

Witchford Neighbourhood Plan examination: East Cambridgeshire District Council response to Examiner's questions

This note sets out East Cambridgeshire District Council's (ECDC) response to questions raised by the examiner of the draft Witchford Neighbourhood Plan (WNP), received on 20 December 2019. Documents received from the examiner are available from the Council's website¹.

Scope of Neighbourhood Plan examination

National planning practice guidance is clear on the scope of the Neighbourhood Plan examination and the role of the examiner conducting the examination.

When considering the content of a neighbourhood plan or Order proposal, an independent examiner's role is limited to testing whether or not a draft neighbourhood plan or Order meets the basic conditions, and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The independent examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.

Paragraph: 055 Reference ID: 41-055-20180222

Through its response to the Regulation 16 publication, the Council made clear that it considers the draft WNP to be capable of satisfying the basic conditions.

In responding to the matters raised by the examiner, ECDC has attempted to limit its response to the context of the basic conditions, crucially whether the plan:

- has had regard to national planning policies and guidance
- will help deliver sustainable development
- is in general conformity with the Local Plan's strategic policies
- is compatible with EU obligations, for example the plan will not result in harm to the environment or habitats and will not breach human rights

Question 1

The evidence base in respect of the housing requirement given to the Parish Council has been challenged by Reg 16 respondents. The NPPG requires there to be a satisfactory evidence base for the plan's policies. If this does not exist then there is conflict with the basic condition to have regard to national policy and guidance. I therefore wish to know how the requirement of 252 units for Witchford was arrived at. Is it derived from the objectively assessed need figure provided by the Government for East Cambs of 598 dwellings per annum? Alternatively is it derived from the 2019 Housing Land Supply 5 year requirement of 6451 dwellings? If neither, please explain how the figure for Witchford is in general conformity with the development strategy for East Cambs. In other words, can 252 units (330 as provided for in the plan) be deemed to be a reasonable requirement for the parish up to 2031? (ECDC best to answer)

¹ <https://www.eastcambs.gov.uk/local-development-framework/witchford-neighbourhood-plan>

The Local Plan 2015 pre-dates the current iteration of the NPPF (2019) and consequently the new requirement for strategic policies to set out a housing requirement for designated neighbourhood areas².

At present, the provisions of paragraph 66 apply to East Cambridgeshire. Paragraph 66 states:

Where it is not possible to provide a requirement figure for a neighbourhood area, the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority.

During the preparation of its Neighbourhood Plan, Witchford Parish Council requested ECDC supply an 'indicative figure'. The Council duly fulfilled this request.

ECDC developed a method for calculating the indicative figure for Neighbourhood Areas which is consistent with the requirements of the NPPF.

The East Cambridgeshire Local Plan 2015, the most recently available planning strategy for the district, forms the starting point for calculating the indicative figure. As the Local Plan is less than five years old, it provides the district's current housing requirement³.

In calculating the indicative figure, the Council has taken into consideration dwelling completions since the start of the plan period and latest housing commitment data from extant planning permissions and unimplemented Local Plan allocations (where present), within the Neighbourhood Area.

The ECDC's method takes account of population by categorising settlements and applying the requirement figure at differing rates by size of settlement, in a manner which broadly reflects the Local Plan's growth strategy.

Para 66 suggests the indicative figure should take account of latest evidence of local housing need. Whilst the Local Plan 2015 provides the district's housing requirement, ECDC has compared its method for calculating the indicative figure against the Local Housing Need figure for East Cambridgeshire, calculated as per government's standard method. If implemented across the district, ECDC's method for calculating indicative figures for Neighbourhood Areas would provide sufficient housing to exceed both the Local Plan 2015's housing requirement and the current Local Housing Need figure.

ECDC has not published in full its method for calculating indicative figures, as there is a considerable risk the results may be misinterpreted as a target for each parish across the whole district. National policy only requires a figure to be generated for a specific neighbourhood area where explicitly requested by a Qualifying Body.

For example, within East Cambridgeshire there are designated Neighbourhood Areas where the Parish Council has not requested an indicative figure. There are also many parishes where no Neighbourhood Plan is being drawn up.

² Paragraph 65, NPPF

³ Paragraph: 003 Reference ID: 68-003-20190722

If government had wanted an 'indicative' figure (or a detailed district based method for calculating such a figure) published for every parish ahead of a formal housing requirement figure in the next available local plan, it would have said so. But it did not.

The indicative figure for Witchford Neighbourhood Area is therefore derived from the Local Plan 2015's housing requirement (for Witchford specifically and the district as a whole) and growth strategy, and housing commitment and completions data (as published in the AMR and Five Year Land Supply Report) for Witchford and the district as a whole. ECDC considers that this method generates a figure for Witchford which is both reasonable and consistent with national policy, and, as stated, if the same method was applied to every parish in the district both the Local Plan housing requirement and the Local Housing Need requirement would be exceeded. ECDC is satisfied that the WNP meets the indicative housing requirement figure for Witchford, and therefore meets the basic condition requiring plans to help deliver sustainable development.

