



**A REPORT TO WYCHAVON DISTRICT COUNCIL OF THE
EXAMINATION**

of the

NORTH CLAINES NEIGHBOURHOOD PLAN 2015-2030

by

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INDEPENDENT EXAMINER

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CONTENTS:

(i) SUMMARY AND OVERALL RECOMMENDATION

1.0 INTRODUCTION

1.1 The Neighbourhood Plan Regime

1.2 Appointment and Role of the Independent Inspector

1.3 The Examination Process

2.0 BACKGROUND TO THE NORTH CLAINES NEIGHBOURHOOD PLAN

3.0 COMPLIANCE WITH MATTERS OTHER THAN THE BASIC CONDITIONS

4.0 THE BASIC CONDITIONS AND HUMAN RIGHTS

4.2 National Policy Advice and guidance

4.3 Sustainable Development

4.4 The Development Plan

4.5 EU Obligations and Conventions

5.0 ASSESSMENT OF THE NORTH CLAINES NEIGHBOURHOOD PLAN

5.1 Overview

5.2 The Overall Presentation and Form of the Plan

5.3 Policies

5.4 Plan Delivery, Implementation, Monitoring and Review

6.0 REFERENDUM

7.0 SUMMARY

APPENDICES

Appendix A– Examiner's use of Abbreviations

Appendix B – List of Documents Reviewed

Summary and Overall Recommendation

As the Independent Examiner into the North Claines Neighbourhood Plan, I have been requested by Wychavon District Council to present my professional assessment of the Plan, in terms of its compliance with the 'Basic Conditions' as set out in extant legislation, regulations and guidance.

I confirm that I am independent of the Qualifying Body, namely the North Claines Parish Council and the Local Planning Authority. Furthermore, I do not have any interest in any land or property that may be affected by the Plan.

I hold professional qualifications and have relevant experience of the planning regime, gained over the past 27 years in both the public and private sectors, to enable an independent judgement of the documents before me. I am also a member of the National Panel of Independent Examiners Referral Service, endorsed by the Department of Communities and Local Government.

Further to a thorough examination of the North Claines Neighbourhood Plan, which has comprised a review of all lodged documents, it is my considered opinion that, subject to minor modifications, the said Plan meets the Basic Conditions and human rights requirements, as set out in the respective legislation and guidance.

My report presents some areas where I consider that a small number of specific policies should be modified, and where some text could be amended or illustrations improved, in order to make the document clearer and remove ambiguity. These modifications are set out in bold within the text of my report. My proposed changes have been made in such a way so as not to detract from the essence of the Plan nor its aim and ambitions, but I consider they should be taken into account before it proceeds to a Referendum.

Hence, subject to the recommended modifications being completed I consider that the North Claines Neighbourhood Plan will; have regard to national policies and advice contained in current legislations and guidance; contribute to the achievement of sustainable development; be in general conformity with the strategic policies of the development plan for the area; not breach, but be compatible with European Union obligations and the European Convention of Human Rights; and not likely have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.

I consider that, further to the recommended modifications, the Neighbourhood Plan complies with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 and can proceed to a Referendum.

I have no concerns over the defined Plan area or the manner of its confirmation and consider that this area is appropriate as the extent of any Referendum.

Finally, I refer to a number of abbreviations throughout my Report. For the avoidance of any confusion these are set out in Appendix A.

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Brooke Smith Planning Consultants Ltd –November 2016

1.0 INTRODUCTION

1.1 NEIGHBOURHOOD PLAN REGIME

- 1.1.1 The Neighbourhood Planning regime provides local communities with the ability to establish specific land use or planning policies which can influence how future development comes forward in their area. It not only provides the opportunity for local people to shape their locality, it also provides guidance for developers and landowners when considering new proposals.
- 1.1.2 Any Neighbourhood Plan should therefore be clear not only in its goals and ambitions but also in how any policies are presented. The background behind how policies have emerged should be easy to understand and robust in terms of justification.
- 1.1.3 This Report provides the findings of an Examination into the North Claines Neighbourhood Plan, which is hereafter referred to as the Plan or the Neighbourhood Plan.
- 1.1.4 The Plan was prepared by the North Claines Parish Council, working in consultation with the local planning authority, namely Wychavon District Council and a range of interested parties, landowners and other local stakeholders.
- 1.1.5 This Report provides a recommendation as to proceeding to a Referendum. If this took place and the Plan was endorsed by more than 50% of votes cast, then it would be 'made' by Wychavon District Council, and would be used to assist in the determination of any subsequent planning applications.

