

# INDEPENDENT EXAMINATION OF THE LOGGERHEADS NEIGHBOURHOOD DEVELOPMENT PLAN

INDEPENDENT EXAMINER:

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By email to Mark Kirk Planning Policy Officer Newcastle-under-Lyme Borough Council and to Karen Watkins MBE Clerk Loggerheads Parish Council

Dated 30 July 2018

Dear Karen and Mark

## **Loggerheads Neighbourhood Development Plan Independent Examination**

Further to my email of 10 July 2018 regarding the Independent Examination of the Loggerheads Neighbourhood Development Plan I am writing to provide an update on my progress and to seek clarification of certain matters. I request this email, and any replies, are posted to both the Borough Council and Parish Council websites and you confirm in writing to me that has been done.

### 1. Examination documents

As stated in my email of 10 July 2018 I provided an opportunity for Loggerheads Parish Council to comment on the Regulation 16 representations of other parties. In this respect I received comments from the Parish Council on 16 July 2018 and both the Parish Council and the Borough Council confirmed on 18 July 2018 that those comments had been posted to their respective websites.

On 20 July 2018 I wrote to confirm receipt that day of an email from the Borough Council with attached representation and related Opinion which I understood had been received after the Regulation 16 publicity period had closed at 5.00pm on 19 June 2018. I noted the representation does not include any explanation why it was submitted after the period of publication had closed. I request the Borough Council advises me in writing whether it is accepting this late representation.

### 2. Independence

To date I have not identified any conflict of interest that would call into question my independent status. I will keep that matter under review throughout the examination.

### 3. Requests for clarification

In my email of 10 July 2018, I stated I may seek written clarification of any matters that I consider necessary. In this respect I would be pleased to receive a response in respect of matters A to D set out below. Whilst I have indicated where I consider the Borough Council or the Parish Council should be the primary respondent, a joint response would be welcomed. In order to maintain momentum of the Independent Examination I request a response to these requests for clarification within two weeks of the date of this email.

#### **A.Habitats Regulations Assessment Screening**

The Draft Habitats Regulations Assessment Screening Report has been prepared by the Borough Council prior to the EU Court of Justice ruling in *People Over Wind and Sweetman v Coillte Teoranta*. (Judgement of the Court Seventh Chamber 12 April 2018). I ask the Parish Council and Borough Council to jointly review the Habitats Regulations Assessment in the context of the EU Court of Justice ruling and ask the Borough Council to confirm, in consultation with Natural England, that the Report is considered to be compliant with the identified EU Court of Justice ruling, or alternatively to state what actions are proposed to rectify the situation.

#### **B.Policy LNPG2**

Could the Parish Council direct me to the existing evidence that supports the precise requirement of *“at least a third”* of new homes should comprise a combination of one or two bedroomed properties, and one or two bedroomed properties suitable to provide independent living for the elderly.

#### **C. Policy LNPP2**

i). The policy refers to *“the Loggerheads Heritage book”*. The evidence base presented on the Parish Council website includes 4 documents listed as:

- Heritage Assets Tyrley Ward;
- Heritage Assets Mucklestone Ward;
- Heritage Assets Loggerheads Ward; and
- Heritage Assets Ashley Ward.

Could the Parish Council confirm that these documents together comprise the *“Loggerheads Heritage book”* or alternatively inform me where I can inspect the *Loggerheads Heritage book*.

ii). The Planning Practice Guidance states *“Where it is relevant, neighbourhood plans need to include enough information about local heritage to guide decisions and put broader strategic heritage policies from the Local Plan into action at a neighbourhood scale.”* The Guidance also states *“Local Planning Authorities may identify non-designated heritage assets”* and *“Local lists incorporated into Local Plans can be a positive way for the local planning authority to identify non-designated heritage assets against consistent criteria so as to improve the predictability of the potential for sustainable development.”*

It is appropriate for a community to use the neighbourhood plan preparation process to identify buildings and structures of local interest and to include policies to require particular consideration of assets that have been formally recognised by the Borough Council in the determination of planning applications. The Borough Council maintains a Register of Locally Important Buildings and Structures. When I viewed this Register, it contained 3 entries in Loggerheads namely: Tyrley War Memorial, Waterside Cottage, Tyrley; War memorial, St John the Baptist, Church Road, Ashley and War memorial, St Marys Church, Blore Road, Hales. I have noted the Borough Council website states the Council is reviewing the Register in 2018 and requested nominations be made before 30 June 2018. The Borough Council has published criteria and a scoring system including weighted criteria relating to: authenticity; architectural interest; historic interest; visual importance; and community value. It is not appropriate for Policy LNPP2 to imply locally identified assets will be recognised by the Borough Council as non-designated heritage assets. I request the Parish Council to confirm it is intended the status of the locally identified heritage assets should be clarified as **potential** non-designated heritage assets.

#### **D. Policy LNPP3**

Whilst the policy does not designate Local Green Spaces nor identify areas of land to be designated I am satisfied the intention to do so has been clear from the evidence referred to in the Neighbourhood Plan. I am able to recommend modification of the Neighbourhood Plan in order to correct errors. I take the view the ability to correct errors embraces amendments necessary to achieve accuracy and consistency in the wording of policies and their supporting text. (Lindblom L J Court of Appeal Kebbell Development Ltd v Leeds City Council [2018] paragraph 35 in relation to LPA power to modify after receipt of an Examiner’s report). I propose to recommended a modification in this respect so that it is clear Policy LNPP3 is designating Local Green Spaces at:

- a. Land along Tadgedale Brook between Chestnut Road and Brookfield;
- b. Land at Kestrel Drive;
- c. Land at Hugo Way;
- d. Allotments behind Eccleshall Road;

- e. Turner Hodgkiss Nature Reserve;
- f. Bell Orchard;
- g. Almington Play Area; and
- h. Knighton Play Area.

