

John Slater Planning Ltd

# Hartlepool Rural Neighbourhood Plan 2016-31

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## Submission Version

A Report to Hartlepool Borough Council on the Examination of the  
Hartlepool Rural Neighbourhood 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 2006 Hartlepool Local Plan and eventually the Hartlepool Local Plan 2016-31 when it is finally adopted. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by a Rural Plan Group which was appointed to undertake the plan's preparation on behalf of the 4 parish councils that cover the plan area, namely Dalton Piercy, Elwick, Greatham and Hart and the Parish meeting at Newton Bewley. Elwick Parish Council has agreed to be the Qualifying Body and all the respective parishes have confirmed their support for Elwick Parish Council to act in that role. That satisfies the legislative requirements which requires that there is a single "qualifying body" under the Neighbourhood Planning legislation.

This report is the outcome of my examination of the Submission Version of the Hartlepool Rural Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by Hartlepool Borough Council, the Local Planning Authority for the neighbourhood plan area.

## The Examiner's Role

I was formally appointed by Hartlepool Borough Council in March 2017, with the agreement of the Hartlepool Rural Plan Group on behalf of the Qualifying Body, 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 Hartlepool Borough Council, and all the Parish Councils 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 am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries covered by the Hartlepool Rural Neighbourhood 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 it 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, covering the area designated by Hartlepool Borough Council, for the Hartlepool Rural Neighbourhood Plan on 18<sup>th</sup> December 2013.

I can also confirm that it does specify the period over which the plan has effect, namely the period from 2016 up to 2031.

The Plan does not refer to any “excluded development” such as minerals and waste matters or nationally significant projects.

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

Elwick Parish Council as a parish council is a qualifying body under the terms of the legislation, which has been agreed should act as the lead authority on behalf of the 5 parishes.

## **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.

I carried out an unaccompanied visit to the Hartlepool area and in particular the main villages in the Plan area as well as spending time travelling around the surrounding countryside between the 8<sup>th</sup> and 9<sup>th</sup> May 2017. I saw all the sites referred to in the Plan and walked through a number of the villages.

Following my visit, I had a number of questions that I put to the Steering Group as well as the Borough Council. These are available on the respective websites as is the combined response which I received, via the Borough Council, on 2<sup>nd</sup> June 2017.

## **The Consultation Process**

The genesis of the idea of preparing a neighbourhood plan for Hartlepool's rural hinterland began in the summer of 2011 through the engagement of the Hartlepool planners with the local councillor and also via the parishes working together in response to the then emerging local plan.

The Rural Plan Working Group was set up at the end of 2011. A neighbourhood area was initially designated by Hartlepool Borough Council in November 2011 but that was later ratified following a process review on 18 December 2013. This is the formal designation that the plan's coverage is based on.

Preparing a neighbourhood plan across such a large area, containing a number of individual settlements must have presented challenges that the working group had to grapple with, with different avenues of communication and variety of venues covering the various communities.

Early work in the plan was assisted by Professor Colin Haylock, the then President of the Royal Town Planning Institute who conducted a “place check walkabout” in each village.

The initial public consultation in May / June 2012 took place with invitations having been circulated to each community inviting attendance at the various sessions. It appears that these events were not particularly well attended so a follow-up survey was carried out in October 2012 which generated a 40% response rate. This allowed the Working Group to draw up the vision, aims and objectives of the Plan.

In March 2014, following a Working Group development day, letters were sent to all Parish Councils seeking invitations for the group to attend village events to publicise the plan and offer the opportunity for public engagement.

The next round of consultation took place in September / October 2014 through a publicity campaign and attendance at the above village events and questionnaires were distributed which generated a 10% response rate.

The Pre-Submission Version of the plan was circulated to all parish councils in April/May 2015 prior to the Regulation 14 Consultation that took place between May and July 2015. This included the letters sent to all households and a housing needs survey questionnaire. The group produced a video which was shown at events and relevant local groups and stakeholders were consulted. The consultation period was extended by an additional two weeks.

A comprehensive analysis of the responses has been prepared along with the working group’s response. This has been submitted as part of the examination documentation. I have seen how the plan has been amended as a result of the responses made.

I am satisfied that the public and relevant stakeholders have had ample opportunities to contribute to the neighbourhood plan process.

## 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 over an 8-week period between 20<sup>th</sup> February 2017 and 17<sup>th</sup> April 2017. This consultation was organised by Hartlepool Borough Council, prior to it being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

In total 13 individual representations were received. Responses were received from Historic England, Natural England, Hartlepool Borough Council, the Environment Agency, Network Rail, the Coal Authority, Hartlepool Civic Society, National Farmers Union- North East, The Campaign for the Protection of Rural England, 2 planning consultancies - I D Planning and Barton Wilmore, one local resident and a local farmer.

I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

## 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 and it is appropriate to make the Plan?
- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- The making of the Plan 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 Hartlepool Local Plan adopted in April 2006. This is now a somewhat dated document but it contains in Chapter 15 policies that deal with the rural areas. There are no housing proposals which are pertinent although Policy Rur1 provides for what is described as an “urban fence” to prevent the spread of development in to the countryside. Policy Rur3 deals with village envelopes being established for Hart, Greatham, Elwick, Dalton Piercy and Newton Bewley. Policy Rur6 protects local facilities in the villages and Rur7 is a criterion based policy dealing with Development in the Countryside. Rur12 is a restrictive policy setting out the presumption against housing in open countryside except in certain cases whilst Rur13 deals with the reuse of rural buildings.