1.2 APPOINTMENT AND ROLE OF THE INDEPENDENT EXAMINER

- 1.2.1 In accordance with current regulations, I was formally appointed by Wychavon District Council, as the Examiner of the Neighbourhood Plan in September 2016. My role has been to consider whether the Plan meets the 'Basic Conditions' and human rights requirements, as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to Neighbourhood Plans by section 38A of the Planning and Compulsory Purchase Act 2004.
- 1.2.2 In order to meet the Basic Conditions, the making of any Neighbourhood Plan must:
- *Have regard to national policies and advice contained in guidance issued by the Secretary of State;*
 - *Contribute to the achievement of sustainable development;*
 - *Be in general conformity with the strategic policies of the development plan for the area; and*

- *Not breach, and must be otherwise compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.*

1.2.3 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for Neighbourhood Plans, in addition to those set out in primary legislation and referred to in the paragraph above;

- *The making of the Neighbourhood Plan is not likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) either alone or in combination with other plans or projects.*

1.2.4 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, (TCPA) to establish whether:

- *The Neighbourhood Plan has been prepared and submitted for examination by a Qualifying Body.*
- *The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA).*
- *The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area).*
- *The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the PCPA.*

1.2.5 Having examined the Plan against the Basic Conditions, as set out above, and as the Independent Examiner, I am required to make one of the following recommendations:

a) that the Plan should proceed to Referendum, on the basis that it meets all legal requirements;

b) that the Plan should be subject to modification but will then meet all relevant legal requirements and should proceed to Referendum;

c) that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

1.2.6 If recommending that the Plan should go forward to Referendum, I am also required to consider whether or not the Referendum Area should extend beyond the defined North Claines Neighbourhood Plan Area.

1.2.7 As noted above, the role of any Independent Examiner is to assess a Plan in terms of compliance with the Basic Conditions. While it is not to specifically comment on whether the Plan is sound, I consider that where changes can be made that would result in removing ambiguity, and make the document more user friendly for all parties, this should be considered. This reflects paragraph 41 of the PPG and the first basic condition.

1.2.8 I have adopted this approach and have suggested a number of modifications which the Parish and District Council should consider and which in my opinion need to be addressed in order for the Plan to be compliant.

1.3 **THE EXAMINATION PROCESS**

1.3.1 It is advised that Neighbourhood Plan examinations should proceed without a public hearing i.e. by written representations only, unless the Examiner considers it necessary to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case. In such cases, a public hearing may be held.

1.3.2 A public hearing provides for the Independent Examiner to further consider matters against the Basic Conditions, as set out earlier in this report. It is specific to neighbourhood planning and is different to a planning inquiry, an examination in public or a planning appeal hearing. Invited parties are asked to consider specific parts of the Plan in more depth and to clarify points made during consultation.

1.3.3 In this case and further to review and consideration of all the evidence before me, I was able to consider the Plan by way of the key documents, salient background information, supporting reports and written representations. I did not consider it necessary to hold a Hearing to complete my findings.

1.3.4 My examination findings reflect the documents noted above and the written submissions from interested parties and are in addition to my review of the following documents which set out extant legislation, regulation and guidance;

- National Planning Policy Framework (The Framework) (2012)
- Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning (General) Regulations (2012)

1.3.5 Finally, I confirm that I undertook a series of unaccompanied site visits to the Plan area and its immediate surroundings in September and October 2016.

2.0 BACKGROUND TO THE NORTH CLAINES NEIGHBOURHOOD PLAN

- 2.1. North Claines comprises a rural area, extending to 1,377 ha (3,403 acres) lying to immediate north of the conurbation of Worcester. It is centred around the settlement of Fernhill Heath, while also covering Bevere, Lower Town, Hawford and Tinkers Cross. Section 3 of the NCNP provides a comprehensive overview of the Parish, its infrastructure, its relationship to the surrounding area, its facilities, environmental factors, landscape and heritage issues and key statistics. This is all supported by relevant information contained within the Appendices.
- 2.2. This factual information and input from the local community resulted in a Vision for the Plan reflecting specific objectives deemed important by the community which subsequently were reflected in a Strategy for the Plan and a series of specific policies addressing Housing Retail and Employment Transport Landscape and Environment Design and Community.
- 2.3. I am advised that the evidence base for the subsequent policies within the plan comprises the evidence base published to support the very recently adopted SWDP plus the table of figures contained within the NCNP appendices. I find this to be acceptable and an appropriate basis for the subsequently proposed policies.
- 2.4. Wychavon District Council confirmed North Claines Parish Council as a Qualifying Body in 2012 following a formal application and the NP area was confirmed in Jan 2013. A Neighbourhood Planning Committee (NPC) was duly established and, with assistance from consultants, engaged with the community and stakeholders.
- 2.5. Subsequent to community consultation, a draft version of the Plan was prepared and was the subject of a Strategic Environmental Assessment (SEA) screening by which Wychavon District Council in March 2015. An SEA was subsequently prepared and I comment on this later in this report.
- 2.6. The consultation background to the Plan is set out in the Consultation Statement (March 2016). I note that a number of different forms of community liaison with appropriate local parties and statutory parties, were adopted and the consultation activity was extensive.
- 2.7. The Consultation Statement summarises the matters raised by all parties together with the subsequent response from the NPC, whether this be agreement to issues or justification for cases of disagreement to representation comments. I find this to be a well written and clear document. **I suggest however that reference to the Consultation Statement at paragraph 1.14 within the NCNP is updated as the document has now been produced.**
- 2.8. The Plan was subject to some changes and a Submission Version was duly prepared (March 2016) and submitted to the Council on April 7th 2016, accompanied by an updated SEA. The Plan was subsequently the subject of a further period of public

