



# **Modified Horninglow & Eton Neighbourhood Plan 2013-2031**

**A report to East Staffordshire Borough Council**

**David Kaiserman BA DipTP MRTPI  
Independent Examiner**

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## **Executive Summary**

I was appointed by East Staffordshire Borough Council on 1 August 2019, with the agreement of the Horninglow and Eton Parish Council, to carry out the independent examination of a proposal to modify the Horninglow and Eton Neighbourhood Plan (HENP).

The existing HENP was “made” (ie formally adopted) by East Staffordshire Borough Council on 16 March 2015. Modifications of neighbourhood plans are provided for in the legislation, and the Parish Council now wish to revise a single policy of the HENP; this is Policy HE5, which deals with car-parking standards. I am in agreement with both the Local Planning Authority and the Parish Council that this proposal, while a “material” one in terms of the legislation, would not be so significant or substantial as to change the nature of the Plan. This means that independent examination is required but that, whatever the outcome, no referendum would be necessary.

My examination was completed solely on the basis of the written representations received, no public hearing appearing to me to have been necessary. Given the nature and scope of the examination, I did not consider it necessary to visit the Neighbourhood Plan area.

Subject to a recommended change to the wording of revised Policy HE5, I have concluded that the Horninglow and Eton Neighbourhood Plan, modified as proposed, meets all the necessary legal requirements and that it can be made without a referendum.

## **Introduction and procedural matters**

1. The Horninglow and Eton Neighbourhood Plan (HENP) was “made” (ie formally adopted) by East Staffordshire Borough Council on 16 March 2015, since which time it has been a part of the statutory development plan for the area. It was one of the first Neighbourhood Plans produced for an urban area following the passing of the Localism Act 2011. The Parish Council have now resolved to update Policy HE5 of the Plan, for reasons which I will summarise shortly, and I was appointed by the Borough Council on 1 August 2019 to conduct a formal examination of this proposal.
2. I am independent of the Parish Council and do not have any interest in any land that may be affected by the Plan. I have the necessary qualifications and experience to carry out the examination, having had 30 years’ experience as a local authority planner (including as Acting Director of Planning and Environmental Health for the City of Manchester), followed by over 20 years’ experience providing training in planning to both elected representatives and officers, for most of that time also working as a Planning Inspector. My appointment has been facilitated by the Independent Examination Service provided by Trevor Roberts Associates.
3. Modifications to neighbourhood plans are provided for in the legislation and are subject to the following principal stages, as set out in Schedule A2 to the Planning and Compulsory Purchase Act 2004:
  - in preparing a draft of the Plan as it is proposed to be modified, the “qualifying body” (in this case the Horninglow and Eton Parish Council) must set out the reasons behind the proposed change(s);
  - the Local Planning Authority (in this case, East Staffordshire Borough Council) must consider whether or not the proposed modifications “are so significant or substantial as to change the nature of the neighbourhood plan” which the new Plan would replace;

- the LPA must then send the draft modified Plan for independent examination.
4. Planning Practice Guidance published by the Secretary of State (paragraph 085<sup>1</sup>) explains that there are three types of modification which can be made to a neighbourhood plan:
    - minor modifications which would not materially affect the policies in the plan and which would not require independent examination;
    - material modifications which do not change the nature of the plan and would require examination, but not (unlike the original plan) a referendum; and
    - material modifications which change the nature of the plan which would require both examination and a referendum.
  5. In the present case, I am satisfied that the proposed modification to the HENP would fall within the second of these categories. This conclusion is one shared by both the Parish Council and the Local Planning Authority.
  6. There is no general requirement to review or update a neighbourhood plan<sup>2</sup>. It is therefore important to note that, while I have familiarised myself with the content of, and background to, the existing version of the HENP, I have restricted my examination of its draft replacement to the terms of Policy HE5 and any direct consequences that might have for other elements of the Plan.
  7. In carrying out my assessment, I have had regard to the following principal documents:
    - the existing (“made”) HENP
    - the Basic Conditions Statement relating to the proposed change to Policy HE5
    - the Evidence Base and Consultation Statement relating to the proposed change to Policy HE5
    - the Local Planning Authority’s Screening Opinion
    - the representations made to the proposed modification to the HENP under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended)
    - any relevant policies of the adopted East Staffordshire Local Plan
    - relevant paragraphs of the NPPF (February 2019)
    - relevant paragraphs of the PPG (March 2014 and updates).
  8. The general rule is that neighbourhood plan examinations, including those relating to modifications, should be carried out on the basis of written representations only. Having considered all the information before me, I have been satisfied that the proposed modification to the HNEP could be examined without the need for a public hearing (and it should be noted that there were no representations to the contrary). Given the nature and scope of the examination, I did not consider it necessary to visit the Neighbourhood Plan area.

