

# **HEVERSHAM AND HINCASTER NEIGHBOURHOOD DEVELOPMENT PLAN TO 2025**

**SUBMISSION PLAN 2016**

## **A Report to South Lakeland District Council of the Examination into the Heversham and Hincaster Neighbourhood Development Plan**

by Independent Examiner, Peter Biggers BSc Hons MRTPI

*Argyle Planning Consultancy LTD*  
October 2016

<b>Contents:</b>	<b>Page</b>
<b>Summary and Overall recommendation</b>	<b>3</b>
<b>1. Introduction</b>	<b>5</b>
• 1.1 Background context	5
• 1.2 Appointment of Independent Examiner	5
• 1.3 Role of the Independent Examiner	5
<b>2. The Examination Process</b>	<b>7</b>
<b>3. Public Consultation</b>	<b>8</b>
• 3.1 Background	8
• 3.2 Heversham and Hincaster Neighbourhood Plan Consultation	8
<b>4. Preparation of Plan and Legislative Requirements</b>	<b>10</b>
• 4.1 Qualifying Body	10
• 4.2 Plan Area	10
• 4.3 Plan Period	10
• 4.4 Excluded Development	10
• 4.5 Development and Use of Land	11
• 4.6 Plan Publication Following Submission	11
<b>5. The Basic Conditions</b>	<b>11</b>
• 5.1 National Policy and Advice	11
• 5.2 Sustainable Development	11
• 5.3 Conformity with the Development Plan	12
• 5.4 European Union Obligations	12
<b>6. The Neighbourhood Plan Assessment</b>	<b>15</b>
• 6.0 The General Form of the Plan	15
• 6.1 Introduction	15
• 6.2 An Overview of the Parishes	15
• 6.3 Focusing the Plan	16
• 6.4 Policies	16
• 6.4.1 Planning Policy HH1 – General Conditions	16
• 6.4.2 Planning Policy HH2 – Housing Provision	17
• 6.4.3 Planning Policy HH3 – Housing Delivery	18
• 6.4.4 Planning Policy HH4 – Employment Development	19
• 6.4.5 Planning Policy HH5 – Tourism	20
• 6.4.6 Planning Policy HH6 – Renewable Energy	21
• 6.4.7 Planning Policy HH7 – Parish Consultations	21
<b>7. Referendum</b>	<b>21</b>

## Summary and Overall Recommendation

0.1 Following my examination of the Heversham and Hincaster Neighbourhood Plan (HHNP), including a site visit to the Neighbourhood Area on 28 September 2016, it is my view that the HHNP reflects the views of the community and sets out a clear vision and suite of policies and proposals for the Neighbourhood Area.

0.2 However my report highlights a number of areas where I consider the wording of the plan as submitted is not wholly in accordance with one or more of the Basic Conditions.

0.3 I have therefore recommended a number of modifications to the Plan which should be made before the plan can proceed to Referendum. These are intended to ensure that, first and foremost, the Plan can meet the Basic Conditions.

0.4 In proposing the modifications I have tried to ensure that the integrity and value of the HHNP and its vision is retained and that the intention of neighbourhood planning, where the community's wishes should be central to the plan, is honoured.

0.5 By its nature the examination has to be rigorous. Any criticism is not at all to undermine the significant community effort that has gone into the plan. Rather the purpose of the examination is to ensure that the Neighbourhood Plan is as robust as possible and that it can play its part in planning decisions and managing change in the future in an effective way.

0.6 In addition to the recommended modifications it should also be noted that there may be a number of consequential changes to the text and referencing that will be needed as a result of making the modifications. It will also be necessary to ensure all document referencing is up to date. I have not highlighted all such changes.

0.7 Subject to the recommended modifications in the report being completed I am satisfied that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority.
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
- prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

0.8 The HHNP also complies with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

0.9 With the modifications in place the Heversham and Hincaster Neighbourhood Plan

will meet the Basic Conditions and can proceed to a Referendum.

0.10 When that takes place I also recommend that the Heversham and Hincaster Neighbourhood Area which is synonymous with the Parishes' administrative boundaries is taken as the area for the Referendum.

**Peter Biggers**  
**27 October 2016**  
**Argyle Planning Consultancy Ltd**

## 1. Introduction

### 1.1 Background Context

1.1.1 This Report provides the findings of the Examination into the Heversham and Hincaster Neighbourhood Plan (referred to as the HHNP throughout this report).