consultation between May 6th and June 17th 2016. However the local authority considered this did not fully conform with Regulation 16 of the 2012 Neighbourhood Planning (General) Regulations. Hence a further period of consultation ran between July 4th and August 15th 2016.

- 2.9 Representation to the Submission Version of the Plan were received from 15 parties, some of whom had made previous representations. I note that no new matters were raised over and above those raised previously. I have reviewed the comments made and find that the majority support the approach and policies within the NCNP. I have considered those that raise concerns and feel that the points made are either addressed within this submission or raise issues that do not warrant modifications to the proposals.
- 2.10 The Plan has proceeded to Examination following a final validation by the Council in September 2016 and is accompanied by a Statement of Basic Conditions, a Consultation Statement and the revised Strategic Environmental Assessment Statement.

3.0 COMPLIANCE WITH MATTERS OTHER THAN THE BASIC CONDITIONS AND HUMAN RIGHTS

3.1 Given the above, I now report on the procedural tests, as set out earlier in this Report, and find as follows;

- **The Qualifying Body**

3.2 From the documentation before me, I conclude that the North Claines Parish Council is a properly constituted body, i.e. a Qualifying Body for the purposes of preparing a Neighbourhood Plan, in accordance with the aims of neighbourhood planning as set out in the Localism Act (2011) and recognised in the National Planning Policy Framework (2012). Accordingly, I find this addresses the necessary requirements.

- **The Plan Area**

3.3 The North Claines Neighbourhood Area reflects the boundary of the North Claines Parish area. No other Neighbourhood Plan has been proposed for this area.

3.4 An appropriately made application was submitted to the Council and duly endorsed. The appropriate protocol and process were followed and I am satisfied this meets the requirement relating to the purposes and identification of a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended) and salient regulations of the Neighbourhood Planning (General) Regulations 2012.

- **The Plan Period**

3.5 Any neighbourhood plan must specify the period during which it is to have effect. The North Claines Neighbourhood Plan clearly states on its front cover and in its introductory sections that it addresses the period between 2015 and 2030. This is also incorporated into the title of the Plan. I note that this reflects the plan period covered by the South Worcestershire Development Plan (adopted in February 2016). I am satisfied that this matter is clear and hence meets the statutory requirement.

- **Excluded Development**

3.6 From my review of all documents before me, the proposed policies within the NCNP do not relate to any of the categories of excluded development, as defined by statute

and extant regulations, or to matters outside the Neighbourhood Area. While I find there are some areas which would benefit from improved clarity and I note these later in this report, in terms of the proposed policies, I find that the Plan meets legal requirements.

- **Development and use of land**

- 3.7 A Neighbourhood Plan's policies, in accordance with current regulations, should only contain policies relating to development and/or use of land. While supporting text can reflect the goals and ambitions of any community, unless directly relating to development or use of land, this should not be reflected as specific policies.
- 3.8 Where I consider that a policy or part of a policy is ambiguous or relates to matters that do not relate to the development or use of land or property, I have recommended that it be modified or clearly explained as such within the text of the document.
- 3.9 In general the Plan complies with the regulations on this matter although I have suggested some minor modification where necessary. These are set out in subsequent sections of this Report.

- **Public Consultation**

- 3.10 Planning legislation requires public consultation to take place on the production of neighbourhood plans. Any public consultation should be open and accessible and any information presented should be easy to understand and to comment upon. It should enable all sectors of the local community the ability to comment on and hence shape the policies which may have bearing on where they live, work or spend their leisure time.
- 3.11 I have reviewed the Consultation Statement, prepared by the NPC on behalf of the Parish Council as a summary of the work undertaken as the Plan has progressed. As a requirement of Regulation 15 of the Neighbourhood Planning (General) Regulations 2012, this was submitted to the Council.
- 3.12 I am of the opinion that the consultation exercise was thorough and as wide a spectrum of the community as possible was approached through a range of initiatives. All stakeholders including statutory bodies appear to have been given the opportunity to take part in proceedings.
- 3.13 I have reviewed all salient documents relating to the consultation work undertaken by the NPC and consider that the various initiatives and the general approach adopted was extensive and inclusive.

