

Colne Neighbourhood Development Plan

Pendle Council comments on Regulation 16 Submission Draft

Page	Para	Element	Comments / Suggested Amendments
Foreword and Contents			
-	-	-	<ul style="list-style-type: none"> If the Colne Neighbourhood Development Plan (CNDP) proceeds to Referendum, it will need to be updated to reflect that it is no longer a draft.
1. Introduction and Background			
-	1.5 to 1.7	-	<ul style="list-style-type: none"> The final version of the CNDP will need to remove any text specifically referring to the Regulation 16 consultation.
2. History of Colne			
16-20	-	-	<ul style="list-style-type: none"> No further comment to the formal representation submitted in response to the Regulation 14 public consultation (see Consultation Statement).
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3. Planning Policy Context			
28	5.10	-	<ul style="list-style-type: none"> A reference to the Barrowford Neighbourhood Plan (Made 2019) should be included in the list of Development Plan documents. The Kelbrook & Sough Neighbourhood Plan, the subject of a public referendum on 27 October 2022, may also need to be added to the list of Development Plan documents.
4. Plan Policies			
CNDP1 – Colne Market Town			
30	-	-	<ul style="list-style-type: none"> This policy is not considered to meet the Basic Conditions as written, but is capable of doing so with modifications.
30	-	-	<ul style="list-style-type: none"> The Town Centre boundary shown on Map 4 (Appendix 1) should be amended to reflect that shown on the Policies Map, if the proposed extension to the Town Centre boundary (Policy CNDP1) is agreed.
30	-	Policy text	<ul style="list-style-type: none"> The policy should reference the NPPF as a material consideration for town centre uses.
30	-	Policy text	<ul style="list-style-type: none"> The policy should clarify that not all proposals within Colne Town Centre will be subject to all of the requirements set out in the policy. It is recommended that the opening sentence should be revised to read as follows: <i>'... identity, new town centre uses ... will be supported where they are consistent with other parts of the development plan, the NPPF, and the policy requirements below as relevant.'</i>
30	A & B	Policy text	<ul style="list-style-type: none"> Ideally the numbering convention in Parts A and B, and throughout the document, should be consistent.
30	A	Policy text	<ul style="list-style-type: none"> It is unclear how applicants and decision makers should respond to the requirements of the policy. There is currently no comprehensive scheme for the redevelopment of Colne Town Centre. It is therefore unclear how proposals can meet, or be assessed against, parts (a) to (e) of the policy. It is also unclear how any interim proposals for small-scale development would be assessed to have prejudiced a comprehensive redevelopment.
30	A	Policy text	<ul style="list-style-type: none"> Pendle Council is currently working with the local community to produce a Masterplan for Colne Town Centre. This Masterplan should

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			<p>provide the basis for the policy, providing a meaningful and proportionate way to secure positive change within the town centre.</p> <ul style="list-style-type: none"> It is recommended that the Policy text should be revised to read as follows: <i>'Development proposals within the defined town centre should have regard to the Colne Town Centre Masterplan. Proposals that are in conformity with the Masterplan will be supported. In particular proposals should:'</i>
30	A	Policy text	<ul style="list-style-type: none"> The phrase "upper floor development of other uses, such as residential ..." is imprecise. It is recommended that the Policy text should be revised to read as follows: <i>'above ground floor level, appropriate town centre uses, including residential will be supported.'</i>
30	A (c)	Policy text	<ul style="list-style-type: none"> This requirements of this element of the policy are unclear. A clear direction on how to implement the policy is needed. The policy should clearly set out what is meant by the term 'negatively impact'. Does this mean total loss? Degradation of quality? Removal or restriction of access? Adversely affecting its appearance? Loss of functionality? It would be disproportionate to refuse a scheme without consideration of the degree of harm that has been caused; the potential for mitigation measures to be put in place; and the wider benefits of the scheme. The policy needs to confirm precisely what 'key areas/uses' are to be protected by the policy and what value these add to the town centre and the local community. The list cannot be open-ended as this would leave considerable uncertainty for both applicants and decision makers. Evidence needs to be provided to show why the Market Hall, which is currently failing in terms of both occupation and patronage, has been singled out as an asset for protection.
30	A (e)	Policy text	<ul style="list-style-type: none"> Suggest that this criterion is deleted. If it is retained, to accord with the adopted parking standards, the criterion should make reference to the need for an assessment of the additional parking pressures that will be generated and that provision will be based on evidence of need.
30	A (f)	Policy text	<ul style="list-style-type: none"> This is a validation requirement of the Council. There is no need to agree the scope of a Heritage Impact Assessment with Pendle Council (the local planning authority). The parameters for producing heritage evidence are set out in the NPPF. There is no need for the policy to repeat this here. Policy requirement A (f) should be deleted.
30	A	Policy text	<ul style="list-style-type: none"> The requirements applied within the policy, towards proposals which do not constitute comprehensive redevelopment, are too onerous. The policy should relate to the emerging Colne Town Centre Masterplan and suggested changes to the policy wording would address this concern and enable the final paragraph in Part A of the policy to be deleted.

