

Biddulph Neighbourhood Plan and Neighbourhood Development Order

Submission Version

A Report to Staffordshire Moorlands District Council on the Examination of the Biddulph Neighbourhood Plan and Neighbourhood Development Order

John Slater BA (Hons), DMS, MRTPI

John Slater Planning Ltd

johnslaterplanning@gmail.com

2nd February 2022

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Executive Summary

My examination has concluded that the Biddulph Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- The end date of the neighbourhood plan should be 2033.
- The Business, Enterprise and Tourism Development policy be clarified so that it is clear that it only applies, outside the settlement boundaries where it requires proposals to be consistent with Green Belt policy.
- The Biddulph Town Centre provisions to reflect the recent changes to the Use Classes Order. Where changes to residential uses take place at ground floor level there should be a requirement to retain any shop window.
- The Albion Mill policy is amended to permit residential uses at ground floor level.
- The amendment of the policy which seeks to support proposals which *affect* community facilities to allow those proposals that enhance their community value to be permitted and also to incorporate into the policy a test if a community facility is to be lost. Also, that reference to the Sainsbury Community Room be removed.
- Change the basis of the Natural Environment policy to be one that identifies sites within the plan area which are to be protected by particular local plan policy.
- Deleting a number of local green spaces and clarifying the test of development that takes place on local green spaces to that which is consistent with national Green Belt policy.
- The Protection of Views policy should only require applicants of major schemes to demonstrate how the layout and form has taken account of the views.
- Amend the Housing Policy to encourage the addition of First Homes as a form of affordable housing and introduce an expectation rather than a requirement that any offsite affordable housing provided in lieu of on-site provision, must be provided within the plan area.
- The infill housing policy should apply to sites within or adjacent to settlement boundaries.
- The need to demonstrate whether there is a severe impact on the four key junctions be restricted to those sites which are required to submit a Transport Assessment.
- Deletion of the Community Infrastructure policy but its contents should be moved to the supporting text.
- Removing reference to the authenticity and durability of materials from the design policy.

I have also concluded that the Neighbourhood Development Order should proceed to referendum subject to the Order being amended in line with my recommendations which are intended to ensure that the Order meets the basic conditions. These include:

- The height of the stallrisers should be measured at the midpoint of each stall riser.
- That the pilasters should extend forward by up to 100 mm.
- Remove the provisions relating to “Panelling” and replace it by a section entitled “Accessibility for all” to allow the inclusion of ramps up to a gradient of 1 in 20.
- Replacement of the restrictions to the Order from uses falling within Use Classes A1 to A5 to uses falling now within Class E plus public houses, wine bars and other drinking establishments plus hot food takeaways.
- Explicitly stating that the order does not grant permission for shopfronts which rely upon a step access.

In both cases the referendum area does not need to be extended beyond the neighbourhood area.

Introduction

1. Neighbourhood planning is a process introduced by the Localism Act 2011 that allows local communities to create the policies that will shape the places where they live and work. A neighbourhood plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies that 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 Staffordshire Moorlands Local Plan, adopted in September 2020. Decision makers are required to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise.
2. A Neighbourhood Development Order (NDO) can grant planning permission for certain categories of development within a defined area which would ordinarily be required to be the subject of a planning application.
3. The neighbourhood planning process has been undertaken under the supervision of Biddulph Town Council. A Working Group was appointed to undertake the Plan's preparations made up of Town Councillors and local residents.
4. This report is the outcome of my examination of the Submission Version of the Biddulph Neighbourhood Plan and the separate Neighbourhood Development Order. My report will make recommendations, based on my findings, on whether the Plan and the Order should go forward to a referendum. If the Plan and the Order each receives the support of over 50% of those voting at the referendum, the Plan and the Order will be "made" by Staffordshire Moorlands District Council, which is the Local Planning Authority covering the plan area.

The Examiner's Role

5. I was initially appointed by Staffordshire Moorlands District Council in September 2021, with the agreement of Biddulph Town Council to conduct the examination of the Biddulph Neighbourhood Plan and the accompanying Neighbourhood Development Order.
6. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 43 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 and director of my neighbourhood planning consultancy, John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Staffordshire Moorlands District Council and Biddulph Town Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

7. Under the terms of the neighbourhood planning legislation, I am required to make one of three possible recommendations:
 - That the Plan/Order should proceed to referendum on the basis that it meets all the legal requirements.
 - That the Plan/Order should proceed to referendum, if modified.
 - That the Plan/ Order should not proceed to referendum on the basis that it does not meet all the legal requirements.
8. Furthermore, if I am to conclude that the Plan / Order should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Biddulph Neighbourhood area.
9. In carrying out the examination of the neighbourhood plan, the Independent Examiner is expected to address the following questions:
 - Do the policies of the plan 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?
 - Does the Neighbourhood Plan / Order meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that they specify the period to which they are to have effect? They 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.
 - Has the Neighbourhood Plan / Order been prepared for an area designated under Section 61G of the Localism Act and have they been developed and submitted by a qualifying body?
10. In carrying out the examination of the neighbourhood development order, the Independent Examiner is expected to address the following questions:
 - Does the Order grant planning permission for development specified in the Order?
 - Does the Order specify the area or part of the neighbourhood area where the Order applies and is not excluded development and does not seek to grant permission for development that has already been granted planning permission and does not cover more than one plan area?
 - Does the Order grant permission unconditionally or subject to such conditions or limitations as specified in the Order and does it make provision for development started before the permission expires?
11. I am able to confirm that, if amended in line with my modifications, the Plan and Order only relate to the development and use of land, covering the area designated by Staffordshire Moorlands District Council for the Biddulph Neighbourhood Plan, on 16th February 2016.
12. I can also confirm that the Town Council has indicated that the Plan should have effect over the period from the making of the plan, which is expected to be 2022 to 2035. I will comment on that within my overarching comments on the plan.
13. I can confirm that the Plan and the Order do not contain policies covering / or relating to matters which constitute “excluded development”.

14. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
15. I am satisfied that Biddulph Town Council as a Parish Council can act as a qualifying body under the terms of the legislation.
16. I can also confirm that in respect of the Neighbourhood Development Order it does grant planning permission for the replacement of existing shopfronts and that it covers the area defined in Plan 1, does not cover excluded development and does not seek to grant planning permission which has been already granted and does not cover more than one plan area. The order does make the permission conditional upon complying with a number of conditions and limitations and does explicitly allow for the completion of development permitted by the order that was commenced before the Order expires.