- 3.14 In general I consider that the response to representations made to the Plan as it progressed have been robust and an appropriate approach has been taken. While my role has not been to undertake a detailed analysis of the consultation process but moreover review the general approach taken, I am of the opinion that changes to the Draft Version of the Neighbourhood Plan, were appropriately undertaken, and were appropriately explained.
- 3.15 I conclude that an appropriate consultation exercise was undertaken and that stakeholders had the opportunity to input into the Plan's preparation and as such, Regulation 15 has been addressed.

4.0 THE BASIC CONDITIONS AND HUMAN RIGHTS

4.1 I have reviewed the Basic Conditions Statement and find it to be a comprehensive and well written document. It addresses the Basic Conditions in clear and logical manner and I highlight these as follows;

4.2 NATIONAL POLICY, ADVICE AND GUIDANCE

4.2.1 As noted earlier, the NPPF (2012) explains that a presumption in favour of sustainable development means that Neighbourhood Plans should support the strategic development needs set out in Local Plans and plan positively to support local development.

4.2.2 The Framework is clear that Neighbourhood Plans should be aligned with the strategic needs and priorities of the wider local area, i.e. they must be in general conformity with the strategic policies of the Local Plan. The NPPF advises that they should not promote less development than is set out in the Local Plan or undermine its strategic policies. Neighbourhood Plans should provide a practical framework within which decisions on planning applications can be made with predictability and efficiency.

4.2.3 The Basic Conditions Statement very clearly explains how the NCNP response to specific sections of the NPPF and makes appropriate cross reference between specific policies and relevant paragraphs of the NPPF.

4.2.4 I have taken this into account, together with the guidance found within Planning Practice Guidance (PPG) (April 2014 and amendments) which accompanies the NPPF and consider the extent to which the Plan meets this first basic condition in Section 5 below. Subject to some minor modifications, I find the Plan compliant.

4.3 SUSTAINABLE DEVELOPMENT

4.3.1 A Neighbourhood Plan should contribute to the achievement of sustainable development. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental.

4.3.2 Whilst there is no legal requirement for any Plan to be accompanied by a separate Sustainability Appraisal, it is important for it to acknowledge and explain how its policies have reflected sustainability matters in all forms as expressed in the NPPF. I note section 2 of the NCNP and section 6 of the Basic Conditions Statement, and consider that these explain the sustainability context well. Furthermore, and as noted

below, I find that the policies that follow within the NP demonstrate that it will contribute to the achievement of sustainable development.

4.4 THE DEVELOPMENT PLAN

4.4.1 I note that the 'Development Plan' for North Claines Neighbourhood Area comprises the South Worcestershire Development Plan (SWDP) which was adopted in February 2016 together with policies of the Waste Core Strategy for Worcestershire (2012) and saved policies from the County Minerals Plan (1997).

4.4.2 I have reviewed Section 7 of the Basic Conditions Statement and find it well written and clear. It presents a comprehensive context for the proposed NCNP policies. Further to minor modifications as set out later in this report, I find that the NCNP policies are in general conformity with the relevant strategic policies of the Development Plan.

4.5 EUROPEAN UNION (EU) OBLIGATIONS

4.5.1 Any Neighbourhood Plan must be compatible with European Union (EU) obligations, as incorporated into UK law, in order to be legally compliant.

- Strategic Environment Assessment

4.5.2 Directive 2001/42/EC, often referred to as the Strategic Environment Assessment (SEA) Directive, relates to the assessment of the effects of certain plans and programmes on the environment, and has relevance here. Similarly, Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have bearing on neighbourhood plans.

4.5.3 I note that in March 2015, the District Council issued an SEA Screening Opinion of a draft of the NCNP. I note this was issued to appropriate statutory parties and that subsequently an SEA was prepared. This was amended as the subsequent version of the Plan was prepared.

4.5.4 I note that the final SEA has been assessed by the District Council and deemed acceptable. I have reviewed the SEA and concur that it has appropriately assessed environmental, social and economic effects. Hence I find that the Plan meets the legal requirements of the EU's SEA Directive and conclude that in respect of this EU obligation, the Plan is compliant.

- **Habitat Regulations**

- 4.5.5 A Habitat Regulations Assessment screening was also prepared in respect to the Draft Plan but a full assessment was not deemed necessary by the District Council. This was endorsed by Natural England at the Draft document stage. A further submission has been made to the Submission version of the Plan, which again supports the approach taken.
- 4.5.6 I find that the Plan meets the legal requirements of the EU and HRA Regulations and conclude that in this respect the Plan is compliant.