1.1.2 The HHNP was produced by the Heversham Parish Council (HPC) in partnership with the Hincaster Parish Meeting and in consultation with interested parties and local stakeholders.

1.1.3 The Heversham and Hincaster Neighbourhood Area equates to the administrative area of the two combined parishes.

1.1.4 Heversham and Hincaster Parishes are located to the south of the Lake District National Park, east of the Kent estuary, to the north of the Arnside and Silverdale Area of Outstanding Natural Beauty (AONB) and west of the Yorkshire Dales National Park. Their setting is essentially rural and the communities reflect this. To the west, where Heversham borders the River Kent and the head of the estuary, there is an area of flat former marshland. To the east there is a more varied and undulating landscape. The parishes of Heversham and Hincaster have a population of around 900 and almost 400 households. The parishes have a typical rural demographic which shows a higher proportion of the population over 65.

1.1.5 This Examiner's Report provides a recommendation as to whether or not the HHNP should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes cast in favour of it, then the HHNP would be '**made**' by South Lakeland District Council. The HHNP would then be used to determine planning applications and guide planning decisions in the Heversham and Hincaster Neighbourhood Area.

### 1.2 Appointment of the Independent Examiner

1.2.1 I was appointed by South Lakeland District Council, with the consent of HPC, to conduct the examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the Local Authority. I do not have any interest in any land that may be affected by the HHNP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I have planning and development experience, gained over 35 years across the public and private planning sectors and am a Member of the Royal Town Planning Institute and a member of the Neighbourhood Planning Independent Examiners Referral Service run by the Royal Institute of Chartered Surveyors.

### 1.3 Role of the Independent Examiner

1.3.1 It is the role of the Independent Examiner to consider whether a neighbourhood plan

meets the “Basic Conditions.” The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (TCPA) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA). They are that\* :

1. Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
2. The making of the neighbourhood plan contributes to the achievement of sustainable development;
3. The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority.
4. The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
5. Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

1.3.2 Pursuant to Basic Condition 5 above, Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) prescribes the following basic condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the TCPA:

The making of the Neighbourhood Plan is not likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) either alone or in combination with other plans or projects.

1.3.3 In examining the Plan, I have also considered whether the legislative requirements are met namely:

- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provisions relating to ‘excluded development’, and must not relate to more than one Neighbourhood Area) and
- The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the PCPA Section 38A.

*\* NB Two other matters relating to the desirability of preserving or enhancing listed buildings and conservation areas are also included in the basic conditions but as these only concern neighbourhood development orders and not neighbourhood plans they are not included in this report.*

1.3.4 I have examined the HHNP against the Basic Conditions and legislative requirements above and, as Independent Examiner, I must make one of the following recommendations:

- a) that the Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Plan, once modified to meet all relevant legal requirements, should proceed to Referendum;
- c) that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

1.3.5 If recommending that the Plan should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Heversham and Hincaster Neighbourhood Area to which the Plan relates. I make my recommendation on the Referendum Area at the end of this Report.

1.3.6 The role of the independent examiner is not expressly to comment on whether the plan is sound or how the plan could be improved but rather to focus on the compliance with the Basic Conditions.

## **2. The Examination Process**

2.1 It is a general rule that neighbourhood plan examinations should be held without a public hearing ie by written representations only. However, according to the legislation, when the Examiner considers it necessary to ensure adequate examination of an issue, or to ensure a person has a fair chance to put a case, a public hearing may be held.

2.2 With regard to the above and on consideration of all the evidence before me, I am satisfied that there is no need for a hearing in respect of the HHNP and I confirm that *all* representations on the Neighbourhood Plan received at the Regulation 16 stage have been taken into account in undertaking this examination.

2.3 I held a briefing meeting on matters of fact only with South Lakeland District Council representatives and undertook an unaccompanied site visit around the Parishes on 28 September 2016. I am grateful to the District Council for facilitating this.

