An application for designation of Holton-le Clay Parish as a Neighbourhood Area was submitted to East Lindsey District Council, appropriate consultation was undertaken and the application was approved on 8th January 2013. The Neighbourhood Plan Area covers the whole of the Parish.

The map of the Neighbourhood Plan Area presented its Figure of the Plan confirms the plan area has been defined by the Parish boundary. Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (the Regulations) requires that the area to which the Neighbourhood Plan applies must be defined. Also that no other neighbourhood plan has been made for the neighbourhood area and the

Neighbourhood Plan does not relate to more than one neighbourhood area and therefore complies with those restrictions. It may therefore be helpful to include such definitive reference within the Plan Introduction supported by the subsequent parish plan area.

Have the requirements been met in terms of the designation of a neighbourhood forum?

Not applicable as Holton-le-Clay Parish Council are a Qualifying Body able to prepare a Neighbourhood Development Plan.

Has the NDP been the subject of appropriate pre-submission consultation?

The Parish Council should ensure that consultation is duly undertaken in respect of Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (the Regulations) including consultation with the bodies referred to in paragraph 1 of schedule 1 of the Regulations.

Has there been a programme of community engagement proportionate to the scale and complexity of the NDP and has a consultation statement been prepared?

Yes — An extensive programme of community consultation has occurred throughout the plan evolution period. Appendices to the NDP provide reference to the extensive level of community engagement. On this basis it would appear that the Consultation Statement when finalised will demonstrate appropriate community involvement in plan preparation.

Are arrangements in place for an independent examiner to be appointed?

Not at present. The person appointed as independent examiner must be appropriately qualified and experienced and must not have an interest in any of the land affected by the NDP. It is good practice to be able to demonstrate a proper selection process has occurred.

Is there a clear project plan for bringing the NDP into force and does it take account of local authority committee cycles?

It would be useful for the Steering Group to ensure that a project plan is included in the list of supporting documents on the Neighbourhood Development Plan website. It is now appropriate to review the future timetable in the context of progress to date and actions outstanding including issues arising from this 'health check' review and update the project plan against which progress can be monitored as the Neighbourhood Plan is taken to a successful outcome of being 'made'.

Has an SEA screening been carried out by the LPA?

A Neighbourhood Planning Screening Report; Strategic Environmental Impact Assessment (SEA) and Habitats Regulations Assessment has been prepared by ELDC dated 26th November 2014. That report considered that an SEA is required in relation to the Holton-le-Clay Neighbourhood Plan. Although the Neighbourhood Plan has subsequently been prepared without inclusion of allocations for development as originally intended, a 'light touch' Sustainability Appraisal (incorporating the requirements for SEA) has nevertheless been undertaken. This follows the advice given.

Has an assessment been made regarding likely significant effect on a European site?

A Neighbourhood Planning Screening Report; Strategic Environmental Impact Assessment and Habitats Regulations Assessment (HRA) has been prepared dated 26th November 2014 The Screening Report concludes that the Neighbourhood Plan would need to be subject to a HRA. However, the NDP is no

longer proposing to allocate development sites although a ‘light touch’ Sustainability Appraisal (incorporating the requirements for SEA) has nevertheless been undertaken. This follows the advice given.

A statement should however be included in the Basic Conditions Statement, confirming, whether the NDP will have any likely significant effects on a European site or a European offshore marine site and whether a Habitats Regulations Assessment (HRA) is required.

PART 2 - CONTENT

Are there any general points relating to content?

(a) Format

It is a requirement of the Planning and Compulsory Purchase Act 2004 that the Neighbourhood Plan should state the period in which the plan will have effect. It would be helpful if the plan document on the front cover clearly stated the period for which the NDP will have effect which is to 2029.

I consider it appropriate that the ‘style’ of the Neighbourhood Plan does not follow any generic planning document format, but reflects the desires and intentions of the qualifying body.

However, it is also important that the NDP is easily understood by the community — the people who will vote in a referendum on whether the plan should ‘made’ (brought into force).

Although the intended construction and presentation of the Draft Neighbourhood Plan is generally clear, I consider that it would be advantageous to identify how the Vision was arrived at and how it has been ‘market tested’.

The introduction, would also benefit from a brief explanation as to why the Parish Council decided to pursue a NDP and the key issues identified. This would ensure that the main issues identified by the community link neatly and flow logically to the Vision and Objectives of the Plan. As example, identification of ‘the needs of the community’ (or should this reference be ‘aspirations’) referenced at 2.1, within the Introduction would provide better understanding for the relevant objectives.

