



Document 11

Sowerby Neighbourhood Plan

Produced by Sowerby Neighbourhood Forum

Health Check – July 2019: Undertaken by Andrew Seaman BA (Hons) MA MRTPI

Summary of Recommendations

1. Process

- The Sowerby Neighbourhood Area and Forum were designated on 26th April 2017. The Forum has clearly undertaken much good work leading to the December 2018 version of the Sowerby Neighbourhood Plan (the Plan / SNP). A Consultation Statement and Basic Conditions Statement have been produced.
- Further liaison and correspondence with Calderdale Council (CC) would be prudent to ensure, as far as practical, that the Council is in agreement with the process of the SNP production and its final content.
- A Strategic Environmental Assessment (SEA) Screening Report has been undertaken which concludes that no significant environmental effects are likely to arise from the SNP. This should be further checked with CC (and Natural England) in relation to the final content of the SNP and in particular Policy SNPP18 which supports the principle of wind turbines.
- There is no evidence to show whether a Habitats Regulation Assessment (HRA) screening has been undertaken (notwithstanding reference within the Basic Conditions Statement). This should be remedied by liaison with CC prior to submission of the SNP (and have regard to the Ecological Assessment undertaken in October 2018 as per the SNP website).

2. Content



- The SNP appears positively drafted to take into account national planning policy and the requirement to plan positively for sustainable forms of development. However, whilst referenced more explicitly in the Basic Conditions Statement, the SNP does not currently use the term 'sustainable development' within its text which could be usefully rectified. This could be secured by amending Section 4 of the SNP.
- The Plan contains a clear Vision, 5 themes, 9 objectives and 18 policies. The policies themselves could be clarified in some instances with specific content which informs those promoters or respondents to a development proposal on the expectations of the SNP and how it would be applied. Some suggested amendments are identified to the SNP which are set out in Part 3 of this Health Check.
- Liaison with CC should be made to check the general conformity of the SNP with the current strategic policies of the 2006 Unitary Development Plan (UDP), notwithstanding that the SNP has been reasonably written with the context of the emerging Local Plan which, at time of writing, has just completed Stage 1 of the hearing process, firmly in mind. A Statement of Common Ground with CC would be a useful addition to the evidence base prior to formal submission for Examination. As Planning Practice Guidance (PPG) Reference ID: 41-009-20190509 make clear, a neighbourhood plan is tested against the adopted development plan, therefore, it would be helpful to set out the current strategic policy context within the SNP, making more fulsome reference to both the UDP and the emerging Local Plan; this could be done at the beginning of Section 4 (note, this is referenced clearly at Section 6 of the Basic Conditions Statement). A cross reference and inclusion of a possible Appendix to show the allocated sites of the draft Local Plan would assist clarity.
- The Basic Conditions Statement and Consultation Statement should be finalised to the current date prior to submission and be available as separate discrete supporting documents. Detailed guidance on the contents of a consultation statement can be viewed here: www.rtpi.org.uk/media/1282948/how_to_write_a_consultation_statement.pdf . Further guidance on Basic Conditions Statements can be found here: https://www.rtpi.org.uk/media/1282954/approaches_to_writing_a_basic_conditions_statement.pdf.
- Where no comment is made against a policy, this is because the policy appears to be in general conformity with the strategic policies of the adopted Development Plan and has regard to national policy and guidance, and the aims of sustainable development.