Question 2

The Basic Conditions require the WNP to be in general conformity with the strategic policies of the adopted Local Plan. Reg 16 representations have raised concerns that the strategic policies of the adopted ECLP particularly Growth 1, Growth 2 and Growth 4 are no longer up to date as the plan cannot provide a 5 year housing supply and in seeking to conform to these the WNP is itself out of date. Am I correct in assuming that while the quantity Growth 1 and the allocations Growth 4 may have been deemed to be out of date in recent appeal decisions the spatial strategy in Growth 2 and providing the spatial strategy for Witchford is still appropriate and being applied? (ECDC best to answer)

For the purposes of applying the NPPF's *presumption in favour of sustainable development*, ECDC considers relevant strategic policies to be out of date as at present the district is unable to demonstrate a five year housing land supply.

The Local Plan 2015 describes future growth in Witchford:

Witchford is likely to continue to grow at a slow rate, with new housing being built on suitable 'infill' sites within the village.

The Local Plan 2015 sets no allocations for housing development in Witchford.

ECDC's method for setting the indicative housing figure reflects the diminished status of relevant strategic policies. This has resulted in ECDC providing Witchford Parish Council with an indicative figure substantially higher than the level of growth anticipated by the Local Plan (the Local Plan envisages no growth other than infill).

Whilst relevant strategic policies may have diminished status, the policies do not cease to exist. In calculating indicative figures, the Local Plan's spatial strategy remains an important consideration.

Question 3

What is the current position with the three allocated sites?

- *Clearly the eastern end of the WFDH1 site is under construction and I note from the Council's online Public Access that reserved matters have been permitted for WFDH3 South of Main Street but in respect of the balance of WFDH1 at the west end and*

WFDH2 are these still at outline stage or have reserved matters applications been submitted?

- *When did work actually commence on site WFDH1?*
- *I need this information to arrive at a decision in terms of the challenge from the Reg 16 reps that SEA/HRA should have been carried out plus to test the allocation policies against the NPPF requirement of plans that they give clear and unambiguous advice. (ECDC best to answer)*

Draft site allocation WFDH1

A reserved matters application (application ref: 18/00782/RMM) for 128 dwellings was approved by ECDC in December 2018, covering the eastern portion of the site located between the track north of Marroway Lane and Greenham Park draft employment allocation. ECDC understands the site to be under construction, but to date has not reported any dwelling commencement or completions. The developer has appointed an Approved Inspector (AI) to carry out the building control function. The AI has not yet supplied the Council with commencement or completions data.

The smaller, western portion (located to the west of the track running north from Marroway Lane) has outline planning permission for 40 dwellings (application ref: 18/00778/OUM). To date, no reserved matters application has been submitted.

The Council has not reported any dwelling commencements or completions from site WFDH1 to date. At present, the net commitment from the site is 168 dwellings.

Draft site allocation WFDH2

The site has outline permission for 116 dwellings (application reference: 18/00820/OUM). Another application for 120 dwellings was 'live' concurrent with the outline application, but was eventually withdrawn in May 2019 (application reference: 17/01575/OUM).

An application for reserved matters for 116 dwellings has been submitted to ECDC and is currently pending consideration (application reference: 19/01502/RMM).

Draft site allocation WFDH3

ECDC approved a reserved matters application for 46 dwellings in October 2019 (application reference: 19/00196/RMM).

Question 4

The Basic Conditions require that the plan does not breach EU obligations and in particular to consider whether there are significant environmental effects necessitating an SEA and whether individually or in combination there would be significant effects on European sites. There are strong Reg 16 representations that, in combination, the allocated sites could adversely impact on the European sites and that therefore an Appropriate Assessment should have been carried out. I note that the conclusion of the screening opinion was that because the three allocations had been assessed through the planning application process and no significant environmental effects had been identified that SEA /HRA on the WNP did not need to be carried out and that the statutory consultees had agreed with this conclusion.

What I would like to know is how the in-combination effects of the allocations together with smaller anticipated windfall over the plan period have been considered. (ECDC best to answer)

The draft Witchford Neighbourhood Plan differs from the Local Plan 2015 in that it identifies site allocations, including three housing allocations. The draft plan also proposes the Development Envelope be amended to include the housing allocations.

No other changes to the development envelope are proposed.

As discussed in the response to Question 1, the Local Plan 2015 supports the development of infill sites within the development envelope. The Strategic Environmental Assessment screening assessment is concerned principally with likely significant environmental effects not already considered and dealt with through sustainability appraisal of the Local Plan.

The draft Witchford Neighbourhood Plan offers in principle support to proposals located within the Development Envelope 'provided they accord with other provisions in the Development Plan' (Policy WNP SS1). In areas outside the development envelope, the draft Witchford Neighbourhood Plan limits development to proposals for rural affordable housing exception sites and development for agriculture, horticulture, outdoor recreation, essential educational infrastructure and other uses that need to be located in the countryside. As identified by the SEA Screening Assessment report, this approach reflects that taken by the Local Plan.

