

Worsthorne with Hurstwood Neighbourhood Development Plan

Burnley Council comments on Regulation 16 Submission Draft

The Council are pleased to see the plan progress to this stage and recognise all the hard work that has gone in to producing it. Our comments and suggestions are intended to ensure the plan meets the basic conditions tests and, in particular, seek to ensure that the policies are clear and unambiguous to enable the LPA to apply them.

Page	Para	Element	Comments / Suggested Amendments
Worsthorne with Hurstwood NDP			
Basic Conditions Statement			
5	3.1	Table 1	The Council does not agree that all the policies are clearly written and unambiguous which is the central theme of the comments that follow.
Worsthorne with Hurstwood NDP			
Foreword and Contents			
All	All	Overall Presentation	The Council would suggest using a slightly larger font and left aligning (unjustifying) the text to make the document more readable and accessible. It would also suggest numbering the policy clauses and bullet points to make them easier to use, esp for the LPA and consultees.
3	All	Index/Contents Page	Some of the contents have (incorrect) links to the relevant parts of the plan and the policies are not linked at all. It would be helpful for navigation if the policies were correctly linked.
Section 2 - Key Issues, Vision and Objectives			
6	2.1	Built and Natural Heritage	Burnley has a Local List in place which includes a number of Non Designated Heritage Assets (NdHA) in the Parish. Suggest amending the wording to reflect this and the possible identification of additional NdHA in using the criteria set out in the Local List SPD.
6	2.1	Separate and Distinct Settlements	Not all the areas listed are settlements. Suggest amending to: "The separation of the settlements which make up the area, which are Burnley (including Pike Hill and Brownside), Worsthorne and Hurstwood."
13	2.6	WHNP Objectives	The Objectives should be numbered.
13	2.6	WHNP Objectives	The 2 nd Objective refers to ensuring new development is of a "good" quality whereas the later Policy WHNP2 requires proposals to deliver "high" quality. Whilst the NPPF uses the terms interchangeably, it is suggested that both the objective and Policy are consistently worded in their quality expectations.
13	2.6	WHNP Objectives	The 3 rd Objective is not considered to be compliant with Burnley's Local Plan strategy. Suggest amending to: "To maintain the identity and distinct physical separation between the settlements within the neighbourhood area."

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Section 4 Planning Policy Context			
16	4.1	National Planning Policy	The correct requirement is for neighbourhood plans to “have regard to” national policy and advice.
19 and 20	Figures 3 and 4 and 5	Development Boundary and Housing Allocation figures	These images are of poor quality and /or do not include a copyright notice. Burnley Council can assist with providing clearer images for use in the final plan.
Policies			
23	Policy	Policy WHNP1A: Landscape	Policy WHNP1A refers to impacts on ‘significant’ views but does not identify what these are or how they should be identified.
26	5.7	Policy WHNP1A: Landscape Background and Justification	Query the inclusion of references to local nature reserves and reservoirs. There are no local nature reserves within the neighbourhood area. There are existing reservoirs, but it is unclear what the Parish Council intends with regard to these.
31	Policy	Policy WHNP1B: Worsthorne and Hurstwood Conservation Areas	The Policy as drafted only applied to development within Conservation Areas. This should be widened to cover developments outside the Conservation Areas which could affect their setting in line with the policy title and the relevant statutory duties. Suggest amending the first clause to read “Development within or affecting ...” The Policy as drafted requires the preservation or enhancement of “the Conservation Areas”. This implies an inappropriate barrier to change (i.e. of those parts which do not make a positive contribution to its special interest) which is not the purpose of designation. Suggest amending the wording to align with the statutory duty to read “the preservation or enhancement of the character or appearance of the Conservation Areas” The 1st bullet point in the Policy refers to specific types of buildings (which may be listed, locally listed and non-designated buildings) and the first part of the second bullet to key buildings (listed, locally listed and non-designated) There is considerable overlap/duplication and it would be better to merge these and retain the second part of the second bullet as a separate bullet point. In the 3rd bullet there is reference to ‘key’ public views of open moorland and the surrounding countryside. These need to be/will need to be identified - e.g. via a footnote linking to Worsthorne Conservation Area Appraisal? In the 5th Bullet a reference to Green spaces but no definition or identification. These need to be/will need to be identified 4th bullet and 8th bullet appear to duplicate each other and could be merged. The wording of the last two bullet points does not flow in relation to the main policy clause i.e. “by retaining:”.

