

Whitegate and Marton Neighbourhood Development Plan

Submission Version

A Report to Cheshire West and Chester Council on the Examination of the Whitegate and Marton 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 Vale Royal 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 examination of the Submission Version of the Whitegates and Marton 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 appointed by Cheshire West and Chester Council in October 2016, with the agreement of Whitegate and Marton Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS).

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 38 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 Whitegate and Marton 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 Whitegate and Marton Neighbourhood Development Plan.

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, if amended in line with my recommendations, does relate to the development and use of land. It covers the area designated by Cheshire West and Chester Council, for the Whitegate and Marton Neighbourhood Plan on 17th April 2013. The plan area coincides with the Parish boundary

I can confirm that it does specify the period over which the plan has effect namely the period between 2015 and 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 Examination Process

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 carried out an unaccompanied visit to the Plan Area and the surrounding area on 11th December 2016 to familiarise myself with the main villages within the Plan area and the surrounding countryside.

The Consultation Process

Work on the neighbourhood plan started before the formal designation of the neighbourhood area, with the sending out an initial questionnaire to all households in the Parish. This received 44 responses.

The Parish Council set out a Neighbourhood Plan Development Group and two open meetings were held in November 2013, following which 48 separate comments were received. Together with the output from the questionnaire, this provided the basis for developing the vision and objectives for the plan. Publicity for the plan work was given through the process through a dedicated page on the Parish Council's website and regular updates were included in the parish magazine.

This work led to a draft plan been published in February 2014 and local businesses and community groups were also consulted. Two open days were held and the second questionnaire was distributed, covering the eight objectives of the plan. I would particularly wish to record the efforts to work with local children who became involved with the neighbourhood plan through a homework task! The results of which was subsequently displayed at the parish meeting – an excellent example of seeking to engage the next generation in the planning of their community.

In April 2015, the plan was the subject of its formal Pre-Submission Consultation and this ended on 30 June 2015. There was only a limited number of responses, but I suspect this was possibly because of the extensive consultation that had predated this version of the plan.

This consultation exercise informed the preparation of the final version of the plan– The Submission Plan. Its publication appears to have been delayed due to uncertainty as to whether the parish will be designated a local service centre in the emerging Part Two Local Plan.

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 24th August and 7th October 2016. 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 24 responses were received. These included from the Environment Agency, Historic England, Natural England, United Utilities, Welsh Water, National Grid, Health and Safety Executive, all of which offer no comments or offered standardised advice. Detailed comments were received from Cheshire West and Chester Council which I will refer to in my report. In addition, I have received letters of broad support from the Chairman of Governors of the village school and also from the Whitegate Station Community Group as well as 13 local residents including from a retired planner and an active planning consultant. I have read and had regard to all the representations made.

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 six 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 Vale Royal 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. These have been recently out to public consultation but as the proposals currently do not form part of the development plan, they are not relevant to my examination of the Plan.

Compliance with European and Human Rights Legislation

Cheshire West and Chester Council have screened the 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 confirmed by way of a Screening Determination dated June 2016, having consulted with the three statutory consultees, to the effect that an SEA was not required and I have been sent a copy of that screening determination.

The Council also carried out a Screening Determination under the Habitat Regulations which concluded that the Plan was unlikely to have any adverse effect on a European Site either alone or in combination with other plans or projects and accordingly it was considered that a separate screening was not required nor the need for an Appropriate Assessment under the Habitats Regulations

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

This neighbourhood plan is the culmination of some hard work carried out over a number of years. Whilst the plan may include only eight policies that is entirely appropriate for a rural parish with an adopted local plan. The policies are clearly influenced by the community's clear view as to what issues the plan needs to address and this is summarised in the vision statements set out in section 3. Some consultees have requested the inclusion of specific new policies, but I do not consider that to be either necessary or appropriate, as it is for the Parish to be able to prepare its own neighbourhood plan, containing only those policies it feels it needs to guide development over the next 15 years.