These areas of land are described in the submission Neighbourhood Plan on pages 57 and 58 and additional information is included in the supporting evidence document Loggerheads Neighbourhood Plan Local Green Space Designation report (updated June 2017). The latter document is available on the Parish Council website. Should any party wish to comment on this intended modification they should submit any representation to the Borough Council for onward transmission to me no later than 14 days after publication of this email on the Borough Council and Parish Council websites.

#### **D. Policy LNPS2**

i). The Policy includes the imprecise term *“The impact on amenity, highways, environment is acceptable.”* Could the Parish Council please confirm the intention is to refer to *“The impact on residential and visual amenity, highway safety, and on features of the natural environment adjacent to the sites, are acceptable.”*

ii). The Policy includes the term *“The sites will incorporate sustainable/natural drainage systems”*. Could the Parish Council direct me to the existing reasoned justification for this requirement.

iii). The Borough Council has commented *“The Borough Council has an adopted Playing Pitch Strategy and Open Space Strategy, both prepared in line with NPPF recommendations and based on local needs assessment. The Loggerheads Neighbourhood Plan has used the Fields in Trust 6 Acre Standard to determine the need for play and outdoor sports facilities - this uses a national standard as opposed to a locally assessed standard. The Borough Council’s adopted policies should take precedence over any alternative method of assessing need”*.

The Parish Council states *“The Borough Council, in its Open Space Strategy, quotes Fields in Trust 6 Acre standard at Paragraph 4. Indeed, it reads “Fields in Trust (FiT) ‘Guidance for Outdoor Sport and Play: Beyond the Six Acre Standard’ were influential”. Furthermore, the Borough has adopted some of the Benchmark guidelines as is evidenced in Paragraph 4.2 with the following comment: “Table1: ‘Fields in Trust’ guidelines for equipped/designated play space have been adopted in this Open Space Strategy review and should be read in conjunction with Table 2.” If FIT is a national standard that has been adopted by the Borough in its Open Space Strategy the Parish Council would question why is it inappropriate for the Loggerheads Neighbourhood Plan? The research that was done for the Neighbourhood Plan is a local assessment that takes account of the significant growth in housing in Loggerheads with no related growth in sports or play facilities. It is a fact that*

*there is no Neighbourhood Equipped Area for Play (NEAP) or Multi Use Games Area (MUGA) in Loggerheads and inadequate sports facilities. The Borough Council Playing Pitch Strategy appears to have been carried out as a desktop study as it describes the one football pitch in Loggerheads at the Burntwood as adult standard. This statement is wrong as the pitch is below the size required for adult matches and as a consequence the Loggerheads Football team have to rent a pitch at Eccleshall in order to play league matches. Indeed, Sport England dictate the space requirements for a safe adult pitch are 106.0 x 70.0 m these dimensions are completely unachievable in the current location and the site cannot be expanded due to the adjoining Forestry Commission land and adjacent SSSI's."*

I have noted the Newcastle under Lyme Playing Pitch Strategy (February 2015) describes the current status of the Burnt Wood playing fields (Site ID 87) as "One standard quality adult pitch with minimal spare capacity. Pitch is minimum size and is not serviced by changing rooms. Drainage works have increased pitch quality. Owned by the Council and leased to the Parish Council. It is used by Loggerheads FC for one of its teams on a gentleman's agreement for a peppercorn rent. One of its teams has to travel outside of the study area (to Eccleshall) to access a suitable pitch for the league it plays in. Granted planning permission to build a changing facility" and includes a recommended action as follows "Spare capacity should be retained to help protect/improve quality. Support the Club in its aspirations to develop the site and ensure long term security is agreed and put into place" with a stated aim to "enhance."

Could the Borough Council advise me of: a). the implications for Policy LNPS2 of applying the Borough Council adopted policies in the Playing Pitch Strategy and the Open Space Strategy and b) the relationship of Policy LNPS2 to relevant strategic policies.

iv). The Planning Practice Guidance states "A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria" and directs the reader to guidance on assessing sites. The evidence base supporting the Neighbourhood Plan available on the Parish Council website includes a "Loggerheads and Ashley Community Centre Project Business Case". This is a brief document that sets out a community aspiration. The evidence base also includes "Loggerheads and Ashley Community Project Proposed Feasibility Study" dated May 2017. This latter document describes itself at page 17 as a pre-feasibility study. Neither the business case nor the feasibility study includes an appraisal of options and an assessment of individual sites against clearly identified criteria. The Submission Neighbourhood Plan when explaining the choice of Sites LV1 and LV2 states "there is no other site available of this size in the village". I have noted no party has contested this assertion. *Could the Parish Council advise me whether the term "in the village" includes sites outside but close to the village envelope (which Sites LV1 and LV2 are).* On this basis "an appraisal of options and an assessment of individual sites against clearly

*identified criteria*” cannot be undertaken. It is not within my role to test the soundness of the Neighbourhood Plan.

I may make other requests for clarification of matters.

I have made good progress in the Independent Examination and anticipate that soon after receipt of satisfactory responses to my requests for clarification that I will be able to send a confidential draft of my report for fact checking by the Borough and Parish Councils.

I would be grateful if both the Borough Council and the Parish Council could confirm receipt of this email.

Regards

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