Andrew Seaman

5th July 2019

Part 1 – Process

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	Criteria	Source	Response/Comments
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	Sowerby Neighbourhood Plan; Basic Conditions Statement; Consultation Statement	Yes, this requirement is met. Paragraph 1.2 of the Basic Conditions Statement confirms the due dates of designation of the Qualifying Body and of the neighbourhood plan area (26 th April 2017). Figure A of the SNP confirms the extent of the Plan area (this could be supplemented by a plan/map such as found at Appendix B)
1.2	If the area does not have a parish council, have the necessary statutory requirements been met in terms of the designation of the neighbourhood forum?	Sowerby Neighbourhood Plan	The Sowerby Neighbourhood Plan Forum was designated by CC as a Qualifying Body on 26 th April 2017.
1.3	Has the plan been the subject of appropriate pre-submission consultation and publicity, as set out in the legislation, or is this underway?	Sowerby Neighbourhood Plan; Consultation Statement	Consultation was undertaken from 15 th December 2018 to 10 th February 2019 in accordance with the requirements of Regulation 14. The provided version of the SNP is dated 2018 and therefore does not appear to contain, if applicable, any changes arising from the consultation. The available version of the Consultation Statement does not include the Annexes referred to within its text. It would be helpful to update the Consultation Statement to demonstrate what were the main issues and concerns raised (and by what proportion of the population and representors). This could be included in some additional commentary at paragraph 26. This should then lead to a brief explanation of how these issues were taken into account in drafting the latest version of the SNP. Further advice on preparing a Consultation Statement can be found here: https://www.rtpi.org.uk/media/1282948/how_to_write_a_consultation_statement.pdf Further useful Annexes/Appendices to the Consultation Statement may be copies of the e mail pro forma sent to residents, copies of the questionnaire; screen shots or links to Facebook/website; copies

			of leaflets/photos etc.
1.4	Has there been a programme of community engagement proportionate to the scale and complexity of the plan?	Sowerby Neighbourhood Plan	Yes, the programme of community engagement, as currently set out within the Consultation Statement and on the assumption that the items listed in paragraphs 21-23 occurred in a timely manner, appears proportionate to the SNP.
1.5	Are arrangements in place for an independent examiner to be appointed?	Sowerby Neighbourhood Plan	There is no information provided on this. Whilst the Forum has not yet reached submission of the Plan to CC under Regulation 15, it is advised that the Forum now begin discussing what the process will be for identifying a suitable independent examiner with CC. Whilst the general approach is to assess the resumes/CVs provided by prospective examiners, you may also find it very helpful in coming to a decision by reading examples of their reports on other Neighbourhood Plans.
1.6	Are discussions taking place with the electoral services team on holding the referendum?	No source	It is not yet appropriate to put in place arrangements for a Referendum after the examination of the Plan. However, as the Plan advances, discussions should be held with CC.
1.7	Is there a clear project plan for bringing the plan into force and does it take account of local authority committee cycles?	No source	There is no process set out for bringing the Plan into force. This could be developed in liaison with CC.
1.8	Has a SEA screening been carried out by the LPA?	SEA Screening Report by Calderdale Council; Basic Conditions	Yes, a Screening Report was undertaken by CC (dated April 2019) which concludes that it is unlikely that there would be any significant environmental effects arising from the SNP and its policies. A full SEA as prescribed by the SEA Regulations is not deemed to be required for the Plan. Natural England (22 nd May 2019) has confirmed this view.

		Statement; Natural England letter	These views should be double checked, particularly with regard to the content of Policy SNPP18.
1.9	Has a HRA screening been carried out by the LPA?	Basic Conditions Statement but no primary source	<p>There is no evidence to show whether HRA screening has been undertaken although this is referenced at paragraph 7.4 of the Basic Conditions Statement. This should be remedied by liaison with CC prior to submission of the SNP (and have regard to the Ecological Assessment undertaken in October 2018 as per the SNP website).</p> <p>Attention is drawn to the fact that the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 were made on 5 December 2018 and came into force on 28 December 2018. These amend the prescribed Basic Condition related to Habitats Assessments - the revised Basic Condition took effect from 28 December 2018. See the following link: http://www.legislation.gov.uk/uksi/2018/1307/contents/made (Section 3).</p> <p>This amendment follows the ruling of the European Court in People over Wind and Sweetman on 12 April 2018.</p>

Part 2 – Content

	Criteria	Source	Response/Comments
2.1	Are policies appropriately justified with a clear rationale?	Sowerby Neighbourhood Plan	<p>The SNP has a clearly stated Vision (page 1). This leads to 5 key themes and 9 objectives (page 4-1). Thereafter, there are currently 18 policies.</p> <p>The policies are on the whole positive statements of intent. However, there is scope and a necessity to ensure that they are clear in their future application and their wording should be amended accordingly (also see detailed comments in Part</p>