2.4 In undertaking this examination, I have considered each of the following documents in addition to the Submission Version of the Heversham and Hincaster Neighbourhood Plan :

1. National Planning Policy Framework (The Framework) (2012)
2. The National Planning Practice Guidance
3. Town and Country Planning Act 1990 (as amended)
4. The Planning and Compulsory Purchase Act 2004 (as amended)
5. The Localism Act (2011)
6. The Neighbourhood Planning (General) Regulations (2012) (as amended)

7. South Lakeland Local Development Framework Core Strategy
  8. South Lakeland Local Plan Land Allocations DPD
  9. Saved Policies of the South Lakeland Local Plan 2006
  10. Heversham & Hincaster Neighbourhood Plan Basic Conditions Statement May 2016
  11. Heversham & Hincaster Neighbourhood Plan Statement of Consultation May 2016
  12. Heversham & Hincaster Strategic Environmental Assessment and Habitats Regulation Assessment Screening Report October 2015 (updated May 2016)
  13. Heversham & Hincaster Neighbourhood Area Map and Designation Application Statement
  14. Heversham & Hincaster Neighbourhood Plan Evidence Base Documents
- Also:
15. Representations received during the Regulation 16 publicity period post submission ending 21 July 2016

### **3. Public Consultation**

#### 3.1 Background

3.1.1 An accessible and comprehensive approach to public consultation is the best way to ensure that a neighbourhood plan reflects the needs, views and priorities of the local community.

3.1.2 HPC submitted a Consultation Statement, as required by regulation 15 of the Neighbourhood Planning (General) Regulations 2012, to South Lakeland District Council in May 2016. This document sets out who was consulted and how, together with a brief outline of the outcome of the consultation and what action was taken in response to representations received.

3.1.3 Although the idea of preparing a Neighbourhood Plan had been raised with the Heversham and Hincaster communities in 2011, public consultation on the HHNP proper only commenced in earnest with initial consultation in Autumn 2012. This was followed by various consultation stages, including :

- the pre-submission consultation stage as required by Reg 14 and
- the formal, publicity stage, as required by Reg 16, (the six week consultation period post submission of the plan from 9 June 2016 to 21 July 2016)

This last stage resulted in 6 consultation responses. These are considered as necessary within my assessment of the plan in section 6 below.

#### 3.2 Heversham and Hincaster Neighbourhood Plan Consultation

3.2.1 The HHNP Steering Group has carried out consultation with the community and stakeholders throughout the process of plan preparation. The communication methods used involved leaflets, neighbourhood plan newsletters and copies of the draft and submission Plan delivered to every house in the two parishes, press releases, website, and targeted emails and letters to consultees. Documents were also deposited at community buildings locally for public viewing.



3.2.2 The initial consultation stage of the plan sounding out the community on issues started in spring 2012. 96 completed returns out of 416 questionnaires distributed were received. In November 2012 a first progress report newsletter was circulated consulting on draft plan objectives. A second progress report newsletter was circulated in October 2013 consulting on options and ideas. A Housing Survey was carried out in Autumn 2014 with a 56% response rate. Most respondents considered extra housing would be required during the plan period and 38 anticipated specific housing need over the next 5 years.

3.2.3 The Annexes to the Consultation Statement set out the detail of these early consultations and the comments and survey results that were obtained giving a reasonable basis for the preparation of the plan.

3.2.4 The pre-submission consultation as required by Regulation 14 involved a 6 week period from 2 November 2015 to 13 December 2015. The HHNP was made available online with paper copies lodged at community buildings and distributed to all households in the 2 parishes with a response form. Statutory consultees and other key community stakeholders were consulted by email with a link to the plan website. HPC did not carry out specific events at this stage to enable residents to discuss the plan but their view is that there was a good level of awareness in what is anyway a small community. During the period 33 submissions were made in writing. Most responses were broadly supportive of the plan.

3.2.7 The Neighbourhood Planning Regulations are part and parcel of the 1st Basic Condition and regulation 15 (2) sets out clearly what the consultation statement should include. Having reviewed the consultation statement and its annexes I am satisfied that it is compliant with Reg 15 in demonstrating who was consulted, how they were consulted, what the main issues and concerns were and what action has been taken in response to these to arrive at the submission draft plan. I am satisfied that with the communication that took place that enough was done to seek the community's participation.

#### **4. Preparation of the Plan and Legislative Requirements**

In terms of the procedural tests set out in paragraph 1.3.3 of this report my findings are as follows:

##### 4.1 Qualifying body

4.1.1 Although HHNP covers the areas of two parishes the status of Hincaster as a Parish Meeting means that it was necessary for HPC as the elected lower tier council to be the qualifying body to prepare the neighbourhood plan. HPC and Hincaster Parish Meeting have cooperated closely throughout the preparation of the plan and both are in agreement with its content and provisions.

4.1.2 I am satisfied that the requirements set out in the Localism Act (2011) and in

Section 61F(1) and (2) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) have been met.

