

High Lane Village Neighbourhood Development Plan 2020 - 2037

Plan submitted to LPA for examination

December 2020

Report to the Stockport Metropolitan Borough Council on the Independent Examination of the submission draft High Lane Village Neighbourhood Development Plan

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Summary of main findings

0.1 It is a requirement of the Localism Act that this report should contain a summary of its main findings. The reasons for each of the recommendations are given in the following sections of the report.

0.2 The principal findings in this report are that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in the Town and Country Planning 1990 Act (as amended), does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights.

0.3 It is recommended that the plan, as modified, be submitted to a referendum and that the referendum area need not be extended beyond that of the neighbourhood area. My main recommendations for modifications to the individual plan policies and accompanying text are, in plan order:-

- that policy T1 be simplified and expressed positively to relate specifically to air quality issues, by moving sustainable transport criteria to policy T2 and removing detailed standards on electric charging points;
- that policy T2 be restructured to deal only with those matters which relate to the development and use of land with aspirational aspects included elsewhere in the plan;
- that the 'cap' of 9 houses for development within the built-up area of High Lane, in policy H1, be removed to facilitate the provision of affordable housing on suitable sites;
- that the scope of policy R1 be clarified and map 5 redrawn to show more clearly the areas to which the policy applies;
- that the reference to the submission of a Landscape and Visual Impact Assessment is moved from policy NH2 into the plan text;
- that the wording of policy HD1 is amended to provide consistency with policy HD2 in the references to the accompanying Design Code document.

Section 1 - Introduction

Appointment

1.01 I have been appointed by the Stockport Metropolitan Borough Council (SMBC), acting as the Local Planning Authority (LPA), under the provisions of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, to carry out an independent examination of the High Lane Village Neighbourhood Development Plan (HLVNDP) as submitted to the LPA on 4th December 2020. The SMBC carried out publicity for the proposed plan for a little over 6 weeks between 27th January and 14th March 2021 giving details of how representations might be made, in accordance with Regulation 16 of the Neighbourhood Plans (General) Regulations 2012 ('the 2012 Regulations')¹. I was appointed and sent a link to the documentation required under Regulation 17 on 19th March 2021 including copies of all of the representations received under Regulation 16. I have taken that documentation and all of the representations into account in carrying out the examination.

1.02 I am a Chartered Town Planner (Member of the Royal Town Planning Institute) with approaching 50 years post-qualification professional experience in local and central government and latterly as a sole practitioner specialising in development plan policy work. I am independent of the High Lane Village Neighbourhood Forum (HLVNF) and of the Local Planning Authority. I have no land interests in any part of the plan area.

My role as an examiner

1.03 The terms of reference for the independent examination of a Neighbourhood Development Plan are statutory. They are set out in the Localism Act 2011 and in the 2012 Regulations. As an examiner I must consider whether the plan meets what are called 'the basic conditions'². In summary, these require me to consider:-

- whether, having regard to national policies and to advice contained in guidance issued by the Secretary of State, it would be appropriate to make the plan;

¹ All subsequent reference to a Regulation followed by a number is a reference to the 2012 Regulations.

² These are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as introduced in Schedule 10 of the Localism Act 2011)

- whether the making of the plan would contribute to the achievement of sustainable development;
- whether the making of the plan would be in general conformity with the strategic policies contained in the development plan for the area;
and to ensure that:-
- the making of the plan would not breach, and would otherwise be compatible with EU obligations³ relating to Strategic Environmental and Habitats Assessment and that the plan would be compatible with Convention rights, within the meaning of the Human Rights Act 1998; and
- that 'prescribed conditions' would be met and 'prescribed matters' would be complied with in plan preparation and submission⁴.

1.04 Legislation requires that my report on the draft plan should contain one of the following recommendations:-

- a) that the draft plan is submitted to a referendum, or
- b) that modifications are made to the draft plan and the modified plan is submitted to a referendum, or
- c) that the proposal for the plan is refused.

I may make recommendations for modifications which I consider need to be made to secure that the plan meets the basic conditions or for compatibility with EU obligations and (Human Rights) Convention Rights. The only other modifications which I may recommend are those to correct errors.

³ As the United Kingdom has formally left the European Union, the provisions of the European (Withdrawal) Act 2018 apply. At the time of writing, no change to the wording of the relevant primary and secondary legislation has been notified which change references to 'European Obligations'.

⁴ One such prescribed condition is that the making of the plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

Section 2 – Statutory compliance and procedural matters

2.01 As High Lane does not have a parish council, legislation requires the establishment of a Neighbourhood Forum and the identification of the Neighbourhood Area. As explained in paragraph 2.7 of the NDP the Forum was established and there was statutory consultation by the SMBC during June and July 2017 with formal designation High Lane Neighbourhood Area on 14th September 2017. The plan has been submitted by the HLVNF as the 'qualifying body' and it relates solely to the designated Neighbourhood Area.

2.02 The title of the plan is given on the front sheet as the 'High Lane Village Neighbourhood Development Plan 2020 – 2037' with a date of October 2020. Then in the second paragraph of the Executive Summary on page 3 of the plan it is stated that it is 'the same plan period as the Greater Manchester Spatial Framework or GMSF'. I discuss below the status of the GMSF and references to it in the NDP but, as the plan might well require review once any future local plan has been adopted, I do not regard the plan end date as being a critical factor.