Work is well underway on the preparation of the replacement Local Plan following the withdrawal of an earlier version of a Local Plan in 2013. The current version is the Consultation Document which was published in December 2016. I am advised that the examination is likely to be held later this year with the adoption programmed in for 2018. As the plan has not been tested at examination I can only give its proposals limited weight but it is clear that there has been close working between the Rural Plan Working Group and the Hartlepool planners.

I have found no strategic policies in the adopted Local Plan which are in any way undermined or compromised by the policies in this Neighbourhood Plan and this element of basic condition is met.

## **Compliance with European and Human Rights Legislation**

Hartlepool Borough Council carried out a Screening Opinion on the Submission Draft Version of the Plan and produced a report dated August 2016 which concluded that it is unlikely that there will be any significant effects upon the environment arising from the Plan and a full 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” would not be required. I do note that Historic England in their Regulation 16 consultation response state that they agree with that conclusion, but disagree with the reason for the Council coming to that decision. In my view, that does not affect the basic condition test, which is compliant with European legislation.

The District Council, as competent authority, also carried out at the same time, a screening opinion under the Habitat Regulations. The assessment concluded that the Plan will not likely have a significant effect on the European sites which are Teesmouth and Cleveland Coast Special Protection Area and Ramsar site, Durham Coast SAC, Northumbria Coast SPA and Ramsar site, Castle Eden SAC and Thrislington SAC.

I am satisfied that the basic conditions regarding compliance with European legislation are met. I am also content that the plan has no conflict with the Human Rights Act.

### **The Neighbourhood Plan: An Overview**

The preparation of the Hartlepool Rural Neighbourhood Plan has been an ambitious project covering a number of parishes. Its primary focus is on the countryside and villages that surround the town of Hartlepool. The plan has faced the challenge of delivering a future planning framework for the villages and the countryside, yet at the same time preparing additional planning guidance for urban extensions on the western edge of town, which extend into the neighbourhood area. Whilst it may have been logical to have excluded these new urban areas from the designated rural plan area, I suspect that the plan group have been forced to respond to developments that have not necessarily been under their control. This has resulted in some cases to a lack of clarity in the policy wording, such as the housing figure in Policy H1 which is to satisfy the needs of the villages and the rural areas rather than the overall housing needs of the Hartlepool area.

Some of these issues are due to the fact that the neighbourhood plan has been prepared in the absence of an up-to-date local plan. The Hartlepool Rural Plan has been prepared in parallel to the emerging Hartlepool Local Plan. However, it is evident that there has been close collaboration between the Rural Plan Working Group and Hartlepool planners. There appears to be a general consensus between the two parties as to the overall anticipated level of housing need required for the villages.

The plan is well written, is based on the clear analysis of the issues and has been informed by public engagement. There is a clear vision for the area. I have had to recommend some changes to the plan’s policies to ensure that they have had a

proper regard to Secretary of State policy and advice. This is to ensure that the plan meets the basic conditions.

Perhaps the most radical change I have had to make is with regard to the affordable housing threshold. Government policy has changed back and forth over the lifetime of the plan's preparation in respect of allowing commuted payments on schemes between six and ten units. This follows the Court of Appeal decision in respect of the case of Secretary of State v West Berkshire DC and Reading BC.

The other major area where I had to make changes is to restrict the ability of planning obligations to seek financial contributions to various projects. In the absence of a Community Infrastructure Levy scheme, the ability to pool developer contributions is now much more restricted than previously would have been the case. These are now restricted in law, both in terms of when they can be sought and also how many contributions can be collected.

Another general comment is that a neighbourhood plan policy must be a policy for the development and use of land. Its purpose is primarily for the determination of planning applications. In a number of places the policy is worded to seek to prioritise spending, whether it be on community infrastructure or transport improvements. That is a budgetary, not land-use planning decision and I have had to recommend that some of the prioritisation of schemes should be moved to a clearly identified, non-development plan part of the neighbourhood plan.

My recommendations are aimed at ensuring neighbourhood plan policy meets basic conditions. They are restricted to the wording of the development plan policy itself. It will be necessary for the plan's authors to revise the text of the justifications and other supporting information to ensure that the plan reads as a coherent development plan document, with a robust justification for the policies. Some parts of the text can also be updated to reflect changes since the submission version was drafted.

I also wish to refer to some other presentational issues. I was initially provided with an A3 version of the Proposals Map. For an area as extensive as the plan area, this is too small and it is impossible to identify proposals and constraints, as they affect individual properties with any confidence. I was provided with an enlarged version of the plan, of a comparable size to the Local Plan's Proposals Map and that should be the size of the plan which is provided with the printed version of the neighbourhood plan.

I have also made recommendations regarding changes to boundaries on the proposals map regarding Village Envelopes / Development Limits. I would also point out that some of the allocations, particularly along the boundary of the Plan Area and

Hartlepool include designations which continue across the plan boundary. A neighbourhood plan can only contain policies and proposals for the area within the designated neighbourhood area. Accordingly, these proposals covering land outside the plan boundary need to be removed from the Proposals Map.

