

## **Tisbury and West Tisbury Neighbourhood Plan 2017 - 2036**

**August 2018**

**Health Check Undertaken by: Cat Loveday BSc (Hons) MSc MRTPI<sup>1</sup>**

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## Summary of Recommendations

- The Tisbury and West Tisbury Neighbourhood Plan (TisPlan/the Plan) is in the main commendably well written, clear and concise, with sufficient local information to allow the reader to gain an understanding of the specific circumstances of the neighbourhood area, and provide a rational and reasonable analysis of the relevant issues facing the village today.
- The Plan is a lengthy document and has some more complex elements, including the site allocations which, from my reading, are fully justified. The identification of other potential brownfield sites for future redevelopment is adequately explained and appears to be rational and realistic.
- There are a few smaller clarifications needed throughout and these have been highlighted in the detailed notes below. These minor errors and inconsistencies should be addressed to avoid uncertainty.
- The Basic Conditions Statement (BCS) must reference the strategic policies of the Wiltshire Core Strategy and any other relevant local development plan documents and demonstrate the TisPlan policies are in general conformity with the key principles outlined.
- The Consultation Statement (CS) must pull together the TisPlan timetable and key consultation work on the website to contribute to the evidence base for the TisPlan and demonstrate that it has been carried out in a way that is proportionate to the scale and complexity of the Plan, which is clear from the documents that have been reviewed. We recommend that the TisPlan timeline is provided upfront in the CS document which includes reference to the legislation, designation and consultation dates.
- The outcome of screening opinions for Habitats Regulation Assessment (HRA) and Strategic Environmental Assessment (SEA) must be clearly provided in the appendices to the main Plan and the suggested amendments incorporated. Compliance with a recent case law precedent should also be confirmed (see 1.9 below).

**Important note:** This health check has assessed the Plan against the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), published in 2012. A revised NPPF was published on 24 July 2018<sup>2</sup>. The transitional arrangements for local plans and neighbourhood plans are set out in paragraph 214, which provides ‘The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019’. A footnote clarifies that for neighbourhood plans, ‘submission’ in this context means where a Qualifying Body (QB) submits a plan to the local planning authority under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended). We have, therefore, used the policies in the previous NPPF for the purposes of this health check, on the assumption that the Plan will be submitted before 24 January 2019. All

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<sup>2</sup> View at: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

references in this report are to the March 2012 NPPF and its PPG. In the unlikely event, the Plan is not submitted before the transitional cut-off date, it will need to be reappraised against the stated policy in the revised NPPF (July 2018) and PPG.

Cat Loveday  
08 August 2018

## Part 1 – Process

	Criteria	Source	Response/Comments
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	Wiltshire Council (WC) Website	Yes. The Neighbourhood Area was designated on 27 <sup>th</sup> July 2015. The Neighbourhood Plan Area covers the whole of the West Tisbury and Tisbury Parishes. The Plan relates to one Neighbourhood Area. The BCS includes confirmation that the Plan has been prepared and submitted by a qualifying body and designated by WC.
1.2	If the area does not have a parish council, have the necessary statutory requirements been met in terms of the designation of the neighbourhood forum?	N/A	Not applicable. West Tisbury and Tisbury both have Parish Councils.
1.3	Has the plan been the subject of appropriate pre-submission consultation and publicity, as set out in the legislation, or is this underway?	TisPlan	<p>The TisPlan provides no indication that consultation has not been carried out in line with the 2012 Regulations and has been appropriate in line with the scale, coverage and complexity of the Plan area. Extensive detail has been provided which demonstrates that the community has been engaged in a proportionate manner, having regard to the advice in the PPG on plan preparation and engagement.</p> <p>The CS should be separate to the main Plan and all the supporting documents on the TisPlan website that detail the consultation process, literature disseminated and consultation summaries included as appendices. The importance of the CS should not be underestimated in providing a key window into the legitimacy of the process and Plan itself for the examiner. It is a requirement that this is submitted to accompany the Plan. Also, we recommend that the clear timeline produced (which is commended) is provided upfront in the document which includes reference to the legislation, designation and consultation dates.</p>
1.4	Has there been a programme of	TisPlan	Yes, it appears that a proportionate programme of consultation has