### **The Parish of Horninglow and Eton and the existing Plan**

9. The Plan involves a largely residential area forming a substantial part of the inner zone of Burton-upon-Trent, the principal town of the Borough. According to the 2011 census, the two wards of Horninglow and Eton Park contain a population of nearly 15,000.

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<sup>1</sup> Reference ID: 41-085-20180222

<sup>2</sup> PPG Reference ID: 41-084-20190509

10. The “made” HENP sets out in some detail the background to the preparation of the Plan and the demographic, economic and environmental profile of the Parish. Its vision for the area is summarised as:

*“By 2031 Horninglow and Eton should be an attractive and safe residential neighbourhood, with good access to a range of thriving local shops and services. Local green spaces should be enhanced for the benefit of residents and wildlife, and will be linked to the canal, the River Trent and the town centre through a series of safe, green footpaths and cycleways. Traffic through the area will be well managed and major routes will be environmentally enhanced to ensure adverse or negative impacts of developments in neighbouring areas are minimised. Older housing will have been improved and small scale new housing schemes built to meet the needs of residents. Local people will feel proud to live in Horninglow and Eton and to be part of this welcoming and supportive community”.*

11. This strategic overview is supported by 16 more detailed objectives and 11 specific policies designed to give effect to them. Given the limited scope of the present examination, there is no need for me to describe or comment on any of these matters, other than to say that a notable feature of the Plan is the emphasis in many parts of it on the wish to address the impact of vehicular traffic, including car-parking, especially on local residents. The Plan runs from 2013 to 2031, and I note that the end-date is the same as that applying to the adopted East Staffordshire Local Plan.

### **The basic conditions**

12. As indicated above, the Parish Council and ESBC are in agreement that the nature of the proposed modification is such that, while it would materially affect a policy in the HENP, it would not be so significant or substantial as to change the nature of the Plan. This is a conclusion which I share. The procedural consequence of this is that no referendum would be required after my examination has been concluded and considered by the relevant bodies.
13. I am not required to come to a view about the ‘soundness’ of the plan as it would be modified; instead I must principally address whether or not it is appropriate to make it, having regard to certain “basic conditions”, as listed at paragraph 11(2) of Schedule A2 to the Planning and Compulsory Purchase Act 2004; I must also be satisfied that it is generally legally compliant. Recommendations may be made concerning changes both to policies and any supporting text. To this extent, the provisions are the same as those governing the examination of the original Plan. The modified HENP must:
- have regard to national policy and guidance (Condition a);
  - contribute to the achievement of sustainable development (Condition b);
  - be in general conformity with the strategic policies in the development plan for the local area (Condition c);
  - not breach, and otherwise be compatible with, EU obligations, including human rights requirements (Condition d);
  - not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and

- comply with any other prescribed matters.