## **The Neighbourhood Development Policy**

### **Policy GEN1 - Village Envelopes**

The policy's title and the wording of the policy refers to "Village Envelopes". However, the key to the Proposal Map shows the blue dashed line as "Development Limits". This not only defines the settlement boundaries of the five villages but also seeks to establish the limit of development along the edge of Hartlepool's urban area. In the case of the latter, I do not consider that the term "Village Envelope" is an appropriate description as it is to mark the urban area and as such the description could be misleading. I consider "Development Limits" to be a much clearer description and I propose to recommend its use in preference to "Village Envelope".

I note that in the majority of cases, the proposed settlement boundaries follow the same lines as that used in the emerging Hartlepool Local Plan. However, there are two situations, where I have some comments to make.

When I visited the village of Elwick, I viewed the allocation site at North Farm from the public footpath. The Development Limit wraps around that site, which is of course totally appropriate. However, immediately to the east of the allocation site there is a field located behind a row of five properties at the eastern entrance to the village. This field is shown as being within the settlement boundary. I could see no logic to its inclusion, as it does not follow the built-up edge of the village nor is it a proposed housing site, but to my mind offered an attractive piece of countryside and the setting to the village. If the line was to remain in the proposed position, no doubt, this field would be vulnerable to a non-allocated housing scheme, which would be difficult to resist as it would comply with policy. I suspect that the reason the site was included within the neighbourhood plan was to follow the boundaries set by the emerging local plan. I did raise this site in my Initial Comments. The Borough Council has now advised me that it will be proposing, in the next version of the emerging local plan, to draw the settlement boundary more tightly around the properties and hence will be excluding that field. That change would be consistent with the conclusions I came to when I viewed this site and I will be recommending accordingly.

The second boundary issue that I wish to address, relates to the land to the west of the village of Hart. The proposed Development Limit does not coincide with the one shown on the emerging local plan in that it excludes the housing site proposed in the

draft local plan- Glebe Farm. I will discuss the inclusion or otherwise of that site under Housing Policy H1. However, to follow the logic of the boundary, if that site were to be allocated in this plan then the Development Limit boundary needs to reflect that change.

I also need to discuss the drawing of the settlement boundary along the western edge of the Hartlepool urban area. In most parts, the boundary has been drawn so as to follow the eastern boundary of the Rural Plan area. I appreciate that this may not be the intention to allow for the expansion of the town up to that line. I would speculate that the purpose of drawing the development limit line to coincide with the plan area is to prevent the expansion of the town into the rural area, i.e. that it should not extend westwards into the plan area beyond the development limit as shown. However, by setting a limit to development, this may have unexpected consequences or at least, it creates uncertainty as to the status of the land on the opposite side of the line. Along much of its length, the drawing of the boundary is not necessary as the land within the plan area is protected by its inclusion within the Green Gap. I believe that it will be clearer in terms of the neighbouring land to define the limits of development only to include those parts of the plan area on the edge of Hartlepool where new development is proposed to extend into the plan area, specifically in the South West Expansion Area but also in two other locations where the plan area boundary does not coincide with the proposed Development Limit, to the south of the A179 adjacent to the plan area boundary and on the south side of Elwick Road immediately to the west of the plan boundary.

With the eventual adoption of the new local plan, this will establish a coherent settlement boundary for Hartlepool which is not required to follow the neighbourhood area boundary.

A final point is that I note that in a number of areas the Development Limit boundary as drawn is slightly set in from the area boundary. I imagine that this was done so the line can be read with clarity, however it does create a gap which could indicate that development could be acceptable within the small margin between the settlement boundary and the neighbourhood plan area boundary. My recommendation regarding the treatment of where the boundaries coincide will resolve that issue.

### *Recommendations*

Replace in the title and text of the policy “Village Envelopes” with “Development Limits”.

Amend the Development Limit boundary on the east site of Elwick Village to exclude the field to the north of the properties on the north side of Elwick Road.

Amend the Development Limit boundary on the western side of Hart Village so as to include Glebe Farm, the boundary of which should follow the same line as proposed by Policy HSG8 of the emerging Hartlepool Local Plan.

Remove the Development Limit boundary line along the western side of Hartlepool wherever the Development Limit boundary coincides with the Plan Area boundary.

## **Policy GEN2 – Design Principles**

This is a very comprehensive policy but I have some concerns regarding specific criteria contained within the policy.

In terms of criterion 2, the policy does not define what would constitute a design which “scores highly”. I believe that it will be helpful for an applicant to have to demonstrate how the scheme relates to the stated criteria, but it is not appropriate to set a particular score or be above a certain threshold to be approved. The criteria set down in Appendix 4 will help decision-makers assess the design qualities of a proposed development.

In terms of criterion 6, this requires the use of the “highest standards of energy efficiency”. Not only is what constitutes “the highest standards” not defined but it also deals with an issue that can no longer be covered by a neighbourhood plan policy according to Government advice. The Secretary of State in a Written Statement to the House of Commons dated 25 March 2015, stated that “neighbourhood plans should not impose additional technical standards or requirements to the construction, the internal layout or performance of new dwellings”. This matter is now covered by Building Regulations in terms of energy performance. As such I do not consider that this policy is consistent with basic conditions, having regard to the Secretary of State guidance and advice.

