

Abram Ward Communities Together (ACT) Neighbourhood Plan Examination

9th September 2024

Dear ACT Forum

Clarification Note from the Examiner to the Qualifying Body

Following my initial review of the submitted ACT and supporting information, I am contacting the ACT Forum (as Qualifying Body) in respect of the matters set out below. These matters relate to my initial comments and to areas of clarification.

The Submitted ACT Neighbourhood Plan

I am pleased to note that the ACT Neighbourhood Plan (referred to below as the Neighbourhood Plan) is clearly presented, with policies distinctive from supporting text; and that the Neighbourhood Plan as a whole seeks to set out a well-evidenced and distinctive forward vision for the Neighbourhood Area.

The Neighbourhood Plan is evidently the result of comprehensive, well-organised work by many people and comprises a document that appears to the significant credit of its authors.

Public Hearing

Public hearings as part of neighbourhood plan examinations are the exception rather than the rule. In the case of the Neighbourhood Plan, I am satisfied that all parties have had the opportunity to state their case and I am satisfied that I have sufficient information before me to proceed with examination without the need for a public hearing.

ACT Forum – Opportunity to Comment on Representations Made

Neighbourhood Planning Independent Referral Service (NPIERS) Guidance¹
Paragraph 1.11.4 states that:

“The Qualifying Body will normally be given the opportunity to comment on the representations made by other parties...The opportunity for the Qualifying Body to comment on representations could be incorporated within an independent examiner’s clarification note...”

¹ NPIERS “Guidance to Service Users and Examiners.”

I would like to invite the ACT Forum to respond to any of the representations made during the Regulation 16 (the Submission stage) consultation. This is not a requirement, but it does provide a chance for the ACT Forum to respond to any comments made - and I will take these responses into account as part of the examination.

Matters of Clarification

Having considered all of the submitted information, I have identified areas where it would be helpful to receive some further clarification. In this regard, I would be very grateful for any assistance that the ACT Forum can provide in respect of providing a brief written response to the questions set out below.

Please note that a request for clarification on various points is a normal part of the examination process. I am keen to emphasise that my questions are set out in order to provide me with further information and clarity – they do not infer criticism of the Neighbourhood Plan.

The very nature of neighbourhood planning is such that the authors of a neighbourhood plan are not expected to be land use planning policy experts. I am mindful of this and I confirm to the ACT Forum that responses to the questions set out will help to support my positive examination of the Neighbourhood Plan against the basic conditions.

On receipt, I will ask Wigan Council to publish the ACT Forum's responses alongside other submitted information on the relevant page of the Council's website.

I am mindful of the time and logistics involved in respect of the ACT Forum arranging to consider and respond to the questions set out. I am not therefore imposing a strict deadline for a written response, but note that receipt within the next month or so can help to ensure the timely completion of the examination process.

I note that examination protocol continues to require all communications between the ACT Forum as Qualifying Body and the Examiner to be via Wigan Council.

Thank you very much for your consideration of this Clarification Note.

Kind regards.

Nigel McGurk

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All Figures (including Policies Map)

The quality of reproduction of all of the Figures, including the Policies Map, in the Neighbourhood Plan results in unclear information and this detracts significantly from the clarity and overall presentation of the Neighbourhood Plan.

Made neighbourhood plans form part of the statutory development plan – it is therefore essential that plans are clearly legible.

I will be recommending in the Examiner’s Report that all Figures be replaced with new Figures providing clear and legible information – the ACT Forum may wish to discuss with Wigan Council how clear plans can be provided, should the Neighbourhood Plan to proceed to Referendum. Plans should show precise boundaries against a clear Ordnance Survey or equivalent base.

Notwithstanding the above, I also note that the Policies Map includes information relating to considerable areas of land not within the Neighbourhood Area. Whilst I am mindful of the contextual intention of such an approach, the Neighbourhood Plan cannot plan for land outside the Neighbourhood Area and as presented, the Policies Map’s inclusion of unnecessary information detracts from its clarity and appears confusing.

I am providing notice in advance that, in my Examiner’s Report, I will be recommending the deletion of annotations outside of the Neighbourhood Area from the Policies Map.

Five Villages

I note that the Neighbourhood Plan seeks to focus development within the Five Villages and that the Five Villages are largely surrounded by Green Belt.

However, in the absence of clear plans or detailed text, it is not clear to me whether or not the boundaries of each of the Five Villages correspond precisely with the Green Belt and other relevant boundaries as defined by Wigan Council’s Policies Map, which is itself based on the Wigan Unitary Development Plan (2006) and Wigan Local Plan Core Strategy (2013).

Please can you confirm how the precise boundaries of the Five Villages have been determined – do they simply accord with the adopted Development Plan ?

If not, please can you point me to the evidence supporting any such changes ?

Policy BEC1

Most land in the Neighbourhood Area adjacent to existing built-up areas appears to be within the Green Belt. Part 1 of the Policy supports employment and community development in these locations, yet the supporting text states that Green Belt policy *obviously* applies. This results in a direct conflict (as Green Belt policy does not provide the same support as the Policy).