- **Human Rights**

- 4.5.7 The basic conditions statement at paragraph 8.4 to 8.7 refers to the quality and the fundamental rights and freedom is guaranteed under the ECHR and Human Rights Act 1998. I find these paragraphs well written and clear.
- 4.5.8 I am unaware of any matters proposed in the NCNP that challenges issues of human rights and no evidence has been put forward through the public consultation period is to demonstrate that this is not the case. I conclude that the Plan does not breach and is otherwise compatible with the ECHR.
- 4.5.9 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan, I am satisfied that the Plan is compatible with EU obligations.

5.0 ASSESSMENT OF THE NEIGHBOURHOOD PLAN

5.1 OVERVIEW

5.1.1 Further to the above, I now consider the Neighbourhood Plan against the Basic Conditions and for ease of reference follow the structure and headings as adopted in the Plan. As I have set out above, I find that the Plan is generally compliant with Basic Conditions 4 and 5 and as such, the following section Highlights where I consider modification would assist the Plan in terms of complying with;

- Basic Conditions 1 (Compliance with National Policy);
- Basic Conditions 2 (Delivery of Sustainable Development); and
- Basic Conditions 3 (General Conformity with the Development Plan).

5.1.2 I wish to stress that my examination has comprised a review of the policies and supporting text in the context of their compliance with the basic conditions. It has not comprised a forensic review of the rationale behind each policy. However, where I am aware that the evidence base has been poorly or erroneously interpreted or proposals have been suggested that conflict with extant statute or are ultra vires, then these are highlighted.

5.1.3 I consider that some modifications are required in order for the Plan to comply with the Basic Conditions. In places, this has resulted in changes to specific policies. I wish to emphasise that wherever possible these have been made to complement the tone and language of the Plan.

5.2 THE OVERALL PRESENTATION AND FORM OF THE PLAN

5.2.1 The NPPF advises that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. I consider that this can be interpreted as 'having a clear document'. I find the North Claines Neighbourhood Plan is straightforward, well written, well explained and expressed. However, a small number of matters could be addressed which would enable it to be clearer for any user and remove ambiguity and I comment on these below.

5.2.2 I consider that the introductory sections of the NCNP, setting the context in terms of geography and policy are well written and the vision, objectives and strategy of the Plan are clearly expressed. **I suggest however the addition of 'strategic' before 'local policy' in paragraph 1.2 of the NCNP; the updating of paragraph 1.12 to**

replace the reference to 'draft' and the addition of a reference to Planning Practice Guidance in paragraph 1.17.

- 5.2.3 I note also that Section 5 of the NCNP explaining the Strategy of the Plan includes at paragraph 5.6, reference to the provision of 'key community facilities including the aspiration to provide a new primary school within an education, health and community hub'. While the context for this is clear and reflects the stance of the local community, no specific policies are presented to address this. I comment on this later in my report.
- 5.2.4 That aside, I am content with the general extent and nature of Figures and Tables within the set of Appendices attached to, the NCNP. I consider these have been well referenced through the Plan. **However, I consider that the Plan should comprise OS based maps at a scale where all elements can be read easily in print and on screen.**
- 5.2.5 The Map which is spread across pages 8 and 9 is a fundamental illustration and indicates the extent of the Plan Area. It needs to be clear and unambiguous. However, in either print or in electronic representation, this is of low quality and is poorly annotated. While it sets the area in its geographical context, the extent of the context is unnecessarily excessive which means the actual NP area is small and exact boundaries are difficult to identify. While the local community maybe conversant with the parish and hence the NP Boundary, others may not be so well informed.
- 5.2.6 I am aware that this scale of Map has been replicated in other annotation and particularly as the basis for the Key Diagram Proposals at pages 32 - 33. This presents an extensive geographical context which is annotated. This is misleading and gives the impression that policies affect land beyond the NP area.
- 5.2.7 Furthermore, the Key Diagram includes reference to a 'NPA context area'. This is not fully explained within the accompanying text or within policies. Other plans and maps within the NCNP include references that are not explained or justified and some are misleading or irrelevant.
- 5.2.8 In summary, in order to present a robust and clearer Plan and hence be compliant with the PPG and the first Basic Condition, **and to reflect some of the issues raised during the extended consultation period, I suggest the following modifications;**
- **The NCNP should incorporate a clearer Plan Area Map a more appropriate scale.**
 - **The NCNP should include a more defined Key Diagram (Fig 5.1), at a more appropriate scale, which removes reference to 'context area' and which clearly identifies the Sling Road housing allocation. This would reduce the risk of ambiguity or misunderstanding with regard to allocation of land and policies affecting land beyond the defined Plan area. Some objectors have**

assumed this to be the case and hence the risk of others doing so, should be addressed.

