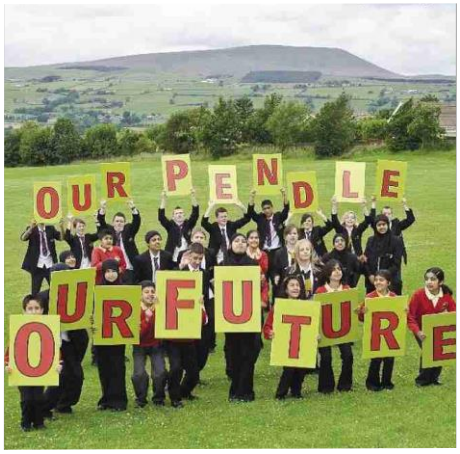
Kelbrook & Sough Neighbourhood Development Plan



Decision Statement

Regulation 18(2)

August 2022

Borough of Pendle

Pendle Borough Council

Kelbrook and Sough Neighbourhood Development Plan – Regulation 18 (2) Decision Statement

1. Introduction

1.1 Pendle Council ["the Council"] has a statutory duty to assist communities in the preparation of neighbourhood development plans.

1.2 Following the examination of the Kelbrook and Sough Neighbourhood Plan ["KSNDP"], Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended) requires the Council to decide what action should be taken in response to the recommendations made by the Independent Examiner.

1.3 The Council must also determine whether the plan meets the Basic Conditions as set out in Schedule 4B of the Town and Country Planning Act 1990 (as applied by section 38A of the 2004 Act), and can proceed to referendum.

1.4 This Decision Statement sets out the Council's decision and the reasons for it.

2. Background

2.1 In June 2017 Kelbrook and Sough Parish Council submitted an application to Pendle Council for the designation of Kelbrook and Sough Parish as a Neighbourhood Area for the purposes of preparing a neighbourhood plan. The neighbourhood area, which is coincidental with the parish boundary, was formally designated by the Council on 24th August 2017.

2.2 The KSNDP Steering Group prepared the pre-submission version of the KSNDP during 2021. A six week public consultation, held in accordance with Regulation 14, was carried out between 13th September 2021 and 30th October 2021.

2.3 The submission version of the KSNDP was received by the Council on 18th February 2022 and a formal six week public consultation, held in accordance with Regulation 16, was carried out between 4th March 2022 and 25th April 2022.

2.4 Mr Andrew Ashcroft BA (Hons) M.A. DMS MRTPI was appointed by the Council in May 2022 to carry out the independent examination of the submission version of the KSNDP. The examination was conducted by written representations and concluded on 11th July 2022 with the receipt of the Examiner's final report.

3. Decision

3.1 The Examiner has concluded that, with certain modifications, the KSNDP meets the Basic Conditions and other relevant legal requirements.

3.2 The Council is required to consider each of the Examiner's proposed modifications to the plan and decide what action to take in response. The table attached to this statement sets out each of the modifications and the Council's decision in respect of them.

3.3 At its meeting on 25th August 2022, the Council accepted that, with these modifications, the KSNDP meets the Basic Conditions and legal requirements, and that no further modifications are required (Appendix 1).

3.4 The KSNDP can now proceed to referendum. The Council agrees with the Examiner's recommendation that the area for the referendum should be that of the Neighbourhood Area as designated by the Council on 24th August 2017.

3.5 To meet the requirements of the Localism Act 2011, the Council will hold a referendum which poses the following question:

Do you want Pendle Borough Council to use the neighbourhood plan for Kelbrook and Sough to help it decide planning applications in the neighbourhood area?

3.6 The proposed date for the referendum is **Thursday 27 October 2022.**

3.7 This Decision Statement, the Examiner's Report and the Kelbrook and Sough Neighbourhood Development Plan can be viewed on the Pendle Council website: https://www.pendle.gov.uk/info/20072/planning_policies/585/kelbrook_and_sough_neighbourhood_plan

3.8 The documents are also available for inspection at the following locations during their normal opening hours:

- Kelbrook and Sough Village Hall, Dotcliffe Road, Kelbrook, Barnoldswick, BB18 6TQ.
- Barnoldswick Library, Fern Lea Avenue, Barnoldswick, BB18 5DW
- Earby Library, Community Centre, New Road, Earby, Barnoldswick, BB18 6XA
- Number One Market Street, Nelson, BB9 7LJ