I saw for myself through my visit that much of the new development that has taken place in the area, has been large executives style homes and I can fully understand the community's desire to rebalance new development to provide smaller homes. Policy 1, not only reflects local plan policy but it goes further to be an entirely justified response to the needs of the area. This is a beautiful area of Cheshire, containing a number of scattered settlements, separated by farmland and other rural businesses as well as a number of mobile home parks. Countryside policy is necessarily restrictive but this plan seeks to shape any development that does take place in line with the residents identified and articulated needs. This is shown by the policies to encourage the running of businesses from home or requiring the need for one to three bed dwellings to be created say through building conversions or to protect the stock of smaller homes. These are distinctive policies and will put the community's imprint on future planning decisions.

I have only had to make a number of small recommendations for adjustments to the policies to ensure the plan meets basic conditions. I have not had to recommend the deletion of any of the policies. Where necessary I have had to respond to a number of instances where, what was clearly intended to be planning policy, was actually hidden in the supporting text. One of the requirements is that neighbourhood plan policies are clear and concise and capable of being used with confidence.

I am satisfied that the plan has been prepared following extensive consultation and will enjoy local support, which will be reflected, in due course, in the referendum.

The Neighbourhood Development Policy

Policy 1- Housing Stock Appropriate to the Needs of the Local Community

This policy is in line with Strategic Policy STRAT 9 of Part 1 document of the Local Plan. Its objective is to protect the countryside but at the same time respond to the community's recognition that the area requires smaller homes to be built. It is clear that this is an area where the Neighbourhood Plan is responding to locally articulated concerns.

However, I along with the Council, have identified an issue with the way the planning policy section of the Plan document is laid out. The development plan policy is shown by the contents of the emboldened box. That is the policy that would be used when it comes to determining planning applications. The areas outside the defined policy are usually referred to as supporting text or justification for the policy. As written the policy merely restates Policy STRAT9 of the Local Plan. The three paragraphs below as written, would not have the status of being development plan policy. I am confident that this was not the intentions of the authors of the Plan. In line with the suggested alteration proposed by the Council, I will be recommending that the three elements are integrated into the policy under a revised wording that recognises that appropriate residential development can be considered under the terms of Local Policy STRAT 9.

I have noted one concern regarding whether the threshold of 30% is too low and would prevent some families enlarging their homes to meet their own needs. Having seen for myself the predominance of larger properties in the area, when I conducted my site visit, I considered that the plan is justified in seeking to limit the enlargement of the stock if smaller houses are to be retained. This is broadly in line with what is currently being proposed in the emerging Local Plan (Part 2) for residential extensions in the countryside.

Recommendation

Replace policy as drafted with:

Housing development which meets the requirements of Policy STRAT9 of the Local Plan, including replacement buildings and reuse of existing rural buildings for conversion should meet the needs of the local community for smaller properties.

Dwellings should normally be between one and three bedrooms in size.

Redevelopment of existing residential properties will be expected to provide a similar number of bedrooms to the existing property.

The significant enlargement of existing residential properties will not normally be permitted (e.g. over 30% of the floorspace of the original dwelling). Larger extensions will only be permitted where spaces between properties can be maintained and the character of the area will not be harmed

Policy 2 Design and Use of Materials

The Council has identified that the final point only refers to the fact that “consideration has been given”, which is a somewhat vague requirement. I do not think that this final point actually adds anything as the matter is already covered by the first bullet point. However, I propose to add that guidance as to the character of the area may be found in the Whitegate Conservation Appraisal Update, for properties in the Conservation Area.

Recommendations

Insert at the end of bullet point one “and where appropriate, the Whitegate Conservation Area Appraisal Update.”

Delete the final bullet point.

Policy 3 Listed Buildings, Schedules Monuments and the Conservation Area

One of the pre-requisites of a neighbourhood plan policy is that it should allow a decision maker to be able to use the policy with confidence. The use of the threshold of development acceptability, which “is likely to have” a significant detrimental effect is not sufficient to refuse an applicant – the assessment needs to be made that the development **will** have a significant detrimental impact, in which case it would be refused.