- **Figure 3.1 (Services and Facilities) is at a poor scale making elements within the Plan Area difficult to identify. It illustrates services well beyond the Plan Area and the extent of this detracts from the value of the map. Furthermore, it includes reference in the key to a 1 km buffer zone which is not explained or justified within the accompanying text or indeed indicated on the map. These matters should be addressed, to again avoid ambiguity.**
- **The owners of Hindlip Park consider that the site is not in commercial use and further to the grant of a recent consent, does not comprise recreational land. I have no reason to challenge this and hence should this site continue to be identified on a revised version of Fig 3.1, this should be addressed and paragraphs 3.17 and 6.87 of the NCNP be updated.**
- **The submissions made with respect to Hindlip Hall present compelling evidence challenging the identification of the site as a Locally Important Historic Park / Garden (LIHPG). In the absence of similar evidence to support its identification, I consider that this matter needs to be clarified and paragraphs 3.61 and 6.8 be revised accordingly.**
- **Figure 3.5 and paragraph 3.45 referring to locally '*discrete landscape areas*' and states that these do not directly relate to the LCA. However no other explanation is given as to the justification. It is important to clarify the evidence base for this illustration, other than a set of four photographs with no indication of their specific location.**
- **Figure 3.6 (traffic infrastructure) is of a poor scale and detail. The Plan area is difficult to ascertain. The map should be improved, to avoid ambiguity.**
- **Paragraph 3.11 refers to the facilities within Fernhill Heath but fails to fully explain or describe all facilities and services. This is potentially misleading and should be addressed with reference made to all existing commercial and retail outlets / services.**
- **Submissions from the County Council advise that the reference to '*Ombersley Enclosed School*' at paragraph 3.19 should correctly read '*Ombersley Endowed School*'. This should be addressed.**
- **I question the relevance of paragraphs 3.50 and 3.53 as matters relating to mineral safeguards and waste management fall under the jurisdiction of the County Council and other approved plans guide their development. While the Parish would be a consultee, no policies are proposed in the NCNP**

relating to waste management or mineral matters. Hence I question the added benefit of the text or accompanying figures (3.7 and 3.8).

5.2.8 I have reviewed the comments made by Wychavon District Council (17th June 2016) which on its first page, inter alia, comprise a list of typographical errors currently found within the submission version of the NCNP. **I concur with the suggested changes and advise these are modifications to the Plan.**

5.3 POLICIES

5.3.1 I turn now to Section 6 of the Plan and highlight text and policies that I consider require modification to ensure compliance. I consider that generally the policies are well constructed and clear. While some add little if anything to the policies adopted within the SWDP, I believe that they provide a useful context for the overall vision of the Plan and do not breach the Basic Conditions.

5.3.2 With respect to Housing and Policy NCH1B, I concur with the view of the District Council and consider that the provision of 0.6ha of Green Infrastructure falls below the requirement identified in SWDP5. This should be amended to reflected the adopted policy. (Reflecting comments above with respect to the heritage classification of Hindlip Hall, NCIB(v) may also need revision.

5.3.3 **Paragraphs 6.17 and 6.21 appears to be partial duplications and should be amended accordingly.** Paragraph 6.22 within the Housing section refers to the '*fact*' that '*in rural areas there is a requirement for priority to be given to people with a local connection for any new affordable housing*'. **This fact should be justified in terms of reference to guidance, national policy or other defined basis. If this can't be clarified, the paragraph should be deleted.**

5.3.4 Under the 'Retail and Employment' section, Policy NCRE1 refers to the granting of permission for new village centre uses. The Parish Council is not the planning authority and the NCNP, if brought into action, will guide new development, as opposed to provide express consent for any specific development.

5.3.5 **Accordingly, the second paragraph of Policy NCRE1 should be modified to read;**
'Permission will be supported for new village centre uses

5.3.6 **Furthermore, there is confusion with the Policy NCRE1 sitting under the sub-heading of 'Fernhill Village Health Centre' but the text of the policy actually referring to 'Fernhill Heath Village'. Notwithstanding the support for D1 and D2 uses within the policy, this ambiguity is misleading and should be addressed.**

- 5.3.7 With respect to Transport, I consider that Policy NCT1 is overly onerous. **Reflecting the comments above, the policy should reference to 'will only be permitted' should be replaced with 'will be supported'.**
- 5.3.8 As written, the Policy requires all development on sites over 0.3ha to address a set of criteria that includes the requirement to be served by public transport. **I consider that the Policy needs to be less generic and allow for minor works and/or any change of use that has little or no implications for transport provision.** (Development such as minor works to a structure sitting within a site of 0.3ha or a change of use to equine use or the provision of an outbuilding on a large site may have little or no transport impact.)
- 5.3.9 Furthermore, while a 10-unit threshold is supported by PPG advice on planning obligations and a threshold of 1,000 sqm would be appropriate for retail development, this is not explained or justified well within the policy or accompanying text.
- 5.3.10 **Accordingly, I consider that Policy NCT1 needs to be modified and additional explanation provided within the accompanying text, in order for the policy to be compliant. Otherwise, it should be deleted.**
- 5.3.11 Paragraph 6.45 refers to the 'specific' provision of pedestrian crossing to the west of Fernhill Heath. This is not included within any policy and it should be made clear that this provision is aspirational.
- 5.3.12 **With regard to Landscape and Environmental matters, Policy NCLE1 would benefit by being divided into two separate policies with the reference to 'must' in the first paragraph being replaced with 'should'.**
- 5.3.13 The reference to '*well designed footpaths and bridleways.....*' would be best presented as a separate policy to avoid any confusion between the elements covered under the policy as currently written.
- 5.3.14 **With regard to Policy NCLE2, I consider that while the accompanying text suggests at paragraph 6.58 that a list of non-designated heritage assets will be compiled, this is not currently the case. The policy, however, assumes this to be the case and that non-designated assets will be known to any applicant. I have no concern over the approach of the policy but consider that in the absence of any defined list of assets, or their identification as 'locally listed structures' the policy is ambiguous.**
- 5.3.15 Without some form of explanation or clarification, the policy could be difficult to apply and be the cause of conflict. I consider this should be addressed through a better explanation within the text of the policy itself. **For the avoidance of potential conflict, this could take the form of a reference to 'discussion with the LPA as to the identification of any non-designated heritage asset in the proximity of new development' or similar.**

- 5.3.16 Policy NCLE3 refers to the Local Heritage Area as illustrated on Plan 6.2. I acknowledge the justification for the policy but consider that the reference to *'must....'* should be replaced with *'are encouraged to....'*
- 5.3.17 Similarly Policy NCLE4B referring to development on Amenity Green Space should replace *'will only be permitted providing....'* with *'will be supported if.....'*
- 5.3.18 For consistency with the majority of policies within the NCNP, Policy NCLE5 relating to Local Conservation Assets should replace the reference to *'will not be permitted unless...'* with *'will be supported providing....'*
- 5.3.19 The Map at Appendix 6.4 which illustrates Green Spaces and Local Nature Conservation is at a poor scale and hence is difficult to read. Furthermore it refers to the 'NPA context area' which, as noted earlier in this report, has not been fully explained or justified and is misleading. The extent of specifically identified sites is difficult to determine **and hence the Map should be replaced with one at a better scale with improved definition and the removal of reference to 'NPA context area'.**
- 5.3.20 I consider that Policy NCLE5B is too wide in referring to *'all new development'*. This would include minor works and as written the policy would unacceptably onerous. **This section of Policy NCLE5 B should therefore be modified with appropriate development clearly defined in terms of scale or nature, or the policy be deleted.**
- 5.3.21 Paragraph 6.68 is similarly onerous. While not expressed as a definitive policy, the text suggests only three areas of enhancement. Others exist and **if this supporting text is to remain, it should be modified to explain that the three areas of enhancement as presented as examples only. The use of *'should be addressed....'* could be replaced with *'...and to compensate for any loss or harm, development proposals of relevant size and nature will be encouraged to enhance nature conservation through activity such as***
- 5.3.22 **The phrasing of (1) relating to hedgerows requires improvement.**
- 5.3.23 Paragraph 6.70 refers to the valuable components of trees to the natural and built environment. It suggests they deliver benefits in terms *'tackling social inequalities and promoting economic development'*. This is broad claim is not explained. **This reference should be clarified or deleted.**
- 5.3.24 Policy NCD1 relating to Design implies that *'all proposals'* need to be accompanied by a Design and Access Statement and address all the criteria set out. **I consider there needs to be more appropriate reference to the scale and nature of development that should be supported by a Design and Access Statement. Minor works would not fall within this.**

- 5.3.25 **The set of criteria as presented is considered to be overly onerous and would benefit from the addition of '*...where relevant*' at the end of the opening paragraph of the policy.**
- 5.3.26 As written, the set of criteria includes duplications. Specifically (1) and (2) appear to be duplications and criteria (5) is overly prescriptive in terms of the guidance noted. **For consistency with other policies within the NCNP, the requirement for Design and Access Statements as '*must*' should be replaced with '*are encouraged to address.....*' and a similar approach should be taken at paragraph 6.75.**
- 5.3.27 Elements of Policy NCD2 will not be applicable to all proposal and **hence the use of '*For full and reserved matters planning applications*' should be replaced with '*For relevant development proposals.....*'**
- 5.3.28 The reference to firefighting water supplies is onerous and would be better replaced with '*Ensure that adequate provision of and connection to water for firefighting is available*'.
- 5.3.29 In support of Policy NCC2 and the provision of playing fields I suggest amending the last sentence of paragraph 6.89 to read '*It is recognised that there may be a cost to this which could be paid for (in whole or in part) through S106 agreement contributions or the Community Infrastructure Levy.*'
- 5.3.30 Policy NCC3 relating to Healthy Communities is noted as being of specific concern to the local community. As written however, the policy could be the subject of challenge. **I suggest its modification to read;**
- 'Proposals for new residential development of 10 or more dwellings should either demonstrate that there is sufficient capacity within General Practice and Dental services within the catchment area of the NPA or make an appropriate contribution though a section 106 deed or by Community Infrastructure Levy payment to address any identifiable and increased need.'***