The Examination Process

17. The presumption is that the examinations of both a neighbourhood plan and neighbourhood development order 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 forward a case.
18. I am satisfied that I can properly examine the Plan and the Order without the need for a hearing.
19. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
20. I carried out an unaccompanied visit to Biddulph on 13th October 2021. I spent the whole day in the town and the nearby village of Biddulph Moor and I visited each of the proposed local green spaces and saw most of the existing community facilities and was able to have an appreciation of each of the important views.
21. I spent some time walking through the town centre and I visited the Sainsbury restaurant. I experienced for myself the condition on the critical road junctions referred to in the plan, at various times during the day of my visit. I saw Albion Mill and also the local plan allocation sites. I walked a short section of the Biddulph Valley Way. I was able to gain an appreciation of the relationship of the town to the surrounding countryside.
22. Following my initial site visit, I prepared a document seeking clarification on a number of matters, which I sent to both the Town Council and Staffordshire Moorlands District Council, entitled Initial Comments of the Independent Examiner, dated 20th October 2021. This document, as well as seeking comments from the District Council and the Town Council to a number of questions covering the Plan and the Order, also included an invitation to consider whether they thought that the recent changes to the NPPF were material to the examination. I received responses from both on 17th November 2021 and these have been placed on the respective websites. I have also sought further clarification as to whether any of the proposed local green

spaces are public highway land and that information has been provided by Staffordshire County Council.

The Consultation Process

23. Separate Consultation Statements has been prepared for the neighbourhood plan and the neighbourhood development order I will treat the two consultation exercises separately.

Neighbourhood Plan

24. The prospect of the Town Council preparing a neighbourhood plan was first raised in 2015. An application was made to the District Council for neighbourhood area status in February 2016. The initial stages of the public consultation were aimed at finding out what local people thought of the town, to identify the key issues and set the strategic aims of the neighbourhood plan. There were a number of drop-in sessions and the website was created.
25. This work informed the preparation of a householder questionnaire, which was delivered to 8000 homes and generated 1257 responses from across the parish.
26. The next stage involved a targeted consultation with residents, stakeholders and interest groups. There were separate local green space consultations conducted in December 2018 and April 2019. School pupils were asked through their own questionnaire about play provision in the parish and this produced 420 responses.
27. The Working Group also sought the views of visitors attending the National Trust property in the town to ask questions of the demand for accommodation in Biddulph.
28. All this work culminated in the preparation of a Pre-Submission version of the plan which was the subject of a six-week consultation known as the Regulation 14 consultation, which ran from 23rd September 2019 until 4th November 2019. This was aimed at residents as well as statutory and non-statutory consultees. The responses received are set out in Appendix 4 of the Consultation Statement which also sets out the Working Group's responses to the representations made, which demonstrate how the plan changed as a result of the consultation.

The Neighbourhood Development Order

29. The decision to promote a separate Neighbourhood Development Order, followed the conclusion of the household survey, which was conducted in 2017/18 and which raised issues regarding changes needed for the Town Centre including possible pedestrianisation. There were separate consultation events dealing with the NDO, held on 7th December 2018 and 19th January 2019.
30. The Order was separately consulted on during the same Regulation 14 consultation period as the neighbourhood plan. The responses are set out in Appendix 3 of the NDO's Consultation Statement including the responses from

residents. At that stage the proposed order was also contemplating granting planning permission for new uses at upper floor levels, a proposal which was subsequently dropped.

31. I am satisfied that the Town Council has actively sought the views of local residents and other stakeholders and their input has helped shape the Plan and the Order.

Regulation 16 Consultations

32. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation, which took place over a six-week period, between 15th July 2021 and 27th August 2021. This consultation was organised by Staffordshire Moorlands District Council, prior to the Plan and the Order being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

33. In total, 17 responses were received to the Reg 16 consultation on the Neighbourhood Plan, including National Grid, Staffordshire Moorlands District Council, Natural England, United Utilities, The Coal Authority, British Horse Society, Canal and River Trust, Environment Agency, Highways England, Historic England, National Trust, Severn Trent, Sports England, Staffordshire County Council, Staffordshire Police, The Theatres Trust and Emery Planning on behalf of Seabridge Development Ltd.

34. There was a separate consultation on the Neighbourhood Development Order and only 4 responses were received from the Canal and River Trust, Highways England, Historic England and Staffordshire Moorlands District Council.

35. I have carefully read all the correspondence and I will refer to the representations where relevant to my considerations and conclusions in respect of specific policies of the Plan and the provisions of the Order.

The Basic Conditions

36. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan and the Neighbourhood Development Order are both tested against what are known as the Basic Conditions, as set down in legislation. It will be against these criteria that my examination must focus.

37. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -

- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State? For the sake of clarity, this examination will look at how the plan has regard to the most up to date version of the NPPF, published on 20th July 2021 and the paragraph numbers of that version will be quoted throughout this report.

- 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?
 - Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
 - Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?
38. The NDO is required to meet the same 5 basic conditions plus 3 others, namely whether it is appropriate to make the Order:
- If the proposal is EIA development
 - Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses and
 - Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area?

Compliance with the Development Plan

39. To meet the basic conditions test, the Neighbourhood Plan and the Neighbourhood Development Order are each required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Staffordshire Moorlands Local Plan, which was adopted in September 2020. The Development Plan also includes the Minerals Local Plan for Staffordshire and the Staffordshire and Stoke Waste Local Plan but these latter two plans are not relevant to my examination as they deal with matters that are excluded from the scope of neighbourhood planning.
40. There is a specific overall vision for the town of Biddulph in the Local Plan, which looks to improve the town's image and prosperity, whilst maintaining its role as a service centre.
41. At my request, the District Council identified as the strategic policies of the plan, for the purpose of basic conditions compliance, Policies SS 1 through to Policy SS 12. Policy SS1 establishes development principles.
42. Alongside Cheadle and Leek, Biddulph is one of the three largest settlements in the district and stands at the top of the settlement hierarchy as set out in Policy SS2. These three towns each have their own settlement boundary.
43. Policy SS3 establishes an overall district housing requirement for 6,080 additional dwellings over the plan period, 2014 to 2033. 20% of that total, which is the equivalent of 1196, are allocated to Biddulph with the same percentage of new employment land to be allocated to the town. The net housing figure, set in Policy SS4 for housing land supply purposes, is 962 units, made up of 604 from new allocations, 20 from large windfall sites and 110 from small windfall. That policy also identifies a net employment land requirement of 5.8 ha for the town.

44. Policy SS6 is a specific strategic policy for the Biddulph area. This aims, inter alia, to improve the local housing market, protecting and increasing open space and improving community facilities. One of the more specific objectives is the regeneration and improvement of the townscape of the town centre. The plan identifies two mixed use allocation sites, Wharf Road Strategic Development Area and Tunstall Road Strategic Development Area.
45. Biddulph Moor is identified as one of the district's larger villages in Policy SS8 and has its own settlement boundary.
46. The local plan includes other non-strategic development management policies including the sustainable measures to be taken in development (Policy SD3) and flood risk (Policy SD5). The requirements to provide a mix of housing size type and tenure are set out in Policy H1 which includes allowing infilling within settlement boundaries. Policy TCR 1 deals with taking positive measures to enhance the vitality and viability of the town centre.
47. Policy DC 1 outlines the district's design considerations and Policy DC 4 allocates a number of sites within Biddulph as local green space. Policy C 2 seeks to protect open spaces as well as sports and recreation provision.
48. Policy NE1 protects the biodiversity and geological resources across the district and Policy NE2 covers protection for its trees, woodland and hedgerows.
49. Finally, Policy DSB 1 is a specific policy providing detailed measures for the Wharf Road SDA and Policy DSB 3 addresses the requirements of the Tunstall Road SDA.
50. I am generally satisfied that the neighbourhood plan and the provisions of the NDO are in general conformity with the strategic policies set out in the recently adopted Local Plan and therefore meets that basic condition test.