2.03 The plan does not include provision about development which is 'excluded development'⁵ and a plan showing the area to which the Neighbourhood Development Plan relates has been submitted as required by Regulation 15(1)(a). Accordingly, those statutory provisions are met.

2.04 The legislation states that the 'general rule' is that the examination of the issues by the examiner should take the form of the consideration of written representations. However, an examiner must hold a hearing 'for the purpose of receiving oral representations about an issue' where he or she considers a hearing 'is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case'⁶. Before deciding whether a hearing would be required I issued⁷ a list of written questions seeking clarification and further information by way of justification for plan policies. Only after receiving that clarification⁸ was I able to conclude that I had adequate information to proceed with the examination

⁵ Sections 61J(2) and 61K of the 1990 Act, introduced by section 2 of Schedule 9 to the Localism Act 2011

⁶ Paragraph 9 of Schedule 4B to the 1990 Act (as in reference 1 above)

⁷ By email dated 7 April 2021

⁸ Emails from the HLVNF 22 April 2021 and SMBC 23 April 2021

without recourse to a hearing. I will be referring to my questions and the responses to them in sections 3 and 4 of this report.

2.05 I visited the neighbourhood plan area on Monday 19th April 2021, a very pleasantly sunny spring day. I walked around the area of the station and the Middlewood Way to ascertain the access position and then stopped in the car park by the village hall and High Lane Park before walking to the Macclesfield Canal and up and down to A6 to observe traffic conditions. I then drove around the residential areas to both sides of the A6 looking at the important views identified in the plan as well as seeking to appreciate the built form and character of the residential areas. I also drove by way of Torkington Lane, noting its 'Quiet Lane' status, observing the green belt setting of the settlement and neighbourhood plan area as a whole.

2.06 The HLVNF have submitted a Basic Conditions Statement (BCS) in accordance with the Regulations⁹. It is a comprehensive document which deals first with legal requirements and then has separate chapters with tables providing an analysis of NDP policies against each of the basic conditions of the regard to national policy and advice¹⁰; the achievement of sustainable development and the general conformity of NDP Policies with strategic local plan policies, primarily the 2011 Stockport Core Strategy DPD together with a few relevant 'saved' policies from the 2006 Stockport UDP Review. Table 3B deals with general conformity with the emerging GMSF but not only is that not part of the statutory development plan but, as explained in paragraph 2.13-15 below, the SMBC have now withdrawn from the process. Section 3.5 deals with compatibility with various EU obligations, as discussed below. The BCS is a helpful overall analysis which I have taken into account.

⁹ Regulation 15(1)(d)

¹⁰ As set out in the National Planning Policy Framework (NPPF) and in Planning Practice Guidance (PPG)

European Union (EU) Obligations¹¹

2.07 *Human Rights*. It is stated in Section 3.6 on page 126 of the BCS that the NDP does not contain policies or proposals that would infringe the human rights of residents or other stakeholders over and above the existing strategic policies at national and district-levels and is fully compatible with the European Convention on Human Rights as transposed into UK law by the Human Rights Act 1998 with the plan policies complying with those obligations. No representations have been made to suggest that any infringement of human rights would be likely to occur as the result of the application of the policies in the plan. Consequently, I have no reason to conclude other than that the approach taken in the plan is fully compatible with, and does not breach, Convention Rights.

2.08 *Other EU obligations* relate to requirements for Strategic Environmental Assessment (SEA)¹² and the Habitats and Species assessment (HRA)¹³. The European Directives are applied in England through the provisions of the Environmental Assessment Regulations¹⁴ and the Habitats Regulations¹⁵.

2.09 Section 3.6 of the BCS includes a summary of the conclusions reached under both the SEA and HRA Directives and associated Regulations. An SEA Screening Report dated July 2019 and updated in March 2020 to take account of consultation responses from the statutory agencies was submitted in accordance with Regulation 15. At the outset it is stated that the report is intended to meet the requirements of Regulation 9 in the SEA Regulations. In section 4 of that report details are given of a 'sustainability wheel' used to assess the performance of the NDP in environmental terms. It is concluded in section 5 that an SEA was not required because, amongst other things, there would be no likely significant environmental effects from plan policies with there being no development allocations made in the plan. Consultation with the statutory agencies produced no

¹¹ The UK has left the European Union and equivalent legislative provisions have been written into UK law. However, no information is currently available of any amendments in the legislation dealing with neighbourhood plans to provide an alternative to the term 'EU Obligation'. It is, therefore, used in this report to all requirements stemming from EU Directives

¹² Directive 2001/42/EC

¹³ Article 6(3) of Council Directive 92/43/EEC

¹⁴ The Environmental Assessment of Plans and Programmes Regulations 2004 (Generally referred to as the 'SEA Regulations')

¹⁵ The Conservation of Habitats and Species Regulations 2017 (abbreviated to the Habitats Regulations)

adverse comment on that conclusion. As a result, I am satisfied that EU obligations are met in that regard.