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31	B	Policy text	<ul style="list-style-type: none"> The requirements of Part B (specifically criteria 1, 3, 5, 6, and 7) are disproportionate and do not meet the CIL tests. This element of the policy is not implementable through the decision-making process. Part B should be deleted from the policy, in its current form.
31	B (1)	Policy text	<ul style="list-style-type: none"> Criterion 1 would not pass a statutory test. It is not possible to require improvements to the public realm for every development. As it stands the policy would be unlawful.
31	B (2)	Policy text	<ul style="list-style-type: none"> Criterion 2 is premature, with regulations supporting the implementation of Biodiversity Net Gain still to be defined. Many of the requirements in Part B are aspirational and would be better if secured through the emerging Colne Town Centre Masterplan. Change of use applications will not deliver BNG. Some types of development will be exempt from BNG requirements.
31	B (3)	Policy text	<ul style="list-style-type: none"> This is aspirational rather than necessary.
31	B (4) to (7)	Policy text	<ul style="list-style-type: none"> Outwith guidance in NPPF or CIL Regulations.
31	B (5)	Policy text	<ul style="list-style-type: none"> Engagement with Lancashire County Council (Highways), in the preparation of the Local Plan, raised concerns about the placement of charging points in the highway. These do not appear to be reflected in this policy requirement. We cannot see if the comments of the highways authority have been sought on this issue. As the town centre is regarded as an accessible location many development proposals within the town centre boundary will not require parking provision.
31	C	Policy text	<ul style="list-style-type: none"> The restriction on hot food takeaways needs to be justified and align with higher order policy in the Local Plan. Policies need to be linked to evidence and there does not seem to be evidence to support this.
31	C	Policy text	<ul style="list-style-type: none"> The word “<i>Prime</i>” should read “<i>Primary</i>”.
32	6.1.3	Justification	<ul style="list-style-type: none"> This goes beyond what is required by the policy.
32	6.1.6	Justification	<ul style="list-style-type: none"> Delete the reference to Appendix 1, if its deletion is supported (see comments against page 75 below).
CNDP2 – Shopfronts			
34	-	Policy text	<ul style="list-style-type: none"> Precludes modern high quality design which is likely to be suitable within parts of the Town Centre. As currently worded the policy is only relevant to specific frontages within the town centre. For some town centre properties, its requirements will not be appropriate and its implementation would result in the refusal of otherwise suitable development.
34	(b)	Policy text	<ul style="list-style-type: none"> Should ideally link back to the traditional design of the frontage.
34	(c)	Policy text	<ul style="list-style-type: none"> Only illuminated signage requires planning permission and as such some of the policy proposals are not within the scope of the local planning authority.
CNDP3 – Design in Colne and the Colne Design Guide			
36	-	-	<ul style="list-style-type: none"> The policy fails to acknowledge that a historic or traditional appearance is not always the most appropriate solution.

