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Dear Andrew,

**Leeds City Council Response to the East Keswick Neighbourhood Plan
Pre-Submission Consultation (Regulation 14)**

Thank you for consulting the Council on the Pre-Submission Draft East Keswick Neighbourhood Plan. Generally, it's a well-structured plan with sensible objectives and policies to follow through. The Plan has benefitted greatly from the effort made by the Steering Group since 2016 to ensure that it is a locally-distinctive and 'bottom-up' plan. This has been helped by the collaboration that has taken place during its preparation between the Parish Council and City Council.

The Environment section of the draft plan is an excellent example of a local community seeking to identify and enhance the natural assets on their doorstep, an approach that is fully commended and will serve as a beacon to other neighbourhood plan groups in Leeds and elsewhere.

I hope that these formal comments on the pre-submission draft plan will help the Steering Group and the Parish Council in making changes prior to formal submission for independent examination. Although these are formal comments, you will be aware that there is no obligation to take them on board. We are happy to continue to work with the Parish Council in considering all of the representations more generally and changes prior to submission.

1. Timing / Risks

- 1.1. As you will be aware, the Site Allocations Plan was adopted on 10 July 2019 and it is estimated that the Core Strategy Selective Review will be adopted in September. Once adopted, the Core Strategy Selective Review policies will form part of the development plan and the East Keswick Neighbourhood Plan will need to demonstrate that it is in general conformity with those policies in addition to extant policies. The Council is happy to provide further advice on this following the close of the publicity period, in order to assist with progressing to submission.
- 1.2. In July 2018, Government published an update to the National Planning Policy Framework (NPPF), supplemented by further minor changes in February 2019. The conformity references in the draft plan will help to prepare the basic conditions statement which is a requirement for submission. The Council can advise on this in due course.

2. Basic Conditions

- 2.1. At examination, a neighbourhood plan will be judged on whether it complies with the Basic Conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended). These are:
- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State**
 - b) The making of the order (or neighbourhood plan) contributes to the achievement of sustainable development**
 - c) That making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority.**
 - d) The making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.**
 - e) The making of the order (or neighbourhood plan) does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.**
- 2.2. It is considered that the East Keswick Neighbourhood Plan meets the Basic Conditions.

3. General Comments on the Plan & Introductory Sections

- 3.1. It is advised the plan is future-proofed for submission. In order to minimise the need for future editing, text could be changed from “draft plan” to “plan”. There are some incorrect references to the plan period being to 2028 instead of 2033.
- 3.2. To improve clarity, it’s advised that references are tidied up in the document. This could be done through “packaging up” the evidence base documents and making them available on the Parish Council’s website so that the examiner has ready access to them. This would reduce the need for referencing in the neighbourhood plan. Using hyperlinks is not advised as this could undermine the longevity of the plan once made.
- 3.3. In the submission draft plan, the pages/sections could be colour-coded as they are at the start of section 3.0 so that the plan is easier to read and navigate.
- 3.4. There appears to be an issue with the resolution of the reproduced maps.
- 3.5. Page 12, penultimate paragraph, suggest “The Basic Conditions Statement, submitted alongside this plan, sets out in detail how the NP has regard to national planning policy and is in general conformity with the local plan. It also sets out how the plan meets the other Basic Conditions and relevant legal requirements.”

- 3.6. Page 14, by the time the neighbourhood plan is submitted, it is likely that the Core Strategy Selective Review will have been adopted. Recommend that this is updated to reflect the extant local plan documents at the time of submission as well as references in the text.
- 3.7. Page 16, references in the table are superfluous if each policy chapter has an “objectives addressed” section. Generally, it would be better to focus on how the policies and aspirations will help to deliver the Vision for East Keswick.
- 3.8. Whilst the general conformity references for each policy are helpful for the pre-submission consultation, they aren’t necessary for the submission draft, given that the Basic Conditions Statement will explain in detail how the plan has had appropriate regard to the NPPF.

4. Specific Policy Comments

There is a theme running through many of the policies that development will be supported if certain conditions are met. It is important to be aware that policies worded in this way do not preclude other forms of development. It is important to define policy terminology so that decision makers and other plan-users can make consistent judgements on whether proposals meet or do not meet the policy requirements.

It is important to consider how decision makers will use the policies to make judgements. For example, *how* can development proposals be expected to meet certain criteria, and what would be the consequence of not meeting the criteria? This should be within the context of policies not being overly restrictive or burdensome.

Generally, we recommend that policies start with an introductory sentence, a good example of this is Policy BVD2. For ease of referencing, it would be better for policy clauses to be numbered as criteria rather than using plain bullet points. As a general rule, wherever possible policies should be linked directly to supporting maps, though using phrases such as “shown on Map X” or “as identified on Map Y”.

4.1. Policy H1: Provision of appropriate new homes

The positive wording of the policy is welcomed, although there may be an issue with being so specific about a number. It is appreciated that the number is derived from the AECOM report, but an examiner may take a different view. If the plan was allocating sites then it would be easier to provide the evidence and justify a target.

There is nothing in the revised National Planning Policy Framework or in the Local Plan that says two sites cannot be developed together, providing that scale & design is appropriate for the setting and other policies are met. Indeed, sometimes a better and more sustainable scheme can be achieved through the development of neighbouring sites comprehensively.

We are not aware of any other neighbourhood plan policy which has passed examination and has a similar policy to this in it. The reason for this is that it’s unclear whether this is achievable through the neighbourhood planning process. In any case, the evidence to justify this approach could be strengthened.

Consideration should also be given to the Conservation Area Appraisal, and this could be introduced through a policy clause to this effect.

4.2. Policy H2: Enhancing energy efficiency of new and existing homes

The introductory text could reference the Council's declaration of a Climate Emergency in March 2019 and be aspirational in respect of anticipating future strategic policy direction.

We would recommend revising evidence section to ensure references to the Core Strategy Selective Review are up-to-date.

As with Policy H1, this policy doesn't say what types of proposals would not be supported, so it doesn't enable the decision maker to argue that a proposal is contrary to policy (and should therefore be refused unless material considerations indicate otherwise). It would be helpful for the policy to set a target that new development, of whatever scale, should achieve.

4.3. Policy BVD1: Character and design

This policy should be simplified. Much of the introductory text and policy is too prescriptive, the focus should be on maintaining and enhancing the special architectural or historic interest of East Keswick. Where amendments are made to the draft plan, similar amendments should be made to the Character Assessment.

For clarity, the introduction could be revised to ensure that the text does not read like a policy statement. It could include additional references to the character assessment to reduce the volume of text. References could be made to the appropriate chapter in the NPPF.

The introductory text could feature some key imagery to support the statements, particularly *"to maintain the visual quality, traditional look and distinctive character"*. It is worth noting that high quality contemporary design could also be appropriate. Key photographs of architectural styles, materiality and detailing that support the local character should be featured. The character area assessment does not seem to feature any photographs either for reference – assume these are to be added?

Wording - 3.2 BVD objective "New development in the parish should respect and maintain the 'dark' nature of the built environment. Assuming this relates to section 3.2.3 about keeping streets unlit at night? Could the wording here be changed from 'dark' to 'unlit' to make this clearer?

Curbing doesn't come under planning control, although it is acknowledged that this is a particular concern in East Keswick. It could, however, be referred to in an aspirational way.

References to blue slate, Yorkshire stone or clay pantiles could introduce a conflict with the earlier bullet point about the use of modern materials. This reference is very prescriptive and usually expensive to use and build. Materials are usually controlled by condition and involve applicants producing a sample panel which would offer some flexibility.

It is unclear what 'internal layout means'. Would be simpler to say 'new development should have regard to established residential character including...

The bullet point which refers to the village being unlit is already covered by a separate policy. The neighbourhood plan will be read as a whole so there is no need to repeat policy statements.

4.4. Policy BVD2: Ensuring a positive relationship with the surrounding landscape

Good use of images to support key views section but could be bigger and show opportunities for green links, etc.

It would be better to start the policy with, “Development proposals should ...”

It is unclear what “overwhelm quality of the settlement” means and how it would be quantified. Does this go beyond the defined scope (“surrounding landscape”) of the policy?

4.5. Policy BVD3: Unlit Parish

Street lighting and many forms of security and external domestic lighting will not require planning permission though it is acknowledged that this a particular concern for East Keswick.

P41 iv) Aspirations – darkness between midnight and 5.30am will still mean the important period for emerging bats (just after dusk) will be affected – ideally dark zones which are important for bats should be kept dark between May and August – i.e. street lighting not come on at all for those months.

4.6. Policy CA1: Protecting existing community facilities

Assets of Community Value are registered by the City Council not the Parish Council.

This is a useful stage at which to clarify which assets are formally registered on the Council’s List of Assets of Community Value, the most up to date version is available:

<https://www.leeds.gov.uk/docs/List%20of%20Assets%20of%20Community%20Value.pdf>.

It would be helpful if Assets of Community Value and other community facilities or services were clearly defined

It would be helpful if the term “reasonable efforts” was clarified.

4.7. Policy CA2: New and improved community facilities

Suggest referring to community facilities and services.

This policy is a little unclear, how would an improved or new facility undermine existing local services? It would be difficult to refuse a new playground on the basis that it improves over existing provision and therefore children won’t use the existing one.

It would be helpful to define what “the special needs of older people and other vulnerable groups” means.

4.8. Policy CA3: Recreational facilities for younger people

Consideration should be given to using more up-to-date population data, as many of the people who were aged 11-18 in 2011 will no longer fall into the same age category, which could have an impact on the justification for this policy. It may be better to generalise the term 'young people', giving support to facilities for people under the age of 18 dependent on the local needs at the time. However, the support for improved facilities for younger people is welcomed.

It would be helpful to define what "appropriate location" means.

4.9. Policy ELB1: Information and Communications Technology

The evidence for this policy should be strengthened, what is current provision like? A comment on speeds / capacity would be helpful.

4.10. Policy ELB2: Small business development

Suggest "contributes to the semi-rural character of the local area and vitality of the local area" is rephrased as it would not help the council to determine a planning application.

4.11. Policy ELB3: Farm Diversification

In the introductory text, would be better to say "If farm diversification is to take place for reasons X, Y or Z, it is important that impacts on local amenity and the visual character of East Keswick are minimised".

4.12. Policy E1: Special Landscape Area

Suggest "Development within the SLA should maintain, and where feasible, enhance the..."

4.13. Policy E2: Green corridors

The policy should identify the area to which it applies, for example "Within the Green Corridors (as identified on Map 9), support will be given to..."

4.14. Policy E3: Local Green Spaces

Given the significance of a Local Green Space policy designation it is important to demonstrate to the independent examiner that consultation with landowners of proposed LGS has taken place. In addition, the assessment should be robust so that the examiner can be confident that there is sufficient justification to recommend that the proposed sites are designated. On that basis, Appendix 1 should be revised to provide a more explicit assessment against the criteria set out in Para 100 of the revised NPPF:

- a) in reasonably **close proximity** to the community it serves;
- b) **demonstrably special** to a local community and holds a particular **local significance**, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- c) **local in character** and is **not an extensive tract of land**.

LGS EK1 – Land at Church Drive – this is part of the adopted highway and cannot be designated as a Local Green Space as it could preclude any potential highway changes.

Missing paragraph break following the end of LGS8 in the policy, meaning that the policy statement is obscured.

You may want to think about moving the Local Green Space maps into Appendix 1 alongside the assessment and use referencing within the text and policy.

4.15. Policy E4: Conservation of wildlife habitats and biodiversity

It is unclear what is meant by “all types of development” in relation to requiring that 50% of units “should include at least one of the following measures.” Clarity is needed on what type of development this would apply to.

