

**Woodford Neighbourhood Plan Examination**

**28<sup>th</sup> February 2019**

**Request for Clarification from the Examiner to Woodford Neighbourhood  
Forum and Stockport Metropolitan Borough Council**

*I have now completed my initial review of the Woodford Neighbourhood Plan and supporting information.*

*Further to this, I would be grateful for the assistance of both the Neighbourhood Forum and the Council in respect of clarifying a number of matters in writing.*

*In responding to the matters where I seek clarification, set out in bold/italics below, please do not direct me to any evidence that is not already publicly available.*

*Please can all responses be provided by no later than 0830 on the 18<sup>th</sup> March. If responses can be provided sooner, this will support the timely conclusion of the Examination.*

*Nigel McGurk*

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Independent Examiner  
Woodford Neighbourhood Plan**

## **1) Neighbourhood Forum and Neighbourhood Area**

Woodford Neighbourhood Forum and Woodford Neighbourhood Area were originally designated on 17<sup>th</sup> October 2013.

The designation of the Neighbourhood Forum was for a period of 5 years, as required by the regulations. The Neighbourhood Forum subsequently applied for re-designation. The Basic Conditions statement does not refer to this re-designation and at the time of writing, the relevant pages of the Stockport MBC website do not confirm the date when the Neighbourhood Forum was re-designated.

***Please can you confirm the following the date that the Neighbourhood Forum was re-designated by Stockport MBC. Please can Stockport MBC also update the website in respect of this.***

## **2) European Obligations (Sweetman Judgement)**

National guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

- *“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations”* (Planning Practice Guidance<sup>1</sup>).

In April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta* (“People over Wind”), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.

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<sup>1</sup> Planning Practice Guidance Reference ID: 11-031-20150209.

In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.

These changes came into force on 28<sup>th</sup> December 2018. This post-dated the submission of the Neighbourhood Plan and the subsequent consultation period. However, as the regulations are now in force, it is important to ensure that, where necessary, an Appropriate Assessment has been undertaken.

I note that Stockport MBC has not raised any concerns in the above regard and the submitted HRA Screening Report, supported by Stockport MBC, concluded that *“the Woodford Neighbourhood Plan will have no significant impacts on any European designated sites.”*

***Given this and the above post-submission changes into account, please can Stockport MBC confirm whether or not it is satisfied that the Neighbourhood Plan is compatible with European obligations.***

### **3) Emerging Policy and Housing Land Supply**

National guidance<sup>2</sup> states that Qualifying Bodies and Local Planning Authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging Local Plan and the adopted development plan with appropriate regard to national policy and guidance. The Consultation Statement submitted alongside the Neighbourhood Plan refers to the *“good working relationship”* between the Neighbourhood Forum and Stockport MBC.

Representations to the Neighbourhood Plan have asserted that the Neighbourhood Plan is premature in the light of emerging policy. Stockport MBC has not expressed any concerns in respect of the relationship between policies in the Neighbourhood Plan and other emerging policies – whether in the GMSF or the Local Plan. I note that the Local Plan is at a very early stage and the GMSF is at an early stage.

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<sup>2</sup> Planning Policy Guidance Paragraph: 009 Reference ID: 41-009-20160211.

***Please can Stockport MBC confirm whether or not it agrees that the approach to housing land supply set out in the Neighbourhood Plan will generally conform to the strategic housing needs requirement for the District based on the latest available information.***

**4) Comments on Regulation 16 Representations  
*Optional Response from Neighbourhood Forum***

Neighbourhood Planning Independent Referral Service (NPIERS) Guidance<sup>3</sup>  
Paragraph 1.11.4 states that:

*“The qualifying body will normally be given the opportunity to comment on the representations made by other parties...This may be particularly important where the matters concerned have not been raised at Regulation 14 stage. The opportunity for the qualifying body to comment on representations could be incorporated within an independent examiner’s clarification note...”*

Whilst not expected or required, I would like to provide the Neighbourhood Forum with the opportunity to comment on any of the representations made during Regulation 16 consultation.

***Please can the Neighbourhood Forum confirm whether or not it would like to comment on the representations made by other parties during the Regulation 16 stage ? (Comments to be received no later than 18/03/19, as above.***

**5) “Omitted information”**

A Regulation 16 representation (Savills on behalf of Richborough Estates) refers to “*key elements that have been omitted*” in respect of pre-submission consultation.

***Please can the Neighbourhood Forum provide me with its response to this element of the representation.***

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<sup>3</sup> NPIERS “Guidance to Service Users and Examiners”

## 6) Wording of Policies

The following phrases occur in the Policies in the Neighbourhood Plan: “*will be permitted...shall be permitted...shall be refused...would only be permitted...development to be permitted...shall be granted...*”

The Neighbourhood Forum is not the Local Planning Authority and has no statutory powers in respect of the determination of applications for development. The Neighbourhood Plan cannot grant or refuse planning permission.

***Having regard to this, please can the Neighbourhood Forum confirm whether or not it is the intent of the wording of Policies to the effect that development “will be permitted” is to effectively provide a supportive land use planning policy framework. Conversely, please can the Neighbourhood Forum confirm whether or not it is the intent of the wording of Policies to the effect that development “will not be permitted” is to effectively provide a preventative land use planning policy background.***

## 7) Policy ENV 2

Policy ENV 2 seeks to protect countryside and green spaces. I have not seen any evidence to suggest that the Neighbourhood Forum has sought to designate “*Local Green Space*” as defined in Paragraphs 76-78 of the National Planning Policy Framework (2012). My conclusion is that “*countryside and green space*” is not the same thing, and is not intended to be the same thing, as “*Local Green Space*.”

***Please can the Neighbourhood Forum confirm whether or not my conclusion is correct.***

**8) “Infilling”**

Policies DEV 1 and DEV 2 refer to infilling. However, Policy DEV 1 refers to infilling being limited to 1 dwelling, whilst Policy DEV 2 refers to infilling being for one or two dwellings.

***Please can the Neighbourhood Forum clarify whether infilling in the Neighbourhood Area should provide for one or two dwellings and also point me to relevant evidence in support of this.***

**9) “Woodford Connection”**

***Please can the Neighbourhood Forum point me to specific evidence that justifies the approach set out in Policy DEV 3 in respect of the “Woodford Connection.”***

**10) Policy DEV 4**

***Please can the Neighbourhood Forum clarify whether or not Policy DEV 4 is intended to apply to any agricultural building anywhere in the Neighbourhood Area ?***

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