

23rd November 2020

Spatial Planning
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Maldon District Council
Council Offices
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By email: policy@maldon.gov.uk

Dear Sir/Madam,

RE: WICKHAM BISHOPS NEIGHBOURHOOD PLAN (REGULATION 16) – 2016 – 2029.

Thank you for consulting Essex County Council (ECC) on this Regulation 16 Wickham Bishops Neighbourhood Plan (WBNP). ECC provides the following response, which reflects ECC's role as the Minerals and Waste Planning Authority, the Highways Authority, the Local Education Authority and Lead Local Flood Authority. ECC is also responsible at the local level for public health. Advisory information is also provided for the consideration of the Examiner.

ECC responded to the Regulation 14 consultation in March 2019. ECC acknowledges that the PC has incorporated the majority of the suggested amendments into the Regulation 16 WBNP. However, there remain a few issues that ECC would still wish to clarify in this response.

Introduction

1.1 Neighbourhood Plans

The Plan refers to the adopted Maldon Local Development Plan (2017) which will guide development in the District between 2014-2029. As part of the basic conditions the Plan is required to be in general conformity with the strategic policies in the development plan, and to have regard to national policies and advice in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

The adopted Maldon LDP is also comprised of the Essex Minerals Local Plan and Essex and Southend-on-Sea Waste Local Plan. ECC is the Mineral and Waste Planning Authority for the Plan area. Although Neighbourhood Plans should not seek to establish policy for minerals and waste land uses, they should include context on such matters, as relevant to the plan area. Whilst reference is made to the Essex Minerals Local Plan (2014) and Essex and Southend-on-Sea Waste Local Plan (2017) in paragraph 1.1.4, further clarification is necessary that these documents form part of the Local Development Plan for the area. It is recommended that such recognition is given to these Local Plans as part of the 'Introduction', and suggested text regarding their role is provided below:

Essex and Southend-on-Sea Waste Local Plan (WLP)

Essex County Council is the Waste Planning Authority (WPA) for the Plan area, and is responsible for preparing planning policies and assessing applications for waste management development. The WLP was adopted in July 2017 forming part of the statutory Development Plan and should be read alongside the Maldon District Local Development Plan. The WLP covers the period from 2017 to 2032. It sets out where and how waste management developments can occur, and contains the policies against which waste management planning applications are assessed. Policy 2 of the WLP designates Waste Consultation Areas within 250m of active, allocated or permitted waste management facilities (400m in the case of Water Recycling Centres). These act to ensure that ECC are consulted on all non-waste related development proposals to ensure that there are no detrimental impacts which would compromise the operation of the existing facility or the newly proposed development.

Essex Minerals Local Plan 2014 (EMLP)

The Essex Minerals Local Plan 2014 (MLP) forms part of the statutory Development Plan and should be read alongside the Chelmsford Local Plan. Sand and gravel deposits are subject to a Minerals Safeguarding policy (Policy S8), which seeks to prevent deposits being sterilised by on mineral development.

Mineral Consultation Areas are also established through Policy S8 and these act to ensure that ECC are consulted on all non-mineral related development within a distance of 250m around active, allocated and permitted quarries, and other mineral infrastructure.

The Plan allocates no sites for development, and hence policies regarding 'Safeguarding Areas' and 'Consultation Areas' are not presently relevant. However, Appendix 1 identifies the relationship between Wickham Bishops Neighbourhood Plan Area and Mineral Safeguarding Areas.

Section 3.1 Economy

Policy WBEC 01 - Home Working

NPPF, paragraph 112 seeks to ensure planning policies support the expansion of electronic communication networks, including full fibre broadband connections.

ECC welcomes the amendment to Policy WBEc 01, paragraph 2 to refer to 'ultrafast' broadband connectivity. However, ECC recommend reference to 'new dwellings' is amended to 'properties', as improved connectivity is being provided by the ECC Superfast Essex Programme to both residential and business properties.

'All new properties shall allow for the provision for ultrafast broadband connectivity and mobile phone signal is supported.'

Policy WBEc 02 Business and Retail

ECC welcomes the inclusion of cycle parking at Snows Corner, and the intention of the policy to protect local retail and businesses, where viable. This will help to reduce the need for additional car-based trips on the local road network. However, the policy, as worded seems to enable the change of use from business/service uses to community uses, rather than seeking to protect existing retail/service uses. Consequently, ECC recommend the following amendment:

Effective marketing has been undertaken to demonstrate there is no viable retail or business ~~alternative community~~ use.

The protection of community facilities is covered by Policy WBF 04.

