

East Challow Neighbourhood Development Plan Examiner's Clarification Note

This Note sets out my initial comments on the submitted Plan. It also sets out areas where it would be helpful to have some further clarification. For the avoidance of any doubt, matters of clarification are entirely normal at this early stage of the examination process.

Initial Comments

The Plan provides a clear and concise vision for the neighbourhood area.

The presentation of the Plan is very good. The difference between the policies and the supporting text is very clear. The Plan makes good use of various high-quality maps and photographs.

The twelve appendices are both helpful and comprehensive. It is clear how they have informed the policies. This provides assurance that the Plan has been properly prepared.

The Key Issues (in Section 5) relate well to the parish.

Points for Clarification

I have read the submitted documents and the representations made to the Plan. I have also visited the neighbourhood area. I am now able to raise issues for clarification with the Parish Council.

The comments made on the points in this Note will be used to assist in the preparation of the examination report and in recommending any modifications that may be necessary to the Plan to ensure that it meets the basic conditions.

I set out specific policy clarification points below in the order in which they appear in the submitted Plan:

Policy L1

This policy sets the scene well for the Plan. It properly captures the location and the setting of East Challow.

Policy L2

In the first part of the policy the relationship with the Landscape Character Appraisal and the Parish Character Appraisal is clear. However, in what circumstances would the Parish Council anticipate that the 'or where appropriate enhance' element would apply?

East Challow Parish Council Response:

It is anticipated that this would apply where the Landscape Character Assessment or the Parish Character Appraisal (or both) recommend enhancements or identify areas of degraded landscape character.

This echoes the requirement in Local Plan part 1 Core Policy 44 when it states:

“The key features that contribute to the nature and quality of the Vale of White Horse District’s landscape will be protected from harmful development and where possible enhanced.....

.....Where development is acceptable in principle, measures will be sought to integrate it into the landscape character and/or the townscape of the area. Proposals will need to demonstrate how they have responded to the above aspects of landscape character and will be expected to.....

.....viii. preserve and promote local distinctiveness and diversity and, where practical, enhance damaged landscape areas.”

To what extent would the policy have regard to Section 15 of the NPPF which makes a clear distinction between the countryside (more generally) and valued landscapes (in this case the Area of Outstanding Natural Beauty)?

East Challow Parish Council Response:

In practice the AONB need not be the only ‘valued’ landscape in the Plan area. Lack of designation needn’t necessarily mean that a landscape isn’t valued, indeed the LCA that supports the neighbourhood plan notes that the landscape is locally valued in views over undesignated landscape areas at pages 104, 105 and 106 of that study.

Notwithstanding this, whilst paragraph 174 of the NPPF separates the duties in relation to valued landscapes (criterion (a) – protect and enhance) and the general countryside (criterion (b) – recognise intrinsic value) respectively, Local Plan Core Policy 44 requires that the key features that contribute to the nature and quality of the Vale of White Horse District’s landscape should be protected and where possible enhanced (this part of the policy deals with the general countryside areas) and then separately deals with the AONB in the last paragraph of the policy. The ‘protect and enhance’ duty therefore applies to both AONB and general countryside in core policy 44.

The last section of policy L2 (points 1-12 and the accompanying introductory paragraph) provide guidance for both general countryside and the AONB (meeting the NPPF para 174(b) requirement), whereas the second paragraph of policy L2 deals specifically with the AONB (meeting the NPPF para 174(a) requirement).

Policy L2 therefore pays regard to the requirements of both the NPPF (where the basic condition requires that it is appropriate to make the neighbourhood plan having regard to national policy and advice) and the Development Plan (where the basic condition requires general conformity with the strategic policies).

Policy L3

The ‘enhance’ element of this policy raises similar issues to those raised in relation to Policy L2. The Parish Council’s comments would be appreciated on this matter.

East Challow Parish Council Response:

Again, this reflects the requirements of Core Policy 44 (specifically the sections quoted in response to the previous question) where the duty to enhance is mentioned

twice in relation to 'general countryside' (and also in relation to the AONB in the last paragraph of CP44).

How would the Parish Council anticipate that the District Council would implement the final sentence of the first part of the policy with clarity and consistency throughout the Plan period?

East Challow Parish Council Response:

The establishment of a visual baseline (through the preparation of a LVIA or similar) will help the planning authority to implement the first part of the policy consistently. Following the guidelines in the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment Third Edition, the significance of visual effects arising from development can be properly assessed and measured. The magnitude and scale of effects can then be recorded and development proposals that give rise to a significant adverse impact on any of the important views can be identified and the requirements of policy L3 applied appropriately.

In any event would the policy be clearer if the order of its two parts was reversed?

East Challow Parish Council Response:

It may be clearer if reversed. The Parish Council is happy if the Examiner wishes to re-order the two parts of the policy.

Policy L4

This is a good policy which is underpinned by the details in Appendix 9.

Policy HO1

The policy comments about a 'preference' for housing proposals which meet the needs of the local community. Does this mean that more general proposals would not be supported?

East Challow Parish Council Response:

NPPF paragraphs 62-67 identify the importance of assessing the different categories of need in plan areas. Local Plan Core Policy 22 requires that housing mix meets the SHMA mix unless alternative evidence can be supplied to support deviating from that requirement.

Policy HO1 continues this requirement but applies an approach based on locally evidenced need. Therefore, whilst it is open for applicants to apply for permission for more general proposals, they may not be supported unless they can be justified.

Does the second part of the policy identify the range of elements which housing proposals should include in order to secure support?

East Challow Parish Council Response:

The second part of the policy includes a list of some of the elements that could be included, but the policy does not contain a 'closed list', it purposely contains the word "include" in the first sentence of the second paragraph, acknowledging that other types of accommodation may be identified as being needed locally whilst not explicitly appearing in the policy wording.

Policy D1

This policy is a good local response to Section 12 of the NPPF. It is underpinned by the excellent Parish Character Appraisal (including the design guide).

Plainly minor and domestic proposals should embrace the principles of good design. Nevertheless, some or most of the criteria in the policy would not necessarily relate to such proposals.

As such I am minded to recommend that the policy is modified so that it can be applied on a proportionate basis. Does the Parish Council have any comments on this proposition?

East Challow Parish Council Response:

Over 50% of the criteria (criteria 1, 2, 4, 5 and 7) are directly relevant to small scale / domestic development, whilst most of the other criteria apply more broadly to such proposals (eg the landscape and setting criteria 3, 8 and 9). Criterion 6 applies primarily to new plots.

The Parish Council is keen to retain the robustness of this policy and would be happy to see proportionality applied where necessary provided it doesn't inadvertently lead to a watering down of the policy down, especially in relation to smaller scale / domestic development. The Parish Council is happy to comment on any specific text that the Examiner may have in mind.

Policy HE1

Whilst the supporting text clarifies the range of non-designated assets the policy does not directly relate to this evidence. As such, I am minded to recommend that the second part of the policy is modified to make this connection.

Does the Parish Council have any comments on this proposition?

East Challow Parish Council Response:

If the Examiner is suggesting that a cross-reference be added to the policy, so that it directly refers to the information in Appendix 11, then the Parish Council is supportive of this suggestion. However, the list at Appendix 11 is not a finite list and therefore it is recommended that any amendment to the policy to identify the non-designated heritage assets covered by the policy makes reference to those assets listed at Appendix 11 and others that may be identified during the Plan period – or a similar from of wording. This would cover the eventuality where (as a result of a planning application / appeal) a property is considered to be a non-designated heritage asset but is not listed at Appendix 11.

Policy E2

In general, the reversion to residential use in the third part of the policy is understood. Nevertheless, is this approach either realistic or practicable?

East Challow Parish Council Response:

In a residential area the financial returns that may be achievable from reuse of a site / building no longer needed for employment purposes will likely be highest for residential, and so it is likely that landowners will pursue residential reuse. Furthermore, while demand for large numbers of new dwellings every year continues, this policy requirement would help in a small way to ensure some housing continues to be delivered in existing residential areas. In carbon neutrality terms, reuse of a building is preferable to redevelopment hence the policy requirement.

In the final part of the policy is the fourth criterion either realistic or enforceable?

East Challow Parish Council Response:

Having regard to the tests for planning conditions, the requirement in the fourth criterion is considered to be both realistic and enforceable (indeed similar information is already required by LPP2 policy 11):

Necessary – in seeking to mitigate the loss of a valuable employment site the requirement is necessary

Relevant to planning and to the development to be permitted – the requirement is directly relevant to both planning and to the specific development. Local Plan Part 2 policy 11 (Community Employment Plans) advises that

“All new development proposals should demonstrate how opportunities for local employment, apprenticeships and training can be created and seek to maximise the opportunities for sourcing local produce, suppliers and services, during both construction and operation.

The Council may require the submission of a site-specific Community Employment Plan (CEP) for the construction and operation of major development sites, using a planning condition or legal agreement.”

As this applies to **all** new development proposals it will also apply to proposals to change the use of employment facilities to non-employment facilities.

Enforceable – a failure to provide the Employment, Skills and Training Plan (ESTP) at the trigger point required is enforceable. Furthermore, ESTPs are required in many development plan documents and they usually include targets and reporting mechanisms / timescales that provide the opportunity for LPAs to monitor the provisions contained therein and their application.

Precise – the requirement is precise and echoes the requirement in LPP2 policy 11.

Reasonable in all other respects – this is reasonable in all other respects and does not place an unnecessary burden on the applicant of LPA.

Policy C1

This is a good policy which acknowledges the importance of community facilities in the parish.

Policy C2

This is also a good policy. In this case, it acknowledges that commercial viability may change in the Plan period and that replacement community facilities may come forward.

Policy CL1

Is the final part of the policy necessary given that it largely repeats elements of Section 14 of the NPPF?

East Challow Parish Council Response:

The Parish Council considers that the last part of policy CL1 is necessary because whilst it does indeed reflect elements of Section 14 of the NPPF it is more locally specific (referring as it does to impacts on the local landscape and environment). The policy could be made more explicitly locally specific, if the Examiner remains concerned, by reference to NP Appendices 1, 2, 10 and 12 which detail the local landscape and environment of the Plan area.

Policy FP1

The ambition of the policy is self-evident. However most minor and domestic proposals will not be directly affected by its contents.

In addition, whilst the policy is more readily applicable to major development proposals the location of such proposals may not always allow for the integration as expected by the policy.

In these circumstances I am minded to recommend that it is modified so that it can be applied in a proportionate way and where it is practicable to do so. Does the Parish Council have any comments on this proposition?

East Challow Parish Council Response:

If the Examiner is minded to modify the wording the Parish Council suggest the following addition may address the concern:

Add the words “*Where feasible and practical to do so*” to the start of the policy.

Policy FP2

I fully understand the intention of the second part of the policy (on the Wantage Western Relief Road). However, the relationship between footpaths and a new road is highways matter rather than a land use matter.

As such I am minded to recommend the deletion of this part of the policy and its relocation into the supporting text. Does the Parish Council have any comments on this proposition?

East Challow Parish Council Response:

The Parish Council is pleased to see that the Examiner understands the intention behind the policy; this was a suggestion put forward by local residents. However, if the policy is to be deleted then the Parish Council does not object but requests that the matter be included in criterion (v) in Section 8 of the Plan (Community Aspirations).

Policies FP3/FP4

Plainly the former Canal is an important element of the parish and its restoration is supported locally.

However, does Policy FP3 (value to the community) add any value to the contents of Policy FP4 (avoiding conflict with the route/infrastructure)? In any event, how does the Parish Council anticipate that the District Council would implement Policy FP3 given its focus on value to the community rather than a direct land use issue?