Compliance with European and Human Rights Legislation

51. Staffordshire Moorlands District Council issued a screening assessment in a report dated June 2019 on whether the neighbourhood plan required 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". It concluded that the neighbourhood plan would not require an SEA. At the same time, it issued a separate screening report on the proposed Neighbourhood Development Order and again it concluded that it would not lead to any significant environmental effects and an SEA was also not required for the NDO.
52. The District Council, as competent authority, also carried out a screening assessment under the Conservation of Habitat and Species Regulations 2017, in a report also dated June 2019. This concluded that the plan on its own would not have any adverse effects on any European protected sites, the nearest of which is the South Pennine Moor Phase 1 SPA and a full HRA would not be required. A similar HRA screening of the proposed Order came to the same conclusion.
53. I am satisfied that the basic conditions regarding compliance with European legislation, including the more recent basic condition regarding compliance with

the Habitat Regulations, are met. I am also content that the Plan has no conflict with the Human Rights Act.

The Neighbourhood Plan: An Overview

54. Biddulph Town Council is to be congratulated for producing a carefully considered, well evidenced neighbourhood plan which is clearly focused on the issues considered important by its residents. The document provides plenty of background information which sets the scene for the neighbourhood plan and then establishes the plan's vision and aims.
55. The plan has not sought to cover all planning issues, but rather concentrates on policies and designations that are specific to Biddulph Parish and a number of these depart from those which have been adopted by the District Council. That is entirely appropriate and it is a strength of the neighbourhood plan making system that it allows local communities to promote the planning policies they believe should be used to determine planning applications, while still being consistent with the overall spatial strategy contained within the local plan.
56. The neighbourhood plan has chosen not to make any housing or employment allocations, which it leaves to the Staffordshire Moorlands Local Plan. However, its policies could have implications in terms of how those strategic sites will be developed.
57. The relationship between the two plans has consequences in terms of the plans' respective end dates. The plan period for the neighbourhood plan runs two years longer than the local plan's plan period which ends in 2033. The Neighbourhood Plan is proposing an end date of 2035. For the final two years of the neighbourhood plan period, the policies will not be guided by any strategic framework set by the local plan. I can see no justification for the neighbourhood plan having a different plan period than the local plan. Having a longer plan period could affect the amount of housing expected to be delivered in the town over the longer period. I am also conscious that the local plan is likely to be subject to an early review. I will therefore be recommending that the two end dates should be the same, i.e., that the neighbourhood plan period should run until 2033.
58. Biddulph, and to a lesser extent Biddulph Moor, are urban settlements which are surrounded by Staffordshire countryside, which is designated as Green Belt. That designation places greater restrictions on development than would otherwise apply to such rural areas. National guidance sets out a strict regime for how development in the Green Belt is to be managed and this is generally more restrictive than would apply to other parts of the countryside. I have had to make a number of recommendations to bring neighbourhood plan policy into line with the approach required by the Secretary of State.
59. One of the most sensitive issues has been the number of local green spaces the Town Council has put forward in the neighbourhood plan. However, an urban area will, to a large extent, have more areas of green spaces which will be important to local residents than say in a village. Whilst I have, for a number

of reasons, had to recommend that some be removed, nevertheless a significant number of local green spaces remain in the plan. I have considered this issue very carefully as I know that the District Council has concerns regarding the approach being taken.

60. On the whole, I believe that the Town Council has provided proportionate evidence that the green spaces meet the test of being demonstrably special to the local communities especially to those who live close to the sites in question. I am satisfied that there were specific public consultation exercises undertaken which led to the identification of the sites and in a number of cases, sites suggested by local residents, were not put forward, due to the Town Council concluding they did not pass the LGS threshold. I have only recommended the removal of sites where I felt they did not meet the basic conditions, particularly the test set out by Secretary of State policy and advice.
61. I do not consider that the number of designations will to any meaningful extent prevent the District Council being able in the future to meet the town's housing needs as a result of the LGS constraints. I examine that in more detail later in this report.
62. On the question of the sustainable development basic condition test, I have concluded that the policies in the plan, when read as a whole, will deliver sustainable development. The policies encourage the diversification of the rural economy in a manner consistent with the Green Belt, it supports the evolution of the town centre to incorporate uses which will encourage its vitality and viability into the future. It protects community facilities and local spaces that are valued by local residents, and identifies sites within the parish that are of biodiversity and ecological significance. It seeks to protect important views from the town centre to the wider rural landscape and requires new development to meet the housing needs of the town, and is especially encouraging of high standards of design and innovation.
63. My recommendations have concentrated particularly on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all editorial changes to the supporting text and implementation sections. Such changes are likely as a result of my recommendations, in order that the Plan will still read as a coherent planning document.
64. Following the publication of this report, I would urge the Town Council and the Staffordshire Moorland's planners to work closely together to incorporate the appropriate changes which will ensure that the text and policies of the Referendum Version of the neighbourhood plan accord with my recommended modifications. There will also need to be editorial matters to resolve such as policy numbering, as a consequence of my recommended changes.

Recommendation

That the end date of the neighbourhood plan should be 2033.

The Neighbourhood Plan Policies

Policy HCT1: Enterprise and Tourism Development

65. This policy is seeking to support “business, enterprise and tourism uses” that will help diversify the rural economy. However, the plan area covers both the urban area, within the defined settlement boundaries and the remainder of the rural area falling within the Green Belt.
66. Whilst paragraph 84 of the NPPF supports the growth and expansion of businesses in the countryside through the erection of well-designed new buildings and conversions, that is trumped by national Green Belt policy, which is more restrictive. In paragraph 149, the Framework presumes against the construction of new buildings in the Green Belt. Its list of exceptions would preclude buildings for business uses, unless it formed a partial or complete redevelopment of previously developed land. The reuse of an existing building within the Green Belt for employment uses would be acceptable.
67. I raised the compatibility of the policy with the Green Belt policy, in my Initial Comments document and I sought clarification from the Town Council whether by referring to the rural areas it was to only address land outside the settlement boundary and I also sought clarification as to what the policy was envisaging as “enterprise uses.”
68. The response from the Town Council was to recommend a rewording of the policy so that it would read, “In addition to development in the defined Town Centre, business, tourism and enterprise uses to diversify the rural economy will be supported in existing building complexes” subject to 3 criteria. It suggested that the Interpretation section should clarify that only appropriate development will be acceptable in the Green Belt.
69. I consider that the policy, even as amended, has real ambiguity as to whether the policy, which is seeking to diversify the rural economy, applies both within the urban areas as well as beyond the settlement boundary, particularly as it refers to sites beyond the town centre boundary. Would it cover proposals which come forward within the town’s employment areas, as promoted within Local Plan Policy SS6 – Biddulph’s Area Strategy?
70. I consider that as the focus of the policy is intended to be on the diversification of the economy of the rural parts of the plan area, the policy should explicitly state that it applies to the area beyond the settlement boundary. In which case, Green Belt policy allows new employment space to establish through the change of use of an existing rural building or indeed to allow for a replacement of existing building for a use within the same Use Classes so long as the replacement building is not materially larger or in the case of the redevelopment of previously developed sites, there is no greater impact on the openness of the Green Belt.
71. In terms of the definition of “enterprise uses”, the Town Council stated that it can include reference to craft-based manufacturing, knowledge-based activities, digital or creative industries. I consider that is acceptable if that reflects the type of employment the Town Council is particularly keen to promote. However, the policy does allow, in addition, other types of business uses. I consider that it

would be clearer if the title of the policy reflected Business uses as well as “Enterprise and Tourism Development.