Appendix 1: Schedule of Modifications

Schedule of Modifications to the Kelbrook and Sough Neighbourhood Plan

Paragraph / Policy	Modification	Reason	Decision
Front Cover and Page 7 Section 1	RECOMMENDATION 1 (Examiner Report Paragraph 7.10) • At the end of the final paragraph of supporting text on page 7 add: 'The neighbourhood area is shown on the map opposite. The Plan period is 2021 to 2030'. • On the front cover of the Plan change the title to 'Kelbrook and Sough Neighbourhood Development Plan 2021 to 2030'.	To clarify the area to which the neighbourhood plan applies. To clarify the plan period.	Accept Modifications
Policy KS DEV 1 Page 13 to 15 Section 4	RECOMMENDATION 2 (Examiner Report Paragraphs 7.16 to 7.18) • In the first part of the policy replace 'must' with 'should' • In the first part of the policy delete 'enhance' • Replace the opening element of the second part of the policy with: 'As appropriate to their scale, nature and location development proposals should have regard to the following elements of local character in the landscape, townscape and streetscape of the neighbourhood area;' • Delete the third part of the policy. • At the end of the first paragraph of the 'Interpretation' part of the supporting text add: 'The Character Assessment should be referred to for further explanation of the above and when interpreting Local Plan Part 1 Policies ENV1 and ENV2 with respect to character. With respect to biodiversity, Pendle Council's Green Infrastructure Strategy, 2019 and the Kelbrook and Sough Character Assessment should be used to help inform any green infrastructure proposals to meet Local Plan Part 1 Policy ENV1 Protecting and Enhancing Our Natural and Historic Environments. In addition, the contents of these documents should be supplemented by more site-specific assessments'.	In acknowledgement of the need for the decision maker to consider the wider development plan in determining planning applications. To recognise that it will not always be practicable for development proposals to 'enhance' the existing character of the parish, and these circumstances it will be sufficient to 'protect' the existing character of the parish. To reposition supporting text outside of the policy.	Accept Modifications
Policy KS DEV 2 Page 17 Section 4	RECOMMENDATION 3 (Examiner Report Paragraph 7.22) • Replace the policy with: 'Insofar as planning permission is required, proposals for improvements to the public realm and environment including road, pavement, street furniture, squares, public gardens and other public areas will be supported where they are in keeping with the character of the area as described in the Character Assessment'. • Replace justification with: 'A wide variety of interventions in the public realm are possible and they have the potential to create improvements to its appearance and condition and where they do, they should be supported	Acknowledgement that not all of the improvements anticipated may benefit from permitted development rights. Relocation of text re: proposals to improve maintenance and cleaning of the public realm in recognition that they are not land use matters in their own	Accept Modifications

Paragraph / Policy	Modification	Reason	Decision
	provided they maintain and enhance the physical character of the area. Some enhancements may benefit from permitted development rights. Whilst they are not directly land use matters, the Parish Council will actively support and encourage associated proposals which improve maintenance, cleaning, appearance, safety and/or condition of the public realm'.	right.	
Policy KS ENV 1 Page 18 to 19 Section 4	RECOMMENDATION 4 (Examiners Report Paragraphs 7.25 to 7.26) • Replace policy with: 'Improvements to the green infrastructure of the Parish will be supported. As appropriate to their scale, nature and location, development proposals should respond positively to the Pendle Green Infrastructure Strategy and Kelbrook and Sough Character Assessment'. • At the end of the justification section of the supporting text add: 'The Pendle Council Green Infrastructure Strategy and Kelbrook and Sough Character Assessment should be considered when determining planning applications and interpreting any relevant Local Plan Policy with respect to green infrastructure. In particular, the Character Assessment's sections on Landscape and Topography, Biodiversity and Green and Natural Features, General Patterns of Built Form and Open Space, Main Uses and Mix of Uses and Views and Vistas and Enclosure provide detailed information on existing elements of green infrastructure in the parish'.	To remove supporting text. To ensure that the policy can be applied on a proportionate basis.	Accept Modifications
Policy KS HER 1 Page 23 Section 4	RECOMMENDATION 5 (Examiners Report Paragraph 7.30) • Replace the second part of the policy with: 'Proposals affecting a non-designated heritage asset should conserve, and where practicable enhance, those aspects of the asset which contribute to its significance. In determining planning applications affecting a non-designated heritage asset, a balanced judgement will be made having regard to the scale of any harm or loss and the significance of the heritage asset.'	To ensure consistency with Paragraph 203 of the NPPF.	Accept Modification
Policy KS HER 2 Page 25 Section 4	RECOMMENDATION 6 (Examiners Report Paragraph 7.32) • Replace the policy with: 'Proposals affecting any part of the historic environment should respond positively to the site's context and heritage significance. Proposals which directly or indirectly impact on a heritage asset or its setting should be accompanied by a heritage statement which: 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 have on the significance of a heritage asset taking into account the asset's	To provide clarity required by the NPPF.	Accept Modifications

Paragraph / Policy	Modification	Reason	Decision
	importance; and c. Sets out measures applied within the design process to avoid, limit and where necessary mitigate the effects caused by the development on the significance of the heritage asset.'		
Policy KS HOU1 Page 28 to 30 Section 4	RECOMMENDATION 7 (Examiners Report Paragraph 7.40) • Replace the opening part of the policy with: 'The Plan allocates land at Dotcliffe Road, as shown on the site plan below for residential development. The development of this site should incorporate the following requirements:' • Replace criterion a) with: 'The delivery of a high-quality design which incorporates urban design principles as set out in the National Design Guide and as outlined in the Kelbrook and Sough Character Assessment and responds positively to the character of the adjacent built environment and landscape, including views into and from the site. The design, siting and layout of the housing should relate positively to nearby housing in the area particularly along Millbeck Lane and Dotcliffe Road' • Replace criterion d) with: 'A single point of vehicular access off Dotcliffe Road appropriately positioned so as to ensure safe access and egress from the local highway network' • Replace criterion e) with: 'Alternatives to car-based travel are designed into the scheme and in particular green links to public transport and active travel (walking and cycling)' • Replace f) with: 'A sensitive approach towards the integrity of the nearby watercourses' • Replace g) with: 'The design and layout of the proposal enhances or creates linkages to the wider green infrastructure network where practicable, and creates greenspace for both amenity purposes and for biodiversity value' • Delete criterion h) • Replace i) with: 'The design and layout take a flood-resilient approach' • Replace j) with: 'The layout, construction details and phasing of the development should proceed in accordance with a schedule of archaeological investigations and any associated works for recording any identified features of historical importance' • Replace the first two paragraphs of the justification with: 'The site is approximately 0.16ha in area and historically was part of Dotcliffe Mill to the north, in Millbeck Lane which has recently been redeveloped for housing.	To provide clarity required by the NPPF. Removal of supporting/explanatory text from the policy and relocation in supporting text where not already included. Removal of matters which are duplicated.	Accept Modifications

Paragraph / Policy	Modification	Reason	Decision
	Planning permission has already been granted for three detached houses on the site (17/0077/FUL). In that proposal the dwellings were 'two and a half storeys' with rooms in the roof space served by roof lights. It will be possible to fit more houses on the site if they are smaller. In addition, terraces might be more in keeping with the character of the area. It is on this basis that the site is anticipated to yield five dwellings. Policy HOU1 sets out a series of criteria to ensure that the site is redeveloped in a positive way. All the criteria should be incorporated into the development unless it can be demonstrated that they would make the development unviable.' • At the end of the third paragraph of the justification add: 'The first criterion of the policy sets out the importance of securing a development which responds positively to its location within the village. The impact of the development on the rural feel of existing and potential views of the site should be mitigated by landscaping and boundary treatments and the arrangement and height of housing along the edges of the development. In addition, the development of the site should comply with Policy KS HOU3 of this Plan to the extent that it should be tenure blind.'		
Policy KS HOU 2 Page 31 to 32 Section 4	RECOMMENDATION 8 (Examiner Report Paragraph 7.45) • Replace the opening part of the policy with: 'The development of this site should incorporate the following requirements:' • Replace criterion a) with: 'The delivery of a high-quality design which incorporates urban design principles as set out in the National Design Guide and as outlined in the Kelbrook and Sough Character Assessment and responds positively to the character of the adjacent built environment and landscape, including views into and from the site. The design, siting and layout of housing should relate positively to nearby housing in the area particularly along Cob Lane and Waterloo Road and to the listed Yellow Hall to the west' • Replace criterion d) with: 'A single point of vehicular access of Cob Lane appropriately positioned so as to ensure safe access and egress from the local highway network' • Replace criterion e) with: 'Alternatives to car-based travel are designed into the scheme and in particular green links to public transport and active travel (walking and cycling)' • Replace f) with: 'A sensitive approach towards the integrity of the nearby watercourses'	To provide clarity required by the NPPF. Removal of supporting/explanatory text from the policy and relocation in supporting text where not already included. Removal of matters which are duplicated.	Accept Modifications