### **Other statutory requirements**

14. A number of other statutory requirements apply to the preparation of neighbourhood plans, all of which I consider have been met in this case. These are:

- that the Parish Council is the appropriate qualifying body (Localism Act 2011) able to lead preparation and modification of a neighbourhood plan;
- that what has been prepared is a modification to a Neighbourhood Development Plan, as formally defined by the Localism Act (it remains the case that the plan area does not relate to more than one Neighbourhood Area and that there are no other neighbourhood plans in place within the area covered by the plan);
- that the plan period must be stated (which in the case of the HENP remains 2013-2031); and
- that no “excluded development” is involved (this primarily relates to development involving minerals and waste and nationally-significant infrastructure projects).

### **National policy**

15. National policy is set out primarily in the National Planning Policy Framework (NPPF), a key theme being the need to achieve sustainable development. The NPPF is supported by Planning Practice Guidance (PPG), an online resource which is continually updated by Government. I have borne particularly in mind the advice in the PPG<sup>3</sup> that a policy in a neighbourhood plan should be clear and unambiguous, concise, precise and supported by appropriate evidence.

### **The Development Plan for the area**

16. The East Staffordshire Local Plan (ESLP) was adopted in October 2015, a short time after the HENP was formally “made”. The ESLP notes that the inner Burton area, of which Horninglow and Eton forms part, has pockets of deprivation, economic inactivity and socio-economic problems. It includes policies designed to improve the visual amenity and sustainability of the area for current residents and commercial ventures by encouraging inward investment.

17. While not a part of the statutory development plan, a relevant publication for my examination is a supplementary planning document (SPD) on parking standards, formally adopted by ESBC in October 2017, and replacing an earlier version adopted in 2004. This document is designed to support a number of ESLP policies (details at paragraph 1.4), although from my reading of these, none has any direct relevance for the specific standards which are the subject of HENP Policy HE5.

18. I would note here that the SPD would remain a material consideration in respect of relevant planning applications within the Parish even after the modified HENP is “made”. The only difference would be that the parking standards to be applied in relation to schemes involving

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<sup>3</sup> Reference ID: 41-041-20140306

the creation of additional bed-spaces would be those set out in the new Policy HE5, and not those shown in the SPD under Use Class C3.

### **Existing HENP Policy HE5**

19. Objective 1 of the Plan reads:

*“The Parish Council will work closely with Staffordshire County Council and East Staffordshire Borough Council to ensure that opportunities are taken to increase provision of adequate off street car parking and to support increased control of on street car parking in residential areas to improve accessibility and traffic management. This should be delivered over the short to medium term (1-10 years). (Policies HE6, HE7, HE8, HE9)”*

20. Further reference to this issue is found in section 6.2 of the Plan. This describes the dense terraced housing which is characteristic of much of the Parish, and the present-day problems of road safety and access on those streets which have no parking controls. In response to these issues, the existing policy HE5 states that:

*“New development in Horninglow and Eton must provide off street car parking provision to the following standards: -*

- *A minimum of 2 parking spaces for each residential unit up to and including 3 bedroom units*
- *Provision of 1 additional parking space per additional bed space for each residential unit*
- *For one bedroom affordable housing a parking standard of 1.5 parking spaces per dwelling shall apply.*

*These parking standards will not apply to residential care homes and similar facilities such as supported accommodation. However such developments will be required to provide adequate car parking spaces for visitors and staff as well as sufficient provision for residents as appropriate. (Neighbourhood Plan Objectives 1 and 15)”*

### **Evidence base and consultation exercise**

21. The need for a new policy is explained in the Evidence Base and Consultation Statement (EBCS) submitted with the HENP, and dated April 2019. This describes a rise in the number of family homes being converted into houses in multiple occupation (HMOs), with many occupiers having their own cars; a similar increase in the demand for more parking arising from residential extensions and sub-divisions; and socio-economic changes (including younger members not being able to afford their own accommodation) resulting in a growing need for family members to have their own cars. The EBCS also references the increased pressure being placed on residential streets not originally designed for substantial vehicular traffic, including the rise in online shopping.