Recommendations

The title of the policy should be changed to “Business, Enterprise and Tourism Development”

Replace “Within the rural parts of the parish” with “Outside the settlement boundaries of Biddulph and Biddulph Moor”

After “subject to” insert “compliance with Green Belt policy and there being no significant adverse impact on the amenities of:”

Delete the first bullet point

In the Interpretation section insert “Enterprise uses include craft-based manufacture, knowledge-based activities, digital or creative industries”

Policy LE 1: Biddulph Town Centre

72. I do not consider that reference to the defined Town Centre needs to be qualified by referring to the “emerging local plan” as the Staffordshire Moorlands Local Plan is now adopted. The map shown in Appendix 1 is the same as the boundary set in the Local Plan.
73. The position regarding retail and other town centre uses has changed since the submission version of the neighbourhood plan was finalised. In September 2020, the Government introduced amendments to the Use Classes Order which included a new updated Use Class E, covering uses which had previously been within Classes A, B1 and some Class D uses. That therefore gives greater flexibility for changes of use to take place within the town centre than would have been possible under the previous version of the Use Classes Order.
74. The response of the Town Council, when I raised this issue, was to suggest revised policy wording, the first part includes support for uses “where they support and cause no harm to its vitality and viability”. I consider that to be an appropriate test.
75. The second element of the policy relates to residential uses. As submitted, the policy prohibits residential uses at ground floor level, but again recent changes in the planning secondary legislation will have a material impact on the policy. New permitted development rights allow the conversion of small vacant shop units to residential use subject to some prior approval conditions being met. Therefore, it may not be possible to prevent the principle of such changes of use if it prevents empty shops remaining vacant for long periods which itself has a deleterious effect on the viability or vitality of the town centre. The policy, as recommended by the Town Council, requires that changes to premises which will no longer be open to the public, including residential uses, can be permitted where planning permission is actually required, subject to provision or retention of a shopfront. Whilst retaining a large window area can pose issues for the privacy of the people now living within the former shop units, these are not considered to be an insurmountable obstacle and indeed, there are many examples across the country where residential conversions have taken place

behind a retained shop front and window. I consider that this criterion can be retained to help achieve the Town Council's aspirations for a lively town centre.

Recommendations

Delete "(see Appendix 1, which is the same area as the emerging Local Plan)" and replace by "as defined on the map of the Biddulph Town Centre" – and remove from the map the text "The green line represents the area of the Neighbourhood Development Order" and also the red line showing the primary centre.

Replace the rest of the policy after "retail development" insert "other uses will be supported where they support and enhance the town centre's vitality and viability. Where planning permission is required for the change of use of ground floor to uses which are not open to the public, including residential use, any existing shopfront should be retained or provided."

Policy LE2: Albion Mill Conversion

76. The policy interpretation section refers to Policy DSB 2 of the Local Plan but Albion Mill is not one of the mills identified in that policy which only applies to Yarn Mill and Minster Mill.
77. The policy is entitled *Albion Mill Conversion*, so the policy is supporting the retention and conversion of the building. However, the building is not a listed building, and is not in a conservation area, but it is a non-designated heritage asset. Therefore, there is no statutory provisions which prevent the building being demolished. I know that planning permission has previously been granted for the building's redevelopment for housing. However, the policy by indicating that if conversion proposals were to come forward, in accordance with the range of uses set out in the various bullet points, then planning permission is likely to be granted. The policy does not prevent the redevelopment of the site being supported.
78. Following my site visit, I concluded that there was no overriding planning justification for explicitly preventing residential uses on the ground floor and this appears to now be accepted by the Town Council, through its response to my Initial Comments document. I consider that there is no overwhelming case for requiring the incorporation of a mixture of uses allowed in the policy, although a mix containing business and enterprise space, tourism related uses, cultural and entertainment uses and tourism related retail uses, could be permissible, but do not need to be required elements of a conversion. The insistence on uneconomic uses could affect the overall viability of any conversion works.
79. Within these parameters I consider the policy, which seeks to offer support for the building's conversion for any of the uses proposed is sensible and I will recommend accordingly. I agree with the Town Council that the map showing the location of Albion Mill would be better located alongside the policy rather than within a separate appendix.

Recommendations

Replace the first sentence "Within the defined area shown on the Map of Albion Mill Conversion, the following uses will the supported."

In the first bullet, delete “(above ground floor only)”

Delete the text in Interpretation section

Move map of the site from the Appendix to the main body of the report.

Policy CF 1: New Community Facilities

80. I have no comments to make on this policy in terms of the basic conditions.

Policy CF2: Existing Community Facilities

81. I consider that a policy which supports developments that “*affect* existing community facilities” is somewhat ambiguous. It could be that a neighbouring development could *affect* a community facility, possibly in an adverse way.

82. The intention of the policy would be clearer, if it stated that development which enhanced the community value of the premises, will be supported. The exceptions to the general presumption in favour of the protection of the facility, namely, if it is demonstrated that there is or will be a similar quality of or better facilities provided nearby, should be included as part of the test of the policy rather than being referred to in the supporting text, which will not have the same weight as a development plan policy.

83. I do need to question the planning status of the Sainsbury’s Community Room. I understand that this community facility was not provided pursuant to any planning requirements and it forms part of the overall retail planning unit of the store. Therefore, the change of use of that part of the building to retail related uses would not constitute a material change of use and would not require planning permission. Therefore, reference to the Sainsbury’s Community Room within the policy serves no purpose as its retention would not be a matter for planning control.

84. The Town Council must appreciate that some of the facilities could potentially be lost through changes of use which would not require planning permission. Most will now fall in the new Use Class F2.

85. I do consider that the map in Appendix K could be improved by the annotation of each site rather than being merely outlined in blue. It would be better inserted alongside the policy.

Recommendations

Replace “affect” with “enhance” and delete the rest of the first sentence after “supported”.

Add at the end of the policy “Developments that involve the loss of existing community facilities will only be supported where replacement facilities of the same or better quality are provided.”

Relocate “The Map of Existing Community Facilities” into the supporting text in this section of the plan and attach the name of each facility to the sites outlined in blue.