Similarly, issues of accessibility as referred to in criterion 8, are dealt with by the Building Regulations. The same statement to the House of Commons issued the following guidance “in cases of very specific and clearly evidenced housing accessibility needs, where individual household requirements are clearly outside the new national technical standards, the local planning authorities may ask for specific requirements outside of the access standard, subject to overall viability considerations”. I have seen no evidence to specifically justify any enhanced requirements over and above the requirements set out in the Building Regulations in respect of the Hartlepool Rural Plan area.

The Environment Agency has objected to the wording of criterion 9 as it does not properly reflect their concern regarding the management of surface water *into* fluvial water. I support their suggestion.

I am unclear as to how a planning application will show how “safety and security” has been taken into account, as set out in criterion 10. These are not matters usually covered by planning policy, beyond the usual matters of highway safety, designing out crime, proximity to hazardous installations etc. I find that as written, the policy is too vague and imprecise and it cannot be used with confidence by any decision maker. I will be recommending that this criterion is removed.

The policy to avoid the best and versatile agricultural land being used is not a design principle, it is a locational criterion.

The requirements of applicants to have to submit a Design Criteria Checklist is not something that a development plan policy can actually require. The information which is to be submitted with the planning application is set out within a Council’s Local Validation Checklist. I will be removing that element as this is already covered to some extent by criterion 2 in any event.

In terms of the final requirement, LPAs have their own consultation arrangements, to ensure the applications are screened to ensure that those which have implications for archaeology, receive appropriate consultation responses. It is not necessary to put this as a requirement of development plan policy.

#### *Recommendations*

In criterion 2 replace “highly with” with “against”

Delete criterion 6

Delete criterion 8

In criterion 9 replace “including” with “into”

Delete criterion 10

Delete criterion 12

Re-number accordingly

Remove the final two paragraphs of the policy

### **Policy H1- Housing Development**

I detect a certain ambiguity throughout the plan with regard to the relationship

between the planning of development in the villages in the rural area and the proposals for the enlargement of Hartlepool, particularly at the South West Expansion Area, part of which also lies within the plan area. The emphasis through this particular policy is the identification of housing sites in the rural areas to meet the needs of the villages. The housing figure of 170 units quoted under this policy, of which 87 are identified, appears to support this view. The South West Expansion Area is a strategic allocation within the emerging local plan, covered by draft Local Policy HSG4 and will provide approximately 1260 dwellings. Although the plan does not make it clear, I am assuming that the figure of *approximately* 170 dwellings to be accommodated in the plan area, excludes the housing proposed in the South West Extension and the other two locations on the edge of Hartlepool, as the figures bear no relationship to those quoted. I propose to make that clear in my modifications which I will be recommending to this policy.

I am of the view that the figure of 170 should be a *minimum* figure. The NPPF calls for a significant increase in house building in the UK. To set a figure as either a maximum figure, or indeed as an approximate figure could frustrate the delivery of additional homes which could legitimately come forward and for which there is an undoubted need. I will therefore propose the changing of *approximately* to *at least* 170 new homes. Whilst commenting on the drafting of policy, I do not consider it appropriate for individual site allocations to be expressed as *maximum* figures in terms of how much development each site could yield. That will to a large extent depend upon the form and mix on any development being promoted. For example, a site for 12- five bedroom houses could deliver a greater number of 1,2 or 3 bedroom units. I therefore propose changing *maximum* to *approximate* to allow for flexibility.

I also do not believe that the use of the phrase in the policy “Permission *may* be granted” offers the level of certainty that a neighbourhood plan should be giving if it is to be seen to be planning positively for the area. I will recommend the change to “*will* be granted”.

Turning to the individual site allocations, I looked at all the sites during my visit to the plan area. However, whilst the policy refers to two settlements where no sites are identified in the policy, Dalton Percy which is given an allowance of 10 through infill and Newton Bewley, which does not have a figure attached, but which is said to deliver infill development. As these are not site allocations, I propose to delete them from the table but instead will insert a general policy presumption in favour of infill development within the development limits of any of the villages, beyond the allocated sites.

There is one village site which is proposed to be allocated in the emerging Local Plan but which is not allocated in the neighbourhood plan. This relates to land on the opposite side of the road from Nine Acres - the allocation site at Hart – namely Glebe

Farm. The Rural Plan Group stated that the former site had been chosen to meet the housing needs of Hart. It appears that the Glebe Farm site was added to a later version of the draft local plan and in their response, they state that they are seeking to ensure that the villages should expand through gradual incremental growth rather than a scale of new housebuilding that causes villages “to explode”. Their stated aim is to maintain strong community cohesion. My view is that this additional site, which is likely to deliver approximately 20 units, is just as suitable a site for residential development as Nine Acres and whilst it may be closer to the A179, there is similar depth of buffer land between existing properties in Hart and that main road. I do not see how an additional 20 homes would result in the loss of community cohesion but indeed could help sustain local facilities and services. The Borough Council argue in their response, that whilst it is a relatively modest proposal in terms of the housing supply, the site is assessed as deliverable and is part of its declared five-year housing land supply. If it were no longer to be considered suitable for housing, it could put pressure on other sites on the edge of villages to maintain the five-year housing supply. The Hartlepool planners have stated that this is the strategic policy allocation, in terms of the basic conditions. I must point out that the basic conditions test is general conformity with the strategic policies of the **development plan**; note that this is not the *emerging* plan. My conclusion is that the Glebe Farm site will assist in the delivery of sustainable development within the rural area by contributing to the meeting of housing needs for the Rural Plan area as a whole.