The draft Witchford Neighbourhood Plan is not anticipated to give rise to additional windfall development which would not otherwise come forward as a result of the Local Plan 2015's policies for windfall development.

Consequently the screening assessment concludes the Neighbourhood Plan does not seek to increase the overall quantum of growth beyond that which has already been allocated in the development plan or permitted through the planning system. The screening assessment notes 'the effects of this growth have therefore been considered during the planning application stage for each of the respective sites. Other policies generally accord with the adopted Local Plan, the potential environmental effects of which were duly assessed through the plan-making process'⁴.

Cumulative effects of the draft Witchford Neighbourhood Plan's policies are addressed in criterion 2b (Section 5) of the screening assessment. The assessment identified no cumulative or in combination effects not already assessed or dealt with through other stages of the planning process.

To put all this in simple terms, if the approval of the Neighbourhood Plan does not plan to increase growth beyond what would happen without the Neighbourhood Plan, then it stands to reason that the Neighbourhood Plan cannot possibly have an adverse effect on European sites. Consequently, a full SEA or Appropriate Assessment process is not necessary and would be completely superfluous.

Question 5

The HRA 2018 carried out in respect of the emerging Local Plan, now withdrawn, reportedly identified two in-combination impacts on the European sites ie increased disturbance from recreation and impacts on water quality in the Ouse Washes. The Water Cycle Study 2017 ostensibly shows that a much higher level of development in Witchford than that proposed in

⁴ Para. 6.1 SEA & HRA Screening Assessment Report

the WNP would not impact on water quality but I cannot see from the screening opinion where the other in-combination impact in terms of disturbance from recreation is dealt with other than to say that of all the East Cambs settlements Witchford is the furthest from the designated sites. I would like clarification on this point. It would additionally be helpful to the examination if a further letter could be obtained from Natural England corroborating that in their opinion the two incombination impacts would not be aggravated by the total level of development proposed in the WNP and that therefore HRA is not required.

As identified by the HRA and in the screening assessment, all development sites in the districts have the potential for increased disturbance from recreational pressure on designated sites in combination with other residential allocations and in-combination with housing development in neighbouring districts of Kings Lynn and Norfolk, Fenland and Huntingdonshire.

There is nothing to suggest that the sites identified by the Witchford Neighbourhood Plan would have greater impacts on designated sites, in terms of disturbance from recreational pressure, than sites elsewhere in the district. The screening assessment notes that Witchford is located relatively far from designated sites, compared with other settlements.

Specifically, the screening assessment and HRA are referring to designated sites at the Ouse Washes and Wicken Fen, accessible sites providing the public with access to nature.

At Appendix 6 of East Cambridgeshire's Habitats Regulation Assessment

Natural England agrees that on managed sites such as Wicken Fen and Ouse Washes, increased visitor numbers to the sites are not considered a vulnerability and public access is encouraged and managed.

Therefore whilst there is a risk that development at Witchford may increase risk from recreational pressure on the Ouse Washes and Wicken Fen, the risk is managed by Natural England and is not considered a vulnerability.

Natural England has been fully consulted and involved in all our HRA work, and fully supported the 2018 HRA. Natural England has raised no objections to this Neighbourhood Plan or its supporting evidence. ECDC also refers you to the answer in Q4, whereby growth identified in the Neighbourhood Plan already has consent, and has had its full range of implications (including that on designated sites) assessed. It is not necessary, therefore, for further dialogue with Natural England.

Question 6

Were alternative site options assessed during the plan preparation process or was it a case that the three intended allocations, each with outline permission at the time, adequately met the housing requirement and therefore alternatives were not considered? (Parish Council best to answer).

This question is directed to the Parish Council, therefore ECDC has not responded.

Question 7

Legislation makes it clear that neighbourhood plans should not include policies or proposals relating to land outside their area. In testing policy WNPC1 in this regard I would like to know whether there is a specific proposal included in the Infrastructure Investment Plan for improvements to pedestrian and cycle accessibility across the A10/A142 junction. The ECLP at GROWTH 3 suggests there might be. I note the Parish Council has prepared a paper proposing possible solutions but has a scheme been designed? (ECDC best to answer).

The project for improvements to pedestrian and cycle accessibility at the A10/A142 features in the Transport Strategy for East Cambridgeshire (TSEC), prepared by Cambridgeshire County Council⁵. Specifically the project is listed in the TSEC's action plan (scheme refs: E-2 and E-18).

A reserved matters application (ref: 18/01816/RMM) for the extension of the Lancaster Way Business Park was approved by ECDC in March 2019. The accompanying s106 agreement requires the completion of improvements to the A142/A10 (BP) roundabout by the time 30,000 sqm of floor space on the business park is occupied. Work is progressing on a design to improve the A142/A10 roundabout to mitigate the impact of Lancaster Way Business Park traffic.

⁵ Transport Strategy for East Cambridgeshire, available at: <https://www.eastcambs.gov.uk/local-development-framework/transport-strategy-east-cambridgeshire>