#### 4.2 Plan area

4.2.1 The Heversham and Hincaster Neighbourhood Area as designated coincides with the boundaries of the two parishes.

4.2.2 An application was made by the HPC on 25 January 2013 to designate the Heversham and Hincaster Neighbourhood Area. This was approved by South Lakeland District Council on 24 July 2013 and the designation advertised on 8 August 2013 following consultation.

4.2.3 This satisfied the requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) (2) and (3) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) and regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012.

#### 4.3 Plan period

4.3.1 A neighbourhood plan must specify the period during which it is to have effect. The HHNP clearly states on its title page and in the introductory sections that it covers the period from approval to 31<sup>st</sup> March 2025 which broadly coincides with the South Lakeland Core Strategy (SLCS). Usual advice is that development plans should have a 15 year time horizon. Although in aligning the plan periods this gives a shorter plan period of 10 years than recommended there is no requirement of neighbourhood plans that they must cover 15 years. The intended time period to 2025 still satisfies the requirements of Section 38B of the PCPA as amended.

#### 4.4 Excluded development

4.4.1 The Plan does not include policies or proposals that relate to any of the categories of excluded development – county matters (mineral extraction and waste development), nationally significant infrastructure or any matters set out in Section 61K of the TCPA 1990. The HHNP relates solely to the neighbourhood area and no other neighbourhood and there are no other neighbourhood development plans in place within the two parishes. This satisfies requirements of Section 38B of the PCPA as amended.

#### 4.5 Development and use of land

4.5.1 The Neighbourhood Plan should only contain policies relating to development and use of land. Subject to the modifications proposed below in section 6, the HHNP policies would be compliant with this requirement of Section 38B of the PCPA as amended and all relate to development and the use of land. Some community objectives are set out at

section 5 of the plan to deal with matters the community has raised which cannot be addressed through the formal neighbourhood plan. This section is not examined in this report.

#### 4.6 Plan Publication Following Submission

4.6.1 South Lakeland District Council undertook a final validation check of the HHNP on submission in May 2016 and was satisfied that the Plan could proceed to be publicised under Regulation 16 and proceed to this independent examination.

### **5. The Basic Conditions**

#### 5.1 National policy and advice

5.1.1 The main document that sets out national policy is the *National Planning Policy Framework* (the NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans and plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan.

5.1.2 The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Development Plan. They cannot promote less development than that set out in the Development Plan or undermine its strategic policies.

5.1.3 The NPPF indicates that plans should provide a framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.

5.1.4 National advice on planning is set out in the *Planning Practice Guidance* (PPG) which includes specific advice regarding neighbourhood plans.

5.1.5 I consider the extent to which the plan meets this Basic Condition No 1 in section 6 below.

#### 5.2 Sustainable development

5.2.1 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole constitutes the Government's view of what sustainable development means in practice for planning. The NPPF explains that there are three dimensions to sustainable development:- economic, social and environmental.

5.2.2 There is no legal requirement for a formal sustainability appraisal to be carried out in respect of neighbourhood plans and one has not been carried out in

this case. Instead a simple assessment of the sustainability of HHNP policies was carried out as part of the Basic Conditions Statement following the recommendation of the Strategic Environmental Assessment Screening Opinion. The findings of this simple assessment were that the policies had no likely negative impacts on economic, social or environmental objectives and no need for mitigating changes.

5.2.3 In general I am satisfied that this assessment process in conjunction with screening opinions for Strategic Environmental Assessment and Habitat Regulations Assessment carried out by South Lakeland District Council (see below) does support a conclusion that overall the HHNP will contribute to the achievement of sustainable development. However, I consider detailed points regarding the plan's ability to meet Basic Condition No 2 in section 6 below.

### 5.3 Conformity with the Development Plan

5.3.1 The adopted development plan in force for South Lakeland is the South Lakeland Local Development Framework Core Strategy (SLCS), South Lakeland Local Plan Land Allocations (SLLA) and Saved Policies of the South Lakeland Local Plan 2006. Inasmuch as it is now the SLCS that sets out the Strategic policies it is the SLCS that must principally be used in assessing the plan against Basic Condition No 3.

5.3.2 South Lakeland District Council has confirmed that it has no concerns over the general conformity of the HHNP with the strategic policies of the SLCS. I consider in further detail in Section 6 below the matter of general conformity with the plan.

### 5.4 European Union (EU) Obligations

5.4.1 A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into UK law, in order to be legally compliant.

#### *Strategic Environment Assessment and Habitat Regulations Assessment*

5.4.2 Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment has a bearing on neighbourhood plans. This Directive is often referred to as the Strategic Environment Assessment (SEA) Directive. Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have a bearing on neighbourhood plans.

5.4.3 Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that an Environmental Assessment is submitted with a Neighbourhood Plan proposal or a determination from the responsible authority (SLDC) that the plan is not likely to have 'significant effects.'

5.4.4 As stated above a screening opinion both in respect of the need for Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA) was prepared by SLDC in consultation with the statutory bodies. These determined that there would be no likely significant effects and therefore no need to carry out either assessment.

5.4.5 The test in the additional Basic Condition is that the making of the neighbourhood development plan is “*not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) either alone or in combination with other plans or projects.*” The Neighbourhood Area is close to a number of European sites (ie less than 5 kilometres from them) but no such sites fall within the Neighbourhood Area. Given the nature and content of the Neighbourhood Plan and the limited scale of development that could take place, the screening opinion determined it unlikely that there would be any direct significant effect. The Habitats Regulations Assessment for the SLCS concluded that the Core Strategy would itself be unlikely to raise any significant effects and it is unlikely that, if this is the case, lower order plans such as the HHNP will have any adverse impact.

## 5.5 Other EU obligations

### European Convention on Human Rights (ECHR)

5.5.1 The Human Rights Act encapsulates the Convention and its articles into UK Law.

5.5.2 In respect of Article 1 of the first protocol - the right of everyone to the peaceful enjoyment of possessions; although the HHNP includes policies that would restrict development rights, this does not have a greater impact than the general restrictions on development rights provided for in national law. The restriction of development rights inherent in the UK's statutory planning system is demonstrably in the public interest by ensuring that land is used in the most sustainable way, avoiding or mitigating adverse impacts on the environment, community and economy.

5.5.3 In respect of Article 6 of the Convention's Rights and Freedoms - the right to a fair and public hearing in determination of an individual's rights and obligations - the process for preparing the HHNP is fully compatible with this Article, allowing for consultation on its proposals at various stages, and incorporating this independent examination process.

5.5.4 In respect of Article 14 of the Conventions Rights and Freedoms - the enjoyment of rights and freedoms without discrimination on any ground, the policies and proposals of the HHNP have been developed in consultation with the community and wider stakeholders to produce as inclusive a document as possible. Although no specific Equalities Impact Assessment has been carried out I am satisfied that, across the plan as a whole, no sectors of the community are likely to be discriminated against and no objections have been raised that would suggest otherwise. The policies together would generally have public benefits and encourage the social sustainability of the neighbourhood.

5.5.5. I am satisfied therefore that the Plan does not breach, and is otherwise compatible with, the ECHR.

5.5.6 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the HHNP is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

## 6. The Neighbourhood Plan – Assessment

The Neighbourhood Plan is considered against the Basic Conditions in this section of my Report following the structure and headings in the Plan. Given my findings in section 5 above that the plan as a whole is compliant with Basic Conditions Nos 4 (EU obligations) and 5 (Other prescribed conditions), this section largely focusses on Basic Conditions No 1 (Having regard to National Policy), No 2 (Contributing to the achievement of Sustainable Development) and No 3 (General Conformity with strategic policies of the Development Plan).

Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.

### 6.0 The General Form of the Plan

6.0.1 The structure of the HHNP is generally logical and clear with sections distinguishing between the policies themselves, and their justification. Each policy is accompanied by some supporting text and I suggest in the topic sections below where a greater degree of justification is required.

6.0.2 My main concern with the structure is in respect of the Community Objectives section at Section 5. Although paragraph 3.13 of the HHNP does state that the Community Objectives are not part of the plan, it is only implied, not explicit, in section 5 that the community objectives which HPC wishes to achieve do not form part of the neighbourhood plan. Thus there is tension with the legal requirement on neighbourhood plans that they deal with development and the use of land only. To resolve this I suggest that paragraph 5.1 concludes by making it clear that these objectives are not formally part of the plan.

**Recommendation 1** - Insert new sentence at the end of paragraph 5.1 as follows: ***“The Community Objectives are aspirations and not formally part of the Neighbourhood Plan”.***

### 6.1 Introduction

6.1.1 The first section of the HHNP is largely factual setting out the contextual information about the neighbourhood planning process in Heversham and Hincaster. This section of the plan meets the basic conditions.

### 6.2 An Overview of the Parishes

6.2.1 The second section of the plan sets out the background to the two Parishes. I have no comments to make on what is supportive, factual material setting out the spatial context and identifying the issues facing the two parishes.