2.10 With regard to the EU Habitats Directives, a 2018 amendment to the Habitats Regulations¹⁶ altered the wording of the basic condition prescribed in paragraph 1 of Schedule 2¹⁷ of the Neighbourhood Planning (General) Regulations 2012 ('the 2012 Regulations'). It now states that the making of the plan should not breach the requirements of Chapter 8 in part 6 of the 2017 Habitats Regulations. The most directly relevant Regulations are 105 and 106. There is a largely factual statement in section 2, page 6, of the SEA Screening Report under a heading dealing with Habitats Regulation Assessment but it was not clear to me whether that might be considered sufficient to meet the requirements for the SMBC, as the 'competent authority', to discharge their duty under Regulation 106(1). I therefore sent a note to the SMBC on 28th April seeking a clarification of their position.

2.11 In response, on 30th April, I received a statement from the SMBC in which they state that they have sufficient information to reach the decision under Regulation 106(1) that an appropriate assessment in accordance with Regulation 105 is not required.

2.12 From the above, I am satisfied that the submitted plan is compatible with EU obligations and meets the basic condition prescribed by section 1 of Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended).

Position in respect of references to the Greater Manchester Spatial Framework.

2.13 A complicating factor in the content of this NDP is the position taken by the Stockport MBC in respect of the emerging GMSF. It is clear from a reading of the NDP that every effort was made to ensure that the approach taken in plan preparation aligned with the strategic document and would provide largely non-strategic policies with no allocations made for housing or other development with the only site-specific policies relating to transport, recreation and open space. There are very many references in the plan to the emerging GMSF.

¹⁶ SI 2018 No. 1307, Regulation 3.

¹⁷ Given effect by Regulation 32

2.14 I was aware, from coverage of the matter in the professional press, that Stockport MBC had resolved to withdraw from GMSF preparation. Consequently, I requested the SMBC to produce a statement on the matter so that I might better understand the implications for the NDP. I received that by email on 29th March. It explains that on the 3rd December 2020 (the day before the HLVNDP was submitted) the SMBC formally resolved to withdraw from the GMSF process but will continue to work with the other Greater Manchester combined authorities on other aspects such as transport and waste. The SMBC will now be progressing a new Stockport Local Plan (SLP) which will provide the strategic planning context for the NDP. The SMBC are 'working towards' the Government deadline of having an up-to-date plan in place by the end of 2023. The effect of this decision is that the many references within submitted HLVNDP to the GMSF are now in the nature of errors which will require correction. That does not affect my assessment of the plan in terms of the basic conditions. In particular, the general conformity of the NDP is with the strategic policies of the adopted 'development plan' not any emerging one, although it is good practice to ensure that, as far as possible, the need for review and modification of the NDP upon adoption of the strategic plan is minimised. That will now be more difficult because the timescale for adoption of the SLP will not match that envisaged in section 9 of the NDP for plan review.

2.15 In my list of questions issued to the HLVNF on 7th April I asked how the Forum would wish to approach this matter. In response they have indicated that, although their work on producing revised text is well advanced, they would prefer that I make a general recommendation that the plan be updated by the removal of most references to the GMSF. I do this towards the end of this report when dealing with errors.

Section 3 - Preparation of the plan and the pre-submission consultation processes

3.01 As required by legislation¹⁸, the HLVNF have submitted a Consultation Statement. In Section 2 gives the background to the setting up of the Neighbourhood Forum and the Neighbourhood Area, in 2017. There were public consultation meetings even at that early stage. Section 3 deals with the Issues and Options stage in mid-2018 and section 4 with a non-statutory first draft of the plan. In all those stages it is clear that a very positive effort was made to engage and involve the local community in the process. Section 5 details the processes followed for the first statutory (Regulation 14) consultation and, importantly, the representations received, the issues identified and the actions taken to amend the plan are set out in the tables in Appendix 7. That is an essential requirement for the Consultation Statement.

3.02 The initial phases of plan preparation, as summarised above, was clearly a very intensive one. It is impressive that so much work was undertaken under the auspices of the Neighbourhood Forum in a period of only two years. The level of community involvement and the nature extent of the consultation processes followed is commendable.

3.03 Appendix 6 of the Consultation Statement includes a list of the statutory consultees for the Regulation 14 stage. By email dated 25 March I questioned whether a decision had been taken under Regulation 14(b) to exclude consultation with authorities, including parish councils, for adjoining areas within Cheshire East. It transpired that Poynton Town Council had not been consulted. This was, therefore, done and Poynton Town Council submitted a representation on 28th April, largely in support of the HLVNDP. It does not raise any issue which needs to be addressed by the HLVNF. I have, therefore, taken into account as if it had been submitted under Regulation 16. This regularises the position.

3.04 Subject to the above, I am satisfied that the consultation processes have complied with practice guidance on such matters and that the basic conditions are met in that regard.

¹⁸ The Neighbourhood Development Planning (General) Regulations 2012, Regulations 15(1)(b) and 15(2)

Section 4 - The Plan: consideration against the basic conditions

4.01 This section of my report sets out my conclusions on the extent to which the plan itself meets the basic conditions which are set out in the first three bullet points in paragraph 1.03 above. The analysis of plan policies in the Basic Conditions Statement ably demonstrates the extent to which plan policies seek to make a contribution to the achievement of sustainable development. It is also clear that the plan is in general conformity with the strategic policies of the development plan. Therefore, in general terms, I am satisfied that those two basic conditions are satisfied.

4.02 The first basic condition listed in paragraph 1.03 refers to the regard which is had to national policies and advice contained in guidance issued by the Secretary of State. National policies are set out in the National Planning Policy Framework (NPPF) and advice and guidance in Planning Practice Guidance (PPG). Clearly all policy and advice has to be in the context set by statutes.