Such a structure, leading to planning policies (grouped by topic with relevant mapping and graphics) would mirror the guidance offered by Locality based on their experience.

A link to that guidance follows:

http://www.rtpi.org.uk/media/1282945/structuring_your_neighbourhood_plan_template.pdf

At 2.2.1, there is an objective for preparing Design Briefs identified, but this is not realised by the later content of the NDP. This should be omitted.

It is also suggested that Section 4 (Overview of Holton-le-Clay) may equally fit better as an explanatory, pre-cursory link to the Vision and Objectives.

I would also suggest that (perhaps within Section 3 as elaboration on 3.4) the objectives for the NDP should acknowledge the need to support the levels of growth proposed through the Local Plan. Equally, there should be acknowledgement that Local Plan policy does not represent a cap on growth. This is considered an important element in order to demonstrate accordance with strategic policy and a regard to the National Planning Policy Framework (NPPF).

(b) Policies

With reference to the content and wording of the draft policies, the vocabulary to be used is critical to ensuring that the policy delivers the desired outcomes,

In this respect, there are a number of established 'ground rules' that should be adhered to.

Firstly, it is important to understand that policies can't be worded in a negative way so that they can be interpreted as blocking development as this will not be compliant with the NPPF.

Instead, wording should ideally be framed as "development will be supported provided that . . ." or, where objection is necessary, wording should be along the lines of "any proposals to ... will be resisted unless . . ." or "development must avoid/mitigate etc...". Many of the draft policies however, use the expression 'must'. This does not provide for the degree of flexibility allowed for by the NPPF and would only be appropriate where requirements of a policy are compulsory in all instances. To justify such a stance will require appropriate evidence. The use of 'should' and 'should not' provides a degree of flexibility and leaves room for a development proposal to justify why the policy shouldn't apply in a particular instance.

There are generally three types of planning policies:

- **Criteria led policy.** This is a policy with a series of requirements that a development proposal should meet. The requirements are usually set out as separate bullet points. You need to be clear whether the criteria are inclusive or exclusive i.e. you need to provide clarity on whether in order for a development to be acceptable, it would have to meet all of the criteria or only one, or perhaps some but not all.
- **Site specific policy.** This is a policy that applies to a particular area of land. Site specific policies either allocate land for a particular type of development, for example housing, or identify specific areas of land to which a policy will apply, for example a Local Green Space designation or the retail centre in a high street.
- **Generic policy.** This is a policy that will be applied universally to all development across the neighbourhood plan area. Examples include design, renewable energy and affordable housing policies.

It is suggested that the policy wording should be reviewed in accordance with the comments above.

Furthermore, in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states development will be permitted or not permitted.

Although it is appreciated that the document reviewed is still in draft form, the planning policies should be more easily identifiable from the main and supporting text

Draft policy content is occasionally overlapping and confusing. For example, 9.28 (safe and direct access to public transport) sits within the intended Green Plan implementation policy section. However, other sustainable transport objectives are embodied within Development (Urban) Design policy. I would suggest that latter section provides a more appropriate place for seeking to secure sustainable transport provision as part of new development proposals.

A final observation is that it is sometimes unclear as to the evidence basis on which the proposed policy relies. National Planning Practice Guidance advises (amongst other things) that policies in

Neighbourhood Plans should be *'concise, precise and supported by appropriate evidence'*. Furthermore, 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.'

There is a need to ensure that the underpinning evidence is robust but also duly acknowledged within the relevant policy justification. Independent examiners have raised concerns about the lack of evidence to support policies and have recommended that policies are either modified or deleted where the evidence is not robust.

One option would be to provide a simplified overview of the evidence base and the wider context for proposed policies. A tabulated format as suggested by Planning Aid could be adopted.

(C) Specific Policies

Notwithstanding the above general observations, for completeness, the following comments are made specific to draft policies and references in the Draft NDP:

2.2.1 - The use of a village envelope as a tool for restricting development does not fit comfortably with the objectives of the NPPF. The emerging Local Plan establishes a role for the village through its position within the settlement hierarchy/typology and also a level of development through the identification of housing allocations. Notwithstanding some of the concerns expressed by the Community, against additional growth, per Se, the NDP needs to respond appropriately to the emerging policy position (which requires some level of flexibility for delivering appropriate levels of additional development) and the underlying evidence base. The Green Plan seeks to identify more sensitive character areas to be safeguarded from development for wider strategic reasons. This approach appears to be well founded (although as a note of caution, I am aware that for Nettleham Neighbourhood Plan extension of a Green Wedge was not supported on examination because it was seen as being restrictive without justification and was not considered to be in general accordance with the strategic policies of the emerging Local Plan) and potentially a more appropriate policy basis (when considered with other criteria based policies) for safeguarding a nucleated settlement form (this objective is equally supported by the NDP evidence base).

3.2 - rather than 'take a positive approach' suggest 'will support the development of... whilst ensuring that Holton-le-Clay remains etc'

3.5 - reference should be made to East Lindsey District Council or Local Planning Authority as the 'decision maker' for the determination of planning applications in the first instance.

4.3.10 and 4.4 - It should be noted that the definition of affordable housing may shortly change. This is likely to include reference to discount market housing which may be sympathetic to the views expressed by local residents. If so, then perhaps reference could be made here?

4.310 - 4.7 - These are observations, rather than part of an 'overview' of the village. Should these references be elsewhere, perhaps as objectives?

5.1 - This is a positive statement for engagement with potential developers and quite appropriate. However, the remaining paragraphs within Section 5 do not flow from this statement. It may be that dialogue with the Parish Council will be able to help shape development proposals by identifying needs and suitable mitigation (in accordance with CIL Regulations/tests for s.106 agreements). Re-wording the section should clarify this. Please note that at 5.4, it is not possible to force a developer to liaise with the

Parish council. Re-wording of this section to ‘encourage’ such communication would however be appropriate.

6 - This is really an ‘Urban Design’ section. However, it is unclear whether this section is to relate to all development types or just residential. The subsequent Justification and draft policies suggest residential only. If so, the heading should reflect this. Although comment is made below in respect of the specific policy references that follow from 6.6, I would suggest that a single revised policy should be formed. Many of the specific requirements of 6.6 onwards would be best seen as guidance, perhaps contained within the justification section, or by reference to the supporting Village Character Assessment evidence base as well as other ‘Best practice’ guidance such as Building for Life 12.

6.3 - Further clarity needs for the reference to the North-East Lincolnshire housing strategy. What does it say and what is the relevance to Holton-le Clay?

6.4 - What is the evidence of need for traffic management? Is this just a response to perceived issues and concerns or is there more detailed evidence requiring such specific responses?

6.6 - No definition of ‘large’ developments is provided. Equally, how does breaking the area into smaller development parcels reflect village character? Is it just that more opportunity to develop ‘sense of place’ can be provided? Needs further clarity or reference to evidence.

6.7 - This is too prescriptive and inappropriate to good design outcomes. Also contrary to NPPF requirements and unlikely to be supported by the adopting Highway Authority.

6.8 - Secured by Design objectives and use of culs de sacs can be at odds with other design objectives. NPPF policy (paragraph 60) seeks to promote local distinctiveness, but warns against imposition of architectural styles or development forms or styles which can stifle innovation and opportunities for place making. I would be concerned that some of the policy requirements would not pass examination and that a criteria based policy be developed related to anticipated outcomes rather than overly rigid and specific design requirements. For example, the policy could require new housing developments to be sympathetic in scale, form and appearance to their immediate context, establish its own ‘sense of place’ whilst having regard to the wider character of the village (as outlined in the village Character Appraisal and Green Plan) and safeguarding amenity of existing and new residential occupiers. The supporting justification can be used to provide the relevant design reference sources. It may be worth looking at the Design policies in the draft Dunholme Neighbourhood plan as an example of how this could be done.

A comparable policy from that document reads:

Policy 4: Design Principles

Where appropriate, development proposals should preserve or enhance the village of Dunholme by:

1. Recognising and reinforcing the distinct local character in relation to height, scale, spacing, layout, orientation, design, and materials of buildings.

2. Respecting and protecting designated and non-designated local heritage assets and their settings.

3. Considering the visual impact of proposals on key views and vistas of the local landscape and minimising adverse impacts on these views.

4. Incorporating adequate landscaping to mitigate the visual impact of the development and to ensure that proposals are in keeping with the existing village context. Where appropriate, landscaping schemes should seek to include native species.

5. *Seeking to retain mature or important trees. Development that damages or results in the loss of ancient trees or trees of good arboricultural and/or amenity value will not normally be permitted unless justified by professional tree survey and arboricultural statement. Where removal of a tree(s) of recognised importance can be justified, a replacement(s) of similar amenity value and maturity should be provided on site.*

6. *Ensuring new boundary treatments reflect the distinct local character in relation to materials and design.*

7. *Ensuring that car parking is positioned and designed to have minimal impact on the street scene.*

8. *For major developments, applicants will be required to produce a report to demonstrate that their scheme accords with national design standards (BFL 12 or equivalent); and*

9. *Developments should also seek to, where possible, provide adaptable homes through the lifetime homes standard in order to cater for a changing demographic.*

10. *Where possible, make better connections to other areas of the parish, including access to local services and public open spaces.*

6.16 - Why? What does this actually mean? It is presumed that the intention is to support development that provides interesting, attractive and useable areas of open space to foster a sense of place? If so, then that text may provide a more understandable policy position.

6.18 - Transport assessments can only be required for certain types/scale of development. It would be more appropriate to require that new development proposals satisfactorily address traffic generation and management issues arising from the development in a proportionate manner and not have any unacceptable adverse impact on road users or pedestrians. It may be appropriate to use wording as per the NPPF.

6.19 - I would suggest a re-wording, perhaps incorporated with 6.18.

6.20 - 6.21 - The Highway Authority as usual adopting authority of roads and footpaths will need to accept any highway standards advocated by the NDP. See also reference 6.7.

7- As with Section 6, I would suggest that the policy should be of a more simplified 'outcome' or criteria based format with reference to specific aspirations and explanation being evident in the justification text. The NPPF makes it clear that policies should provide a clear indication of how a decision maker should react to a development proposal. To achieve that, policies should be precise in terms of expected outcomes rather than in attempting to prescribe design requirements without appropriate justification. For example, 7.4 references distances between dwellings derived from a Northern Ireland Policy document. I would advocate a more simplified policy requirement for new development to provide adequate amenity space, safeguard amenity for existing occupiers of dwellings and ensure a form of development appropriate to the character of the area. The supporting justification should then provide the relevant cross references to best practice guidance or evidence confirming what is meant by 'adequate' etc.

Section 8 - I have made reference earlier in this report to an emerging national policy position that perhaps should be considered here. Equally, I have previously provided under separate cover a suggested Terms of Priority for Occupiers as utilised by ELDC in recent s.106 agreements. In order to ensure accordance with the emerging Local plan position, the policy justification should acknowledge the requirement for up to 30% of new housing proposals to be provided (on site as a preference)

Section 9 - It is clear that the Holton—le-Clay Green Plan is intended to be considered as part of the NDP. This should however be identified in the introduction to the NDP together with reference of justification for its preparation and intended purpose.

9.12 - Care should be taken in choice of vocabulary and br provision of a clear definition of terms. The adopted approach that “opportunity provided by new development to improve and extend the provision of green space where possible” may not be considered as consistent with the NPPF and the requirement for designation to take place at the time a plan is prepared or reviewed, if it is interpreted as constituting ‘Local Green Space’ (see NPPF and NPPG)).

9.17 - reference has already been made to the potential inappropriateness of defining a village envelope as a tool for restricting development.

9.19 - seeks to protect against residential development. Notwithstanding more general concerns about the village envelope approach and negative wording of draft policies, it is presumed that the intention is to safeguard against all types of development that may undermine the strategic objectives of the Green Plan. As an aside, it is also important that liaison with relevant landowners has taken place in formulating this policy stance.

9.23 - General policy observations re: wording apply, but as an example, it is advised that such prescriptive requirement as that proposed by this particular policy would require very clear and site specific justification. It may be, for example, that green spaces provided central to a particular site, or to the rear, would, depending on site context best deliver the outcomes suggested by the policy statement. Similar observation is made in respect of other policy statements such as 9.24.

10.1 - a better expression would be ‘safeguard against and reduce where possible’ rather than ‘minimise’. This ensures a starting position of ‘nil detriment’ from new development rather than ‘best achievable’.

10.4 - It is not always the case that a private management company needs be established to manage SUDS. The Lead Local Flood Authority (presently Lincolnshire County Council) and Anglian Water will in certain circumstances adopt. It would be sufficient to explain in the justification the benefits and necessity for suitable management regimes to be secured.

10.6 - this policy needs to be re-worded. As per the general policy comments expressed previously, a single criteria based policy would be more easily understood. Additionally, although it is incumbent (see national and local planning policy) for any new development to not increase flood risk (utilising SUDS when appropriate), it may be impractical for new development to result in a decreased level of flood risk (eg below an existing greenfield runoff rate). Equally, requirement for a new development to reduce flood risk across the village would be an unreasonable expectation and not in accordance with CIL Regulations.

Section 11 - The Vision and Justification is clear. However, the subsequent policies should be re-considered as it is not considered that they would be in accord with strategic or national policy. For example, at 11 .8, (notwithstanding potential permitted development rights) the draft policy would presume against a change of use from retail to restaurant, or to a new doctor’s surgery. A policy aimed at safeguarding against loss of existing village facilities may be more appropriate. Furthermore, use of words such as ‘reasonable’ and ‘appropriate’ lack clarity. How would a decision maker or applicant know whether they had complied with these requirements? Again, it is considered that a single, criteria policy would be appropriate to deliver the desired objectives.

Equally at **11.9**, the desire to safeguard against loss of employment uses is appropriate, but the draft policy position requiring a viability case to be made in respect of the whole Business Park is not

reasonable or compliant with the NPPF.

CONCLUDING REMARKS

The main focus of this report is on the main body of the NDP and its policies. However, parts of the evidence base including the Green Plan are presumed to be considered as part of the plan and certainly an important part of the evidence base.

Consequently, and in part because prescriptive design outcomes are referenced, it is recommended that the Steering Group satisfy themselves that relevant adopting authorities (e.g. Highway Authority/Lead Local Flood Authority! Anglian Water) are supportive of the requirements.

Are there any obvious conflicts with the NPPF and guidance?

Other than the points already raised, there need not be any undue conflicts. However, in accordance with the comments made in this Health Check, there is a need to nominally re-adjust the structure of the NDP and ensure that the vocabulary and form of draft policy will comply with strategic policy and deliver the anticipated outcomes.

The draft plan is clearly focussed on seeking to shape development and find ways to enhance and improve the parish. I consider that with appropriate changes, clear justification and explanation of how policies will be applied, the NDP is capable of providing a practical framework within which to make decisions on planning applications.

With modest amendment, the approach to the making of provision for housing development and influencing the nature of that provision; new employment development; protection and enhancement of the natural environment are all consistent with national planning policy. The protection of green space, the intended positive approach to protection and support for additional community assets and the approach to improving the footpath and cycle network is consistent with national policy in terms of promoting health communities. Whilst the general approach to these matters does not raise concern, issues of detail relating to justification and policy detail do require attention.

Is there a clear explanation of the ways the NDP contributes to the achievement of sustainable development?

Yes — the Scoping and Appraisal of Objectives Statement and Basic Conditions Statement offer an overview of how a number of the policies contribute to the achievement of sustainable development. The context and rationale to policies could however make specific explanatory reference to supporting sustainable development. The Basic Conditions Statement provides an opportunity to fully demonstrate in an integrated manner, the contribution the NDP makes to the achievement of sustainable development.

Are there any issues around compatibility with human rights?

No — The Independent Examiner will consider whether the NDP is compatible with the Convention rights. ‘The Convention rights’ has the same meaning as the Human Rights Act 1998. Whilst not a requirement it would be helpful for there to be some evidence of consideration of Human Rights issues through inclusion of a brief statement in the Basic Conditions Statement in particular relating to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property) of the European Convention on Human Rights.

Does the NDP avoid dealing with excluded development including nationally significant infrastructure/waste/minerals?

Yes — The NDP does not deal with any excluded development.

Is there consensus between the local planning authority and the qualifying body over whether the NDP meets the basic conditions including conformity with strategic development plan policy?

In particular, are there issues relating to the relationship of the Neighbourhood Plan and the Development Plan.?

The Neighbourhood Plan does not include policies relating to the allocation of land for housing development. The Neighbourhood Plan is seeking to shape the type quality of development proposed in the emerging Local Plan to meet local need and aspirations. The Neighbourhood Plan should make it clear that it does not seek to introduce any cap on the total amount of housing development that can occur during the plan period. The Neighbourhood Plan is concerned with non-strategic matters. The Neighbourhood Plan focusses on issues of local importance and fulfils the national intention that Neighbourhood Plans should shape and direct sustainable development in their area.

Are there any obvious errors or other matters that require further consideration in the NDP?

In addition to the points identified in this report, here are a small number of typographical errors and inconsistencies in the consultation draft plan that should be corrected. It is presumed that these will be identified as a matter of course through the review work undertaken by the Steering Group.

Report Ends.

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