Delete from the list “Sainsbury’s Community Room”.

Move the map in Appendix K to the main body of the text.

Policy NE 1: Natural Environment Features

86. I have a number of concerns with regard to this policy.
87. Firstly, it requires all developments to preserve or enhance the special rural character of the area. Whilst the areas outside of the town, have a special rural character, I would describe what I saw within the town centre and its residential areas as having an essentially urban character.
88. Secondly, the policy places the same expectations on the ecological and environmental features of the area, irrespective of their significance. In effect, it would mean at the test of the impact on a local nature reserve site will be the same as local wildlife sites which are lower down the hierarchy. That is contrary to the approach set out in the NPPF which refers to policies protecting and enhancing sites of biodiversity value, in a manner commensurate with the statutory status or identified quality in the development plan.
89. This was an issue that was raised in the Regulation 16 representations submitted on behalf of Seabridge Developments Ltd and Staffordshire Moorlands District Council. The concerns expressed are that the policy as drafted does not give the decision maker guidance as to how a proposal affecting these sites, is to be considered, beyond an absolute requirement that the proposal must preserve the features. The approach advocated in paragraph 180 a) of the NPPF is that if significant harm to biodiversity cannot be avoided, it must be adequately mitigated or as a last resort compensated for, and only then should planning permission be refused. In paragraph 180 c), the NPPF states that development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland and ancient or veteran trees, planning permission should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists.
90. It has also been pointed out that the evidence set out in the plan is high-level information which is appropriate for plan making but that the policy in terms of development proposals should be supplemented by specific surveys on individual sites.
91. I propose to recommend a policy modification whereby the neighbourhood plan identifies the sites within the plan area that are natural features of significance and their proposed status and the policy then directs the decision maker to the specific requirements set out in Local Plan Policy NE 1 (and Policy C2 and C3) which stipulates the tests that should apply to any proposals affecting the status of the site. The plan identifies the following categories of sites of biodiversity or ecological importance for the purpose of complying with relevant local plan policies:
- Local wildlife sites to be covered by Policy NE1 (4) are shown on the map entitled Nature Conservation Sites within Biddulph parish.
 - Wildlife corridors/network, watercourses ponds and lakes to be covered by Policies C2 and C3 are shown on the Ecological/Wildlife Corridors Map.
 - Priority habitat protected by Policy NE 1 (8) are shown on the Habitat Distinctiveness Map and Habitats Maps

- Sites containing protected species which are protected by Policy NE1(8) are shown on the Protected Species within Biddulph Map
 - Areas with opportunities to enhance or create new habitat links to be covered by Policy C3 are shown on the Nature Recovery Map.
92. The reference to veteran and mature trees and hedgerows, (which are not identified in the neighbourhood plan) are already protected by the more specific policies set out in Local Plan Policy NE2. Similarly reference to mineral extraction sites would actually already be covered by Local Plan Policy C3 as part of the parish's green infrastructure network. There is no benefit in repeating their protection.
93. I am also recommending for the ease of the readers of the plan that the various maps which are to be referred to in the proposed policy wording be incorporated within the main body of the plan document, adjacent to this section rather than being included within an appendix.
94. By providing a local context within the policies through identifying sites which are covered by an existing Local Plan policy, the recommended policy will meet the Secretary of State's requirements for a hierarchical approach to biodiversity matters and it will therefore in my view meet the basic conditions.

Recommendations

Replace the policy with:

“The neighbourhood plan identifies the sites shown on the following maps to be of particular significance for biodiversity and ecological interest and development affecting such sites will be considered against the following policies of the Staffordshire Moorlands Local Plan:

- ***Local wildlife sites to be covered by Policy NE1 (4) are shown on the map entitled Nature Conservation Sites within Biddulph parish.***
- ***Wildlife corridors/network, watercourses ponds and lakes to be covered by Policies C2 and C3 are shown on the Ecological/Wildlife Corridors Map.***
- ***Priority habitat protected by Policy NE 1 (8) are shown on the Habitat Distinctiveness Map and Habitats Maps.***
- ***Sites containing protected species which are protected by Policy NE1(8) are shown on the Protected Species within Biddulph Map.***
- ***Areas with opportunities to enhance or create new habitat links to be covered by Policy C3 are shown on the Nature Recovery Map.”***

Insert the appropriate maps into the main body of the plan rather than in Appendices.

Policy NE 2: Urban Edge

95. I consider the use of fencing etc can, as acknowledged by the Police increase householders' sense of security and it can, in some situations, be an appropriate means of enclosure, if its harsh visual impact is softened by planting on the external side of the fence. I will recommend that the interpretation section be amended to the effect that hard boundary treatments would not be appropriate unless adequately screened / softened by landscaping.

Recommendation

At the end of the second sentence of the Interpretation section, add "unless adequately screened / softened by landscaping."

Policy NE3: Local Green Space

96. In my opinion, it should be the policy itself which designates the proposed areas of local green space (LGS) rather than being set out in the supporting text of the plan and I will propose that the individual sites are listed in the policy.

97. The plan is proposing a significant number of local green spaces even for a town the size of Biddulph. This plan is proposing a total of 75 local green spaces.

98. A number of these already enjoy the LGS status through the Local Plan's own designation and there is no value in duplicating them. I propose that the Sites 9, 37, 39, 40, 53, 54, 55 and 56 be deleted as their further duplication would be unnecessary.

99. Furthermore, a number of areas of highway verge are proposed for designation. I imagine that many of these were being chosen because of their contribution to the Biddulph in Bloom. However, works in the public highway tend to be covered by highway legislation and enjoy permitted development rights. Based on the information, primarily provided by Staffordshire Highways, I am therefore proposing that sites 4, 6, 8, 13, 21 (northern part), 62, 76 (northern part), 79 and 80 are excluded from the list of LGS.

100. One of the Secretary of State stipulations is that the designation of local green space should be consistent with the delivery of sustainable development and can be expected to be capable of being retained as green space beyond the plan period. There are three sites which the Town Council has proposed for designation as local green spaces which have also been identified by the District Council as deliverable housing sites within the SHLAA. These are Gillow Fold Field (Site 57), the Gas Works (Site 85) and Knypersley Green Space (Site 25). Two of the sites are currently within the Green Belt and may therefore be considered already protected. However, I do note, as set out in paragraph 9.7. 9.8 of the Local Plan, that the need for a full or partial update of the Local Plan will be determined by consideration of the results of an assessment 5 years from adoption and / or when the Monitoring Report identifies housing delivery has not met the housing requirements in the Local Plan or the Housing Delivery Test and / or where there is a significant change in national policy, the evidence base or the needs of the adjoining authorities. If necessitated by the development requirements at the time of a Local Plan review, a comprehensive review of the Green Belt around Biddulph considering the need for both additional allocations

and safeguarded land would be undertaken. Both sites would be considered as part of any review.