			<p>3 below). There is useful advice to be found here: https://neighbourhoodplanning.org/wp-content/uploads/Writing-planning-policies-toolkit-HK-071218-0907-COMPLETED-JS-complete-.pdf</p> <p>Each policy is clearly identified by the pre-fix SNPP and is separated within a discrete text box which is helpful. The justification for each policy is then provided by text which set out how the policy relates to national and draft Local Plan policy, why the policy is necessary and how they will be applied and by whom. This approach is simple to follow and, subject to comments below, the justification provided is rational and adequate, albeit quite brief. It would be helpful to include additional cross references to any supporting evidence for each policy area within the supporting justification (eg Heritage Assessment?)</p>
2.2	<p>Is it clear which parts of the draft plan form the 'neighbourhood plan proposal' (i.e. the neighbourhood <i>development plan</i>) under the Localism Act, subject to the independent examination, and which parts do not form part of the 'plan proposal', and would not be tested by the independent examination?</p>	Sowerby Neighbourhood Plan	<p>Yes, the Plan is not lengthy, and the Objectives and Policies are clearly contained in Section 4 of the Plan.</p>
2.3	<p>Are there any obvious conflicts with the NPPF?</p>	Sowerby Neighbourhood Plan	<p>No fundamental conflicts have been identified.</p>
2.4	<p>Is there a clear explanation of the ways the plan contributes to the achievement of sustainable development?</p>	Sowerby Neighbourhood Plan; Basic Conditions Statement	<p>The SNP is drafted in a positive manner that supports the principle of sustainable development as set out in national policy.</p> <p>However, the SNP does not currently use the term 'sustainable development' within its text and therefore there is no clear explanation within the Plan of the ways in which it contributes to the achievement of sustainable development.</p> <p>The Basic Conditions Statement does reference 'sustainable development' (albeit</p>

			<p>in the context of the previous version of the National Planning Policy Framework (NPPF) since superseded by the 2019 issue). In particular Section 5 includes a helpful summary table of the economic, social and environmental impacts of the Plan.</p> <p>The information from the Basic Conditions Statement could logically be included, in short summary, within additional text to Section 4 of the SNP. A short precis of the aims of the NPPF could then serve as an introduction to how the themes, objectives and policies of the SNP have been devised to embrace the ambition of ‘sustainable development’ with due regard to the draft Local Plan (which must follow a similar intent) and the UDP.</p>
2.5	Are there any issues around compatibility with human rights or EU obligations?	Sowerby Neighbourhood Plan; Basic Conditions Statement	No, from an assessment of the documents received there would appear to be no outstanding issues regarding compatibility with human rights or EU obligations, subject to the comments on HRA..
2.6	Does the plan avoid dealing with excluded development including nationally significant infrastructure, waste and minerals?	Sowerby Neighbourhood Plan; Basic Conditions Statement	Yes, the Plan does avoid dealing with such excluded development, and there are no potential issues regarding this matter.
2.7	Is there consensus between the local planning authority and the qualifying body over whether the plan meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement?	Sowerby Neighbourhood Plan; Basic Conditions Statement	<p>There is no evidence to demonstrate a consensus between the qualifying body and CC.</p> <p>This should be remedied (by meetings/correspondence) ideally before submission. Any areas of obvious disagreement should be obviated or minimised.</p> <p>It cannot be concluded at the present time that there are no potential issues of general non-conformity (i.e. disagreement) with strategic development plan policies.</p>