4.03 In my questions to the HLVNF on 7th April 2021, I drew particular attention to national policy and guidance on the scope and content of NDPs bearing in mind that it is a statutory document which forms part of the development plan. Indeed, a NDP is defined in Section 38A(2) of the Planning and Compulsory Purchase Act 2004¹⁹ as being a plan 'in relation to the development and use of land'. Related to that is the role of NDPs as emphasised in paragraph 29 of the NPPF and in paragraph 41-002 of the PPG in providing the basis for decisions on planning applications.

4.04 The consideration of the policies and proposals in the plan in this section of my report is primarily in the context of national policy and guidance. It is undertaken in plan order. As well as the factors identified above other guidance of particular significance is the advice that a plan policy should be expressed clearly and unambiguously²⁰, drafted with sufficient clarity for a decision-maker to apply it with confidence and consistency when determining planning applications.²¹ Furthermore, a policy should be supported by proportionate, robust evidence²².

¹⁹ Inserted by paragraph 7 in Schedule 9 of the Localism Act 2011

²⁰ NPPF paragraph 16(d)

²¹ PPG Reference ID: 41-041-20140306

²² PPG Reference ID: 41-040-20160211

Plan Chapter 3. Plan Vision and Objectives.

4.05 There is a representation drawing attention to the fact that the plan vision refers to new development being 'proportionate to the area' and that small-scale housing will have been provided 'to meet local needs'. The context for the representation is the now withdrawn (GMSF) proposal for a significant development on the fringe of High Lane.

4.06 As recognised in the representation, the NDP should be in general conformity with the statutory development plan, which is the 2011 Stockport Core Strategy. It would not meet the basic condition otherwise. There is, therefore, no reason why the plan vision should not reflect existing policy. It will be for the emerging Stockport Local Plan to consider how any housing requirements to meet Borough needs using the 'standard methodology' is to be distributed. Should it involve larger scale development at High Lane that would be matter for consultation and discussion at the time and, should it be significantly different from that envisaged in this NDP, would necessitate a plan review. I do not fault the approach taken in establishing a vision for this plan.

Plan Chapter 4. Transport (policies T1 and T2)

4.07 It is very clear from reading the plan how important to the community in High Lane are issues relating to traffic congestion and the air pollution which results from traffic congestion on the A6, which runs through the centre of the village and which carries a high proportion of Heavy Goods Vehicles (HGVs) including those coming from limestone quarries in the Buxton area. In the circumstances, the focus given in the plan to transport issues is perfectly understandable.

4.08 Although Chapter 4 is entitled Transport and **policy T1** is headed 'Mitigating local traffic impacts of development and improving air quality' it is clear from a reading of the policy that its focus is in seeking to ensure that air quality is not worsened in those areas where it already exceeds air quality objectives or limit values in any area although the Greater Manchester Area Clean Air Plan suggests that the 'Area of Concern' is a relatively short section of the A6 in the centre of High Lane.

4.09 The first paragraph in the policy box states that applications for major new development should be accompanied by a detailed Air Quality Assessment. Not only would such a requirement be an unreasonable policy burden for smaller developments but it is in the nature of an administrative requirement rather than a proper matter to include in a land use policy. It would, in fact, be one way to

provide the 'evidence' required in the second paragraph of the policy and is, thus, already covered. A statement to that effect would be more appropriately included in the plan text.

4.10 Furthermore, the policy is expressed negatively, indicating that development will be 'resisted', which can only mean that permission should be refused unless the policy requirements are met, rather than framed positively as required by Government policy²³: that permission will be granted as long as the requirements are met. It should be borne in mind that the presumption in favour of sustainable development means that the onus is on the local planning authority to establish that a development would cause harm; not on the applicant to show that it would not.

4.11 In my written comments and queries (point 3) I suggested a possible alternative policy wording to overcome these difficulties and meet the basic conditions. The HLVNF have accepted it. It is recommended below along with other modifications which I now discuss.

4.12 The HLVNF have accepted that only a small part of Policy T1, that is criteria 6 and 7 in the second part of the policy, is directly related to transport measures and they would be more appropriately placed in policy T2 dealing with sustainable transport. With that amendment, policy T1 would relate more clearly to air quality issues, some of which might arise from traffic generated by development. Criterion 8, relating to electric car charging points, is related to air quality but also to the more general policy on climate change and the reduction in carbon emissions, not specifically to local impacts. I discuss that further below.

4.13 In view of the fact that the plan makes no land allocations and policy H1 as submitted would limit the scope for 'major development' within the built-up area of High Lane village (but see paragraph 4.20 below), there may be few opportunities for developments of 10 dwellings or more, or for larger scale non-residential development.²⁴ However, unless policy T1 is superseded by a policy in the Stockport Local Plan, it will apply to any larger scale development proposed in the Local Plan. Indeed, many of the mitigation measures included as criteria in the second part of the policy would be more relevant in that scenario and I have noted that they are drawn from the criteria in PPG paragraph 32-008. That guidance states that such measures 'will need to be locationally specific, will depend upon

²³ NPPF paragraphs 11 and 16

²⁴ The NPPF Glossary definition of 'major development', as in NDP footnote 17.

the proposed development and need to be proportionate to the likely impact'. That is an important proviso for the application of many of the criteria included in policy T1.