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36	-	Policy text	<ul style="list-style-type: none"> It is recommended that the following Policy text is deleted: <i>'To support all those involved in the design process (applicants, decision makers, communities).'</i>
39	6.2.5	Justification	<ul style="list-style-type: none"> Only part of the Coding Matrix from the Colne Design Code is included. The full Matrix should be included – single page, landscape format, with an appropriate title above.
CNDP4 – Development Affecting Non-designated Heritage Assets			
40	-	Policy text	<ul style="list-style-type: none"> As written this represents a higher test than the NPPF. The wording in paragraph 203 of the NPPF requires a “<i>balanced judgement</i>” to be made. No evidence is provided to justify the proposed approach. As a result the policy should be revised to reflect the NPPF.
40	-	Policy text	<ul style="list-style-type: none"> Non-designated heritage assets should be identified by the address of the property and not by reference to the current occupier as this is likely to change over time (e.g. #26 Clifford Smith and Buchannan, #88 Yorkshire Bank (now Funky Gifts). As the plan will be used by people who may not be familiar with the area, it is recommended that the format should be as follows: <i>(1) Reference number (2) Name of building, or description of the asset (3) Building number and street name, or brief description of the location</i>
CNDP5 – Urban Character Areas			
43	(1)	Policy text	<ul style="list-style-type: none"> This policy introduces ‘Character Areas’, which are not identified in the Colne Design Code.
43	(2)	Policy text	<ul style="list-style-type: none"> As appropriate, these requirements should be incorporated into the Colne Design Code after checking for, and addressing, any conflicting guidance.
CNDP6 – Future Housing Growth			
45	-	-	<ul style="list-style-type: none"> This policy is not considered to meet the Basic Conditions as written, but is capable of doing so with appropriate modifications.
45	-	-	<ul style="list-style-type: none"> Pendle Council is satisfied that the CNDP, when read as a whole, is consistent with strategic planning policy on housing land provision and meets the aspirations of the spatial strategy.
45	-	-	<ul style="list-style-type: none"> The allocation of specific housing sites is not consistent with other policies in the development plan. In the absence of any evidence justifying a departure from adopted policy, these sites should be removed from the CNDP.
45	-	Policy text	<ul style="list-style-type: none"> The policy notes that the site capacities are notional. Using the gross site area, rather than the net developable area, and applying a blanket density figure of 30 dph, overestimates the delivery potential of the sites allocated in the plan, as several have constraints – e.g. challenging topography, flood risk etc.
-	-	Site Assessment Report	<ul style="list-style-type: none"> Comments were made at Regulation 14 relating to availability of sites, viability, ownership and designation for open space. Those comments flow through to this Regulation 16 stage.
45		CNDP6/15	Land west of Bankfield Street (Bunkers Hill) – Greenfield

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			<ul style="list-style-type: none"> Site CE127 (part of the site) already benefits from planning permission for housing, which has been partially implemented (13/12/063P – 30, 2/3 bed homes). It is included in the existing commitments for Colne and these dwellings should be excluded from the total capacity of the proposed allocations. This would reduce the contribution this site makes to the overall housing land supply from 56 dwellings to 34 dwellings. The submitted Heritage Impact Assessment (2022) prepared by Kirkwells fails to consider the likely effects on the wider historic environment, which includes the Greenfield Conservation Area to the west, Primet Bridge Conservation Area to the south, and three listed buildings – Wayside Barn (Grade II) and Greenfield House Farm and Greenfield House (Grade II) to the west and Primet Foundry (Grade II) to the south east. The overall impact is therefore unknown, raising questions about the suitability of the site for development and its overall capacity. The HIA should be updated to address this matter.
47	6.3.2	Justification	<ul style="list-style-type: none"> In December 2021, Pendle Council resolved to abandon preparation of the Local Plan Part 2 and to prepare a new Local Plan for the borough. The reference to the Local Plan Part 2 housing requirement figure of 240 dwellings per year, and the resulting implications for Colne, are irrelevant and should be removed, as a new evidence base will underpin the spatial strategy in the new Local Plan.
47	6.3.3	Justification	<ul style="list-style-type: none"> The figure generated by the Standard Method is material to housing land supply in Pendle. In accordance with the NPPF, it forms the basis of the 5 year housing land supply calculation. However, the reference to the Standard Method figure for Pendle being much reduced, when compared with the adopted housing requirement, is not relevant in this context. The CNDP should acknowledge that it is for the new Local Plan to define a housing requirement figure for Pendle. As the new Local Plan is at a very early stage in the plan-making process, to conclude that the future housing needs of Colne will be significantly reduced is premature.
48	-	Table	<ul style="list-style-type: none"> Table 2 provides an illustration of residual housing need in Colne, but presents a picture that is out-of-date. The table appended to this representation confirms the position at the end of the 2021/22 monitoring year. To be in conformity with adopted policy it employs the methodology employed in the Pendle Core Strategy (2015) and is based on the housing requirement of 298 dpa, set out in Policy LIV1 of that document. This updated table shows that in recent years housing delivery in Colne has been particularly strong, and that significant progress has been made towards meeting the apportioned housing need for the town. It confirms a residual need of 192 dwellings in Colne. This represents 12% of the residual need for the borough. The CNDP, as submitted, identifies housing allocations that will provide an estimated 177 dwellings. As set out above the Council has concerns regarding the suitability and deliverability of a number of these sites. Nevertheless it is likely that some of the allocated sites will come