I am not satisfied that the evidence contained in the latest statement of housing need is sufficiently robust to be the sole determinate as to the acceptability of a proposal. I will be recommending substituting “should be in line with” by “to have regard to the latest evidence of housing need” so that other factors can also be taken into account.

#### *Recommendations*

Replace “approximately” with “a minimum of” in the first paragraph and add at the end after “2031” “excluding the dwellings built on the new developments on the western edge of Hartlepool’s urban area”,

In the second paragraph replace “may” with “will”.

In the table in the third column heading replace “Max” with “Approx.”

Delete all in the row entitled “Dalton Piercy” and “Newton Bewley” and insert another row entitled “Hart” and insert “Glebe Farm” with an approximate figure of 20 dwellings.

Add a new paragraph after the table “There will be a general presumption in favour of residential development on non-allocated sites within the Development Limit of the villages provided the proposal is of an appropriate scale and accords with other plan policies”



In the final paragraph replace “be in line with” by “have regard to”

## Policy H2 - Affordable Housing

I have a number of comments regarding this policy and its relationship to the basic conditions test.

1.The policy requires applications for five or more units to provide affordable housing. Following the Court of Appeal’s judgement in respect of the Secretary of State v West Berkshire DC and Reading BC, the Secretary of State has reintroduced advice regarding planning applications having to deliver affordable housing. Advice in the online Planning Practice Guidance, is that in rural areas such as this plan area which are designated under Section 157 of the Housing Act “local planning authorities may choose to apply a lower threshold of or five or less.” It goes on and states “affordable housing and tariff style contributions should be sought from development of between 6 and 10 units in the form of cash payments which are commuted until after completion of the units within the development (Paragraph 031 Ref ID 23b – 031–20161116)

I have not seen any compelling evidence as to why the particular circumstances of Hartlepool’s rural parishes have such a social housing requirement or viability considerations that requires a departure in approach from that set out in Secretary of State advice. The only reference is in paragraph 8.44 of the Plan which states that “given the small number of housing sites in each village it is unlikely to be feasible to use commuted sums to deliver additional affordable housing therefore on-site provision is the preferred method of delivery.”

I do note that in the rest of the Borough, the draft local plan is proposing a threshold of 15 units. Therefore, the reduced threshold is already set at a lower figure. I will be recommending a revision of the policy to allow the option of commuted sums on schemes of between 6 and 10 units, as well as the option of on-site provision, but with the requirement that the commuted sum should be used to deliver affordable housing which is provided within the plan area.

2.The second element of policy starts out by setting out the affordable housing need for the whole of Hartlepool Borough. This extends beyond the plan area and therefore cannot be incorporated within a neighbourhood plan and this information should be moved to the supporting text.

3. There are several elements where there is a requirement for affordable housing to remain affordable in perpetuity. This goes beyond the normal remit of what a development planning policy can deliver. Occupiers of social housing have statutory

rights in law which a policy or indeed a Section 106 Agreement can override. The only possibility of Right to Buy provisions being withdrawn is if development is on a rural exception site, which could be provided in the plan area under the provision of Policy H3. Similarly, the use of affordable housing receipts is not a planning policy consideration.

#### *Recommendations*

In criterion 1 replace “five” with “six”. And replace all text after “dwellings” with “For schemes of between 6 and 10 units, financial contributions in lieu of on-site provision can be made and any commuted sums received must be used for the provision of affordable housing within or adjacent to the villages in the plan area”.

In criterion 2 delete the first sentence of the policy.

Delete criterion 5

### **Policy H3 - Rural Exception Homes for Local Needs**

I have no concerns about this policy which accords with the approach set out in the NPPF.

### **Policy H4 - Housing in the Countryside**

I have no objections to this policy from the point of view of the basic conditions test.

### **Policy H5 - Housing Development on the Edge of Hartlepool**

This policy builds upon and is additional to draft Local Plan Policy HSG4. Firstly, I need to be satisfied that the neighbourhood plan policy does not seek to frustrate the delivery of the emerging local plan’s strategic allocation of the site. I do have some doubts as to the ability of the neighbourhood plan to influence this development as I understand that the planning consent has been granted and a master plan agreed. I do however have to address the plan as submitted.

I have a number of detailed points to make on the proposal. In terms of the overall density, the neighbourhood plan was for about 25 dwellings per hectare (or less). The caveat “or less” is not mentioned in the local plan that refers to *approximately* 25 dwellings per hectare. To build at a lower density would mean that the development would not deliver the amount of development that was expected. This will affect the delivery of sustainable development, in terms of meeting the overall housing needs of the area.

I appreciate the public has concerns regarding the traffic implications of these major development sites. Rather than being specific about identified improvements from the villages to the junctions with the A19, A179 and the A689 and traffic restraints in the villages including traffic calming, it would be better for measures to be based on empirical evidence and modelling that will be established by a Transport Assessment which could take account of the total extent of development in terms of scale and character and location. To require specific improvements without evidence, merely based on public concerns, would be speculative. I will be proposing amendments to criterion 9 accordingly.

I do not believe this is the best approach to set a threshold of 450 homes which is based on the population of Greatham, as the benchmark for requiring community facilities. That is an arbitrary figure and I believe the appropriate guidance is already set out in emerging local plan– Policy HSG4- criterion 3.

#### *Recommendations*

In criterion 3 delete “or less”.

In criterion 9 delete “includes” and insert “should include mitigation measures identified by Transport Assessments which may include”.

Delete the last sentence of criterion 11.

### **Policy EC1 – Development of the Rural Economy**

This is a positive approach to economic development. I do have a number of small concerns. It could be suggested that the policy around the provision of live work units and small scale businesses suggests that proposals will be supported anywhere within the plan area. I recommend that the correct principle should be that they will be permitted within existing development limits.

The requirements for new livery businesses to be responsible for maintenance of existing equestrian routes/bridleways is too onerous as this imposes maintenance responsibilities on the public rights of way network which cannot be solely put down to the new equestrian business.

#### *Recommendations*

In criterion 3 insert at the end “within the development limits of the villages”

In the second paragraph replace “provision and maintenance” with “existence or provision of”

## **Policy EC2 – Retention of Shops, Public Houses and Community Facilities**

I have some concerns that there is an ambiguity in the wording of the policy. In criterion 1 - it refers to “at least one other similar facility” existing in the village. What is not clear is whether it refers to one of the three types quoted in the policy, a village shop or a public house or a community building, or whether the test is whether there is another shop in the village or another pub or community building. I am assuming that the latter is what the policy is seeking to secure in line with the NPPF and I propose to make that clear through an amendment to the policy.

### *Recommendation*

In criterion 1 insert after “facility”, “of that type”

## **Policy EC3 – Former RHM site to the South of Greetham Station**

This policy has raised a significant objection and important and relevant consultation responses. In particular, representations have been made on behalf of the site owners, Darnham Ltd, promoting a mixed use based on a residential development. I have also received comments from Network Rail, which I shall refer to in my comments.

There are number of factors that must be considered in terms of this allocation.

1. Firstly, whilst the buildings on the site have all been demolished, I still consider that the site can be described as previously developed land as defined in the glossary of the NPPF. This is land which was previously occupied by a permanent structure. From my visit to the site I do not consider the site qualifies for the dispensation from that definition, by being “land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time”. One of the NPPF’s Core Planning Principles (para 17) is “to encourage the effective use of land by reusing land which has been previously developed (brownfield land) provided that it is not of high environmental standard”. The reuse of brownfield sites for residential development is supported by Local Plan Policy HSG4 and is also referred to in the neighbourhood plan. That could in itself justify development lying outside the existing settlement pattern, which was a concern of the Borough Council in its response to my Initial Comments, subject to the necessary infrastructure being put in place.

2. The Neighbourhood Plan Group point to the poor environmental quality of the site. However, I have seen no evidence that shows that residential development is ruled out in terms of proximity to polluting industry, safety hazards or contaminating land uses. Similarly, I do not have sufficient comfort, based on evidence, that residential

development is suitable in this location and so should be promoted on this brownfield site. In the absence of evidence, I am therefore proposing to adopt a precautionary approach, in terms of my examination of the neighbourhood plan and will not be supporting the representation from ID Planning which urges me to recommend that the list of acceptable uses should include a residential component.

3. In terms of the proposed uses set out in the policy, “community and leisure uses” are promoted. This could cover a wide range of possible uses, but it specifically quotes three elements to be included. One is a park-and-ride facility linked to the reopening of Greatham Station. I am working on the basis that a park-and-ride facility could only proceed if the station were to be reopened. I understand that it was closed in the 1980s. I have been advised that there are no plans from Network Rail or the train operating companies to rebuild a station at this location. I would be surprised if a park-and-ride facility in isolation would provide sufficient patronage to justify a new station, in isolation. I have seen no coherent transport strategy that promotes park-and-ride as a solution to a particular problem. Park-and-ride tends to be used in locations where there is a major constraint on town centre parking or congestion and where adopted relies upon an accompanying car parking pricing policy, to encourage people not to park in a central location but to intercept visitors before they reach the town and then transfer to the bus or train. Without a viable business case, there is no incentive for the train companies to invest in all the associated facilities associated with a new station or justify any revisions to the timetable by providing stopping trains that would offer a realistic frequency of service that would be attractive to users of park-and-ride, thereby offering a realistic choice for visitors to Hartlepool against other options, such as driving into the town centre.

Whilst a neighbourhood plan can be aspirational, there should be a realistic possibility that the policy or proposal, which the community supports, will be delivered. The opposition of Network Rail and the total absence of support from train operating companies, convinces me that the reopening of the station is unlikely to take place within the plan period and without a new station, a park-and-ride facility does not make sense. I also detect a conflict inherent in the policy, between the aspiration for, on the one hand to attract cars to drive through Greatham village to park and catch the train, yet at the same time not to generate a “significant increase in traffic movements through the village”.

I accept that, in principle, a solar energy installation could be an appropriate use of this site, and that this could help fund a visitor centre which is part of the mitigation strategy to support the nearby European sites. I note the concerns of Network Rail based on a national policy to remove, wherever possible, such crossings or reduce risks associated with their use but I do not consider that this scale of usage over the level crossing would be likely to cause such a level of traffic so as to create such

insurmountable problems for train operating companies, especially compared to the level of activity when the former industrial buildings were occupied.

*Recommendations*

In the first paragraph insert “possibly” after “uses”

Delete criterion 1 and renumber.