4.14 The PPG advice is not reflected in the introduction to the third part of the policy which is worded to require all major development proposals to 'minimise' air quality impacts and to meet all of the criteria irrespective of the nature of the development. Furthermore, there is no analysis of the effect such a policy approach might have on the viability and deliverability of development, particularly smaller schemes. I regard the function of the third paragraph to be in the nature of an advisory as to the kind of measures which might be considered to offset any identified adverse any air quality impacts and, without which, the development could not be permitted. To have regard to the PPG advice a more flexible wording is wording is required for the introduction.

4.15 I turn finally to criterion 8 which, as mentioned above, requires the provision of electric charging points. It is an important part of Government strategy and policies for a move towards the use of electric vehicles. However, the policy is written in a highly prescriptive manner including standards taken from an emerging Stockport Supplementary Planning Document which is stated in footnote 18 of the NDP to be at an 'early stage' of preparation. Unlike an NDP, an SPD is not part of the statutory development plan but is guidance. For such standards to be included in statutory policy there should be 'proportionate, robust evidence'²⁵ to support them in the sense that each of the standards would require specific justification. Not only would there, in due course, be an unnecessary duplication²⁶ between different policy documents but the standards would apply Borough-wide rather than distinctly²⁷ relating to High Lane. I note SMBC's support for the inclusion of this criterion but for the reasons given I do not consider that the drafting of criterion 8 has had adequate regard for national policy and guidance on such matters. To do so, and meet the basic conditions, it should be replaced with a generalised requirement for the provision of electric charging points in new major development. A Borough-wide SPD is a more appropriate 'policy vehicle'. Footnote 18 will require amendment to refer to the fact that detailed standards will be included in the forthcoming SPD.

²⁵ PPG Paragraph: 040 Reference ID: 41-040-20160211

²⁶ NPPF paragraph 16(f)

²⁷ PPG paragraph: 041 Reference ID: 41-041-20140306

Recommendation 1.

Modify Policy T1 as follows:-

Delete the first paragraph and include the provision in the plan text;

Delete the second paragraph and replace it by the following text:

Proposals for major new development¹⁷ will be permitted provided it is established that the development:

- would not be likely to lead to an adverse effect on air quality in any areas of High Lane which exceed Air Quality Objectives for Nitrogen Dioxide (NO₂) or other pollutants at the time of the development proposal and
- would not be likely to lead to exceedances of Air Quality Limit Values.

Replace the introductory sentence in the third paragraph by the following text:

Any mitigation measures needed to offset any potential adverse effect on air quality may include some or all of the following, where appropriate:

Delete criteria 6, 7 and 8. Include criteria 6 and 7 in Policy T2 and replace criterion 8 with the following:

The provision of electric vehicle charging points.

Make a consequential amendment to the wording of footnote 18.

4.16 Turning now to **policy T2**. I identified in my questions 6-10 and my comments, the many difficulties I envisage in implementing this policy as worded in the submitted plan. The importance of the issues raised to the local community in High Lane is not to be underestimated. However, unfortunately, many of the solutions to those issues lie outside the scope of the statutory planning system and hence that which can be covered in NDP policy. Indeed, works undertaken by a Local Highway Authority within the boundaries of a road for its maintenance or improvement are specifically excluded from the definition of 'development' in the Town and Country Planning Act 1990²⁸. There are also 'permitted development'

²⁸ Section 55(2)(b)

provisions²⁹ for development within and adjoining the highway³⁰ and on operational railway land, which includes stations³¹. Because planning permission is not required any policy seeking to influence such provision has to be treated as a 'wider community aspiration' as advised in PPG paragraph 41-004 if the basic condition to 'have regard' to that advice is to be met. The HLVNF have broadly accepted that point in their responses to my questions.

4.17 More specifically, the provision of cycle tracks along roads, traffic management schemes and the design of the highways network, including junctions, are all matters for the local highway authority. It is perfectly legitimate for the plan to identify community priorities for improvements to roads, footpaths and cycleways but they can only be secured through statutory planning policies when directly related to the development and otherwise meeting the pre-requisites³² for planning obligations or conditions. For that reason, many aspects of this policy should be treated as a wider community aspiration. The yellow box under paragraph 4.56 in the plan is setting out relevant aspirations and is entirely in line with the PPG advice in being clearly distinguishable from planning policy in the green boxes.

4.18 The yellow box could easily be expanded to cover the actions which might be taken to work with the highways authority to achieve the improvements sought where they are not directly related to development. That could include aspects of highways design. The second paragraph in the yellow box overlaps and expands upon the provisions in policy T2 dealing with improvements to Middlewood station. There is no need for both. Evidently, there is no firm proposal by Network Rail to provide a new station at High Lane. If there was the plan might be expected to reserve land for the station. Otherwise, the improvements of facilities for passengers at the existing station would be permitted development and, therefore, not a matter for policy. The addition of the words 'should the opportunity arise', as suggested by the SMBC would only serve to emphasise the aspirational nature of this provision, best included in the yellow box.

²⁹ As set out in the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO).

