

## **NEWPORT NEIGHBOURHOOD DEVELOPMENT PLAN 2017-2031**

### **INTERIM STATEMENT ON REPRESENTATIONS RECEIVED DURING REGULATION 14 CONSULTATION**

**2<sup>nd</sup>. MAY TO 16<sup>TH</sup>. JUNE 2017**

#### **1. Representations Received**

- A total of 89 comments are listed in the summary schedule of which several are from the same person or interest group and some make comments in respect of a number of different matters relating to the NDP.
- The majority of representations refer to land at Station Road known locally as Baddely's Wells. The land within the NDP boundary is part of a larger site owned by TWC and at the time of the REG.14 consultation was allocated for housing in the emerging Telford & Wrekin Local plan as site H13.
- The next largest number of comments relates to the former Shrewsbury and Newport Canal and generally support its protection and restoration.
- A small number of comments relate to new housing and development more generally. A comment with some additional wording for the NDP was received from Harper Adams University.
- Representations were received from statutory consultees – TWC, Natural England, Historic England and the Environment Agency - relating to the NDP, the SEA and the HRA. These comments concern the legal aspects of the NDP and its contents.

#### **2. Matters and Issues raised by the Representations**

##### **Land at Station Road**

- This matter makes up over half of the comments received, with most setting out largely the same point. That is that TWC has removed site H13 from the emerging Local Plan and the site should be "returned to open space".
- However the land in question is not public open space and never has been. The recent Village Green application was refused and the evidence presented considered unacceptable at the hearing. The land is agricultural land on the edge of Newport, countryside on the urban fringe and used periodically for local agricultural uses. Telford & Wrekin Council owns it and although removed from the Local Plan it remains in the view of the Local Planning Authority a suitable site for development. The site is also the subject of a live planning application (RPS) that is still to be determined.
- However the removal of allocation site H13 from the emerging Local Plan means that the Town Council can reaffirm its strong objection to the development of this land for housing that was sent to Telford & Wrekin Council in response to the planning application (TWC/2015/0057) that was submitted to the Planning Authority in January 2015. The Town Council's objection to this planning application was sent to Telford &

Wrekin Council on 27<sup>th</sup>. February 2015. The Town Council's representation to TWC stated that the Town Council "strongly objects" to the application and refers to the "importance of retention and provision of open space for recreation use". In addition the TWC Study undertaken in 2013 found an uneven distribution of green spaces across Newport with areas to the south and west deficient that is the area of Newport where the land at Station Road is located.

- Although respondents to the Reg. 14 consultation argue that the land should be open space there is no proven historic case for this (the Village Green application failed on the lack of evidence).
- Now that there is there no development use allocated for the land at Station Road there is only its existing use which is agriculture or open countryside on the edge of Newport. As such it would be subject to the rural policies in the T&W Core Strategy and saved policies in the Wrekin Local Plan, the emerging Local Plan and the NDP.
- In these circumstances the Town Council can reaffirm its position of "strongly objecting" to the planning application TWC/2015/0057 and remind TWC of the deficiency in open space identified by themselves and the consequent need for additional public open space in this location to meet the needs of both existing residents and the new residents who will occupy the significant number of new homes in this part of Newport that already have planning permission.
- With a 6 years supply of housing land TWC does not require the development of this land for housing nor is it required to approve the application under the presumption in favour of sustainable development in the NPPF because the LPA has an existing Development Plan and more than 5 years supply of housing land. The Town Council can therefore reasonably request that TWC should refuse the planning application in accordance with the existing Development Plan and the policies in the NPPF.
- Members should be aware that the Core Strategy and the saved policies etc. have been considered by some developers at recent appeal hearings to be out of date. With the Local Plan still in Examination in Public and the Inspectors report awaited what constitutes the Development Plan is potentially challengeable.
- This makes achieving the Basic Condition of conforming to the strategic policies of the Development Plan in order to satisfy the Independent Examination a matter that requires a clear and legal definition from TWC.
- As noted above in their response to the Reg.14 Consultation TWC refer to the removal of H13 from the Local Plan but also say that the site is still considered suitable for development and subject to an existing planning application. TWC also comments that they await the Local plan Inspectors report and that further relevant matters may come from that.
- In these circumstances it would be difficult for the NDP to include a proposal allocating the area of land that is within the NDP boundary as POS (leaving the larger part of the site within the neighbouring Parish as open countryside on the edge of the urban area) until the Inspector's report into the Local Plan is released.