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32	5.13	Figure 7 and Figure 8	Add Copyright Notice – and replace with clearer images – and key if necessary.
32 & 33	5.14-5.16		5.14 For clarity, the Worsthorne Conservation Area Appraisal should be referred to with its publication date, i.e. Worsthorne Conservation Area Appraisal - February 2018. Similarly, Para 5.15 and 5.16 refers to the “Area Appraisal”. For the avoidance of doubt this should be referred to as the Conservation Area Appraisal. Para 5.16 - Suggest “maintained or improved” is replaced with “preserved or enhanced” for consistency with the suggested amendment to the wording of Policy WHNP1B.
36	Policy	WHNP1C: Nature Recovery and Biodiversity Net Gain (BNG)	Policy WHNP1C as drafted does not reflect the current statutory BNG framework (despite this being referred to in the supporting text). The Council is not convinced that the policy adds anything meaningful that the Local Plan policy, together with the statutory framework do not already provide and could, by lack of consistency and clarity, weaken the overall approach and be difficult for applicants and for the LPA to apply. Whilst the wish to provide a site first and offset in the parish second approach is understood, this is not always the optimum approach for biodiversity and can have other negative environment/social/economic consequences. Furthermore, the Actions under the 5 Vision referential total 60 and as contributions only need to address one or more of these, this appears to be a very low bar?
37	5.21 – 5.22	WHNP1C: Nature Recovery and Biodiversity Net Gain (BNG) Background and Justification	These paragraphs include text which would be more appropriate within the Policy rather than the justification - if they are intended to apply.
39	WHNP Objective Reference	WHNP Objectives	The objective quoted refers to ensuring new development is of a “good” quality whereas the policy requires proposals to deliver “high” quality. Whilst the NPPF uses the terms interchangeably, it is suggested that both the objective and Policy are consistently worded in their quality expectations (as per earlier comment).
39	Policy	WHNP2: Worsthorne and Hurstwood Neighbourhood Design Guide	The scope of Policy WHNP2 is a little unclear. Does the reference to ‘new development’ include extensions and alterations to existing buildings including e.g windows or doors? The wording of the second sentence of the first clause could also benefit from improved clarity. The wording of the second clause could then be strengthened (as per Paragraph 139 of the NPPF) to say that development that does meet the policy requirements should be refused. It is unclear why there is reference to the National Design Guide, which, in any event, informed the WHN Design Guide?