			<p>The SNP has been written to be in general conformity with the emerging Local Plan (as evidenced in the Basic Conditions Statement). This document is currently undergoing Examination, the outcome of which is unknown.</p> <p>The legislation requires general conformity with the current strategic development plan policies which are contained in the UDP. Therefore, if the SNP is submitted for Examination at this time, there is insufficient evidence to show that the legislative requirement is technically met. Rather than await the outcome of the Local Plan Examination, this matter could potentially be remedied by additional commentary within the SNP and updates to the table within the Basic Conditions Statement (columns 4 and 5). Liaison with CC would be prudent to agree that the SNP is in general conformity with the strategic policies currently within the UDP.</p>
2.8	Are there any obvious errors in the plan?	Sowerby Neighbourhood Plan	Some suggestions are made in Part 3 below.
2.9	Are the plan's policies clear and unambiguous and do they reflect the community's land use aspirations?	Sowerby Neighbourhood Plan	<p>Detailed Comments are made below on the content and drafting of the Plan's Policies. It is clear that they reflect and have been shaped by the community's aspirations to date.</p> <p>Some of the policies would benefit from greater clarity in how they would be delivered and a further 'sense check' and potential refinement to ensure that they are specific land use policies and not general assertions of aspiration (which might be contained to a degree within the text of the Plan, balanced with the advice in the PPG).</p>

Part 3 - Detailed Comments

1. These detailed comments address all matters, both of significance and of a more minor nature, across the Plan and are presented in Page order.



2. The Plan has 4 sections, as a minor point of detail it may be helpful to label them on each respective page (eg on page 2-2 there would be the number '2' before moving into paragraph 2.1).
3. Page 2-3: It would be prudent to check with CC that the statistics in sentence 1 are correct.
4. Page 2-4: Delete 'Unfortunately' from the first line which would leave the factual position concerning school places simply stated.
5. Page 2-4: Paragraph 2.9, state Calderdale Council in full and then use an acronym thereafter within the document. Ie, " ... with Calderdale Council (CC) ..."
6. Page 3-1: Paragraph 3.1, amend the final sentence to include a reference to sustainable development as required by national policy. Ie "... and support appropriate sustainable development when it is ...".
7. Next sentence should refer to '... Local Authority's ...'.
8. Paragraph 3.2 relies on the sites identified in the emerging Local Plan, which is broadly in the spirit of the advice provided in the PPG. Nonetheless, as noted above, the emerging Local Plan is not yet adopted. It would therefore be clearer to indicate that the Forum support the principle of development upon the draft LP sites, in order to contribute to the general need for housing which has increased since the UDP was adopted, and then include the identified sites as an Appendix to the SNP (thus showing clarity of approach within the SNP). Cross referencing or inclusion of the the justification/content provided by CC for its Local Plan allocations within the SNP would be prudent.

Paragraph 3.2, missing 'a' from and in the second sentence. Capitalise local plan (Local Plan).

9. Paragraph 3.3, amend the final sentence to ensure clarity and to manage expectations. Eg "It is a critical local document that planning proposals must be assessed against".
10. Paragraph 3.4, for consistency and clarity it would be prudent to refer to the Council as 'CC' (as established by paragraph 2.9). The final sentence could be amended to read: "As part of this process *the extent of* the Neighbourhood Area, see Appendix A ...".
11. Paragraph 3.5, a reference to the final Consultation Statement would be helpful here for those interested in how the process has been undertaken.

12. Page 3-2, paragraph 3.6: insert an 'a' before 'design code'. Insert a comma after 'specialist report'. Amend final sentence "...that the community want to protect'. The final Design Code should be cross referenced/sign posted clearly or included as a possible Appendix.
13. Paragraph 3.7, 3rd sentence 'Calder Valley'.
14. Paragraph 3.8, update the text to reflect the fact that the consultation has been undertaken and that amendments were/were not required.
15. Page 4-1, paragraph 4.1 refers to six themes but only five are listed.
16. Paragraph 4.2, This could be rephrased along the following lines: "From these themes the following objectives were identified which are addressed by the respective polices." However, some of these objectives do not find specific expression in the SNP policies, for example, there is no policy which relates to the preservation and maintenance of key views and vistas. Similarly, there is no policy which specifically addresses green space, play and recreational spaces. Should the SNP contain policies to take account of these objectives?
17. Page 4-2, the first paragraph should be updated to reflect the 2019 NPPF.
18. Policy SNPP1 is supportive of CC but it does not give specificity or clarity as to what a decision maker should do when faced with its implementation. This requires redrafting. Could the policy say: "*Development proposals should not exacerbate the parking of vehicles along bus routes and should ensure safe and adequate parking arrangements for the area at all times.*"? The current policy wording could be subsumed as the justification for the policy into the supporting text at paragraph 1.2.
19. Paragraph 1.4 could be amended for clarity as follows: "*...future development is recognised, particularly when views are expressed and decisions ...*".
20. Page 4-3, Policy SNPP2 could be amended to ensure that sufficient infrastructure is in place before a scheme is supported. Eg "Development proposals that include *adequate measures to provide, enhance and extend walking and*".
21. Paragraph 2.3, first sentence needs an apostrophe: "...area's...".
22. Paragraph 2.5 (and elsewhere) refers to sub policies. It is not clear what these are. Is this phrase better deleted?
23. Policy SNPP3 should be amended to refer to 'CC' rather than the 'council'.