	community engagement proportionate to the scale and complexity of the plan?		been completed. The detail of this must be pulled together in the consultation statement, as discussed under point 1.3 above.
1.5	Are arrangements in place for an independent examiner to be appointed?	No evidence	<p>There is no information provided on this. We would advise that the QB begin the process of identifying a suitable independent examiner with WC as soon as possible.</p> <p>Whilst the general approach is to assess the resumes/CVs provided by prospective examiners, the QB might also find it helpful in coming to a decision by reading examples of examiners' reports on other neighbourhood plans.</p>
1.6	Are discussions taking place with the electoral services team on holding the referendum?	No evidence	There is no information provided on this. The QB should engage with WC to ascertain this information.
1.7	Is there a clear project plan for bringing the plan into force and does it take account of local authority committee cycles?	No evidence	There is no information provided on this. The QB should engage with WC to ascertain this information.
1.8	Has an SEA screening been carried out by the LPA?	SEA Report	Yes. A SEA screening has been carried out and a scoping report completed, the process of which is in line with the regulations. From the submitted information, it is understood that the next steps of the SEA process, including the consideration of alternatives and production of a final report, are yet to be undertaken.
1.9	Has an HRA screening been carried out by the LPA?	Letter from WC	A HRA screening has been undertaken by WC. The Plan raises a number of issues relating to the River Avon and Chilmark Quarries Special Areas of Conservation (SACs), however the screening offers recommendations as to how to deal with the potential triggers for an HRA. It is unclear that all of these have been incorporated into the Plan. We advise that the TisPlan follow the WC advice in

			<p>relation to the SACs.</p> <p>Furthermore, a recent judgement<sup>3</sup> of the Court of Justice of the European Union confirms that competent authorities cannot take account of any integrated or additional avoidance or reduction measures when considering, at the HRA screening stage, whether the Plan is likely to have a significant effect on a European site. The QB should discuss the matter with WC to confirm that no account was taken of any integrated or additional avoidance measures at the scoping stage and that in its view the HRA is legally compliant.</p>
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<sup>3</sup> People over Wind & Sweetman v Coillte Teoranta Case C-323/17. View at: <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30ddf571da66f02d449d9f60cc9f39bf8846.e34KaxiLc3qMb40Rch0SaxyNch10?text=&docid=200970&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=628325>

## Part 2 – Content

	Criteria	Source	Response/Comments
2.1	Are policies appropriately justified with a clear rationale?	TisPlan	<p>In most cases. Policies have a rationale and accompanying justification. Clearer cross referencing to the evidence base and pertinent policies from the NPPF and Wiltshire’s Development Plan within the reasoned justification would add to the legitimacy of the policies. Including more detailed reference to Wiltshire’s Development Plan in the BCS will aid clarity in terms of how the Plan policies relate to the local development plan priorities.</p> <p>The rationale for the site assessment and allocations are clear and justified. Policy BL.8 Site Allocation: Former Sports Centre adjacent to St John’s School, requires further review to ensure the policy is focussed on the delivery of high quality development, achievable through the tools available to planning and local decision makers in real terms.</p>
2.2	Is it clear which parts of the draft plan form the ‘neighbourhood plan proposal’ (i.e. the <i>neighbourhood development plan</i> ) under the Localism Act, subject to the independent examination, and which parts do not form part of the ‘plan proposal’, and would not be tested by the independent examination?	TisPlan	Yes. The Plan is well structured, and the policies are clearly distinct from the vision, aims and objectives.
2.3	Are there any obvious conflicts with the NPPF?	TisPlan	The BCS outlines compliance of the Plan policies with the NPPF in clear terms. From my independent assessment, setting aside the benefit of the commentary in the BCS, it appears that the Plan as

			drafted is in general conformity with the NPPF. From my reading of the Plan there are no areas of major dispute and any potential conflicts have been raised in the detailed notes.
2.4	Is there a clear explanation of the ways the plan contributes to the achievement of sustainable development?	TisPlan	Yes. The Plan states the contribution it makes to sustainable development and the consideration of the environmental, social and economic factors is evident throughout. The Plan references the economic, social and environmental objectives upfront in the Plan and visions for each set of policies, and discusses the necessary regard for the NPPF in the BCS.
2.5	Are there any issues around compatibility with human rights or EU obligations?	TisPlan	The TisPlan draft does not raise any discernible issues with regard to human rights or EU obligations, over and above those discussed in relation to SEA and HRA at 1.8 and 1.9 above.
2.6	Does the plan avoid dealing with excluded development including nationally significant infrastructure, waste and minerals?	BCS and TisPlan	The Plan does not deal with excluded development, as stated in the Basic Conditions Statement.
2.7	Is there consensus between the local planning authority and the qualifying body over whether the plan meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement?	TisPlan	<p>The TisPlan policies are mainly in general conformity with the existing (and emerging) policies. Overall, the Plan looks to take a locally distinctive approach and adds detail to the strategic policies outlined in the development plan for the area.</p> <p>WC have raised a number of suggestions for the amendments of policies and additions in light of the HRA screening. The amendments are not clear in the draft and the detailed comments below are made with those in mind. The HRA changes put forward by WC should be incorporated as suggested, if these are still applicable to the current policies in the Plan. The changes to the affordable housing Policy BL2 should also be incorporated and/or the policy reviewed in light of the comments from WC, as raised in the detailed comments below.</p>