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			forward and the policies of the CNDP will allow further opportunities for housing to be delivered within the neighbourhood area. As a result, the Council is satisfied that the CNDP is in general conformity with the spatial strategy and the strategic planning policy on housing land supply.
CNDP7 – Protecting Local Green Space			
51	-	-	<ul style="list-style-type: none"> Comments were made on the appropriateness of allocations at Regulation 14. In accordance with the criteria in Paragraph 100 of the National Planning Policy Framework the inspector should confirm that all of the sites are of demonstrably high value to the community and that they are not extensive tracts of land. The assessments of parcels is incorrect. The test set out in the conclusions section is that land is not an open, extensive tract of land. The test in the NPPF does not include assessing if the land is open.
CNDP8 – Protection and Enhancement of Community Facilities			
54	-	Policy text	<ul style="list-style-type: none"> “Non-community based uses” need to be defined and justified.
54		Policy text	<ul style="list-style-type: none"> Part 2 of the policy should make clear that a facility should be marketed for community use, following its closure, for a period of at least a 12 months.
CNDP9 – Protection of Local Shops and Public Houses			
55	-	Policy text	<ul style="list-style-type: none"> There is a 1 kilometre distance requirement for Class F2(a) uses. The policy would be more effective if it made reference to “any units within a designated local shopping frontage in the Pendle Local Plan” as the distance threshold and restriction to F2(a) uses would not apply.
55	(C)	Policy text	<ul style="list-style-type: none"> Part C introduces the possibility that landowners could allow premises to fall into disrepair in order to secure a different use for a protected facility. Part C is unnecessary and counter-productive and should be removed from the policy.
CNDP10 – Protection of Sport and Recreation Facilities			
56	-	-	<ul style="list-style-type: none"> The policy does offers little in the way of additional protection to that afforded by Policy ENV1 in the Pendle Local Plan. Multiple designations are unnecessary.
56	-	Policy text	<ul style="list-style-type: none"> The use of reference numbers, which differ from those in the Council’s Open Space Audit, is unhelpful for those looking to apply planning policy.
CNDP11 – Protection of Allotments			
58	-	-	<ul style="list-style-type: none"> Policy does not offer additional protection to that afforded by Policy ENV1 in the Pendle Local Plan. Is a further allotment designation in the CNDP necessary?
58		Policy text	<ul style="list-style-type: none"> The use of reference numbers, which differ from those in the Council’s Open Space Audit, is unhelpful, but their inclusion in parentheses is welcomed and will assist in day-to-day use of the CNDP.
CNDP12 – Transport			
-	-		<ul style="list-style-type: none"> This policy is not considered to meet the Basic Conditions as written, but is capable of doing so with appropriate modifications.

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60	-	Policy text	<ul style="list-style-type: none"> • Criterion (b) is contrary to national planning policy both in its wording and approach for proposals affecting the natural and historic environment. • The NPPF is clear that the status of the asset affected together with the degree of harm caused is significant in how the decision maker must treat the proposal. Furthermore, it is not necessarily the case that proposals which destroy a natural or historic asset would be refused depending on the extent of the public benefits of approving the development.
CNDP13 – Conserving and Enhancing Valued Landscape Features			
-	-		<ul style="list-style-type: none"> • This policy is <u>not</u> considered to meet the Basic Conditions as written, but is capable of doing so with appropriate modifications.
63	-	Policy (c)	<ul style="list-style-type: none"> • Policy relates to landscape however part (c) is an ecology matter. To cover the habitats as outlined in (c) it is suggested (b) is amended to address 'landscape features, such as woodlands, trees, hedgerows, moorland grasses, wetland features and watercourses'
63	-	Policy (d)	<ul style="list-style-type: none"> • It is unclear what is meant by the phrase 'open landscape areas make in conserving and maintaining the area's distinctive settlements'. • Colne is the only settlement within the designated area. • Part (d) of the policy should be altered to read: <i>"The contribution that the open landscape makes to the setting and character of Colne."</i>
63	-	Policy text	<ul style="list-style-type: none"> • Significant views – The policy cannot impose policy restrictions on locations that are situated outside the designated neighbourhood area.
63	-	Policy text	<ul style="list-style-type: none"> • The protection sought for 'significant views' through the policy is disproportionate and inconsistent with the NPPF. • To address this conflict and provide a policy which will help to safeguard important views from within the designated neighbourhood area, the Council proposes that the following wording is adopted: <i>'The following viewpoints are identified as important in the Colne Significant Views Assessment (2021):</i> <i>[LIST]</i> <i>Proposals which are likely to affect an important view will be required to prepare a Landscape Appraisal.</i> <i>The Landscape Appraisal must be prepared in accordance with the latest guidelines of the Chartered Institute of Landscape Architects.</i> <i>The Landscape Appraisal will identify the important views that are affected, address their significance and assess any impacts that are may be caused by the development proposal, after the consideration of any mitigation measures that have been incorporated into the final design to help avoid, reduce or offset these effects.</i> <i>Proposals found to have an adverse impact on an important view may be refused, taking into account the significance of the view, the level of harm caused and benefits of the proposal'</i>
CNDP14 – Rural Identity and Character			