- With the removal of H13 from the emerging Local Plan the NDP could be amended removing any reference to H13 and making no reference to Baddely's Wells or Station Road leaving it as open countryside protected by the relevant countryside policies in the TWC Development Plan and the NDP.
- That would leave the outstanding planning application to be determined by TWC. The Town Council could "strongly object" to the application and argue for its refusal on the basis that T&W has a 6 years supply of housing land and the need for new homes is in Telford not Newport. TWC has also stated its intention of not allocating additional sites in the Local Plan leaving the decision on providing additional housing until later in the Local Plan period depending on need and delivery over the lifetime of the Local plan.
- That would leave the comments seeking an allocation for Public Open Space at Station Road. However much of the site is outside the NDP boundary and it is owned by TWC who have to determine the planning application. By saying nothing about the land the NDP the Town Council would not be ignoring the respondents but it would be confirming that the area has the same status that it has had for many years and had continued to have since the refusal of the Village Green application.

### **3. Restoration of the Former Canal**

- Most of the representations referring to the canal strongly support its restoration and use for leisure.
- However it appears that the TWC officer is opposed to restoration and its use for navigation because of possible harm to the SSSI. The officer also appears to oppose Local Green Spaces.
- The TWC comments suggest that the NDP does not emphasise the difficulty of restoring the canal to navigation and does not represent the Natural England position accurately which TWC believes would indicate more caution. However no evidence is presented to back this up and nothing confirmed in writing from any discussions with Natural England is included. The comments from Natural England received in response to statutory consultation do not match the TWC comments and the NDP does not say that work to restore the canal would be easy. The Natural England comments are addressed later in this report.
- TWC offers no technical evidence to indicate why restoration cannot be successfully achieved whilst also protecting the SSSI. The comments received from Natural England make no mention of this and simply state that any restoration work should be done with careful consideration of the SSSI and should not be detrimental to the designation of the SSSI. This is what the NDP already says, but it can be further emphasized with minor additions to the wording of the NDP. In supporting the restoration of the canal the NDP recognises the importance and legal status of the SSSI and the care that would be necessary in carrying out any work to the canal.
- There is a lot of local support for the Canal and this has been a long-term project of the Canal Trust.

- The emerging Local Plan recognises that the restoration of the canal could deliver additional visitors to the area and states that restoration schemes will be considered on their merits and subject to approval by Natural England in order to protect the SSSI. Although the Local Plan does not include a policy to protect the line of the canal it would not be possible to consider restoration schemes on their merits if the line of the canal was lost. In addition I see no reason why the NDP should not protect the line of the canal within its own boundary. I do not believe that it is in conflict with the emerging Local Plan.
- Similarly I do not feel that the inclusion of the area around the canal as a Local Open Space conflicts with the SSSI or any Local Plan Policy and therefore I can see no reason to change it. This matter should be resolved through a meeting with TWC.
- I feel that the TWC comments in respect of the canal should be challenged because I think that they are an officer's opinion and are unsubstantiated with evidence. It may be a matter of persuading TWC to accept protection of the canal line through Newport as part of the NDP and to accept the Natural England response to the NDP along with the strong support from residents.
- I think that with some minor amendments to the wording the NDP should be acceptable to TWC and the Independent Examiner. This is probably best resolved through a meeting with TWC.

#### **4. The Statutory Consultees**

##### **Telford & Wrekin Council**

- The letter from TWC states that the Council does not have any fundamental objections to the NDP but expects to discuss it further after the Inspectors report into the Telford & Wrekin Local plan has been released. It may be necessary to make modifications to the NDP in the light of his findings.
- A schedule of detailed comments is attached to the letter and these can be addressed item-by-item. I do not feel that there are any that cannot be resolved with minor changes to the wording of the NDP.
- TWC makes the point that the NDP must comply with the Development Plan for the area. Members will recall that the NDP has been written to comply with the emerging Local plan and the previous policy documents, the Core Strategy, the Saved policies of the Wrekin Local plan etc. that was the advice received from TWC. With the Local Plan still in EIP and waiting for the Inspector's report it carries little weight and is not the Development Plan. The current Development Plan is the Core Strategy, the Saved Policies of the Wrekin Local Plan, the Saved Policies of the Joint Structure Plan, and the Saved Policies of the Joint Minerals Plan, the LDF Central Telford Area Action Plan. To meet the basic conditions for Neighbourhood Plans The NDP must be in conformity with the policies in these documents.

- The NDP was written to conform to the relevant policies, but it would need amendment to make this clear with references to particular policies if members wish to proceed in advance of the Local Plan.
- TWC states that to proceed the NDP must be amended to specifically list the policy numbers in the Core Strategy etc. with which the NDP complies. TWC states that to proceed at present the NDP needs amendment and this can be done. However recent appeal Inspectors have questioned whether the documents making up the Development Plan listed above can be considered up to date. Amending the NDP as indicated by TWC could render the NDP unacceptable to the Independent Examiner as a result of referring to out of date policies. I therefore think that it would be necessary for TWC to formally state what they consider the Development Plan to be at present and how it is up to date and how they legally justify that position in the light of recent appeal decisions. A recent decision by the Supreme Court may also be relevant in this respect.
- The risk to the NDP is that after making changes and submitting to TWC the Inspectors report could change the position again or there could be a third party challenge to policies in the NDP or it could be considered to have failed one of the basic conditions by the Independent Examiner. The alternative is to wait for the Local Plan to complete the EIP with a modified Local Plan being found to be sound by the Inspector. There would then be little doubt about future Development Plan policy.
- There are many examples of Neighbourhood Plans Proceeding in advance of an adopted Local Plan but this could have risks for the NDP. In order to decide how to proceed an early meeting with TWC is recommended.

## Natural England

- **Water Lane:** NDP needs to be clear that the policies are consistent with the SEA and HRA Regulations due to the proximity to the canal and the SSSI. This can be done. The development of land at Water Lane will not affect the SSSI.
- **Newport Canal:** Any restoration of the canal should be done with careful consideration of the SSSI and should not be detrimental to the designated site. Any work restoring the canal should include consideration to enhancing the amenity and wildlife value. This can be emphasized with minor additions to the relevant parts of the NDP.
- **Green Infrastructure:** Green Infrastructure in the NDP welcomed. Some suggested additions to policies can be incorporated.
- **HRA and SEA Assessments:** NE notes that both the HRA and SEA Assessments have been completed and notes the conclusion that significant effects are unlikely to occur and concurs with the Town Council's view that the NDP has been screened out of the SEA process.

## **Historic England**

- On the basis of the information supplied Historic England concludes that a Strategic Environmental Assessment (SEA) is not required.

## **Environment Agency**

- The EA raises no concerns in respect of Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA) Screening Statement. The Town Council should therefore consider the NDP screened out.

With regard to the statutory consultation in respect of SEA and HRA with Natural England, Historic England and Environment agency the NDP can be considered screened out and no further environmental assessment work is required.

## **Other consultation responses**

- RPS responding on behalf of their client St. Modwen argues in favour of retaining the land at Station Road as a site allocated for Development. I think this is a matter for TWC to address through the Local Plan. There is a 6 years supply of housing land and there are existing planning permissions for new housing. There is therefore no local need for additional planning permissions in Newport at this time. Consequently the NDP should not allocate more land for housing at this time it should do what TWC seems to be doing and allocating nothing further now and monitoring delivery with the possibility of allocating additional sites later in the plan period if required.
- Minor amendments to the wording of relevant parts of the NDP could accommodate this.
- Minor errors pointed out by respondents and suggested changes in the schedules of comments from TWC and others can be done without difficulty.

## **Conclusion and Recommendations.**

1. The number of representations received and their content demonstrates considerable interest and support for the NDP. The matters raised concerning land at Station Road, the former canal, the SSSI and open spaces can be resolved by minor amendments to the text of the NDP.
2. The comments received from TWC are not fundamental objections to the NDP and their suggestions can be accommodated through minor amendments. Of more significance is the matter of complying with the Development Plan including all documents that TWC considers constitute the Development Plan and whether these documents can be considered to be up to date. Conforming to out of date policies may not provide the robust defendable and long term NDP

that the Town Council wants. The NDP also has to be successful at Independent Examination before going on to referendum. Therefore waiting for the Local Plan to be confirmed may be the safest way forward.

3. The Council has to decide whether to wait for the T&W Local plan to complete its EIP or proceed now with amendments based on the existing Development Plan when that has been confirmed by TWC. Either approach will need some amendments to the NDP but none of these would undermine the fundamental principles, objectives or policy vision set out in the NDP.

4. An early meeting with TWC is recommended to challenge some of their comments, resolve the position regarding the Development Plan and to agree the way forward and an outline timetable before approaching an Independent Examiner.

**Michael Barker**