24. Page 4-4, Policy SNPP4 refers to ‘dwellings’ in the plural rather than the singular ‘dwelling’. Liaison should be had with CC to seek agreement on this approach and its general conformity with the current Development Plan (and alignment with the draft Local Plan).
25. Policy SNPP5 could be more specific. Eg, “New development *will be expected to provide transport storage hubs*, in particular bike lockers ...”.
26. Page 4-5, Policy SNPP6 is positively worded but should be more specific in its requirements. For example, “*In order to protect and encourage the remaining wildlife in Sowerby a low light emissions policy is supported within the area. We will work with the authorities to turn off street lights at low use times (eg midnight to 5am). All new development proposals should demonstrate how they will meet the policy aims with the submission of details of all proposed external lighting which should include time controllable security lights where necessary.*”
27. Page 4-6, paragraph 7.3 first sentence: delete the superfluous word ‘suffer’. Second sentence, ‘mitigation’ not ‘mitigations’. Perhaps include an electronic link to ‘Slow the Flow’?
28. Page 4-7, Policy SNPP8 could be more specific. For example, “Large scale development proposals (over 20 dwellings) must include and develop usable space for the community to use.” The supporting text should explain why the threshold of 20 dwellings is used (10 dwellings is often seen as a threshold for ‘major’ developments).
29. Policy SNPP9 refers to a Design Guide although the text (paragraph 9.2) refers to a Design Code. Consistency of terms should be achieved. A link to the Code should be provided.
30. Page 4-8, the word ‘fully’ is superfluous in Policy SNPP10 and the policy might be reworded as follows to reflect NPPF paragraph 175(d), “*Development proposals that actively safeguard and, where possible, enhance biodiversity and wildlife opportunities within their core proposal will be supported especially where this can secure measurable net gains for biodiversity*”.
- Paragraph 10.3 could explain what the acronym BAP stands for. Paragraph 10.6 refers to ‘sub policies’ but it is unclear what these are. Is the term needed or, if so, it should be explained more clearly.
31. Page 4.9, Policy SNPP11 could be clearer by amendments such as: “*To ensure the protection of the community, all development must provide safe pedestrian and cycling access within site boundaries and, as far as practical, to the community facilities within Sowerby*”.

