

Kelbrook and Sough Neighbourhood Plan Regulation 16 consultation

Pendle Borough Council Response

Introduction

This document provides comments on the submission version of the Kelbrook and Sough Neighbourhood Plan (the Neighbourhood Plan) and supporting documentation, which were submitted to Pendle Borough Council (the Council) on Friday 18th February 2022.

The Council has confirmed in correspondence with Kelbrook and Sough Parish Council (the Neighbourhood Plan Body) that the submission is consistent with Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended). To clarify, the submission consists of the following documents:

- Kelbrook and Sough Neighbourhood Area Proposal
- Kelbrook and Sough Neighbourhood Plan – Submission Version
- Basic Conditions Statement
- Consultation Statement
- Kelbrook and Sough Character Appraisal
- Site Assessment Methodology
- Site Assessment Results
- Green Spaces
- Results of Engagement
- SEA Screening Report
- Kelbrook and Sough Housing Needs Assessment (AECOM).

The Regulation 16 public consultation commenced on the 4th March 2022 and extends seven weeks to the 25th April 2022.

The comments provided in Table 1 confirm in the Council's view, that subject to minor modification, the Neighbourhood Plan meets the basic conditions as defined through [paragraph 8\(2\) of Schedule 4B to the Town and Country Planning Act 1990](#).

Policy Context

The Neighbourhood Area was designated by the Council on the 24th August 2017. The designated area aligns with the Parish of Kelbrook and Sough and does not include any areas outside the parish boundary.

Kelbrook and Sough is a largely rural parish set within the West Craven area of Pendle. In terms of planning policy it features two named settlements: Kelbrook, which is designated as a Rural Service Centre through Policy SDP2 of the [Pendle Core Strategy](#) adopted in December 2015 and Sough, which is designated a Rural Village.

Policy SDP3 anticipates 12% of the borough's future housing needs will be met within rural Pendle, which is the area outside of the urban M65 Corridor and the settlements of Barnoldswick and Earby. The Core Strategy does not define a specific housing requirement for Kelbrook or Sough, but states that Rural Service Centres will provide the focus for growth in Rural Pendle, with Rural Villages making a more limited contribution based only on local housing need.

Work on Part 2 of the Pendle Local Plan, which would have allocated sufficient land to meet residual housing growth, was recently abandoned in favour of the preparation of a new Local Plan^{1, 2}

The settlement boundary for Kelbrook and Sough is established by saved policies of the [2006 Pendle Replacement Local Plan](#), and forms a continuous built-up area. Land outside of the settlement boundary is designated as open countryside.

Eden Works is a locally important employment area located between Kelbrook and Sough. It is not currently subject to any formal protection through planning policy.

The neighbourhood area also features a number of locally important Biological Heritage Sites (BHS) at Roger Moor/Kelbrook Moor and along the route of the dismantled Colne to Skipton railway line. The former railway line, together with a potential route for a future by-pass of Kelbrook, Sough and Earby, are safeguarded through Policy ENV4.

The Council confirms that the proposals of the Neighbourhood Plan, as drafted, do not conflict with, prejudice, or adversely affect the delivery of adopted strategic planning policies, which are relevant to Kelbrook and Sough.

Pendle Council Comments

Table 1: Schedule of Comments Relating to the Submission Version of the Kelbrook and Sough Neighbourhood Plan

Plan/Supporting Document Reference	Council Comments
Kelbrook and Sough Neighbourhood Area Proposal	
Neighbourhood Plan Designation Area	The plan provided corresponds to the neighbourhood area designated by the Council on the 24 th August 2017.
Neighbourhood Plan Submission	
Policy KS DEV 1	The policy sets out the design issues and key characteristics of the built and natural environment of the Parish to be taken into account and responded to through development proposals. The Council is supportive of this policy. It is consistent with Policies ENV1 and ENV2 of the Core Strategy, developing the position of these strategic policies so that they are applicable and responsive to local issues. The policy is also consistent with the NPPF, in terms of its approach to design, as well as the key design principles established within the National Design Guide. The implementation of the policy at a local level will help to secure sustainable development which integrates well with the existing built form of Kelbrook and Sough. The policy is effective in securing the vision and objectives of the Plan, which have been developed in close collaboration with the local community. For these reasons, the Council finds that the policy is consistent with basic conditions (a) (d) and (e).
Policy KS DEV 2	The policy supports the implementation of enhancements to the public realm, which are in keeping with the existing character of the neighbourhood area. The Council is supportive of this policy approach. The policy builds on from Policy KS DEV 1 and will assist the delivery of the vision and objectives of the Plan. The attention