2.8	Are there any obvious errors in the plan?	TisPlan	There are some minor errors in the Plan, see detailed comments below.
2.9	Are the plan's policies clear and unambiguous and do they reflect the community's aspirations?	TisPlan	<p>The policies are mainly clear and relate to the development and use of land. Suggestions have been made for the re-wording of policies in some cases, to ensure that the policies are not too prescriptive and are development management focussed. All policies need to be framed by an understanding of the delivery mechanisms that planning can use.</p> <p>Overall, community aspirations are at the heart of the Plan and the policies are reflective of the outcomes of the consultation process.</p>

### **Part 3 – Detailed Feedback**

Prior to submission to WC, we suggest the Plan should be proof read by an independent person to check for typographical errors.

#### **Foreword**

Paragraph 6

Amend to 5 years of consultation (2013-2018).

Page v final paragraph

Delete 'Wiltshire Council will be obliged to ensure that' replace with 'the', as it will simply form part of the development plan for the area.

Page vii

Paragraph 2 - It would be useful to have a hard copy for reference at the Parish Council Offices, Local Council and/or library.

Paragraph 3 - Suggest delete 'over a period of time, it is anticipated that issues will gradually be addressed' and insert 'the Parish Councils will seek to prioritise these actions'.

#### **Page 1**

This provides a good introduction to the area, is clear, concise and well written in the main.

Final paragraph

Delete ', which so easily can be adversely affected by insensitive development'. The rest of the paragraph is factual, but this is opinion.

Paragraph 8

Suggest revising 'However, enthusiasm for sustainable transport, which aims to encourage people to walk or cycle and leave their cars at home, has to be met with a healthy dose of pragmatism.' This appears negative. We suggest replacing with appropriate commentary on the current usage of sustainable transport modes and the aims for the Plan.

### **Page 3**

#### Paragraph 5

Change first sentence to 'Neighbourhood plans set out local policies and strategies, including those derived from higher level plans, helping to ensure...'.  
Revise 'Wiltshire Council must consider local knowledge and preferences if TisPlan is adopted. Without a neighbourhood plan, the local authority will be less obliged to consider these and the community would have very little say over the decision-making process.' This appears negative.

### **Page 4**

Delete 'Any proposed development on greenfield sites will be strongly resisted.' The policies should deal with this and is this a realistic stance? Replace with, 'The redevelopment of available and suitable brownfield sites will be prioritised over the development of greenfield sites', which is taken from the vision for Housing and Buildings. A further addition might be phrased, 'Any proposed major built development on greenfield sites will be strongly resisted'.

### **Page 5**

The Historic and Natural Assets (HNA) Vision - consider wording of 'Areas at risk from flooding will be excluded from development.' This is not in line with NPPF/PPG as there is a sequential test for areas of flood risk. Consider adding 'high' before risk.

### **Page 6**

#### Housing and Buildings (BL) Vision

'The population of Tisbury will increase moderately'. This is not within the sole control of planning. Replace with 'The settlement of Tisbury will increase moderately in size'.

#### Transport (TR) Section summary

Delete 'it is hardly surprising that', as this is the wrong tone for a statutory document.

Spelling error 'sustainable transport'.

Delete 'may be' and insert 'are', to ensure consistency with the vision.

### **Page 7**

#### Leisure, Community and Well-being (LCW) section summary

Spelling error 'community'.

**Page 9**

Bullet point 2 - Delete 'for cautious' and change 'of' to 'for'. After brownfield sites, add in 'that are policy compliant'. The support for the regeneration of Brownfield sites needs to be clearly stated.

**Page 13**

The map/illustration needs a proper key and title to explain.

**Page 17**

Delete 'conditioned in planning approvals' and replace with 'required as part of significant planning permissions' for clarity and accuracy.