## 6.3 Focusing the Plan

6.3.1 Section 3 sets out the vision of the plan, and the broad options considered to deliver the vision before going on to introduce the policies. This approach contributes to providing a clear thread linking the issues identified, the vision and the policies of the plan.

6.3.2 The vision does draw on the matters of concern within the community and sets out the need to secure sustainable communities for all parish residents without losing the distinctive characters of Heversham and Hincaster and their settings. The plan therefore has regard to the PPG advice in respect of neighbourhood plans that they “*provide the opportunity for communities to set out a positive vision for how they want their community to develop... in ways that meet identified local need and make sense for local people*”.

6.3.3 The vision also encapsulates in a succinct way the vision and strategic objectives set out in section 1 of the SLCS.

6.3.4 Concern was expressed at the Reg 16 stage by one respondent that the preferred option for the plan of not allocating sites was unreasonable. Given that the expectation is that most of the development over and above existing commitments in the next 10 years will be on small infill or redevelopment sites it is not necessarily a straightforward process to predict where these will arise. HPC has therefore instead taken the approach of closely controlling future housing development through policies HH1, HH2 and HH3. This approach is acceptable and not contrary to the basic conditions and I see no reason to recommend any alternative approach.

## 6.4 Policies

6.4.1 Section 4 of the HHNP presents the policies of the plan.

### **Planning Policy HH1 General Conditions**

6.4.2 Policy HH1 is an overarching policy which will apply to all development in the two parishes. Essentially the aim of the policy is to secure development that accords with sustainable development principles. In that respect it has regard to national policy in the NPPF and the 3 poles of sustainability namely the environmental, social and economic objectives.

6.4.3 The content of the policy also conforms to the sustainable development principles in policy CS1.1 of the SLCS and establishes a sustainable basis to development in the parish.

6.4.4 As such Policy HH1 itself meets Basic Conditions Nos 1, 2 and 3 and no alteration to the policy is necessary. However the Planning Practice Guidance (PPG) requires evidence to support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the HHNP. Without this



there is a tension between the plan and Basic Condition No 1. These sections of supporting text do not need to be long but they do need to be present. Whilst it might be evident to planning professionals that the essential purpose of policy HH1 is to secure sustainable development the policy does not actually set out the background to clauses A, B and C. At the very least paragraph 4.2 should be extended to refer to the fact that the policy is intended to deliver sustainable development.

**Recommendation 2 – Add to paragraph 4.2 the following:**

***“and in pursuit of environmental, social and economic dimensions of sustainable development set out in the National Planning Policy Framework.”***

**Planning Policy HH2 Housing Provision**

6.4.5 The supporting text to Policy HH2 sets out the background to housing in the parishes and the pro rata target for Heversham and Hincaster drawn from the requirement set out in the SLCS and SLLA. It goes on to clarify the existing provision and the intention to support development up to 65 units in total over the plan period. As such the aim of the policy is in general conformity with the SLCS and SLLA strategic policies.

6.4.6 However in respect of the policy itself I have a particular concern regarding part A. This seeks to introduce a phased approach to delivery over the course of the plan period. No detailed reasons are given in the supporting text to explain why the phasing is necessary, for example no indication of any harm as a result of development within a short timescale. Whilst the principle of phasing is supported in the SLLA for larger sites for very specific reasons for example infrastructure capacity etc, the sites which will be developed in Heversham and Hincaster are likely to be very small. The only basis on which it might be appropriate to seek to control through phasing is if the development was going to jeopardise sustainable development principles and it is hard to see how such small developments would do this. In any event policies HH1 and HH3 already offer good control over the scale and nature of development. The NPPF carries a presumption in favour of sustainable housing development and a policy that seeks to prevent housing development for no other reason than simply because 15 units has been exceeded in a five year period of the HHNP does not have regard to the presumption in favour in the NPPF.

6.4.7 The Policy introduces uncertainty for applicants around the end of the 5 year periods and it may prevent sustainable development from coming forward. The NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. Against this test clause A of Policy HH2 fails. I recommend that the policy is modified to introduce greater flexibility.

6.4.8 Concern has been expressed at the Reg 16 stage that in the light of the most recent population and household statistics from ONS that the housing supply of 61 houses should be reduced. However taking into account units already completed or under construction since 2003 over half that figure is already committed. The balance remaining is small when

spread over the life of the plan. In any event the NPPF makes it clear that neighbourhood plans should not promote less development than set out in the local plan. I do not therefore recommend that the figure is reduced.

6.4.8 In addition to my recommendation at 6.4.7 above the only change necessary is to amend the supporting text at paragraphs 4.4 and 4.6 to reference correctly the development plan documents being referred to in terms of the housing requirement which at present is misleading.

### **Recommendation 3**

#### **3A Reword Part A of policy HH2 to state :**

**A. 30 new dwellings in the plan area in addition to the commitments at 1st April 2015 will be supported in the period up to 31<sup>st</sup> March 2025. In order to integrate the new development into the communities of Heversham and Hincaster this new housing should, as far as possible, be delivered gradually over the plan period.**

#### **3B Reword development plan references in 4.4 and 4.6 to read “Strategic policies in the South Lakeland District Council development plan”**

6.4.9 With these modifications in place the policy would meet Basic Conditions Nos 1, 2 and 3.

### **Planning Policy HH3 Housing Delivery**

6.4.10 Policy HH3 sets out detailed guidance that housing development should adhere to. In this respect the policy has had regard to sections 6 of the NPPF relating to high quality homes and to section 7 relating to design. The policy also is in general conformity with SLCS policies CS1.2 Development strategy, CS6.2 Dwelling mix and type, CS6.3 Affordable housing and CS8.2 Protecting and enhancing landscape and settlement character.

6.4.11 However the PPG requires that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. Against these tests clauses A, D and F in policy HH3 include imprecise and ambiguous wording.

- In clause A it is unclear what the development is to be proportionate to. The supporting text suggests it should be proportionate to the settlement pattern and form thus justifying the restriction to 6 or fewer dwellings.
- In clause D the inclusion of the words ‘when appropriate’ introduces ambiguity which is entirely unnecessary because national policy and local policy in CS6.3 sets out when it will be appropriate. The inclusion of the words significantly weakens the policy by leaving uncertainty for developers as to whether affordable housing will be required or not.
- Clause F lacks clarity because of the way it is worded. The matter of preventing

creeping development is already addressed in clause B and, in as much as clause F already requires clause B to be met, clause F can be simplified.

Accordingly in order to meet Basic Condition No 1 I recommend that the Policy is modified.

6.4.12 Concern has been expressed at the Reg 16 stage that to minimize potential impact from development the maximum size of site should be reduced from 6 to 4 units. I have considered whether this is necessary but am satisfied that there are sufficient other safeguards in the plan policies to ensure there would be no adverse impact if a site was proposed for 6. In any event sometimes as a result of a larger site development can provide infrastructure or affordable housing units and retain its viability where a smaller site may not. Thus it is not always in the community's interest to always restrict the scale of development.

**Recommendation 4 – Make the following amendments to Policy HH3:**

**Clause A – Line 1- Insert after the word ‘proportionate’:**

*“...to the pattern and form of the settlement...”*

**Clause D – Line 2 – Delete the words “when appropriate”**

**Clause F – Line 2/3 - Delete the words “developed before the lifetime of this plan”**

6.4.13 With these modifications in place the HHNP meets Basic Conditions Nos 1 and 3. It also will contribute to achieving sustainable development that is appropriate to the character of the neighbourhood area.

**Planning Policy HH4 Employment Development**

6.4.14 The principle of policy HH4 in allowing a flexible approach to development of an appropriate scale for employment and commercial purposes has regard to section 3 paragraph 28 of the NPPF seeking a prosperous rural economy. In addition the policy is in general conformity with policy 7.4 of the SLCS on the rural economy.

6.4.15 Concern has been expressed at the Reg 16 stage that in the same way as safeguards are built in to the housing policies to prevent creeping development, the same should apply to new-build employment-generating development through policy HH4. However national policy in the NPPF allows well-designed new buildings to be developed for business and enterprise in rural areas without specifically tying this to settlement locations, in particular where it relates to the diversification of agriculture and other land based rural businesses. In that respect employment-generating development is fundamentally different to housing where the NPPF does seek to restrict housing in open countryside save in a number of specific circumstances. In any event policy HH1 and the controls within HH4, in particular the restriction to 100m<sup>2</sup> unless the new building is close to the A6 and adjacent to an existing commercial development, affords the Council sufficient control to ensure that the new building would be appropriate to the rural context of the parishes.

6.4.16 Notwithstanding that the principle of policy HH4 accords with basic conditions 1 and 3 the NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. Moreover the PPG requires that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. Against these tests I have two concerns with policy HH4.