¹ Motion Passed at [9th December 2021 Full Council Meeting](#)

² Timetable confirmed through the Seventh Revision of the [Local Development Scheme](#)

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	<p>given to high quality design is consistent with Policy ENV2 of the Core Strategy and design policies of the NPPF. For this reason, the Council finds that the policy is consistent with basic conditions (a) and (e).</p>
Policy KS ENV 1	<p>The policy seeks to protect and enhance green infrastructure within the neighbourhood area, and sets out the need for applicants to consider the content of the Council's Green Infrastructure Strategy (2019) and the Character Assessment (2022) prepared by the Neighbourhood Plan Body insofar as development proposals affect green infrastructure. The policy is consistent with and implements at a local level the requirements of Policy ENV1 of the Core Strategy. It is also consistent with the approach of national planning policy towards the natural environment. The policy is consistent with basic conditions (a) and (e).</p> <p>The Character Assessment lists a number of Green Spaces, which the community would like to be protected from unsuitable forms of development. The Council has no objection to any of the locations included in this list with many reflecting areas of amenity green space as identified and assessed through the Open Space Audit 2019. The intended treatment of these spaces through the development management process is however unclear, with Policy KS ENV1 silent about these spaces. Additional wording linking these spaces with the policy requirements is necessary to confirm the approach to be taken (a link could be made to Policy ENV1 of the Core Strategy and footnote 86 of the policy). It is also unclear as to the extent of these spaces. A site plan for each should be included within the Character Assessment to clearly show the boundaries of the area concerned and their location within the neighbourhood area.</p>
Policy KS HER 1	<p>This policy identifies a list of 26 assets to be included within the Local List as non-designated heritage assets. In principle, the Council does not object to the content or extent of this list, but would note that the detailed assessment supporting the identification of these assets has not been provided. This undermines the effectiveness of the policy and should be made available.</p> <p>As written the policy does not comply with basic condition (a), but this can be overcome by minor alterations to the wording.</p> <p>The Council is concerned that Part 2 of the policy departs from, and is therefore not consistent with, Paragraph 203 of the NPPF. Paragraph 203 sets out that 'in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'. Whereas Part 2 of Policy KS HER 1 states 'Proposals which affect the significance of non-designated heritage assets will be determined by considering</p>

Plan/Supporting Document Reference	Council Comments
	<p>the extent to which those aspects of the asset that contribute to its significance, are conserved or enhanced.'</p> <p>Policy KS HER 1 clearly establishes a higher test than set out in national planning policy, and without sufficient justification. This is apparent in the due weight given to the preservation and conservation of component parts of non-designated assets, which contribute to significance regardless of any balancing exercise. National planning policy takes a lesser approach examining the level of harm, or loss, as well as the overall significance of the asset. This is then balanced against the merits of the proposal.</p> <p>The policy should be amended to ensure that it is compatible with the NPPF. This could be secured by using the following wording: 'Proposals affecting a non-designated heritage are encouraged to conserve and enhance those aspects of the asset which contribute to its significance. A balanced judgement will be made having regard to the scale of any harm or loss and the significance of the heritage asset.'</p>
Policy KS HER 2	<p>The policy seeks to ensure that applicants have fully understood and assessed the effects of proposals on heritage assets. Its implementation will play an important role in securing the preservation and enhancement of the historic environment consistent with the objectives of the Neighbourhood Plan, Policy ENV1 of the Core Strategy, and the NPPF.</p> <p>The Council is broadly supportive of the policy approach, however the following changes are recommended to ensure that its wording consistent with Paragraph 194 of the NPPF: 'Proposals affecting any part of the historic environment should have consideration for the site's context and heritage significance. Proposals which impact, directly or indirectly, on a heritage asset or its setting, should be accompanied by a heritage statement which:</p> <ol style="list-style-type: none"> a. Describes the significance of any heritage assets affected, including any contribution made by their setting. b. Proportionately evaluates the effect that the proposed development would have on the significance of a heritage asset taking into account the asset's importance. c. Sets out measures applied within the design process to avoid, limit and where necessary minimise the effects caused by the development on the significance of the heritage asset.'
Policy KS HOU 1	<p>The policy allocates land at Dotcliffe Yard for up to 10 dwellings. In principle, the Council does not object to the development of this land for housing subject to confirmation of the potential impact on flood risk and drainage.</p> <p>The site has previously benefited from planning permission to develop three homes on the site. Taking into account the constraints</p>