The policy states that there will be an overall net gain in quality and physical area of the habitat network, through development providing a positive contribution in terms of protection, enhancement and creation of new areas for wildlife through landscaping schemes. The Council is working on a methodology for measuring biodiversity losses and gains and can advise on this in due course.

Providing public access close to rear gardens can introduce a security risk. Encroachment would be very difficult to enforce.

Paragraph 1 of the policy could be re-worded to improve clarity, e.g. how does a development proposal demonstrate an opportunity? This would be without consequence.

Paragraph 3, suggest “supported” rather than encouraged.

3.5.4 – The reference to the Extensions to the LHN is good – but these are actually the Local Green Corridors on Map 9? Unless the Phase 1 Habitat Survey results are still intending to map these?

E4 No. 5 refers to “Extended LHN or Local Green Corridor Network” – but as above this is the same thing.

P71 iv) Aspirations – net gain in biodiversity – fully support this but any off-site compensation through Habitat or Environment Banks could end up being on land outside the parish or ward, unless specified otherwise. It might be better to delete that last sentence and state that off-site compensation would need to be provided elsewhere in the parish, possibly on land owned by the PC or EKWT or to buy land to increase size/connectivity of habitat network?

General comment – the Natural England ANGSt scientific research was very good and an audit of how this NP area fares could be useful i.e. does everyone live within 300m of a minimum 2Ha sized area of accessible (not private land) natural greenspace? If not then this could become an aspiration or priority for net gain off-site compensation?

4.16. Policy E5: Trees hedges and verges

Suggest including a reference to the role of the Conservation Area in protecting trees.

Tree management: trees are an essential ingredient of the character of the Neighbourhood and not just in the Conservation Area (where the trees are protected). Trees and vegetation also influence air quality and bio-diversity. They can also contribute to climate change mitigation (carbon storage, shelter etc.). In many cases the trees are mature, of similar age and may be entering a period of decline soon. In order to make the tree presence sustainable a good age range of trees is critical.

- a. A strategy for tree replacement could be considered now. Replacements need to be in place and well established when the old mature ones start dying off. This could be considered in the document under a tree management /strategy section.
- b. A comprehensive analysis could be a starting point. Trees are found in different situations - on streets; gardens; schools and open spaces and each would require a different approach.
- c. New trees are not necessarily costly, particularly so in secure areas where small specimens can be used. There are grants available or perhaps an allotment could be dedicated as a tree nursery to feed the supply.
- d. There is a potential education angle to tree planting as well.
- e. If areas of need are identified then development could provide the catalyst/ opportunities to achieve the aspiration

Tree planting on highways: A licence to cultivate under Section 142 of the Highways Act (1980) may be granted by the highway authority to allow residents to plant trees within the highway. This will be subject to any such conditions considered necessary to ensure the safety, convenience of the highway and prevent nuisance, protect apparatus etc. Legal costs plus an annual charge for administering the licence would also need to be paid by the licensee.

4.17. Policy E6: Water quality and flooding

The policy starts with “any development proposals”. Some development proposals may not involve any building works. For example signage, changes of use, small scale house extensions.

Page 78, suggest “Developers *need to be encouraged* to incorporate a higher proportion of permeable surfaces...” might be changed to read; “Developers *should be encouraged to consider the opportunities* to incorporate a higher proportion of permeable...” This is because some ground conditions are unsuitable for infiltration.

4.18. Policy E7: Gardens

It is not clear what this policy is seeking to achieve. Is it trying to prevent the development of houses within large garden areas? Some proposals could be acceptable.

4.19. Policy E8: Footpath, bridle and cycleways

The feasibility of delivery of improved footways and footpath links should be considered, perhaps through links to CIL.

I hope these comments are useful and help the neighbourhood planning group to review the draft East Keswick Neighbourhood Plan before it progresses to examination. As mentioned, we are happy to advise further on these and other representations made to assist the Parish Council in preparing the submission draft neighbourhood plan.

Yours sincerely,

David Feeney

David Feeney
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