**Page 18**

Are there any proposals for a local list to include the historic assets referenced?

**Page 20 – Policy HNA.1**

Replace '..such loss will need to be appropriate mitigation or compensation' with 'such loss will need appropriate mitigation or compensation'.

Also replace 'Developers will be expected to retain natural and historic boundaries' with 'Developers will be expected to retain natural and historic boundaries, wherever possible,...'.

**Page 21 Policy HNA. 2**

Replace 'A proposal for development within or adjoining any of the Conservation Area should conserve its character and appearance' with 'A proposal for development within or adjoining any of the Conservation Area should preserve and enhance its character and appearance', to better reflect the wording of PPG Reference ID: 18a-024-20140306.

Also replace 'A proposal will not be supported unless it has no adverse impacts on..' with 'A proposal will not be supported unless it has no significant adverse impacts on..'.

Sentence 3

Spelling 'will not'.

**Page 24 Policy HNA.3**

Sentence 2

Add 'normally' after 'flood risk will not'. It is not reasonable or realistic, or in line with national policy, to preclude all such development. This amendment will make the policy implementable.

**Page 29 Policy BL.1**

Sentence 3 Delete 'exact'. This is too specific/precise to be practical in implementation terms.

Sentence 4 Delete and reword. Decisions cannot be based solely on whether or not there is support from the local community. This last part of the policy will have to be re-written in order to have due regard to the NPPF.

**Page 30**

BL2 Affordable housing criteria

The allocation of social housing is a function of a housing authority under Part 6 of the Housing Act 1996, rather than a land-use planning matter. It should be confirmed that WC is willing to introduce this in practice and ascertain exactly what criteria will be used.

Paragraph 2 Delete 'In practice, however, the County-wide policy seems more of an aspiration than a modus operandi.' This is critical and without presenting a viable solution it lends the wrong tone to this section of the Plan.

**Policy BL.2**

See comment on the affordable housing criteria above. This can't be secured via a planning condition, only by legal agreement, and with the agreement of the developer. It is difficult to see how this could be implemented.

Footnote – Section 106 Agreement

Delete 'to' and add 'which, amongst other things may'. This needs re-wording for accuracy and clarity.

**Page 32 - Policy BL.3**

Sentence 3 – Delete, 'will be strongly resisted and', replacing with 'will not be permitted' to achieve clarity of purpose.

Final sentence. Re-word for clarity and consistency with the NPPF and development plan policies for the area to 'Where proposed development is in existing residential areas, the amenity and living conditions of other residents must not be adversely affected'.

**Page 33 Paragraph 3** - Sentence one, 'highlights' is misspelt.

**Page 35** - Delete Paragraph 4

The Plan cannot change the General Permitted Development Order, which outlines what is exempt from a requirement for planning permission. In order to amend permitted development rights, WC would need to make an Article 4 Direction. As such, this paragraph should be omitted, since it is factually incorrect.

**Page 36 Policy BL.4**

Sentence 2 - Delete 'Applicants' and replace with 'Proposals' as this is in line with policy wording of the local development plan for the area and the NPPF.

Sentence 3 - Delete 'Proposals for' and start sentence with 'All' in order to achieve clearer policy wording.

**Page 36 Policy BL.5**

First sentence - Suggest delete 'encouraged' and replace with 'supported'.

**Page 37 Policy BL.6** – Keep as written.

**Page 39**

Paragraph 4 - Sentence 2 change 'approves' to 'approved'.

**Page 40**

Paragraph 2 - Delete 'square'.

**Page 43 Policy BL.7**

It would be useful to provide an indication of the approximate number of dwellings to be delivered on the site to support the contention that the site will meet the housing need for the Neighbourhood Plan period. See also comments on Policy TR.2 below.

Criterion 1 - Delete ' A decontamination strategy is a pre-requisite'. Replace with ', submission of a decontamination strategy is required with any planning application for the redevelopment of the site'.

Criterion 10 - Delete this point. Re-word 'The development should aim to reduce carbon emissions and have zero-impact in the use of natural resources such as energy and water.'

#### **Page 45**

Paragraph 1 - Sentence 2 might be better combined with sentence 3, 'behaviour, consideration ...'

Paragraph 2 - Add a gap in between 'Primary School'.

Paragraph 3 - Sentence 2 Delete 'may be' and insert 'is'.