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	<p>posed by flood risk (part of the site is in Flood Zones 2 and 3), and the built character of the wider area the development of 10 dwellings on this compact site would appear to be in conflict with Policy KS DEV 1 and the Kelbrook and Sough Character Assessment.</p> <p>In view of this, the policy does not meet the basic conditions in its current form. To address this, the Council suggest that the capacity of the site should be reduced to 'approximately 5 dwellings'.</p>
Policy KS HOU 2	This site is an existing commitment and as such its inclusion as an allocation for housing is supported by the Council.
Policy KS HOU 3	The policy seeks to ensure that the design and appearance of affordable housing within the neighbourhood area is the same as market dwellings. The Council is supportive of this policy, which in promoting high quality design is consistent with Policy ENV2 of the Core Strategy and the design chapter of the NPPF. It also seeks to promote social inclusion through design and avoid the creation of segregated communities, consistent with the design principles set out in the National Design Guide. The policy is therefore consistent with basic conditions (a) and (e).
Policy KS PATH	This policy seeks to safeguard and enhance connectivity for both pedestrians and cyclists, within the neighbourhood area. It requires new developments to be accessible and integrated into the footpath and cycling network, incorporating enhancements wherever possible to promote walking and cycling. By promoting sustainable means of travel the principles of the policy are consistent with Policy ENV4 of the Pendle Core Strategy and Paragraph 106 of the NPPF, and will help support the delivery of sustainable development within the designated area. The policy is consistent with the basic conditions (a), (d) and (e).
Policy KS TOUR	The policy seeks to support appropriate and sustainable development in support of the tourist industry. This approach is consistent with the wider objectives of the Local Plan in regard to the conservation of the natural environment, the need to support local businesses and promote economic diversification. The policy is consistent with Core Strategy Policies WRK2 and WRK5 which seeks to secure sustainable growth of the tourism industry in Pendle. The policy therefore meets basic conditions (d) and (e).
Policy KS COM 1	This policy seeks to safeguard and enhance existing community facilities of importance within the neighbourhood area. A list of these assets is included in the policy providing clarity for its application. Its requirements are consistent with Policy SUP1 of the Core Strategy and the approach of Paragraphs 92-93 of the NPPF. The policy therefore meets basic condition (a) and (e).
SEA	
	The Council agrees with the screening undertaken by the Neighbourhood Plan Body. This concludes that the policies and proposals of the Neighbourhood Plan either in isolation, or cumulatively, are unlikely to adversely affect protected habitats or other sensitive environments within, or in the immediate vicinity to