101. It is not for me to express a view as to whether these two sites should be released from the Green Belt but in light of the conclusions of the SHLAA, I consider that it would be premature to grant LGS status on these areas, pending the local plan review as it could prevent the delivery of sustainable development. If I had recommended the confirmation of LGS status it would mean that the sites, which the SHLAA recognises as being deliverable, will essentially then be sterilised well beyond the current plan period. The two sites will remain within the Green Belt, as currently drawn but to declare them as local green space, would not, in my opinion, meet the tests set out in paragraph 103 of the Framework.
102. The final SHLAA site is the Gas Works. From what I saw on my site visit this is a fully enclosed urban site and I am not satisfied from what I have seen that it possesses such a richness of wildlife to be considered “demonstrably special” for that reason to the local community. I consider that it could be appropriately developed, in line with current policy to make best use of urban brownfield land for residential purposes. I will therefore be proposing that the site be deleted from the LGS policy.
103. I am also proposing the deletion of two of the proposed local green spaces as they constitute extensive tracts of land, namely Biddulph Valley Way (Site 16) and land east of Newpool (Site 63), both of which are covered by the proposed Policy NE 4.
104. The purpose of local green space designation is to offer the highest-level protection of green spaces which have to be particularly valued by the community for having special significance. It is not a tool to seek to protect every piece of open space within an area. I appreciate that the Town Council has chosen to identify a large number of green spaces for designation but I am satisfied that the evidence has been submitted in supporting documents which justifies this selection, many of which are important incidental open spaces to enjoy by the residents in the immediate vicinity of the open space.
105. Some of the spaces are outside the urban area and are already subject to Green Belt policy. However, I need to be conscious of the Secretary of State’s advice in Planning Practice Guidance which recognises that “LGS designation could help to identify areas which are of particular importance to the local community” even if they fall within the Green Belt.
106. Turning to the policy as it affects the LGSs for managing development, the policy as submitted does not accord with the approach set out in paragraph 103 of the Framework which sets out that policies for managing development within a LGS should be consistent with those for the Green Belt. I do not consider that say the building of a community building would necessarily accord with Green Belt principles which are essentially aimed at keeping the green spaces open. I will propose an amended form of wording which relates more closely to the Secretary of State’s approach and would be consistent with Policy DC 4 of the Local Plan.

Recommendations

Replace the policy with “The Neighbourhood Plan designates the following local green spaces:

- 1. Humber Drive Community Space**
- 2. The Clough**
- 5. Biddulph Bowling Club**
- 7. Well Street Allotment**
- 10. Woodhouse Lane wooded area**
- 14. Ringwork Castle**
- 17. Eiger Close**
- 18. Uplands Play Area**
- 19. Geneva Way Green Space**
- 20. Behind Oxhey Drive**
- 21. Corner of the Uplands (southern part)**
- 23 Knypersley Cricket Club**
- 24. Knypersley Sports Ground**
- 26. Knypersley Bowling Club**
- 27. Knypersley Fishing Pool**
- 28. Green on Conwey Road**
- 29. Mill Hayes Sports Ground**
- 30. Butterfly Garden**
- 31. Mill Hayes Grass Verge**
- 32. Greenway Bank**
- 33. Mill Hayes Fishing pool**
- 34. Top Springfield Road**
- 35. Park Lane Allotments**
- 36. Moorland Road Allotments**
- 38. Shepherd Street/ Slater Street**
- 42. Green space Kingsfield Crescent**
- 43. Lawton Crescent**
- 44. Land opposite Lawson Crescent**
- 45. Hawthorn Grove Play Area**
- 46. Queens Drive Green**
- 48. Highfield Place Green Space**
- 50. Land at end of Healey Avenue**
- 51. Farnworth Close**
- 52. Corner of Craigside**
- 59. Millennium Gardens**
- 60. Gillow Heath Station**
- 61. Paddock Play Area**
- 64. Brown Lees Fun Park**
- 65. Trent Head Well**
- 66. Hot Scotch Park**
- 68. Land adjacent to New Road Methodist Church**
- 69. Village Green**
- 70. Fields Behind Talbot Car Park**

- 71. Land behind bungalow off grange Road**
- 75 Coracle Grove**
- 76 Brown Lees Village Green (southern part)**
- 77 Brook Street Green Areas**
- 86. Cherry Garden Lane**
- 87. Hazel Grove Green Space**
- 88. Stoneyfields Green Space**

Development proposals within these areas will be determined in accordance with national Green Belt policy”

Policy NE4: Biddulph Valley Way

107. My only comment on this policy is that it is only development which lies adjacent to the route that should take the opportunity to enhance the route “where practical”.

Recommendation

After “must” insert “where practical”

Policy NE 5: Protection of Views of Local Importance

108. I consider that this is entirely appropriate for a neighbourhood plan to seek to identify locally important views. I witnessed for myself each of the views which provide essentially long-distance views of the countryside beyond the town. These are shown on the map entitled “Direction of Key Views”. I consider that it will be helpful to annotate each of the arrows to cross reference the number of the photos in the document.

109. The policy implies that all planning applications will be accompanied by Design and Access Statements. However, these are only required in the case of “major” development (there are no conservation areas which are affected by the views so that does not trigger a need for such statements). I will propose a form of wording that requires developments which affect these views to demonstrate how they have taken account of the key view in terms of the form and layout of the development.

Recommendations

Replace the final paragraph with “Major developments, which are likely to affect any of these key views, will be expected to demonstrate how their development has taken into account, these views in the form and layout of the development”

Number the key views arrows with the appropriate number, to cross reference with the photographs in the plan.

Policy HOU 1: Housing

110. I have no fundamental comments to make on the policy.

111. I appreciate the desire of the Town Council that any affordable housing provided offsite, should nevertheless be provided within the plan area, but

equally I concur with the views of the District Council it is better that affordable housing is delivered for those in housing need within the district, rather than being lost, through lack of opportunity within the parish. I will propose a suitable form of wording to cover this.

112. With the introduction of First Homes, a form of housing which offers discounts in the market housing and is expected to be treated as a form of affordable housing, although not required under the transition arrangements, can in accordance with the Town Council's suggested response be included in the list of types of housing which will be particularly welcomed in the parish.

Recommendations

In the first bullet point, second sentence after "provision", replace "should" with "will be expected to" and at the end of the sentence, insert "if it is feasible to do so".

At the end of the policy insert a new bullet point before "Self- build housing" entitled "First Homes".

Policy HOU2: Infill Housing

113. I have only one issue with the policy and that is, as written, the policy appears to cover the whole plan area, including the areas outside the urban areas of Biddulph and Biddulph Moor. I consider the criteria for those parts of the plan area within the Green Belt should be excluded from the remit of the policy, rather than being referred to within the interpretation section, which does not have the same weight as a development plan policy. National policy allows "limited infilling within villages" which I interpret as applying to villages that are washed over by the Green Belt as opposed to the situation at Biddulph Moor where the village is excluded from the Green Belt. However, the Local Plan does allow in Policy H1, limited infilling on sites *adjacent* to the settlement boundaries of larger villages which includes Biddulph Moor so I consider that should be reflected in the policy.

Recommendation

After "small infill sites" insert "within or adjacent to settlement boundaries"

Policy INF 1: Critical Road Junctions

114. This policy essentially requires transport assessments to assess, in particular, the impact of development on four key junctions along the A527. The test set out in paragraph 111 of the NPPF, is that "development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impact on the highway network would be severe".
115. I am pleased that the "severe impact" threshold is included within the policy. I feel that it would be an over onerous obligation to be placed on decision-makers to require assessment of development on each junction in respect of all proposals. I consider that it will be relevant for those scheme proposals which

require the submission of a Transport Assessment. I will make that clear on my recommendations, which will also correct a spelling mistake in the policy.

Recommendations

Replace “and” with “an”

After “made” insert “in any submitted Transport Assessment”

Policy INF 2: Sustainable Drainage

116. I have noted the comments of the Environment Agency who, whilst welcoming the policy seek to expand the remit of the policy to cover a wide range of flood management issues. This policy will already sit alongside Local Plan Policy SD5 which is a more comprehensive statement covering matters such as the sequential approach and includes guidance on surface water drainage and Sustainable urban drainage systems (SUDS). The neighbourhood plan has chosen to concentrate on surface water run-off and disposal and I consider that to be appropriate and is a matter of local discretion.

Policy INF3: Community Infrastructure

117. A neighbourhood plan policy is required to be a policy for the use and development of land, which can be used for the determination of a planning application. As written the policy seeks to identify what infrastructure is to be prioritised within the plan area. However, determining how CIL monies are spent is essentially a budgetary decision to be taken by the District Council, apart from those 25% of funds which are allocated to the Town Council, in which case they fall within the direct control of the Biddulph Town Council.

118. Planning obligations can only be sought to fund infrastructure where the obligation meets all three tests set in Regulation 122 of the Community Infrastructure Levy Regulations 2010, namely that the contribution is required to:

- Make the development acceptable in planning terms
- Is directly related to the development
- And is reasonably related in scale and kind to the development.

119. Developers can only be expected to contribute to the infrastructure identified in the policy if it meets each of the three tests. That is reflected in Local Plan Policy SS 12. I have therefore concluded that as a policy to be used to determine applications, this does not meet the basic conditions. However, I do consider that it is reasonable for the Town Council to refer to its priorities for extra spending in the parish. I am therefore recommending that it can be retained but not as a policy but as part of the supporting text under the Infrastructure Chapter

Recommendation

That the policy be deleted but the text should be incorporated in the Infrastructure Chapter on page 77.

Policy DES 1: Design

120. I have only limited comments to make on this policy. Firstly, reference to the authenticity and durability of materials are not necessarily matters that can be determined by a planning decision maker. If the choice of materials complements the local materials used in the vicinity and is an appropriate material for the context, it is not necessary for the decision-maker to have to assess the long-term performance of that particular product.

121. I consider that the final paragraph is essentially duplicating either Policy HOU 1 or other parts of this policy relating to innovative design and building performance.

Recommendations

In the third bullet point, delete “authentic durable”

Delete the final paragraph and 3 bullet points

Policy DES2: Public Realm, Car Parking and Movement

122. I have no fundamental concerns regarding this policy but as submitted in places this policy applies obligations on *all* new development in the parish. That would not necessarily be relevant considerations for many projects, so I propose to caveat the policy by applying it “where it is appropriate”.

Recommendation

In the first sentence after “demonstrate” insert “where it is appropriate”

The Neighbourhood Development Order – An Overview

123. I must commend Biddulph Town Council for grasping the opportunities offered by neighbourhood planning powers to create a Neighbourhood Development Order to assist with the regeneration of Biddulph town centre. It is a power that is, unfortunately, seldom used, but it can be a powerful tool to encourage new investment without requiring applicants to have to submit a planning application. It also has the advantage of raising design standards, by only granting permission for new shopfronts which comply with the design requirements, set out in the Order. It does not prevent property owners from proposing different shop fronts, which may not comply with the Order’s design requirements, but they are required to submit a planning application, as is presently the case for all new shopfront applications.

124. The order will remain in force for a period of four years from the date it is made. The geographical area covered by its provisions is shown in Plan 1 and on my site visit I was satisfied that this is an appropriate area for the order to cover. For example, the proposed area excludes the new shop units provided as part of the Sainsbury’s redevelopment, where the design of the overall building would not be appropriate for the more traditional form of shopfronts being consented in the Order.

125. The Order covers the replacement of an existing shopfront subject to a number of design parameters. I will be examining these in detail. The Order put forward four alternative options as to how the permitted shopfronts should look. I appreciate that there is a value in offering different shopfront configurations.
126. On my site visit, I was conscious that Biddulph town centre stands on a hillside and that many of the shopfronts have steps up to the shop doorways. I raised this issue with the Town Council and the District Council in my Initial Comments document and I received further proposals that I will deal with in the following paragraphs.
127. However, I do need to address a critical issue in that the Order, as proposed, would be granting permission for new shopfronts that continue to rely upon a stepped access which means that the premises are not readily accessible to those with mobility requirements such as users of mobility scooters, wheelchairs or parents with children in buggies.
128. The District Council in response to one of my questions stated that it would be prepared to grant permission for a shopfront that relied on the stepped entrance. It replied that it would consider that such “stepped access will be acceptable as this issue would be considered as part of the building regulations” rather than covered by the jurisdiction of planning control. However, the Secretary of State in his Planning Practice Guidance, includes the following advice in the section entitled Inclusive Design, which takes a different approach. I set out the relevant paragraphs below:
- *An inclusive environment is one that can be accessed and used by everyone. It recognises and accommodates differences in the way people use the built environment and fosters social connections.*
 - *Good design can help to create buildings and places that are for everyone. It can help break down unnecessary physical and psychological barriers and exclusions caused by the poor design of buildings and places.*
 - *Inclusive design acknowledges diversity and difference and is more likely to be achieved when it is considered at every stage of the development process, from inception to completion. However, it is often mistakenly seen as a Building Regulations issue, to be addressed once planning permission has been granted, not at the planning application stage. The most effective way to overcome conflicting policies and to maximise accessibility for everyone is for all parties to consider inclusive design from the outset of the process. This is particularly important when considering historic buildings and conservation, and highways. Thinking at the design stage about how the completed building will be occupied and managed can overcome many barriers experienced by some users. Too often the needs of users, including disabled people, older people and families with small children, are considered too late in the day.*
129. The Town Council’s response was that where level access can be provided, for example, when topography allows slopes of 1 in 20 or less should allow for the construction of ramps. It goes on to state that doors should have a minimum clear opening width of at least 800 mm. Recessed doors should have a minimum space depth of 300 mm.