### **Policy EC4 – Service Stations and Travel Related Development**

I noted from my site visit that there are already established facilities on both sides of the A19. I consider that all the proposed uses would be appropriate at the strategically important transport facility. I do however consider that it is unreasonable to expect improved or enhanced facilities not to give rise to an intensification of use of the access roads. To have that as a constraint would be a disincentive to invest in new facilities. I am conscious of the advice in Paragraph 32 of the Framework that states “development should only be prevented or refused on transport grounds where the residual cumulative impact of development are severe”. Whilst consultation will be required with Highways England it should not be a prerequisite of policy that the support of a statutory consultee to a planning application, must be given. That would usurp the role of the local planning authority or indeed a Planning inspector to determine the planning application/appeal. I will therefore propose to delete that part of the policy.

It is unnecessary to require proposals to comply with all *necessary* policies of this plan as a planning application must have regard to all *relevant* policies in the development plan.

*Recommendations*

Delete the first sentence of the second paragraph.

Delete the final paragraph.

### **Policy T1 - Improvements to the Highway Network**

A neighbourhood plan policy must be a policy “related to the use and development of land”. A neighbourhood plan sets out planning policies that will be used to determine planning applications (PPG para 002 reference ID 41–0 02–20140306). It goes on to recognise that “neighbourhood planning can inspire local people and businesses to consider other ways to improve the neighbourhood than through the development and use of land. They may identify specific actions or policies to deliver these improvements. Wider community aspirations than those related to the use and development of land can be included in the neighbourhood plan but actions dealing with non-land-use matters should be clearly identified”.

I consider that this policy as written, does not relate to development proposals. In fact, the policy is offering support to the highway authority, not the planning authority, to authorise the securing of various highway improvements. As far as I can tell the measures set out in criteria 1 - 3 and 6 are matters that do not constitute development under the terms of Section 55 of the Planning Act or are permitted development under Part 10 of the Town and Country Planning (General Permitted Development) Order 2015. This will likely be dealt with under highway not planning legislation, especially if the works take place within or adjacent to highway land.

However, development proposals which, if it can be shown through appropriate Transport Assessments, to require contributions to be made to any of these improvements, then it is appropriate for the policy to reflect that, subject to complying with the legal tests for planning obligations.

#### *Recommendation*

Replace the first sentence with “Where development proposals are shown, through evidence to be required to contribute towards any of the following schemes so as to make the development acceptable, appropriate financial contributions will be sought through a planning obligation”

### **Policy T2 - Improvements to Public Transport**

Again, I am not convinced that that this is a policy for the development and use of land. This is more a call to train operating companies or Network Rail to invest in a new railway station and to stop their trains at Greatham. That is not really a land use policy. If the policy were to be worded that planning permission would be granted for the rebuilding the station, that will be a planning policy. However, the indications from the Network Rail’s Regulation 16 consultation response is that this is unlikely to take place. Furthermore, the requirements imposed in particular by criterion 1, that the station “would not result in an increase in road traffic”, would only be deliverable if access to the station was to be restricted to residents of Greatham only. Similarly, the requirements to have a new bus service and park-and-ride plus new routes to employment sites as a requirement on the new station would not assist its deliverability.

The support for reopening Hart railway station cannot be incorporated in the development plan element of the document, as it is a policy related to land outside the neighbourhood area. The expression of support can be included as a Community aspiration.

The final part of the policy relates to supporting local bus services via planning obligations. A planning obligation can only be used as a reason to grant planning

permission if its provisions meet all three tests set out in paragraph 204 of the NPPF, namely that the financial support required to assist bus services is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind. I do not consider that the neighbourhood plan is envisaging a level of development that would justify the provision of new bus services or support of existing services.

I therefore conclude that this policy does not meet basic conditions and I am accordingly recommending that the policy be deleted.

*Recommendation*

That the policy be deleted.

**Policy T3 - Improvements and the Extension of the Public and Permissive Rights of Way Network.**

The first paragraph of the policy is appropriate to land use planning. The rest of the policy is an expression of the priority to be given to improvements to the rights of way network. This is basically as drafted, a budgetary consideration, not a land-use policy i.e. it is seeking to establish priorities for spending. However, it is possible for the new and improved routes to be identified in the plan as these can be achieved through the development of this land. The improvement of pavements is a highway management not a planning issue. Highway signage and other street furniture again come outside the province of planning control. These matters can however still be contained within the plan as community aspirations.

*Recommendation*

Insert at the end of the first paragraph “and where justified by and shown to be directly related to specific development proposals, financial contribution will be sought towards the following schemes.”

Delete the second sentence.

Delete the last two paragraphs of the policy.

**Policy C1- Safeguarding and Improvement of Community Facilities**

I have no issues with the first two paragraphs on this policy. I do not consider that a neighbourhood plan should be establishing spending priorities, which is a matter for the Borough Council or the relevant parish council.



I have received a representation from North Hart Farm objecting to their agricultural buildings being shown as Community Buildings. The Working Group confirm that this was a cartographical error and I will recommend that it be removed from the Proposals Map as an error.

I believe that the land at the Ghyll in Elwick does meet the criteria to justify designation as local green space. However, the policy, as written, does not actually establish how planning applications relating to that land will be viewed. I will therefore be using the approach set out in the NPPF as the basis of my recommendation to provide clarity in terms of what the designation seeks to achieve.