22. The EBCS acknowledges that the evidence base in relation to HMOs is partial, since planning permission is only needed for a change of use involving at least seven residents, and (until recently) those with five occupants or fewer did not need to have a licence from the local authority. The evidence supporting the proposed modification of Policy HE5 is therefore to some extent anecdotal, and derives from Parish Council surgeries, representations made to councillors and the results of the consultation exercises on the Neighbourhood Plan. The EBCS explains this in paragraphs 13 and 14 and also lists the 16 streets where parking problems are known to be an issue for local residents. The document includes a comprehensive account of the process of local consultation, and which I consider satisfies the expectations of such an

exercise.

23. The new policy (modified in the light of the consultation exercise) would read:

*“All new developments including extensions that create additional bed-spaces, and changes of use and large Houses in Multiple Occupation (sui generis) in Horninglow and Eton parish must provide off street parking provision in accordance with the following schedule:-*

- *A minimum of 2 parking spaces where 1 or 2 bed spaces are created;*
- *Provision of 1 additional parking space per additional bed space for each residential unit*
- *For one bedroomed affordable housing a parking standard of 1.5 parking space per dwelling shall apply*

*These parking standards will not apply to residential care homes and similar facilities such as supported accommodation. However, such developments will be required to provide adequate car parking spaces for visitors and staff as well as sufficient provision for residents as appropriate.*

*A lower provision than that set out above will only be acceptable if it can be demonstrated satisfactorily to the planning authority that any on-street parking likely to occur as a result of the development will not create, or exacerbate, on-street parking problems for local residents or businesses, or prejudice highway (including pedestrian) safety through increasing the likelihood of dangerous parking”.*

24. The proposed modified Policy HE5 therefore represents a more stringent approach to the issue, in that it makes it clear it is intended to apply not just to new-build, but to conversions and extensions of existing properties. It also seeks to increase the amount of parking to be provided overall by requiring a minimum of two spaces where one or two bed-spaces are involved, as opposed to the existing threshold of three bed-spaces.

### **Representations received (Regulation 16)**

25. Six representations were received in response to the proposed change. Five of these, from relevant statutory bodies, contained no adverse comments. I will refer to objections made by Gladman Developments shortly.

### **Assessment**

26. The Basic Conditions Statement prepared in connection with the proposal is dated April 2019. It sets out the statutory and related context to the proposed modification<sup>4</sup> and demonstrates the new policy’s compliance with the principal relevant matters, namely conditions (a) and (c).

27. I am satisfied that NPPF paragraphs 102 and 105 are reflected in the replacement Policy HE5, especially the latter, which deals with the criteria to be taken into account when local parking standards are being set. The broad design objectives advocated in PPG paragraphs 008 and 012 are also noted. I concur that the over-arching approach to sustainable development set out in paragraph 8 of the NPPF is satisfied by the proposed modification - this is similar to the ground covered by East Staffordshire Local Plan Strategic Policy 1.

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<sup>4</sup> The BCS uses the term “revision”, but the PPG reference in paragraph 106 is to a “modification”, and I have adopted that formulation for this report