Recommendation

Replace “is likely to” by “will”.

Policy 4 Landscape

The Council has suggested that “trees” should be included within the text of the policy. I consider that this could be a helpful addition, as an important constituent of the rural landscape.

Recommendation

Insert “and trees,” after “woodlands”.

Policy 5.1 Generating Employment

This policy is in line with national and strategic local plan policy. The Council has suggested that the element of Policy STRAT9 relating to the expansion of existing buildings for established firms be inserted into the policy. I have concluded that this is not necessary, as the policy already requires compliance with Policy STRAT9, and hence would cover that aspect. As with Policy 1, there are aspects of policy which again appear to be included within the supporting text and which I am recommending should be integrated into the Plan.

Recommendation

Insert “be of an appropriate scale and must not have unacceptable impacts in terms of traffic generation, noise and visual impact and provide sufficient parking and have a safe access” at the end of the policy.

Policy 5.2 Employment Activities within Residential Properties

Again, the Council have picked up the point that that criteria to be used for the consideration of proposals which are the subject of the policy, are set out as part of the supporting text rather than in the policy. There will need to be a minor adjustment in the supporting text. I believe this a totally appropriate locally distinct policy that the community is entitled to introduce into its plan. It passes the basic condition test.

Recommendation

Replace the policy with

Planning applications incorporating proposals for small scale employment generating uses from existing residential properties will be supported subject to meeting the following criteria:

- *the proposals are for class B1 uses and*
- *the proposed use would be ancillary to the main residential use of the site; and*
- *the proposed use would not have a detrimental impact on the amenities of neighbours, particularly in respect of noise, visual intrusion, highways and parking; and*
- *any required expansion of buildings to facilitate the growth of established businesses must be proportionate to the nature and scale of the site and its setting*

Policy 5.3 Loss of Commercial Premises

Again, parts of what I assume to be policy, lie outside the policy box. The Council believe that the policy as written, goes beyond the Local Plan requirement for applications that involve the loss of employment uses. I do not necessarily share that view. Policy ECON 1 allows the redevelopment of commercial premises to non-employment uses, inter alia, where it can be demonstrated that the continued use is no longer commercially viable. This policy does provide greater detail as to the steps required to demonstrate that the prospect of the existing use continuing, is no longer likely.

The Local Plan does include an alternative caveat which is where redevelopment will be “more environmentally acceptable”. I note the comments of the Council’s Senior Regulatory Officer, whose comments seems to be encouraging resolving long standing environmental issues by the creation of higher value housing land. I do not believe that the revision is necessary for the policy in the neighbourhood plan to meet the basic conditions. Furthermore, it does not reflect the community’s views on this issue. The determination of any planning application that relied on the promotion of such an argument, could weigh the specific advantages of dealing with a particular environmental problem, against the general policy presumption which favours retaining employment uses. This would be a part of the planning balance and these matters would be a material consideration.

Recommendation

Incorporate the paragraph after the policy box and its two bullet points into the Policy.

Policy 6 Access to the Countryside

This policy meets basic conditions and no amendments are necessary.

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 Neighbourhood Plan as designated by Cheshire West and Chester Council on 17th April 2013 would be the appropriate area for the referendum to be held and the area does not need to be extended.

Summary

The Parish Council and the Neighbourhood Plan volunteers are to be congratulated on the clear vision and the clarity of its approach. This is a locally distinct plan that will be capable of guiding development applications in the Parish over the next 15 years. I note the intention to review the plan and the legislation going through Parliament at the moment will enable policies to be adjusted as the community sees fit in the light of experience.

Finally, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and it is appropriate that the Plan, as amended, if successful at referendum, be made.

I am therefore delighted to recommend to the Cheshire West and Chester Council that the Whitegate and Marton Neighbourhood Plan, as amended by my recommendations, should now proceed to referendum.

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