³⁰ GPDO, Schedule 2, Part 9 Class A

³¹ GPDO, Schedule 2, Part 8 Class A

³² NPPF, paragraphs 55 and 56

4.19 As worded in the submitted plan, policy T2 appears to apply only to schemes for the provision of cycleways along roads and to reduce traffic on the residential streets shown on Map 2 which shows Sustrans proposals, but the intention is clearly wider than that. A policy to ensure that infrastructural provision is made through development which encourages the use of sustainable transport is entirely in line with government policy advice. However, as the HLVNF have acknowledged, policy T2 needs to be 'reworked' to achieve that. In so doing it would meet the basic conditions. To do that relevant sections of the existing policy need to be extracted along with the addition of criteria 6 and 7 from policy T1 which relate to sustainable transport. However, the inclusion of a reference to car parking in criterion 3 of policy T2 would not obviously relate to sustainable transport and contradicts criterion 6 from policy T2. I deal with the status of the Design Codes in paragraphs 4.35-38 below. Subject to those considerations, I recommend a significantly revised policy.

Recommendation 2.

Delete policy T2. Replace it with a completely revised policy along the following lines:-

New major housing development should be located where there is good access to local bus routes and/or rail facilities or improvements can be made to achieve such access by sustainable transport modes.

Where appropriate, development schemes should incorporate accessible and safe linkages to local walking and cycling networks, public transport facilities and local services to reduce reliance on the car, particularly for short journeys.

Safe and secure cycle storage should be integrated into development schemes and, where possible, provided at other suitable locations such as the village centre and local shops and services, taking account of the standards set out in the accompanying Design Code.

Deleted references to the measures needed for the reduction of traffic on residential streets (rat-running), on road cycle tracks and highways design standards should be included in the yellow box under paragraph 4.56 as wider community aspirations to be pursued by means other than through the statutory planning framework, as will improvements to facilities at Middlewood station.

Plan Chapter 5. Housing (policy H1)

4.20 As the plan does not 'make provision for housing' in terms of making specific site allocations, this chapter is concerned with achieving a mix of new housing types to meet identified local needs, including affordable housing. The text provides adequate justification for the approach but I have drawn attention to the fact, as recognised in paragraph 5.30 of the plan (subject to correction of an error), that Government policy is that affordable housing should not be sought on sites for the development of fewer than 10 houses, but is otherwise encouraged. As currently worded, policy H1, precludes that option. I am in no doubt that the provision of an element of affordable housing would be a 'material consideration' of some weight to balance against the policy should such a proposal come forward.

4.21 In response to my question 11 the HLVNF have suggested additional wording to state that larger scale development including affordable housing 'will be considered on suitable brownfield sites within the existing built-up area'. It might well be, given the nature of High Lane, that the only sites which provide for developments of 10 or more dwellings are likely to be 'brownfield' but I do not see any justification to specify that. Also, all applications have to be 'considered' on individual merit. As the Green Belt boundary is coterminous with that of the built-up area it would not be appropriate for policy H1 to suggest that development might be acceptable 'adjacent' to the built-up area, as suggested in a representation.

4.22 With the acceptance that larger developments may be permitted on suitable sites if they become available, referring to developments of up to 9 dwellings serves no useful purpose. The Government policy that affordable housing cannot be required on smaller sites is for reasons of viability. There is nothing in policy to prevent a developer offering to provide affordable housing on smaller sites, such as for example a registered social landlord. For clarity I recommend removing the apparent site size limit leaving the matter to be determined by other policies in the development plan against site-specific considerations.

4.23 The second paragraph is not a statement of land use planning policy but an indication of intent to support any proposal which might come forward at the strategic level for major development with the caveat of it being required to meet NDP policies. However, policy H1 itself appears to preclude such a scenario. Any strategic policy coming forward after the NDP is 'made' would supersede the neighbourhood plan in any event. In so far as the statement is intended to signal a positive approach to future development it is more appropriately included in the plan text.

4.24 I have drawn attention to the fact that the term 'existing built-up area' is not defined. The NVLNF have confirmed that it relates to the black dashed line shown as 'settlement area' on maps 4 and 5 which is also the boundary of the existing green belt inset. For clarity and ease of policy interpretation the map key should refer to the 'existing built-up area'.

Recommendation 3

Delete paragraph 2 of policy H1 and move it (suitably amended) to the plan text.

Combine paragraphs 1 and 3 to read as follows:-

Subject to other policies in the HLVNDP, proposals for new housing development will be supported within the existing built-up area of High Lane Village (as defined on maps 4 and 5) provided that they contribute to a suitable and sustainable mix of house types and sizes, including affordable housing, in line with the most up to date assessments of local housing need.

Plan Chapter 6. Green Open Spaces, Recreational Activities and Natural Heritage (policies R1, R2, NH1, NH2 and NH3)

4.25 In the opening paragraph of **policy R1** it is stated that the 'open spaces, recreational and sports facilities' identified on map 5 'are protected from development'. Firstly, for the correct interpretation of the policy, it should be clear to which areas of land it is intended to relate. Map 5 has been produced by the SMBC and shows a classification, apart from Green Belt, of 'Local Open Space' and 'Green Chains'. A difficulty with it is that the Green Belt 'washover' obscures areas beneath. Brookside Park, for example, is in the Green Belt and so cannot be identified from the map. I do not consider that Map 5 is fit for purpose to apply the NDP policy 'with confidence'³³. A new map should be produced to clearly show the areas to which the policy relates.