Policy BEC1 does not allocate any land for development. **Would changing the wording of the first part of the Policy along the lines of “New employment space and community facilities will be supported in or immediately adjacent to urban areas, where this is outside the Green Belt, providing...” better describe the intention of the Policy ?**

Please can you provide clarification in respect of Wigan Council’s representation regarding the precise type of uses that Policy BEC1 is intended to cover – what does employment space and community facilities include/what is it limited to ?

Policy RD1

The Neighbourhood Plan does not allocate any land for residential development and as noted above, part of the Neighbourhood Area is currently within the Green Belt. In urban areas, the first part of Policy RD1 seeks to limit any residential development to brownfield land and to infill sites within existing built frontages.

This appears as a relatively restrictive policy. It could well be that this is simply reflective of Green Belt constrained urban areas which have already been developed to a high density. **Please can you confirm that my understanding of Part 1 of the policy, as above, is correct and if possible, please can you point me to evidence to demonstrate that the Policy’s approach within urban areas has regard to national policy, is in general conformity with local policy and will contribute to the achievement of sustainable development ?**

Similarly to Wigan Council’s representation, I am interested to know whether – as presented - the intention of Part 2 of the Policy is that the types of development listed would be supported across the whole of the Neighbourhood Area, including within the Green Belt ? If so, please can you point me to evidence to justify a Policy approach that would appear to be in conflict with Green Belt policy ?

If however the types of development listed in Part 2 would only be supported under Part 1 of the Policy, then please can you point me to evidence in respect of their needing to be identified, given that Part 1 supports any form of housing ?

Policy REF1

Chapter 16 of the National Planning Policy Framework (NPPF) sets out a clear and detailed approach to conserving heritage assets in a manner appropriate to their significance.

Policy REF1 proposes a very simplified approach to the treatment of heritage assets and this results in a very different and conflicting approach to that set out in national policy. **Please could you point me to evidence to justify Policy REF1's conflict with national policy ?**

Policy AQ1

Please can you point me to information in respect of how an applicant and a decision-maker should determine which types of development have the potential to increase air pollution ?

Please can you point me to information setting out the base levels of air pollution across the Neighbourhood Area – and whether this differs across the Neighbourhood Area ?

Please can you point me to information in respect of how the potential to increase air pollution should be measured ?

Please can you point me to information in respect of the level of mitigation required – precisely what are mitigation measures required to achieve and how do the Policy requirements have regard to Paragraph 57 of the NPPF in respect of planning obligations ?

Policy GS1

It appears that Figure 11 only shows one of the two areas of Local Green Space. Is Figure 11 intended to show both proposed areas of Local Green Space ?

(NB, I do note that the supporting information provides a clear plan showing proposed areas of Local Green Space).

Policy GS2

It is not clear to me what this Policy is seeking to achieve. As presented, Policy GS2 refers to development not “*disrupting*” or “*compromising*” the Green Corridor, but without clarity, these appear as vague requirements that do not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the NPPF.

Similarly, without detailed definition *amenity* appears as a very broad and subjective term and it is not clear what elements of *safety* and *accessibility* the Policy is concerned with.

Noting that the Figures are unclear, **is the whole of the Green Corridor within the Green Belt ?**

I note that wildlife sites and public rights of way benefit from statutory protection and that the Neighbourhood Plan does not propose any allocations or development within the Green Corridor to supplement its use as such.

Please can you clarify the intention and the land use planning aims of the proposed Green Corridor / Policy GS2 ?

Policy GS3

Is criterion 2 of the Policy meant to apply to development affecting the named sites, as opposed to development in general (ie, any development anywhere in the Neighbourhood Area) ?

If development in general, when would the requirement apply and is there evidence you can point me to in respect of how such an approach would have regard to NPPF Paragraph 57, referred to earlier ?

Please can you point to me to any part of national or local policy, or guidance, that requires the protection of the *setting* of the area’s referred to in the Policy; or failing that, is there any evidence you can point me to in justification of this requirement ?

Policy TM1

Please can you confirm what scale of development bullet point 1 of Policy TM1 is intended to apply to ?

Please can you point me to information to demonstrate that the requirements of the Policy have regard to Paragraph 57 of the NPPF ?

Please can you point me to any definitions of *adequate, balanced* and *proportionate to scale and nature*, as they might apply to the Policy ?

Please can you point me to information in respect of how applicants and decision-makers should determine whether or not bullet point 3 applies to a development proposal (eg, information as to current journeys, definition of journeys, how *new employment* is measured, baselines etc ?)

Please can you confirm (or detail otherwise) that bullet points 5 and 6 of the Policy are intended to apply to parking for new-build houses and new car parks only ?

Policy TM2

Public rights of way are protected by statute. As worded, Policy TM2 supports the replacement and/or the re-routing of footpaths, so long as replacements/re-routing is to an equivalent standard. Such an approach creates the potential to conflict with and lessen the degree of protection afforded by statute to public rights of way.

Is it the intention of the Policy to seek to provide more freedom to replace and re-route existing footpaths, as such a Policy approach appears to be in conflict with supporting text and with my understanding of the overall intention of the Policy, which is to support the protection and enhancement of the Neighbourhood Area's footpaths and cycleways ?

Thank you for your consideration of all of the above.

As noted earlier, it is normal for Examiners to seek clarification during the early stage of examination and the above questions are set out to help my understanding of the Policies and their aims; and ultimately to help to support the Neighbourhood Plan's positive examination against the basic conditions.

Thank you.