130. I believe that creating a NDO which relies upon a stepped access which prevents the premises from being accessible for all, by retaining what is affect a physical barrier, would not meet the basic condition of having regard to Secretary of State policy and advice, nor would it accord with the requirements set out in Policy SS1 of the Staffordshire Moorlands Local Plan which expects new development to provide “easy access to jobs, shops and transport services by all sections of the community”.
131. I therefore will be recommending that the Order should not apply for shopfronts which rely upon the stepped access from the pavement into the shop and therefore it would be necessary for such shopfronts to have to apply for planning permission. That would then allow the District Council to consider whether other measures could be introduced, to facilitate better access such as handrails, which would be beyond the scope of what could be covered by a Neighbourhood Development Order.
132. The District Council in its Regulation 16 representations refers to some of the Order’s wording being vague and open to interpretation. It refers to, as an example, the means of lighting as to what type of lighting is permitted and also what the fascia is constructed of.
133. At this point, it is necessary to understand the difference between what is operational development associated with the installation of a new shopfront and the consideration of any advertisements, whether it be fascia signs or projecting box signs and whether these are internally or externally illuminated or not illuminated at all. All advertisements are covered by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. These regulations dictate what signs can be installed under its deemed consent provisions and where an express consent to display an advertisement application is required. This is separate from any planning permission granted in respect of a new shopfront. Therefore, it is clear that an NDO which grants planning permission cannot deal with matters which are covered by separate legislation. Therefore, the question of illumination would be covered, in most cases, by the advertisement consent to display provisions as part of the advert application. As such I do not believe that the NDO can impose any requirements relating to external lighting or materials used on any signage, as these are essentially advertisement matters.
134. Another area of uncertainty is that the design parameters refer to the height of the stallriser being between 350 mm and 550 mm. However, that raises the question of on a sloping pavement, where that height is to be measured from. The Town Council has suggested, in response to my Initial Comments, that it should be measured at the midpoint. I interpret that, in the case of Shopfront Types 3 and 4, the height should be measured on each side of the doorway at the midpoint of each stallriser. The stallrisers can be the same height relative to the internal floor level so long as the height of each side, measured externally falls within the latitude set in the order.
135. Another requirement which is open to interpretation, relates to the requirement relating to “pilasters” which are expected to “project forward slightly”. That begs the question, say in the case of a possible enforcement investigation, whether a new shopfront was authorised or unauthorised, depending on how much the pilaster has been extended forward and an interpretation whether it falls within the limit of being

“slightly forward”. When the matter was raised with the District Council it has suggested that this should be defined as “not exceeding 100 mm for the main part of the pilaster”. I agree that is helpful as it can be measured.

136. Furthermore, I do feel that the expectations as it relates to timber panelling would be difficult to be used as a determining factor as to whether consent is or is not required. If constructed and finished to a high standard, it would not be possible for a decision maker to easily determine whether a feature formed an integral part of a constructional panel or comprised beading stuck on to give the same appearance. In my experience, which includes managing new shopfronts within a historic town centre conservation area, it would only be possible to determine with confidence, whether a moulding has been applied or is a structural feature, by dismantling the panel. That would be unreasonable and is not justified. I also consider that the definition of “panelling” which refers to “flat panels surrounded by mouldings or channels or other surfaces in different planes” would not rule out mouldings added to the flat panel. The key point is that this is proposed to be used as a determining factor as to whether a planning permission is required for the new shopfront.
137. The order is conditional upon four conditions being met. The second condition refers to use is falling within what are now the superseded Use Classes A1 to A5. Following the introduction of the Town and Country Planning (Use Classes) (Amendment) Order 2020, I will be recommending that the condition refers to uses falling within Class E of the new order which covers commercial, business and service uses. I would add to that list, specific sui generis uses that fall outside the use class, but which are uses which can be appropriately located within a town centre, such as publichouses, wine bars and other drinking establishments and hot food takeaways.
138. Finally, I do not consider that the order can be a vehicle which can “encourage” responsible construction. Whilst this may be a desirable objective and is only encouraged, it is not a determination as to whether planning permission is granted by the order. In any event these matters are covered by other legislation. I would recommend that it be removed from the Order.
139. The examination of the Order has to pass the same 5 basic conditions as the neighbourhood plan but in addition there are two additional basic conditions that I must address. I do not consider that any of the development permitted by the Order will have any adverse impact on the only listed building within the area shown in Plan 1 namely the War Memorial on Congleton Road and its setting. There are no conservation areas within Biddulph Town Centre.
140. I can also confirm that the NDO does not cover development that would constitute EIA development and therefore the basic condition set out in Schedule 3 (2) is not triggered. If the proposal had been EIA development, I would have had to consider where an additional basic condition which poses the test “Having regard to all material considerations, it is appropriate that the neighbourhood development order is made”.

Neighbourhood Development Order – Detailed Recommendations

141. Following the comments made in the preceding sections I am making the following recommendations to the wording and the details of the order.

Recommendations

Amend Design Parameter D (I) by adding at the end “as measured at the midpoint of each stallriser”

Amend Design Parameter D (II) replace “slightly” with “by up to 100 mm for the main part of the pilaster”

Delete Design Parameter D (IV) and replace with a new section entitled “Accessibility for all” and add the following text “Any doors should have a minimum clear opening width of at least 800 mm. Recessed doors should have a minimum space depth of 300 mm. Access to the shop door shall be step free and if an access ramp is required it shall be no steeper than 1 in 20 and be provided within the shopfront”

Delete Design Parameter D (VI)

Amend Condition II by replacing “Part 3” with “the Order” and replace “A1, A2, A3, A4 or A5” with “E or premises used as a public house, wine bar and other drinking establishments and hot food takeaways”

Amend Condition III by replacing “Part 2” with “the Order”

Add a new Limitation “The Order does not grant planning permission for a replacement shopfront if it is to be accessed by a step, whether existing or proposed.”

Delete the section entitled “Responsible Construction”

Amend the plans shown as “Shopfront Types and Details” by adding to the “Stall Riser Height” title the following in parenthesis “as measured at the midpoint of the stall riser”

The Referendum Area

142. If I am to recommend that the Plan and the NDO progresses to their referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the designated neighbourhood area. In this instance, I can confirm that the area of the Biddulph Neighbourhood Plan and Neighbourhood Development Order as designated by Staffordshire Moorlands District Council on 16th February 2016, namely the whole parish, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

143. I congratulate Biddulph Town Council on reaching this important stage in the preparation of the neighbourhood plan and the accompanying Neighbourhood Development Order. I appreciate that a lot of hard work has gone into its production over several years. The Town Council can be proud of the final

document which will be used to guide development over the next decade or so. The NDO will hopefully act as a catalyst for shop keepers and property owners to invest in their premises and especially their shop fronts, which will enhance the shopping and visitor experience of Biddulph Town Centre.

144. To conclude, I can confirm that my overall conclusions are that both the Neighbourhood Plan and the Neighbourhood Development Order, if amended in line with my recommendations, meets all the statutory requirements including the relevant basic conditions tests and that it is appropriate, if successful at referendum, that the Plan and the Order, as amended, be made.
145. I am therefore delighted to recommend to Staffordshire Moorlands District Council that both the Biddulph Neighbourhood Plan and the Neighbourhood Development Order, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI
John Slater Planning Ltd
2nd February 2022