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	the neighbourhood area. On this basis the Neighbourhood Plan is consistent with Basic Condition (d) in relation to SEA requirements/assessment.
Basic Conditions Statement	
	For the reasons set out above, subject to the implementation of the identified amendments, the Council is satisfied that the Kelbrook and Sough Neighbourhood Plan is consistent with the basic conditions and following independent examination can proceed to referendum.
Consultation Statement	
	<p>The Neighbourhood Plan Body has effectively discharged its duties to consult during the preparation of the Neighbourhood Plan. The submitted Consultation Statement illustrates that the Neighbourhood Plan Body has actively engaged with the local community at all stages of the plan making process including:</p> <ul style="list-style-type: none"> • Scoping – in terms of the key issues affecting the plan area and content of the Neighbourhood Plan. • Policy development and site selection. • Pre-submission draft. <p>The Consultation Statement further illustrates that the Neighbourhood Plan Body has engaged with Statutory Consultees. This includes providers of key services, including the Council. The engagement undertaken by the Neighbourhood Plan Body has been meaningful and constructive. This engagement has clearly informed the preparation of the Neighbourhood Plan. A clear link can be drawn between feedback gained during consultation events and changes to the vision, objectives and policies of the Neighbourhood Plan. The Parish Council has clearly done its best to prepare a Plan that truly reflects the needs and aspirations of the community for which it has been prepared for.</p>
Supporting Evidence/Studies	
Character Assessment	The Character Assessment provides a local narrative of the qualities of the built and natural environment in the Parish of Kelbrook and Sough, and how these need to be safeguarded and to be responded to through new development. The Character Assessment assists within the implementation of Policy KS DEV 1 of the Neighbourhood Plan. It does not establish explicit design requirements and as such is sufficiently flexible to allow for design to respond to site specific issues/context and for suitable innovation and design variation. The Character Assessment acts as a reference to guide developers looking to ensure that their proposals are consistent with the vision and objectives of the local community. The Council does not object to any part of the Character Assessment.
Site Assessment/Methodology	The Neighbourhood Plan Body adopted the same methodology as that used by the Council in the preparation of the Local Plan Part 2, for the assessment of candidate sites. This approach ensures that the site selection process is consistent with adopted strategic planning policy. The Council is content with how the sites identified have been assessed.

Plan/Supporting Document Reference	Council Comments
Green Spaces	Please refer to comments relating to Policy KS ENV 1.
Local Housing Needs Report (AECOM)	<p>The Local Housing Needs Report provides a summary of the affordable housing, type, tenure and size needs of Kelbrook.</p> <p>It is unclear what the role of this document is with no policy link provided within the submission version of the Neighbourhood Plan.</p> <p>This document was produced at a similar time as the Pendle Housing Needs Assessment 2020 (Lichfields). This presents the most up-to-date picture of housing needs at a borough-wide level.</p> <p>The Council does not wish to comment on the merits of the methodology or data selection used within the Local Housing Needs Report which underpins the Neighbourhood Plan. The Council can however support the following conclusions made within the Local Housing Needs Report:</p> <ul style="list-style-type: none"> • There is a need for affordable housing within the Neighbourhood Plan area which is unlikely to be delivered in full. • Efforts should be made within the decision making process to maximise affordable housing delivery. • The majority of affordable homes delivered should be affordable/social rent. • The majority of new homes delivered within the parish should have 2-3 bedrooms.

Conclusion

The Council welcomes the preparation of the Kelbrook and Sough Neighbourhood Plan and acknowledges the hard work undertaken by the Neighbourhood Plan Body in advancing the plan to this stage.

The Council confirms that the Neighbourhood Plan relates to the area designated on the 24th August 2017.

The following amendments are necessary to ensure that the Neighbourhood Plan is consistent with the basic conditions:

- Policy KS HER 1: Policy wording changes required to the approach of the policy to ensure that it applies a consistent test to proposals affecting non-designated heritage assets as that outlined in Paragraph 203 of the NPPF.
- Policy KS HER 2: Minor wording changes required to ensure that the policy is in full accordance with the NPPF in terms of the information required to assess the effects of development on heritage assets.
- Policy KS HOU 1: Capacity changed from 10 dwellings to 'around 5 dwellings'.

The following amendments would benefit the effectiveness of the Neighbourhood Plan:

- Policy KS ENV 1: The policy should be amended to make reference and clarify the approach taken to sites listed as Green Space in Appendix 3. Potentially this could reference Policy ENV1 and Footnote 86 of the Core Strategy. The policy should be supported by a clear and precise map which shows the full extent of the Green Spaces identified.
- Policy KS HER 1: The assessment undertaken of identified non-designated heritage assets should be made available as part of the Neighbourhood Plan.

The Council agrees with the conclusions of the SEA screening report produced by the Neighbourhood Plan Body regarding the effects of the Neighbourhood Plan.

The Council is of the view that the Neighbourhood Plan Body has engaged effectively and proactively with the community and key stakeholders during the plan preparation process. The results of this engagement is visible on the vision, objectives and policies of the Neighbourhood Plan. It is also clear that the Neighbourhood Plan Body has taken positive steps to address comments where received and which raised valid issues.