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39	5.28	WHNP2: Worsthorne and Hurstwood Neighbourhood Design Guide Background and Justification	The reference to the NPPF needs updating (now paragraph 131.)
40	5.30	WHNP2: Worsthorne and Hurstwood Neighbourhood Design Guide Background and Justification	The first quote from the NPPF needs updating (to paragraph 133) The status of the design guide is not entirely clear. It has not been prepared as a formal Supplementary Planning Document. If it is intended to be part of the neighbourhood plan, as this paragraph suggests, then it needs to be subject to the same level of consultation and examination as the plan itself – and meet the basic conditions etc? If not, it could still be informal planning guidance but this paragraph (quoting from the NPPF) suggests that it should not then be given weight in decision making? The Council would not necessarily agree with this as it has been subject to a level of consultation and so could still be a material consideration of limited weight?
41	Policy	WHNP3: Separate and Distinct Settlements	The policy title either needs amending to reflect the policy's focus on distinct areas/individual communities, or the policy needs amending to focus only on settlements.
	Policy	WHNP3: Separate and Distinct Settlements	The first clause should say 'settlements' not 'distinct areas'.
41	Policy	WHNP3: Separate and Distinct Settlements	Clause 2 refers to open areas of land but does not provide a map to show their location/extent. Preserving open areas land of land between these areas to retain their separation is not in conformity with the Local Plan strategy. However, if it is intended to preserve them for other purposes e.g. as Local Green Space (LGS) then it may be in conformity with the Local Plan strategy - but these LGSs would need to be identified and evidenced.
41	Policy	WHNP3: Separate and Distinct Settlements	Policy WHNP3 clause 3 is not necessary as it is a matter that is clearly dealt with through the Local Plan with its identified development boundary for Worsthorne.
43	Policy	WHNP4: Housing Need and Mix	The first clause of Policy WHNP4 does not read well. There should be a full stop, or the sentence(s) rewritten for clarity. The second clause (starting with 'In seeking') is also poorly drafted.
43	Policy	WHNP4: Housing Need and Mix	The first part of the bullet under clause 1 does not fully align with the Local Plan Policy HS2 which is more flexible about on/off site provision; but as the governing clause does reference Policy HS2, this is still workable.
43	Policy	WHNP4: Housing Need and Mix	The second part of the bullet under clause 1 is not in conformity with the Local Plan or current national policy – the latter having been amended since the Worsthorne with Hurstwood Housing Needs Assessment was concluded. Whilst it is a legitimate role of the neighbourhood plan to seek to meet the specific needs of the parish, to meet the basic condition tests, it also needs to continue to contribute to meeting the needs of the wider borough - which includes affordable rent, social rent and intermediate housing. It is not normally possible with the small numbers of units

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			involved to provide a mix of affordable tenures on site.
43	Policy	WHNP4: Housing Need and Mix	The second and third clauses on housing mix are somewhat contradictory. The second refers to how schemes should accommodate first time buyers and downsizers within the indicative mix specified in Local Plan Policy HS3; whereas the third asks people to use the mix set out in the Worsthorne with Hurstwood Housing Needs Assessment - which is different. Applicants and the local planning authority will require clarity and the mix in question should be reproduced in the plan and/or the policy itself - people should not have to look it up separately. (Is the table reproduced in para 5.43 the same one as the policy refers to?) Considerable flexibility is needed over mix to ensure schemes remain viable and can contribute towards affordable housing and infrastructure. See also query below in relation to the table in paragraph 5.43.
45	5.39	WHNP4: Housing Need and Mix	The policy reference at the start of the paragraph needs correcting to WHNP4.
45	5.40	WHNP4: Housing Need and Mix	Is it intended that development from Registered Social Providers do not have to comply with policy requirement related to housing mix?
46	5.43 – 5.44	WHNP4: Housing Need and Mix Background and Justification	These paragraphs would benefit from reflecting housing delivery since 2011 (which includes some 2 bedroomed properties). Our experience is that the demand is predominantly for larger three and four-bedroomed properties. All but one of the allocated development sites in the Parish are now under construction and if the suggested mix was rigidly applied, the remaining sites - or any other exception/windfall sites could only be developed for 1 and 2 bedroomed units which would mean they are unlikely to come forward at all thus not meeting any of the outstanding need for smaller houses and affordable dwellings. Even if they did, they would not then provide a suitable on-site mix and may, depending on the site, be out of character the prevailing character of the area.
47	Policy	WHNP5: Transport and Traffic	Policy WHNP5 refers to 'Woonerf principles', which is not a term in common circulation. It would be helpful if it as defined either with a footnote or in the supporting text.
49	5.51	WHNP: Renewable And Low Carbon Energy Projects	The second sentence of the paragraph needs to go before the first?
51	Policy	WHNP7: Community Facilities	Policy WHNP7 includes a list of community facilities in brackets. This list contains an erroneous full stop. The policy then goes on to refer to a chippy, which does not fall within any of the types of facilities listed in the main clause. It also refers to a Policies Map showing the facilities which does not exist?
51	Policy	WHNP7: Community Facilities	Criterion 2 of clause 2 refers to 'satisfactory evidence', which presumably means marketing, but this should be made explicit in the interests of clarity.