32. Policy SNPP12 is positively worded but is not a clear land use policy as worded. It may require deletion as a policy although its wording could be subsumed into the justification for SNPP11. As a possible alternative, Policy SNPP11 could be extended as follows: *“To ensure the protection of the community, all development must provide safe pedestrian and cycling access within site boundaries and, as far as practical, to the community facilities within Sowerby. The Borough Council will be encouraged to provide improved parking spaces to serve the shopping arcade on Towngate.”*
33. Page 4-10, Policy SNPP13 could be more specific. For example, *“Development proposals should be of a demonstrable sustainable design and construction, optimised for energy efficiency. Proposals that aspire to zero emissions will be supported.”* The acronym ‘NS’ at paragraph 13.5 should be explained.
34. Page 4-11, Policy SNPP14 is quite broad in its aim to secure a range of dwelling types. Its clarity and specificity may be aided by an addition to the first sentence as follows: *“...range of dwelling types to meet the needs to the area.”*
35. Page 4-12, The policy is missing a ‘S’ before the ‘NPP15’. The use of the word ‘significant’ is unclear in its intention. What would be ‘significant proportion’? This should be explained in the supporting justification text. There would be a potential benefit in clarity by combining Policies SNPP14 and 15 into a single policy.
36. Page 4-13, there can be a risk that planning proposals can preserve a non-designated heritage asset yet still cause harm to other interests. For example, a new housing scheme may renovate an asset but cause additional traffic that would be a hazard to pedestrians or may harm biodiversity interests. It may therefore be prudent to qualify the policy wording in some way. For example, *“Planning proposals that conserve and enhance the non-designated Heritage Assets listed in this Document without causing unacceptable harm to other interests will be supported”*. Appendix B provides the list of non-designated assets, it would be helpful to provide an additional column in the Appendix entitled ‘Reasons/Description’ which will provide a summary of its ‘significance’ and why the non-designated asset is deemed of value. A clear cross reference/sign post to the Heritage evidence produced would be helpful.
37. Page 4-14, Policy SNPP17 would benefit for reasons of clarity by being more specific (pollution can be more than emissions to air). The supporting text makes reference to alternative means of energy production. Therefore, would the following wording be helpful/clearer? *“Planning proposals should minimise the amount of pollution created, particularly that discharged into the surrounding air, and include alternative means of energy production unless demonstrably impractical”*.
38. Page 4-15, Policy SNPP18 is positively worded but needs to be clearer for the purposes of its implementation. What is meant by ‘in an area identified as unlikely to cause ...’ mean in practice? Government policy supports the scope for a Neighbourhood Plan to identify sites for wind energy (see PPG Reference ID: 5-033-150618); is it the intention for the entire Neighbourhood Plan Area to be considered suitable for wind energy development (if so,

perhaps simply say so)? This may have implications for the referendum requirements beyond the Sowerby area (as the perceived effects on neighbouring areas may be more controversial). There would also be policy considerations to be had in the event of an application due to formal Green Belt designations.

Would the same outcomes be achieved by the following policy wording? *“Wind turbine proposals of under 18m will be supported in principle within the Neighbourhood Plan Area where no unacceptable impacts are generated, particularly those relating to noise, biodiversity and visual effect”*. The justification for an 18m height limit should be provided.

39. Page A-1, Appendix A would be better supplemented with a map of the Neighbourhood Area similar to that on page B-8 (instead of or in addition to the photograph).

40. Page B-1, the 2nd paragraph refers to sites that are important due to their ecological importance or features. However, Policy SNPP16 refers to non-designated heritage assets. Therefore, there is an inconsistency between the wording of policy SNPP16 and the contents of Appendix B in relation to the assets which are not heritage assets. This needs to be resolved (either by changing the wording of SNPP16 or deleting the non-heritage assets from Appendix B).

Typo in the 2nd paragraph – missing apostrophe in *area’s*...

The table of Appendix B (as noted above) needs more summary information about the significance and importance of each asset listed. Can a cross reference also be made to any supporting survey information?

41. **General** –the Plan is clearly structured and is straightforward to read. It would be helpful to briefly address the intended arrangements for the future Monitoring and Review of the Plan. For example, there is no indication on how the successful implementation of the Plan’s policies will be monitored, or the circumstances (such as changes in strategic planning policies or national policy) which might necessitate a formal Review of the Plan prior to 2034.

42. The main focus of this report has been on undertaking a detailed assessment of the Plan. A thorough proof-read and sense check should be made of the supporting documents prior to the Regulation 15 submission and the Plan itself should also be proof-read by an independent person to check for typographical errors.

1. Finally, it is recognised that the above comments will involve some amendments to the Plan and its contents. However, the time and effort that has clearly been put into the Plan to date is commendable and if the Plan can be amended to incorporate the above suggestions then it will have a very good prospect of being submitted for a successful examination.