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68	-	-	<ul style="list-style-type: none"> This policy is not considered to meet the Basic Conditions as written, but is capable of doing so with appropriate modifications.
68	(c)	Policy text	<ul style="list-style-type: none"> The wording is not consistent with the NPPF. The use of “traditional” or “local” materials may no longer be appropriate, or possible. To offer greater flexibility in sourcing appropriate materials, it is recommended that the Policy text should be revised to read as follows: <i>‘Use high quality materials which are consistent with local vernacular’</i>
5. How to Comment			
-	-	-	<ul style="list-style-type: none"> This section should be removed from the final version of the CNDP.
Maps			
72-74	-	-	<ul style="list-style-type: none"> This section only includes maps for three of the four conservation areas within the designated neighbourhood area. A map of the Greenfield Conservation Area should be included as Map 5 for completeness. This is particularly important for transparency, as proposed housing allocation CNDP6/15 Bunkers Hill is partially within this conservation area. https://www.pendle.gov.uk/downloads/file/5313/greenfield_conservation_area_map
-	-	Policies Map	<ul style="list-style-type: none"> The Policies Map does not include important policy designations from the Local Plan (e.g. settlement boundary, Green Belt, open space), thereby giving the reader an incomplete picture of the spatial implications of planning policy within the designated neighbourhood area.
-	-	Policies Map	<ul style="list-style-type: none"> The contrast between the designations shown in different shades of green is too subtle and difficult to discern. Several policy designations are superimposed over existing Local Plan designations. In view of the above it is recommended that the use of contrasting colours and ‘transparent’ shading (e.g. lines, dots and hashes) are used to greater effect on the final version, to ensure that the Policies Map is clear and easy to use.
Miscellaneous			
45, 51 & 56	-	Policy text	<ul style="list-style-type: none"> The renumbering of sites between the different iterations of the plan, although understandable, does not aid transparency in the plan making process.
-	-	Policy text	<ul style="list-style-type: none"> The NPPF requires plans and policies to be positively prepared. The wording of several policies refers to what isn’t acceptable (development control), rather than the governments preferred approach which is to say what will be supported (development management).
-	-	Monitoring Indicators	<ul style="list-style-type: none"> Some of the monitoring indicators, although well-intentioned, are not capable of being monitored.

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-	-	Justification	<ul style="list-style-type: none"> The justifications for many of the policies in the CNDP make little or no reference to relevant strategies that will be supported through implementation of the policy, or the evidence base underpinning it. The Justification should help to emphasise how the policy will help to maintain local distinctiveness.
-	-	General comments	<ul style="list-style-type: none"> The use of red text is not considered to be accessible. Ideally a colour with better contrast should be selected to help those with a visual impairment. The advice below, taken from Pendle Council's guidelines for tendering, sets out the accessibility requirements for web documents. <p>It is mandatory for all local authority websites to meet accessibility legislation for their design and content. Any new documents to be added to our website must also meet these criteria.</p> <p>In broad terms, all local authorities must, as a minimum, meet Level AA of the Web Content Accessibility Guidelines 2.1:</p> <ul style="list-style-type: none"> https://www.w3.org/TR/WCAG21/ <p>Contractors must provide their final report in a format that meets these requirements. Guidance on how to make documents as accessible as possible is provided below.</p> <p>Microsoft Word</p> <p>If you are creating your original documents in Microsoft Word, the following link provides useful guidance on making your documents accessible:</p> <ul style="list-style-type: none"> https://support.office.com/en-gb/article/make-your-word-documents-accessible-to-people-with-disabilities-d9bf3683-87ac-47ea-b91a-78dcacb3c66d <p>Portable Document Format (PDF)</p> <p>All PDF documents will be run through the Adobe Accessibility Checker. This identifies where a document is likely to fail the accessibility criteria.</p> <p>The link below provides information on how to create and verify accessible PDF documents using Acrobat Pro:</p> <ul style="list-style-type: none"> https://helpx.adobe.com/acrobat/using/create-verify-pdf-accessibility.html <p>Further Guidance</p> <p>Additional information on the Government's accessibility legislation can be found here:</p> <ul style="list-style-type: none"> https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps