

Central Gowy (South) Neighbourhood Development Plan 2015-2030

Submission Version

A Report to Cheshire West and Chester Council on the Examination of
the Central Gowy (South) Neighbourhood Development Plan

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Introduction

Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the Cheshire West and Chester Local Plan (Part 1) and the remaining policies in the Chester District Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

This report is the outcome of my second examination of the Submission Version of the Central Gowy (South) Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum.

The Examiner's Role

I was formally approached by Cheshire West and Chester Council in April 2017, with the agreement of the Qualifying Body, to see whether I would be prepared to conduct this re-examination. My role is known as an Independent Examiner.

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 39 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Cheshire West and Chester Council, and Hargrave and Huxley Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum if modified

- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Central Gowy (South) Neighbourhood Development Plan area.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

I am able to confirm that the Plan does relate to the development and use of land.

I can confirm that it does specify the period over which the plan has effect namely the period between 1st January 2015 and 31st December 2030.

I can confirm that the plan does not cover any “excluded development”.

There are currently no other neighbourhood plans covering the area covered by the Plan designation.

The neighbourhood plan area was designated by Cheshire West and Chester Council on 3rd April 2017 and the Hargrave and Huxley Parish Council, as a Parish Council is a Qualifying Body and that the other parish councils, Duddon and Tarvin Parish Councils, some of whose land is within the plan area, have both consented to the inclusion of their land within the Plan area and for Hargrave and Huxley Parish Council to act as Qualifying Body.

The Original Examination

I was originally appointed to carry out the examination of the Central Gowy (South) Neighbourhood Plan in September 2016. When the original neighbourhood plan area

was designated in 2014, the parish structure comprises Huxley Parish Council, the nominated qualifying body, along with Foulk Stapleford PC plus there were 3 non-active parishes, Hatton, Bruen Stapleford and Burton, none of whom had a parish council. Once work was underway on the neighbourhood plan, the District Council carried out a community governance review of the parishes. This created Hargrave and Huxley Parish Council, who had agreed to take over the role of the former Huxley Parish Council, as qualifying body.

Following the governance review, the boundary of the plan area included most of what was now established as Hargrave and Huxley, and the remainder of the neighbourhood area included land which now fell within the adjoining Tarvin parish, (but had previously been in Bruen Stapleford parish) and the former parish of Burton (which now fell within the adjoining parish of Duddon). In addition, there were parts of the designated neighbourhood area that, following the review, now fell within the jurisdiction of Tattenhall Parish, which has already a “made” neighbourhood plan, which covers all its parish area, apart from the area that they inherited in 2015. Furthermore, there were two areas of the new Hargrave and Huxley Parish that were then outside the Central Gowy (South) neighbourhood plan area, but which are now part of the parish. These areas were not covered by the original version of the neighbourhood plan and were not covered by its policies.

The fundamental issue, that was revealed in my first examination, was that a neighbourhood plan can relate only to the geographical area designated as a *neighbourhood area* by the Local Planning Authority. If part of the area originally designated, subsequently fell under the jurisdiction of another parish council, it would only be covered by the policies in the Plan, if the new parish council had given its consent to the inclusion of part of their new parish area, with the neighbourhood area.

This is set out in Section 61F of the Town and Country Planning Act 1990, as inserted by Schedule 9 of the Localism Act 2012. In this case, Tattenhall Parish Council refused to give their consent to the inclusion of their newly designated land with the Central Gowy (South) Neighbourhood Plan

Accordingly, the plan did not meet the legal requirements and I had, therefore, to conclude in my report dated 17th January 2017, that the plan could not proceed to referendum.

However in my report, I did make recommendations to assist the qualifying body in preparing a revised plan on how the policies could be amended to meet basic conditions.

The Examination Process

Whilst I examined the original version of this Plan and made recommendations, I have approached this examination as if it were a new plan before me.

The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing. No parties have requested a hearing.

I have not carried out a new visit to the plan area for this new examination, as I had carried out an unaccompanied visit to the plan area on 6th October 2016, which enabled me to familiarise myself with the villages within the Plan area and the surrounding countryside.

The Consultation Process

The original plan had gone through a full consultation process, which I had been satisfied that it had allowed all parties to be able to contribute to the plan policy making.

Whilst this version of the Plan was a refinement of the original plan, it is nevertheless a proposal for a new Plan submission under the Neighbourhood Plan Regulations and it has been necessary for a new Regulation 14 consultation to be carried out. I consider that it was appropriate that this new consultation should be “light touch” as it was essentially the same plan with similar policies, but would be covering a marginally different plan area. The Regulation 14 consultation took place between 27th April 2017 and 14th June 2017. Adequate publicity was given to it and this generated 6 responses, two of which offered no comments. All the necessary statutory bodies were consulted.