From the 1st September 2020 a number of changes to the Use Classes came into force through The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, which may impact upon this policy, and potentially other policies in the Plan. Whilst there does not appear to be any implications of the above, it is recommended that these changes should be considered in examining the Plan.

See the weblink below for further details.

https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use

Section 3.2 Environment

General Comments - Landscape

ECC recommend paragraph 3.2.5 also makes reference to the Essex Green Infrastructure Strategy (2020). Whilst there are no statutory requirements for green infrastructure, the 25 Year Environment Plan and emerging Environment Bill will place significant importance on protecting and enhancing GI, its accessibility and biodiversity net gain.

WBEc 01 Recreational Disturbance Avoidance and Mitigation

ECC notes that the RAMS SPD was adopted by Maldon District Council (MDC) in August 2020. The policy and paragraphs 3.2.3 – 3.2.6, particularly should be updated, especially

as the interim arrangements have been superseded by the adoption of the RAMS Strategy and SPD.

Policy WBen 02 Biodiversity and Natural Habitats

NPPF (Glossary) defines an 'irreplaceable habitat' as those habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen.

Consequently, ECC recommend paragraph 1 is amended to clarify ancient woodland as an 'irreplaceable habitat':

All development proposals should protect, retain and enhance existing trees, including veteran trees and ancient woodlands, which are identified as irreplaceable habitat (NPPF), ~~ancient woodlands~~, new woodlands, hedgerows and habitats which are important for their historic, visual or biodiversity value.

NPPF, paragraph 170a and b requires planning policies to protect and enhance valued landscapes recognising the intrinsic character and beauty of the countryside.

Consequently, ECC recommend additional strength is provided to landscape character and its sensitivity to change to read:

Protect and enhance ~~Have regard to and respect~~ the character of the landscape and its sensitivity to change;

NPPF, paragraph 170c requires planning policies to enhance the natural and local environment through minimising impacts and providing 'net gains in biodiversity. Reference to 'Create opportunities for habitats' should be deleted. ECC recommend the following amendment to bullet 5 to read:

Maintain and enhance green corridors through additional planting of locally native species of trees and hedgerows to provide net gains for biodiversity, including by establishing and improving ~~improve~~ ecological networks across the Parish.

Whilst there are no statutory requirements for green infrastructure, the 25 Year Environment Plan and emerging Environment Bill will place significant importance on protecting and enhancing green infrastructure, its accessibility and biodiversity net gain.

Proposals to develop a network of wildlife corridors alongside public rights of way and through links between ancient woodlands, local wildlife sites, ~~and the Blackwater Rail Trail~~, and other multifunctional green infrastructure will be supported and encouraged.

Policy WBE06 New Development and Flood Risk

NPPF, paragraph 165a requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from ECC, as the Lead Local Flood Authority (LLFA), and in accordance with the Essex SuDS Design Guide (February 2020).

ECC supports this new policy and the inclusion of the recommended wording in paragraph 2, and justification in 3.2.27 – 3.2.29, as recommended at Regulation 14 stage.

Section 3.3 Facilities

Policy WBF 02 – Sustainable Means of Travel

ECC support the new Policy WBF 02 – Sustainable Means of Travel, which replaces Policy WBF 01 (Regulation 14 Plan). ECC supports the encouragement of sustainable modes, including walking and cycling, and consider this is consistent with NPPF, paragraph 102c and 104d.

The Vision (section 2.1) identifies that some sustainable development will occur during the plan period, which will be required to ensure that transport provision meets the needs of the parish. Section 2.2 (Objectives) aims to ensure there is ‘better connectivity with improved mobile phone signal, broadband and transport infrastructure including a network of linked public footpaths, bridleways, cycle paths and access to public transport providing pedestrians, cyclists and horse riders with opportunities for safe movement within the parish’.

ECC recommends the following amendment to WBF 02, final paragraph 3 and paragraph 3.3.7 of the justification to refer to the ECC ‘Development Management Policies’, ‘or successor document’. The thresholds for Transport Assessments (50 homes or more) or Statements (between 25 - 50 homes) are contained within Appendix B of the Development Management Policies (2011) and referenced in the new ECC Developers’ Guide to Infrastructure Contributions (2020). The threshold for Travel Plans has been updated and the thresholds are contained in the new Developers’ Guide, Section 5.6 – Sustainable Travel. Residential Travel Plans are now required for 80 homes or more (formerly 250 homes).