I do not consider that it is appropriate to seek contributions from all housing developments towards facilities in the rural area unless it can be shown that there is a direct relationship between the specific facility and the proposed development. That is to bring it in line with Secretary of State policy re planning obligation and the Community Infrastructure Regulations. Again, it needs to be noted that only 5 pooled contributions can be made to any particular project.

#### *Recommendation*

Insert at the end of paragraph 4 - "Development will not be permitted on this land other than in very special circumstances, for example, it is essential to meet specific necessary infrastructure needs and it can be demonstrated that there are no reasonable alternative sites available."

In the final paragraph delete "rural area" and replace all subsequent text with "settlement where it is shown that the need for the facility, open space or the contribution towards the improvement of existing facilities is directly required as a result of the proposed development."

Delete the designation of the farm buildings at North Hart Farm at Hart as community buildings from the Proposals Map.

### **Policy NE1 – Natural Environment**

I consider that this policy is a criterion based policy which is based on the advice set out in the NPPF. I have no comments to make on it.

### **Policy NE2 – Renewable and Low Carbon Energy.**

I have no comments to make on this policy which I believe will deliver sustainable development.

### **Policy HA1 - Protection and Enhancement of Heritage Assets**

I am concerned that the first part of the policy relates to “the Rural Plan Working Group working alongside Hartlepool Borough Council to support and encourage investment in heritage assets.” It is not a question of identifying which bodies will support investment in all historic assets but instead should relate, through the policy to planning proposals which invest in historic assets throughout the rural area being supported.

#### *Recommendation*

Delete the first paragraph and replace with “Planning applications will be supported which ...”

### **Policy HA2 – Protection and Enhancement of Conservation Areas.**

I have no comments regarding compliance with the basic conditions.

### **Policy HA3 – Protection and Enhancement of Listed Buildings**

Again, I have no comments regarding compliance with the basic conditions.

### **Policy HA4 – Protection and Enhancement of Locally Important Buildings**

I understand that preparation of the list of locally important buildings, which are, in parlance of the NPPF, called non-designated heritage assets has been compiled by Hartlepool Borough Council.

The test of planning policy in respect of these properties, according to the NPPF, is that the harm to importance of the property should be weighed against the public benefits arising from the development. I propose to amend the policy to bring more closely aligned to the approach promoted by the Secretary of State. The requirement to have a scheme for redevelopment in place can only be achieved by the imposition of a planning condition, which presumes a consent for the redevelopment to be in place. There is no statutory protection to prevent the demolition of a non-listed building, unless it is a building in a conservation area”.

#### *Recommendation*

After “Locally Important Building” delete “particular regard will be had” and insert “the effect of the application on the significance of the following”.

Replace the final paragraph with “A balanced judgement will be made having regard to the scale of any harm or the loss and the significance of the heritage asset.”

## **Policy PO1- Planning Obligations- Contributions towards Meeting Community Infrastructure Needs**

As previously mentioned, a neighbourhood plan policy cannot dictate spending priorities. It can only provide guidance as to how planning applications are to be determined. Therefore, a policy can only deal with developer contributions which are made under the planning obligation. Not only are these required to meet the test of Paragraph 201 of the NPPF but also, as I have already highlighted only five pooled contributions can be made towards any one project. That is a requirement laid down by Regulation 122 of the Community Infrastructure Levy Regulations 2010. Contributions therefore can only be collected towards any of the schemes set out in the policy, if there is a direct relationship to that development. I therefore do not consider that it is appropriate to list all projects in the policy, but these projects can however be set out in the non-land-use policy section of the Plan which could be included in an Appendix or by colour coding the sections so that it is clear that it is not to be taken as development plan policy which can guide the spending decisions of the respective parish councils as well as the Borough Council. I will be recommending changes to the first part of the policy to bring in the Secretary of State advice.

### *Recommendation*

Replace the first paragraph and the list of projects with “Developer contributions towards improved community infrastructure will be sought where it is shown that the obligation is necessary to make the scheme acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development.”

### **The Referendum Area**

If I am 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. I did actively consider whether the residents of housing estates that lie adjacent to the Plan’s allocation of development sites under Policy H5 adjacent to the Hartlepool urban area should be included. However, I appreciate that these sites have already been promoted by the emerging Local Plan and in many cases consents have already been granted. I have therefore concluded that it is not necessary to extend the referendum area beyond the boundary. Therefore, I can confirm that the area of the Hartlepool Rural Neighbourhood Plan as designated by Hartlepool Borough Council on 18<sup>th</sup> December 2013, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

## Summary

The Rural Plan Working Group are to be congratulated for producing a well-focused and locally distinctive neighbourhood plan. It really is an impressive document.

I have had to make a number of changes to the wording of the policies and have made recommendations regarding the Development Limits of settlements and the urban area and have added one development allocation at Hart. I have also had to recommend how the plan seeks planning obligations, ensuring that they are sought where the obligation is required to make a development acceptable in planning terms and is directly related to the particular development. All the changes are required to ensure that the plan delivers sustainable development and has proper regard to national policy and guidance.

I have had to recommend the removal of one policy related to the reopening of Greatham Railway Station which the Group may describe as an aspirational policy but which I am firmly of the view, is non-deliverable, and its inclusion as a plan proposal would be contrary to national guidance.

To conclude, 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 that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

**I am therefore delighted to recommend to Hartlepool Borough Council that the Hartlepool Rural Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.**

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning Ltd

4<sup>th</sup> July 2017