5.4 PLAN DELIVERY, IMPLEMENTATION, MONITORING AND REVIEW

- 5.4.1 Section 7 of the NCNP summarises the approach for each of the policy areas. I note that some of the matters highlighted are not presented as specific policies but moreover they reflect an indication of the intent of the Parish Council and the approach it intends to take. While I find them to be acceptable and not in contravention of the Basic Conditions, **I consider that the section would benefit from a clearer distinction between 'aspiration' on the part of the Parish Council and formally proposed policies.**
- 5.4.2 Non-planning aspirations, such as those in paragraph 17.17 to 17.21 have no legal effect, i.e. the need for larger development proposal to be presented to a Neighbourhood Design Panel is not land use policy but a management proposal.

Similarly the reference to a new community hub is aspirational and not covered by any specific policy. I consider this important to stress as it might assist in avoiding confusion or misunderstanding when and if the Plan proceeds to a referendum.

5.4.3 I consider that Paragraph 7.23 is a clear explanation of how the Parish Council will implement the NCNP and is well presented. **It would, however, be better placed within Section 8 of the NCNP which specifically addresses the monitoring of the Plan.**

5.4.4 **Paragraph 8.6 should replace 'predecessor' with 'successor'.**

6.0 REFERENDUM

- 6.1 Further to my findings above, I recommend to Wychavon District Council that, subject to the recommended modifications being undertaken, the North Claines Neighbourhood Plan should proceed to a Referendum. I am required, however, to consider whether the Referendum Area should reflect the approved Neighbourhood Area or whether it should extend beyond this, in any way.
- 6.2 As noted earlier, the Neighbourhood Area reflects the whole of the North Claines Parish and I am content that this should also reflect the area for any forthcoming Referendum.

7.0 SUMMARY AND RECOMMENDATION

- 7.1 I find that the North Claines Neighbourhood Plan is well written and presented. I have suggested a number of modifications to the Plan to remove ambiguity and ensure that policies, illustrations and supporting text are clear. I consider that, if addressed, this would provide for a robust document and would allow the Plan to be compliant with the necessary Basic Conditions.
- 7.2 In summary, subject to the suggested changes, the Plan would comply with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 and all relevant regulations relating to the preparation of a Neighbourhood Plan. As such it could proceed to a Referendum.
- 7.3 I do not have any concerns over the defined Plan Area nor with that area forming the basis for any Referendum.
- 7.4 Hence further to the modifications proposed within this submission, I recommend that the North Claines Neighbourhood Plan should proceed to a Referendum.

Louise Brooke-Smith, BSc(Hons), DipTP, FRICS, MRTPI

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November 2016

Appendix A – Examiner's use of Abbreviations

North Claines Neighbourhood Plan;	The Plan / The Neighbourhood Plan / NCNP
The North Claines Parish Council;	Qualifying Body / NCPC
Neighbourhood Planning Committee;	NCP
Wychavon District Council;	Council / WDC / Local Planning Authority
South Worcestershire Development Plan;	SWDP
National Planning Policy Framework;	NPPF
Planning Practice Guidance;	PPG

Appendix B – Documents reviewed as part of the Examination Process

- North Claines Neighbourhood Plan - Submission Version (March 2016)
- South Worcestershire Development Plan (Adopted February 2016) and associated supporting documents (evidence base)
- South Worcestershire Development Plan (Policies for the Purposes of Neighbourhood Planning)
- North Claines Neighbourhood Plan Basic Conditions Statement (March 2016)
- North Claines Neighbourhood Plan Consultation Statement (March 2016)
- North Claines Neighbourhood Plan Strategic Environmental Appraisal (March 2016)
- North Claines Neighbourhood Plan Strategic Environmental Appraisal (October 2015)
- North Claines Neighbourhood Plan - Draft Version (November 2015)
- Letters to Statutory Consultees
- List of Regulations 16 Consultees
- Submissions made by Regulation 16 Consultees
- Neighbourhood Plan Questionnaire
- Parish Web Site and linked documents