Paragraph / Policy	Modification	Reason	Decision
	• Replace g) with: 'The design and layout of the proposal enhances or creates linkages to the wider green infrastructure network where practicable and creates greenspace for both amenity purposes and for biodiversity value' • Delete criterion h). • Replace the justification with: 'The site is in agricultural use and is located to the south of Cob Lane, to the south east of the main village just outside, but adjacent to the defined settlement boundary. Planning permission was granted for 9 dwellings in 2021. The site is proposed to be allocated in the Plan in the event that the existing permission is not implemented. The development of the site needs to be sensitive to its immediate surroundings. In particular Yellow Hall, a row of listed dwellings, is located to the west of the site. The site is surrounded by countryside to the south and east. In addition, the site slopes upwards from Old Stone Trough Lane, as Cob Lane rises away to the east. The first criterion of the policy sets out the importance of securing a development which responds positively to its location within the village. The impact of the development of the rural feel of the existing and potential views of the site should be mitigated by landscaping and boundary treatments and the arrangement and height of housing along the edges of the development. In addition, the development of the site should comply with Policy KS HOU3 of this Plan to the extent that it should be tenure blind.'		
Policy KS HOU 3 Page 33 Section 4	RECOMMENDATION 9 (Examiner Report Paragraph 7.48) • Replace the policy with: 'Proposals for new housing should be designed and arranged in a way such that they are tenure-blind.'	Remove duplicated text already included within the supporting text.	Accept Modification
Policy KS PATH Page 34 Section 4	RECOMMENDATION 10 (Examiner Report Paragraph 7.49) • Replace the final two sentences of the policy with: 'Where practicable cycle routes and footpaths should be incorporated within new developments and link into wider existing networks. Development proposals which would involve the closure of a cycle route or footpath route will not be supported unless a satisfactory alternative route is provided.'	To provide clarity in accordance with the NPPF. Acknowledgement that improved connections may not always be practicable to deliver.	Accept Modification
Policy KS TOUR Page 37 Section 4	RECOMMENDATION 11 (Examiner Report Paragraph 7.52) • Replace the policy with: 'Proposals for tourism development will be supported where they are in a location, and of a design and scale, that is in keeping with, and protects, the rural character of the settlement and the wider landscape setting as defined in the Kelbrook and Sough Character Assessment.'	To provide clarity in accordance with the NPPF.	Accept Modification

Paragraph / Policy	Modification	Reason	Decision
Policy KS COM 1 Page 39 Section 4	RECOMMENDATION 12 (Examiner Report Paragraphs 7.55 to 7.56) • Replace the policy with: '1. The Plan identifies the following important community facilities as a result of their acknowledged importance to the life and enjoyment of the local community: • Village Hall; • St Marys Church; • Kelbrook Primary School; • Village Hall Car Park; and • Sough Memorial Park. 2. Proposals that will enhance the viability and/or community value of the important community facilities will be supported. 3. Proposals that would result in either the loss of an important community facility or in significant harm to an important community facility will not be supported unless it can be demonstrated that the operation of the community facility is no longer financially viable.' • At the end of the justification add: 'Policy KS COM 1 has identified five important community facilities. The Parish Council will also seek to include these sites on the local planning authority's register of Assets of Community Value. This will provide the Parish Council or other community organisations within the parish with an opportunity to bid to acquire any of the facilities on behalf of the local community in the event that it is placed for sale on the open market.' • Replace the title of the policy with: 'Important Community Facilities'.'	Policy as originally drafted was reliant on the successful application process to designate the identified five facilities as Assets of Community Value (ACV) – a designation which has a separate legal process. In these circumstances it is recommended that the policy is reconfigured to identify five facilities as important to the community. This will afford the sufficient protection sought but also allow the Parish Council to enter into the ACV application process separately.	Accept Modification
Page 9 Section 1 New sub-section	RECOMMENDATION 13 (Examiner Report Paragraph 7.60 to 7.62) • At the end of Section 1 Introduction add: 'Monitoring and Review. Section 5 of the Plan provides details about how the Plan will be delivered in general, and the way in which the Parish Council will assess decisions made on individual planning applications. The neighbourhood plan has been prepared within the context of the Pendle Local Plan Part 1 (Core Strategy) which was adopted in December 2015. The Borough Council is currently reviewing the Local Plan. Plainly this review process will affect the wider development plan. As such, the Parish Council will assess the need or otherwise for a full or a partial review of the 'made' neighbourhood plan within six months of the adoption of an updated Local Plan'.	To acknowledge the wider plan making context relevant to the Neighbourhood Plan and which may affect the content of the Neighbourhood Plan in future.	Accept Modification

Pendle Council
Planning, Economic Development & Regulatory Services
Town Hall
Market Street
Nelson
Lancashire
BB9 7LG

Tel: **01282 661330**
Email **planningpolicy@pendle.gov.uk**
Website: **www.pendle.gov.uk/planning**

If you would like this information in a way which is better for you, please telephone us.

اگر آپ یہ معلومات کسی ایسی شکل میں چاہتے ہیں، جو کہ
آپ کے لئے زیادہ مُفید ہو تو برائے مہربانی ہمیں ٹیلیفون کریں۔