4.26 Secondly, saved UDP policy UOS3.1 applies to Local Open Spaces and policy NE3.1 to the Green Chains. As they are non-strategic and so it is important for development management purposes that the relationship with NDP Policy R1 is clear. Policy NE3.1 indicates that the green chains are not solely of significance for

³³ PPG paragraph 041. Reference ID: 41-041-20140306

recreational activities but are also wildlife corridors. That is confirmed in Map 9 relating to policy NH3.

4.27 Both of the UDP policies provide criteria against which development proposals should be judged. They do not state simply that areas will be 'protected from development'. The HLVNF have accepted, as the second paragraph in the policy indicates, that certain types of development related to recreational use may be permitted. For clarity, therefore, additional wording is needed to make clear that the open spaces are protected only from development which would conflict with their recreational use. Green Chains are protected under NDP policy NH3.

4.28 Furthermore, I have drawn attention to the fact that, as drafted, the policy does not appear to have had regard to NPPF paragraph 97 which indicates that development might be permitted, in certain limited circumstances, for example where it would be possible to replace an existing playing field with higher quality provision elsewhere. Additional wording is needed to reflect that aspect of national policy.

4.29 Although the HLVNF have referred to NPPF paragraphs 99 and 100 in their response to my question 17, there is no reference in the plan to the identified areas being intended as 'Local Green Space' (LGS) for which, in accordance with NPPF paragraph 101, the equivalent of Green Belt policy would be applied. I have not been provided with any evaluation equivalent to that required by paragraph 100. Also, as drafted the policy does allow for inappropriate development in 'very special circumstances', but with additional wording in line with NPPF paragraph 97, and because this is not strictly LGS, the circumstances under which development might be allowed in do not need to meet a test of their being 'very special'.

4.30 The HLVNF have accepted that there are two errors. In line 7 of paragraph 6.17 the reference to High Lane Park should be to Brookside Park and in the third line of the second paragraph in the policy 'site' should read 'sites'. I deal with that in the errors section of my report.

Recommendation 4.

Replace Map 5 with one which clearly shows all of the areas to which policy R1 applies.

Recommendation 5.

At the end of the first paragraph in policy R1 add the words:

which would conflict with their ongoing use for recreational purposes unless adequate replacement or improved provision is planned and where suitable qualitative improvement would be the outcome with no net loss of amenity.

4.31 I am satisfied that **policy R2** as submitted meets the basic conditions and I do not recommend any modification to it. My comments erroneously referred to criteria 6 and 7 in policy T2 whereas they are in policy T1 and, as stated in paragraph 4.19 above, they are recommended to be included within a revised policy T2, not in R2.

4.32 In my comments I describe this policy as being ambitious. That is because the nature and range of the infrastructural improvements set out are only likely to be deliverable should the location and scale of any future housing development be such that the requirements of paragraphs 55 or 56 in the NPPF can be met. The inclusion of the words 'where appropriate' at the start of the second paragraph in the policy covers that although the implications need to be understood. I am in no doubt that the last paragraph in the policy has had full regard to paragraph 98 in the NPPF. There is no need to include reference to it in the plan because national policy might well change during the lifetime of the plan. Such references can render a plan out-of-date quickly.

4.33 I have only two minor points to raise on **policy NH1**. First, for clarity, schemes should 'have reference' to the landscape assessment studies mentioned rather than 'refer' to them. Secondly, there is an error in the first line of the second paragraph where the word 'should' has been omitted before 'address'. I shall treat both as errors and deal with them under recommendation 9 below.

4.34 The second paragraph in **policy NH2** states 'a Landscape and Visual Impact Assessment should be carried out ...'. As I pointed out in association with my question 20, that is an advisory. Although I have little doubt that in most cases where the development would have an impact on the important views and vistas, an LVIA or similar would be needed to establish that the development would be carried out in such a way to meet the objective of the policy to 'respect' the views and vistas. How that is done is a matter for the applicant and cannot be required

by a plan policy. It is not an appropriate matter for inclusion within a statutory policy, although it can be included in the plan text. To meet the basic conditions, regard should be had to the separate procedures under which the LPA lists their requirements for information required with an application³⁴, which may affect the validation procedures under the Development Management Procedure Order³⁵.

Recommendation 6.

Delete the second paragraph from policy NH2 and include it as an advisory in the plan text. Revise policy NH2 to read as follows:-

Development proposals should respect identified Important Views and Vistas which are locally valued and identified on Map 7. Should a proposed development be likely to affect such views and vistas the scheme should be designed and sited sensitively and appropriately to mitigate any adverse impacts.

Plan Chapter 7. Heritage and Design (policies HD1 and HD2)

4.35 Both policies **HD1** and **HD2** refer to the Design Codes which have been produced in a separate document which was consulted upon at the same time as the NDP. Both the HLVNF and the SMBC have responded to my questions 21 and 22 to say that it should be treated as an appendix to the plan and, therefore, form part of it.

4.36 It is important for the decision-maker that it is clear which parts of a plan represent statutory planning policy to which s38(6) of the Planning and Compulsory Purchase Act 2004 applies. That is why it is stressed in paragraph 41-004 of the PPG that non-land use matters should be clearly distinguished and set out in an accompanying document or annex. A Design Code is not a non-land use document but it is in the nature of guidance rather than statutory policy. The relationship between a Design Code and a neighbourhood plan is similar to that between a Supplementary Planning Document (SPD) and the 'parent' local plan. A statutory policy in the plan sets out the context with detailed provisions set out in the SPD which has the status of a 'material consideration' albeit having significant weight because it has subject to public consultation.