#### **Policy BL.8**

Points 1, 3 and 4 need reviewing. It is unclear how this policy would be implemented, and it is unclear what the requirements would actually mean in terms of the determination of a planning application. It is reasonable to set criteria for an allocated site and require consultation with the school, but this policy needs to be worded more carefully to ensure the required elements are delivered.

#### **Page 47**

BL5 Point 3 – Delete. This is unclear: it could be included as a project, but should be separated from policy objectives.

BL8 Point 1 – This needs to be refined in terms of how this assistance would be provided.

General Point 2 – This seems unnecessary, as Parish Councils will have the Plan policies to work with.

#### **Page 51**

Paragraph 2 Sentence 1 - Delete 'Train journeys to London'.

#### **Page 52 Policy TR.1**

The QB should discuss with WC the suitability of a policy that exceeds the minimum standards defined in WC's car parking strategy.

Paragraph 6 - Delete 'allocations' and replace with 'funds'.

**Page 53 Policy TR.2**

We consider this to be a somewhat aspirational policy. Has the QB any firm commitment from Southern Rail for dual tracking the line and re-opening the southern platform? Additionally, has the effect of the full scale of the policy requirements been assessed in terms of effect on the viability of the development of the Station Works site?

In the 4<sup>th</sup> bullet point, the reference should be to Policy TR.3.

**Page 54 Policy TR.3** – Keep as written.

**Page 56 Policy TR.4**

Paragraph 2 - Change to 'in the rural area'.

**Page 60 Policy TR.5** – Keep as written.

**Page 66**

Paragraph 3 – Replace 'The AONB..' with 'The Cranborne Chase and West Wiltshire Downs AONB Partnership..', for clarity.

**Page 67 Policy EB.1** – Keep as written.

**Page 69**

Paragraph 1 - Delete 'may need to' and insert 'should' for positive emphasis.

Paragraph 5 - Delete 'demand' and insert 'require'.

**Page 70 Policy EB.2**

Criterion 1 - Delete 'This will have the effect that any change of use of these sites would require planning permission and', and add 'This'. The policy requirement will be considered in granting permission, but the sentence does not follow.



### **Page 73 Policy LCW.1**

Replace the policy as follows to better accord with the NPPF, 'The outdoor recreational and amenity areas listed above, and identified on the Local Green Spaces (LGSs) allocations map [p.xx/table x], will be designated as LGSs due to their particular local significance for the community and their recreational, historic and/or environmental value. Local policy for managing development within a LGS should be consistent with policy for Green Belt.

Also complete the information needed for the LGS box on page 73.

Finally, it would assist an examiner in coming to a decision that the space is demonstrably special to the local community, if there was evidence provided from early engagement (for example, survey results) that shows the local community's support for the proposed designations.

### **Page 74**

Paragraph 5 - Delete 'Their participation in plays, musicals and pantomimes instils self-confidence, develops communication skills, social awareness and self-discipline, all of which are essential to a successful and caring society'. This is not relevant to the Plan's policies.

### **Page 75 Policy LCW.2**

Final sentence, after option add 'or that alternative improved facilities are provided locally'. This should be added to ensure the policy is realistic and achievable.

**Page 76 Policy LCW.3** – Keep as written.

### **Page 78 Policy CIL.1**

Criterion 1 - Add capital T on this.

Criterion 4 - Change 'enhancement to' to 'enhancement of'.

### **Appendix 1**

The evidence base referenced seems suitably clear and comprehensive.

### **Basic Conditions Statement**

The BCS reads well with the vision set out being appropriate for the village and its relevant current local circumstances, without being unrealistic or overambitious. The objectives in relation to the Area of Outstanding Natural Beauty (conserve and enhance) and for new housing (limited sustainable growth) both seem reasonable and to accord with the NPPF. The Plan is in general conformity with the adopted Wiltshire Core Strategy (January 2015) in

maintaining the role of Tisbury as a Local Service Centre and is seeking a broader mix of housing, with net gains in biodiversity and little change in the rural areas. It would be useful to include a list of the key strategic policies of the Wiltshire Core Strategy in table form and show where the policies in the Plan cover the same topics and provide a neighbourhood interpretation, with appropriate commentary on any possible areas of non-conformity.

### **Other Supporting Documents**

The supporting documents, including the SEA and Site Appraisal work (both done by external consultants) are competent and comprehensive on initial assessment. Both provide suitable and satisfactory evidential justification for the Neighbourhood Plan, including for the allocation of the 2 development sites. The site appraisal work appears detailed and, taken as a whole, appears satisfactory.