New development will be required to submit Travel Plans, Transport Assessments or Statements in accordance with the ECC Development Management Policies (2011) or successor document ~~thresholds and detailed requirements for each land use category.~~

New Policy WBF 03 is welcomed and will help address the concerns raised in the Residents Survey (2018), as referenced in paragraph 3.3.8. ECC Development Management Policies (2011) - Policy DM1 – General Policy states that the highway authority will ‘*protect the highway network for the safe and efficient movement of people*

and goods by all modes of travel' and criteria iv states 'proposals will not create a significant potential risk or be detrimental to the safety of the highway network'.

However, ECC, as highway authority, recommend the following amendments to the policy. For clarification, it is the responsibility of the highway authority to determine the impact of development on the operation and safety of the network, and its users. As worded, the policy seeks to encourage new development in order to resolve existing street parking and vehicular and pedestrian safety and movement along the street. This is not permissible within planning policy as any new development is required to meet the three tests outlined in regulation 122 (as amended by the 2011 and 2019 Regulations), namely:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

ECC recommend Policy WBF 03 is amended to read:

Development proposals must be able to demonstrate to the satisfaction of the District Council and/or the Highway Authority, that any traffic generation and parking impact created, does not result in an unacceptable adverse direct or cumulative impact on congestion or road, highway safety and efficiency. Development proposals that incorporate measures to improve localised issues of on-street parking and vehicular and pedestrian safety and movement, especially along The Street will be encouraged.

WBF 04 Community Facilities

The aim of the policy is to prevent the loss of existing community uses to alternative uses, which is supported. This is consistent with NPPF, paragraph 92 c, which seeks to 'guard against the unnecessary loss of valued facilities and services.' Clearly, the need for any community facility will need to be undertaken on a case by case basis depending on the type of asset and existing provision. In addition, the context of any site, its function and purpose within the local and wider community should also be considerations.

ECC recommend the wording below, as recommended at Regulation 14, is still incorporated into the policy to allow flexibility for other community uses to ensure that any proposed changes of use of existing premises will only be permitted where the premises or site cannot be readily used for, or converted to, any other community facility. As worded the policy only refers to the loss of community facilities, and not any change of use from one community use to another.

'The change of use of premises or redevelopment of sites that provide valued community facilities or services will only be permitted where:

- i.) the premises or site cannot be readily used for, or converted to, any other community facility; and*
- ii.) the facility or service which will be lost will be adequately supplied or met by an existing or new facility in the locality or settlement concerned which shall be equivalent to or better than the facility that is being lost in terms of both quantity and quality*

In relation to the loss of a locally valued community facility that is commercial in nature, such as public houses, private healthcare, evidence will need to be submitted to demonstrate that the use is not economically viable and that it is no longer required to meet the needs of the local community.'

Policy WBF 03 Developer Contributions

ECC supports the ambition to ensure that any new development is required to contribute to the delivery of necessary infrastructure through either s106 obligations or potentially CIL, if implemented. It is acknowledged that MDC is in the process of establishing CIL.

Planning obligations may only constitute a reason for granting planning permission if they meet the tests, as outlined under Policy WBF 03 above

As worded, the policy restricts potential contributions to the following community developments, namely wildlife and habitat corridors; accessible wildlife conservation areas; increased footpath and footway provision; village pond; community garden; and allotments. In fact, any new development may be required to provide a range of new community services and facilities, physical infrastructure and environmental enhancements, which are not within the specified list in the policy. For example, reference has been made in paragraph 3.3.17 to the capacity of nearby Great Totham Primary School, and any new development may be required to make a contribution to ensure pupil places can be provided.

Consequently, ECC recommend the policy is replaced by alternative wording, and the examples of contributions incorporated within the justification, with evidence as to why they are necessary. ECC includes links to other NP policies, which have been `made; with regards Developer Contribution policies.

Cressing Parish Neighbourhood Plan, 2017 – 2033, Policy 11 – Developer Contributions, page 74.

https://www.braintree.gov.uk/downloads/file/8998/cressing_np_referendum_version_no_vember_19

Hatfield Peverel Neighbourhood Plan Document, 2015 – 2033, Policy F15 – Developer Contributions, page 50.

https://www.braintree.gov.uk/info/200230/planning_policy/458/neighbourhood_planning/5

Bradwell with Pattiswick Parish Neighbourhood Plan, 2017 – 2033, Policy 11 – Developer Contributions, page 51.

https://www.braintree.gov.uk/downloads/file/8557/bradwell_with_pattiswick_np_-_document_adopted_22nd_july_2019

Conclusion

Please contact me if you require further information or would like to discuss this response in more detail.

Yours sincerely,

Appendix 1 - Relationship between Wickham Bishops Neighbourhood Plan Area and Mineral Safeguarding Areas