28. Basic conditions (a) and (c) are therefore met. In a Screening Opinion carried out by ESBC in February 2019, the Council concluded that neither a Strategic Environmental Assessment nor a Habitats Regulation Assessment was necessary. No other EU obligation is considered to be engaged by the proposed modification.
29. Gladman say that the proposed revision is inappropriate in principle, given the terms of Planning Practice Guidance at paragraph 049. This includes the advice that “It is not appropriate to consult on individual policies” in a neighbourhood plan. Gladman consider that the result in this case is a failure of the HENP to satisfy basic condition (a), and that it would set a precedent locally. Furthermore, since “significant” changes have been made to national policy since 2015 (not specified), the Plan should be withdrawn and comprehensively reviewed.
30. In my opinion, Gladman’s interpretation of the advice in the PPG is partial and irrational. Firstly, it is clear to me from a common-sense reading of paragraph 049 in its context that it is dealing with the initial stages of the consideration of a neighbourhood plan, and not with the situation where such a plan already exists and might need to be updated. Secondly, and in any event, the objection fails to take account of the references at PPG paragraphs 084, 085 and 106.
31. As I have pointed out earlier in this report, there is no general requirement for neighbourhood plans to be reviewed. This is made clear in PPG paragraph 084, but it goes on to say: *“However, policies in a neighbourhood plan may become out of date, for example if they conflict with policies in a local plan covering the neighbourhood area that is adopted after the making of the neighbourhood plan. ....In addition, where a policy has been in force for a period of time, other material considerations may be given greater weight in planning decisions as the evidence base for the plan policy becomes less robust”*. Paragraphs 106 and 085 explain how partial updates or modifications should be dealt with procedurally.
32. It is therefore clear that the Government intended no inhibition on the ability of neighbourhood plans, including their individual policies, to be sensibly updated as and when necessary, and in an efficient and effective manner. It is also relevant to bear in mind PPG advice at paragraph 062, which deals with reviews of local plans: “Most plans are likely to require updating in whole or in part at least every 5 years. Reviews should be proportionate to the issues in hand”. I am entirely satisfied that this pragmatic approach should apply equally to neighbourhood plans. There can be no case for concluding that the proposal to modify Policy HE5 results in a failure of the HENP to satisfy basic condition (a).
33. I note in addition that ESBC’s parking standards are expressed as minima (paragraph 2.1 of the SPD) and that neighbourhood plans might adopt a variation from them (paragraph 2.2)
34. Notwithstanding their objection in principle, Gladman criticise the absence of what they describe as “robust” evidence to support a policy which they describe as too prescriptive and onerous, in particular since it would include the need for extra parking to be provided even when an existing household is extended.
35. I have already described the nature of the evidence underpinning the new policy, set out in the Evidence Base and Consultation Statement: while I accept that it lacks an empirical dimension, I am satisfied that it is based on a clear and coherent assessment of the situation “on the ground”. It is also the case that the existing Policy HE5 (at the time numbered HE7) was considered by the Examiner of the original HENP not to require any changes, and I have seen no evidence to suggest that the material he had before him at that time was any different in

character from what is set out in the current EBSC.

36. I have some sympathy with the point Gladman make about the wording of the policy, and have a recommendation designed to address their concerns (at least in part). Firstly, as currently worded, it covers “all” new development: this is potentially confusing, since its intended scope is clearly limited to development which would result in an increase in the number of bed-spaces, and in any event can only relate to development requiring planning permission. In addition, early reference should be made to the “exception” paragraph which has now been inserted (and which has the benefit of moderating what Gladman see as the over-prescriptive nature of the policy).
37. ***I recommend that the first three lines of the policy be amended to read: “Within Horninglow and Eton Parish, unless a lower provision can be justified in the terms set out below, new residential development requiring planning permission, including extensions that create additional bed-spaces and changes of use and the creation of large Houses in Multiple Occupation (sui generis), must provide off-street parking in accordance with the following schedule:....”.***

### **Conclusions on the basic conditions**

38. I am satisfied that the Horninglow and Eton Neighbourhood Plan, as it is proposed to be modified by the alteration to Policy HE5 and its associated explanatory text, continues to make appropriate provision for sustainable development. I conclude that in this and in all other material respects, subject to my recommended change of wording, it has appropriate regard to national policy and guidance. Similarly, and again subject to my recommended modification, I conclude that the Plan is in general conformity with the strategic policies in the development plan for the local area. There is no evidence before me to suggest that the Plan is not compatible with EU obligations, including human rights requirements.

### **Formal recommendation**

39. I have concluded that, provided that the recommendation set out above is followed, the Horninglow and Eton Neighbourhood Plan would continue to meet the basic conditions if Policy HE5 were revised as suggested, and that the Local Planning Authority should make the draft Plan with the modifications proposed.

*David Kaiserman*

David Kaiserman BA DipTP MRTPI  
Independent Examiner

August 2019