³⁴ PPG paragraphs: 14-039&040 Reference IDs: 14-039/040-20140306

³⁵ The Town and Country Planning (Development Management Procedure)(England) Order 2015

4.37 Had it been the intention that the Design Codes were to be treated as part of the statutory plan that would have had to have been made clear at the outset. The 'policies' within it would then have required assessment against the basic conditions through the submitted Basic Conditions Statement. They are not. Only the 'enabling' NDP policies HD1 and HD2 are assessed. Furthermore, in paragraph 1.2 of the introduction to the Design Code document it is stated that it is published for consultation 'alongside' the NDP, not as part of it. That conforms the wording in policy HD2 itself that the Design Codes are an 'accompanying background document to the Neighbourhood Development Plan.' I consider that to be a correct statement to clarify the status of the Design Codes. As such they will be a material consideration. Although such a statement does not need to be included within the emboldened text it helps to make things clear. The codes cannot be 'upgraded' at such a late stage.

4.38 Related to that, my main concern is that policy HD1 states in the second paragraph dealing with the Macclesfield Canal Conservation Area that development should protect and enhance the area's special character in accordance with section 5.1 of the Design Codes (my emphasis). Those words could be interpreted as requiring full compliance with the Codes whereas Policy HD2, in referring to the 'principles' in the Codes, is the correct approach. To provide the necessary confidence in decision-making the wording of policy HD1 should be amended to 'having regard to'.

Recommendation 7.

In the second paragraph of policy HD1, replace the words 'in accordance with' by 'having regard to'.

4.39 In the last paragraph of policy HD2 there is reference to areas where flood risk is a known issue, but it is not clear to which areas that policy is intended to apply. I agree that it is Environment Agency data to which plan users are likely to turn to understand the implications of the policy and a link to the information source should be included.

Recommendation 8.

Under policy HD2 include a link to the Environment Agency's live flood risk mapping system.

The Correction of Errors

4.40 In paragraphs 2.16, 4.20, 4.30 and 4.33 of this report I have drawn attention to some errors in the submitted NDP. There follows a recommendation to authorise the necessary corrections with a cross-reference to the paragraph(s) in which I deal with it.

Recommendation 9.

Make the following modifications to correct errors in the plan:-

- 1. Update the plan text throughout to reflect the decision of the Stockport MBC to withdraw from the GMSF preparation process and to pursue the preparation of a Stockport Local Plan to replace existing local plan documents. (2.16-17)**
- 2. In paragraph 5.30 of the plan text, update the reference to the threshold for the provision of affordable housing. (4.20)**
- 3. In line 7 of paragraph 6.17 in the plan text, for 'High Lane Park' substitute 'Brookside Park'. (4.30)**
- 4. In policy R1, in the third line of the second paragraph, 'site' should read 'sites'. (4.30)**
- 5. In policy NH1, in the second line of the first paragraph, replace 'refer' by 'have reference' and in the first line of the second paragraph, insert the word 'should' before 'address'. (4.33)**

Section 5 - Formal conclusion and overall recommendations including consideration of the referendum area

Formal Conclusion

5.01 I conclude that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in Schedule 4B to the Town and Country Act 1990 (as amended), does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights.

Overall Recommendation A.

I recommend that the modifications recommended in this report be made to the High Lane Village Neighbourhood Development Plan 2020 - 2037 and that the draft plan as modified be submitted to a referendum.

The referendum area

5.02 As I have recommended that the draft plan as modified be submitted to a referendum I am also required under s10(5)(a) of Schedule 4B to the Town and Country Planning Act 1990 to recommend whether the area for the referendum should extend beyond the neighbourhood area.

5.03 The boundary of the neighbourhood area has been drawn to coincide with ward boundaries. It contains the whole of the built-up area of High Lane and is reasonably self-contained. No representations were made about the referendum area. There is, therefore, no reason that it should be extended beyond the neighbourhood area

Overall Recommendation B.

The referendum area should not be extended beyond the neighbourhood area.

Signed:

John R Mattocks

JOHN R MATTOCKS BSc DipTP MRTPI FRGS

31 May 2021

APPENDIX

Abbreviations used in this report

the 2012 Regulations	The Neighbourhood Plans (General) Regulations 2012
BSC	Basic Conditions Statement
DPD	Development Plan Document
EU	European Union
GMSF	Greater Manchester Spatial Framework
HGV	Heavy Goods Vehicle
HLVNF	High Lane Village Neighbourhood Forum ('the Forum')
HLVNDP	High Lane Village Neighbourhood Development Plan
HRA	Habitats Regulations Assessment
LGS	Local Green Space
LP	Local Plan (adopted Stockport Core Strategy)
LPA	Local Planning Authority (SMBC)
NDP	Neighbourhood Development Plan (generic term)
NPPF	The National Planning Policy Framework
PPG	Planning Practice Guidance
SEA	Strategic Environmental Assessment
SLP	Stockport Local Plan (emerging)
SMBC	Stockport Metropolitan Borough Council ('the LPA')
SPD	Supplementary Planning Document
UDP	(Stockport) Unitary Development Plan Review 2006