6.4.17 First in section 1 A it refers to reflecting sustainability issues. The use of the word 'issues' is unclear in the context in which it is used and should be replaced.

Secondly in section 3 the first bullet introduces an either or position in respect of enhancing character or enhancing visual amenity of residents. This is confused and would be clearer expressed in separate bullet points. Finally the last bullet point in largely repeating the first is unclear as to what is intended and is redundant. I recommend that the policy is modified as follows:

**Recommendation 5 – Amend the wording of policy HH4 as follows:**

**Section 1(A) – Line 3 delete and replace with new wording better reflecting the NPPF terminology:**

***“ ...and reflect the economic, social and environmental dimensions of sustainable development”***

**Section 3 – First bullet – stop the text in the first bullet after area and insert new second bullet :**

- ***“Would have no adverse impact on residential amenity”***

**Section 3.- Last bullet – delete the bullet point and delete the word 'and' at the end of the preceding bullet point .**

6.4.18 With these modifications in place the policy would meet Basic Conditions 1 and 3 and would achieve sustainable development by helping to secure a viable rural economy.

### **Planning Policy HH5 Tourism**

6.4.19 Policy HH5 seeks to support tourism development of an appropriate scale to the rural area and in that respect has regard to section 3 paragraph 28 of the NPPF. The policy also is in general conformity with policy CS7.6 of the SLCS which similarly supports tourism developments of an appropriate scale. Policy HH5 is also likely to contribute to securing sustainable tourism development. The policy meets Basic Conditions Nos 1, 2 and 3 without the need for modification.

### **Planning Policy HH6 Renewable Energy.**

6.4.20 The plan, although acknowledging that proposals for renewable energy installations will largely be governed by national or development plan guidelines, chooses to make a positive supportive statement in policy HH6 that such proposals will be supported provided

they meet all the conditions of policy HH1. The policy (and by reference policy HH1), for all its brevity, in adopting a positive approach to renewables has had regard to section 10 of the NPPF and in particular paragraph 97. In the same way nothing in policy HH6 and related policy HH1 raises any conformity issues with policy CS7.7 of the SLCS. The support for renewables of an appropriate scale should generally further sustainable development principles. The policy meets Basic Conditions Nos 1, 2 and 3 without the need for modification.

### **Planning Policy HH7 Parish Consultations**

6.4.21 Policy HH7 somewhat unusually seeks to acknowledge that there may be exceptions to one or more of the plan's policies when it is for development which positively promotes the plan's vision and accords with policy HH1. Although unusual, the policy does have regard to the core planning principle at paragraph 17 of the Framework which states that planning "*should not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives*".

6.4.22 However the Planning Guidance requires that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. As drafted the policy is not entirely clear. Presumably the intention is that in circumstances where the proposed development will further the plan's vision and is in accordance with policy HH1 criteria the Parish Council or Parish Meeting will wish to support it as an exception to policy. However the wording doesn't actually say that and therefore it is not clear and unambiguous. Moreover it may not just be SLDC decision makers considering the proposal and the policy also needs to be clarified in this respect. In order to meet basic condition no 1 I recommend the wording is modified as follows:

#### **Recommendation 6** Reword the text at line 3 of policy HH7 as follows:

**"...upon which this Plan is based, *the Parish Council / Meeting will support the development as an exception and the comments of the Parish Council/Meeting should be given due consideration by decision makers in their consideration of the proposal*".**

## **7. Referendum**

7.1 Subject to the recommended modifications set out above being completed, it is appropriate that the Heversham and Hincaster Neighbourhood Plan should proceed to a Referendum.

7.2 I am required to consider whether the Referendum Area should be synonymous with the Heversham and Hincaster Neighbourhood Area or extended beyond it.

7.3 The Neighbourhood Area mirrors the boundaries of the two parishes. Given the scale and nature of the plan and the fact that there are no allocations proposed that

would affect residents in adjoining parishes I do not consider that extension of the area would be warranted.

7.4 Accordingly, I consider that it is unnecessary to recommend any other referendum area than the Neighbourhood Area and no evidence has been submitted to suggest any alternative approach.

**Recommendation 7**

**I recommend to South Lakeland District Council that the Heversham and Hincaster Neighbourhood Plan, modified as specified above, should proceed to a Referendum based on the Heversham and Hincaster Neighbourhood Area as approved by South Lakeland District Council on 24 July 2013 and the designation as advertised on 8 August 2013.**

**Peter D Biggers  
27 October 2016  
Independent Examiner  
Argyle Planning Consultancy Ltd**