East Challow Parish Council Response:

The Parish Council does believe that Policy FP3 adds value as a separate policy to policy FP4 because it is about embracing the benefits of the Canal as a recreational / wildlife resource to the local community.

In contrast, policy FP4 is about preventing further erosion of the physical resource, by preserving (where possible) the historic alignment of the Canal so as to avoid prejudicing its reinstatement; and retaining or reusing the remaining infrastructure (eg lock materials; gates; sluices etc) that can be found along the original route of the Canal. The two policies perform very different roles.

It is anticipated the LPA would implement policy FP3 by using it to lever S106 monies / prioritise CIL spending; or using it to require developers to carry out works to restore the sections of the Canal; or using it to support refusal reason(s) where development is likely to adversely impact on the recreational utility and/or wildlife resource that the Canal provides.

Policy P1

Does this policy bring any added value beyond national and local planning policies on car parking?

East Challow Parish Council Response:

The value that this policy adds is that it connects the requirements with the empirical data gathered about parking patterns in the Plan Area by the Steering Group, and the strongly expressed views of the local community who do not wish to see the existing situation made worse by future developments failing to adequately address the provision of parking as part of those developments.

The national and local planning policies approach the issue generically, and this can lead to a watering down of the requirements. In contrast this policy can be applied robustly by the LPA because it is supported by locally relevant evidence.

Policy EV1

This is a well-considered policy

However, is the final sentence necessary? Should it be supporting text? In any event, does it relate only to replacement trees (rather than more generally to additional trees)?

East Challow Parish Council Response:

The final sentence of the policy applies to all additional trees and not only to replacement trees. Air quality is already a significant land use planning consideration and this has recently been emphasised in the December 2022 Chief Medical Officer's Annual report on Air Pollution¹. The report places urban planning at the centre of tackling air pollution. Section 4.3 of the report notes that

"Careful use of green infrastructure, such as trees, hedgerows and green spaces has a role to play in reducing people's exposure to air pollution. Increasing greening can also introduce wider benefits to the visual appearance, natural environment and shading of streets and neighbourhoods. A review by the Air Quality Expert Group (AQEG) concluded that 'overall, vegetation and trees in particular are regarded as beneficial for air quality, but they are not a solution to the air quality problems at a city scale'.

Planting trees can enhance or reduce air pollution dispersion, depending on how the trees affect airflow and turbulence. Vegetation can also act as a barrier to sources of air pollution, reducing pollution concentration on one side, but increasing it on the other side of the barrier. An area of green space, such as a park, can offer people a travel route that is away from the kerbside. Pollution can be removed from the air by deposition in vegetation, although the reduction in air pollution concentrations by urban planting schemes is small. When planning greening, careful consideration of the species and location of plants is needed, as some can release biogenic VOCs. Of note, urban greening may have limited effectiveness seasonally if deciduous species are used." (our emphasis)

Consequently, the Parish Council strongly feels that the last sentence is essential to the operation of this policy, and that is not a matter that should be relegated to supporting text.

Aspirations

The Plan includes a good selection of Aspirations. They are appropriately included in a separate part of the Plan.

Representations

Does the Parish Council wish to comment on any of the representations made to the Plan?
Does it wish to comment specifically the representations made by:

- Oxfordshire County Council (on Local Green Spaces);
- Wiltshire and Berkshire Canal Trust; and
- Blenheim Strategic Partners?

East Challow Parish Council Response:

Please refer to other notes.

The District Council proposes a series of revisions to certain policies and the supporting text in the Plan. Does the Parish Council have any comments on the suggested revisions?

East Challow Parish Council Response:

Please refer to other notes.

Protocol for responses

I would be grateful for responses and the information requested by 7 February 2023. Please let me know if this timetable may be challenging to achieve. It is intended to maintain the momentum of the examination.

If certain responses are available before others, I would be happy to receive the information on a piecemeal basis. Irrespective of how the information is assembled, please could it come to me directly from the District Council. In addition, please can all responses make direct reference to the policy or the matter concerned.

Andrew Ashcroft Independent Examiner

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