Regulation 16 Consultation

I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place for a 6-week period between 13th September 2017 and 27th October 2017. This consultation was organised by the Council who had received the Submitted Plan, prior to it being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

In total 4 responses were received. These were from the Network Rail, Natural England, Cheshire West and Chester Council and United Utilities. All the other representations either offer no comments or offer standardised advice apart from comments from the Council who offer a commentary related to how the plan reached this stage.

The Basic Conditions

The neighbourhood planning examination process is different to a Local Plan examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.

The 6 questions which constitute the basic conditions test seek to establish that the Neighbourhood Plan: -

- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- Will contribute to the achievement of sustainable development?
- Will be in general conformity with the strategic policies set out in the Development Plan for the area?
- Does not breach or is otherwise incompatible with EU obligations or human rights legislation?
- Whether prescribed conditions are met and prescribed matters have been complied with
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?

Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Cheshire West and Chester Local Plan (Part One): Strategic Policies adopted in January 2015. In addition, a number of policies in the adopted Chester District Local Plan remain in place.

The neighbourhood plan area is a rural area and the relevant strategic policy covering development within the plan area is Policy STRAT9 dealing with the Green Belt and the Countryside. The objective of the policy is to protect the intrinsic character and beauty of the Cheshire countryside by restricting development to that which requires a countryside location. The Council are currently preparing a document entitled Part Two Local Plan, dealing with Land Allocations and Detailed Policies which has now reached its Pre-Submission Stage. This is emerging policy and is not relevant to this examination.

Compliance with European and Human Rights Legislation

Cheshire West and Chester Council have screened the new plan to determine whether it should be the subject of a Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”.

It previously confirmed in a report dated April 2016, that an SEA was not required.

The Council has screened the new plan and has again concluded that an SEA is not required. This is set out in an email dated 15th November 2017. The 3 statutory consultees have now confirmed that they agree with this conclusion.

The Council had previously carried out a high-level screening under the Habitat Regulations which concluded that the Plan was unlikely to have any adverse effect on a European Site and accordingly it was considered that a full screening was not required nor the need for an Appropriate Assessment under the Habitats Regulations. Natural England have again confirmed that an HRA assessment would be considered if the plan was allocating sites.

I have received no representations that there is any incompatibility with the European or Human Rights legislation and I am satisfied that this element of the Basic Conditions test is met.

The Neighbourhood Plan: An Overview

The previous version of the plan failed at its examination based upon a technical shortcoming brought about by a somewhat unusual set of circumstances. My recommendation that the plan should not proceed to referendum was accepted by the council in its Decision Statement dated May 2017.

A new neighbourhood area based on the new boundaries of the Parish of Hargrave and Huxley and excluding the area that has now been transferred to Tattenhall Parish was designated by Cheshire West and Chester Council on 3rd April 2017. The Parish Councils of both Duddon and Tarvin have given their consent to the inclusion of the land within their parishes' area, in the neighbourhood area. I am therefore satisfied that this overcomes the reasons for the previous plan not passing its examination.

Whilst I concluded that the previous version could not proceed to referendum I did assess the 3 proposed neighbourhood plan policies in the previous version of the plan against the basic conditions and made a number of recommendations as to modifications I would have recommended, if the plan had gone forward. I am pleased that the authors of the plan have incorporated my recommendations.

I have considered, in this new examination, whether there had been any changes in policy, both national or local, or other factors that would justify any change from my previous conclusions that the plan could have proceeded to referendum, apart from the issue of the plan area. I am satisfied that there are no changes in terms of the basic conditions that would change my recommendations.

The Neighbourhood Development Policy

Policy P1- Housing

This policy deals with the overall level of housing expected over the life of the plan and the form of that housing and establishes where it should not be considered. In particular, it seeks to not allow the development of housing on greenfield sites. I have no comments to make on this version of the policy.

Policy 2 – Community Facilities

The policy seeks to protect the community facilities which are now set out clearly in the policy. This policy is in line with the intentions of Paragraph 28 of the NPPF and meets basic conditions.

Policy 3 – Local Character

This policy seeks to protect the features which the plan has identified as contributing to the unique sense of place of the Central Gowy area. The drafting of the policy follows my previous recommendations and the policy now meets basic conditions.

The Referendum Area

If I am in a position to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Central Gowy (South) Neighbourhood Plan as designated by Cheshire West and Chester Council on 3rd April 2017 would be the appropriate area for the referendum to be held and the area does not need to be extended.

Summary

I am very pleased that the team that produced the first version of the neighbourhood plan did not take the set back of the failure of the first examination to heart but have persevered and have produced a new neighbourhood plan that meets the basic conditions on a revised boundary. The plan may only have 3 actual policies but that is perfectly appropriate for a rural area. It provides locally distinct policies covering the criteria for new housing, the protection of community facilities and design guidance. The plan meets all the legal requirements and no modification are necessary.

I am pleased to recommend to the Cheshire West and Chester Council that the Central Gowy (South) Neighbourhood Development Plan, as submitted, should now proceed to referendum.

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