
Tarvin Neighbourhood Plan - Planning Advice

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Report

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1. INTRODUCTION

The community are currently preparing a Neighbourhood Plan and Tarvin Parish Council have instructed Strutt & Parker to provide advice regarding the proposed Settlement Boundary for Tarvin.

This report outlines the technical possibilities available through the Neighbourhood Planning process, but ultimately the Plan will be heavily influenced by the Local Authority and the Examiner.

2. ABILITY FOR NEIGHBOURHOOD PLAN TO ALTER THE SETTLEMENT BOUNDARY

Parish Council Queries;

Are Tarvin Parish Council/Tarvin Neighbourhood Plan Steering Group able to promote a settlement boundary in the Neighbourhood Plan that is significantly different to the settlement boundary proposed by CWaC in their Local Plan Part 2?

Would an alternative settlement boundary policy be acceptable for CWaC to allow the NP to proceed to its Public Examination?

Would the Inspector then consider that such a major difference in the LP and NP settlement boundary policy automatically rule that the NP is not legally sound, effective or justified?

In providing advice, it is important to outline the relevant Neighbourhood Plan procedures to referendum and key considerations.

What is the test and who decides?

Neighbourhood Plans are tested against basic conditions, one of which is conformity with the “strategic policies” contained in the Development Plan.

In order for a Neighbourhood Plan to proceed to examination the Authority must be satisfied that a basic conditions statement has been submitted, but they are not required to consider whether the Draft Neighbourhood Plan meets the basic conditions.

In order for a Neighbourhood Plan to proceed to a referendum, the Authority must meet the basic conditions and whilst the Examiner will set out their recommendations, is it not binding. It is the Local Authority who determine whether the Neighbourhood Plan can proceed to referendum.

Therefore, the Authority must be satisfied that the Neighbourhood Plan is in line with their strategic policies in order for the Neighbourhood Plan to proceed to referendum.

What is a Strategic Policy?

A Local Authority should clearly set out its strategic policies. A strategic policy would normally set out overarching direction or objective, seek to shape the broad characteristics of development, set a framework for decisions on how competing priorities should be balanced, set a standard that is essential to achieving the wider vision, and in the case of site allocations, it should be central to achieving the vision of the Local Plan.

A Neighbourhood Plan will not be tested against the policies in an emerging Plan, although the reasoning and evidence base informing the Local Plan process may be relevant to the basic conditions assessment.

The adopted Development Plan (Local Plan Part 1) sets out the strategic policies and does not consider settlement boundaries (as they are determined through Local Plan Part 2).

Therefore whilst our view is that a different settlement boundary (extending to the east) would not conflict with any strategic policies, this needs to be confirmed with the Authority as there is some subjectivity in determining this.

It could be the case that the Authority might not object to an extended settlement boundary, if they consider that Tarvin is a settlement which can accommodate more growth.

The government advise minimising any conflict between Neighbourhood and emerging Plans as any conflict will be resolved in favour of the policy in the most recently adopted plan. This means that where a Neighbourhood Plan is completed in advance of the Local Plan, there is a risk that the Local Plan (in this case Part 2) could then undermine the Neighbourhood Plan when future planning decisions are made.

3. OPTIONS FOR AMENDING THE SETTLEMENT BOUNDARY

Parish Council Query;

Which boundary options is:

- a) most likely to provide a reason for striking out the Gypsy and Traveller proposal**
- b) most likely to provide support to the argument that Tarvin has met its allocation of significant new build development as set out in the CWaC Local Plan**

The role of a settlement boundary is to define the built limits of a settlement and differentiate between what is considered the built form of a settlement where the principle of development is usually acceptable, and the countryside where development is strictly controlled.

A boundary extension would require justification, clearly beyond the reasoning to prevent a gypsy and traveller proposal. Our view is that it would be difficult to justify a boundary extension (to the east) whilst also restricting its potential development for housing within the Neighbourhood Plan period. This is unless it was allocated for another use, such as recreational facilities, which again would require justification and a case for delivery.

It may be that a boundary extension would prevent a gypsy and traveller allocation/proposal on the basis of White Young Green's assessment criteria. However this criteria could be subject to change, and whilst the Local Authority would take account of the Neighbourhood Plan, the Local Plan Part 2 is not required to be in line with a Neighbourhood Plan even if it is adopted.

Conversely, we consider that the settlement boundary proposed in the Local Plan Part 2 is most likely to support the argument that Tarvin has met its allocation of new build development as per the Local Plan Part 1.

It is important to reiterate that where there is conflict between a Neighbourhood Plan and Development Plan, the most recently adopted takes precedence.

4. RESPONSES TO PREVIOUS PLANNING ADVICE

Tarvin would have more control over any building proposal within this extended boundary than any building proposal that was successful in obtaining planning permission outside the boundary. Steering Group Query; Please provide your view.

Due to the nature of settlement boundaries, there are no policies which deal with regulating the form and type of development beyond these limits, other than restrictive policies which object to development beyond these limits.

We agree that if the Neighbourhood Plan stated that housing would be deemed acceptable within the extended boundary, it would logically follow that the Plan could set out criteria which development should meet. Any criteria must be in line with the Authority's policies and would be assessed by an Examiner to ensure that it wasn't too onerous.

That a "permissive" neighbourhood plan which envisages future expansion is much more likely to be successful than a "restrictive" plan not allowing any future expansion. Please provide your view. Steering Group Query; Please provide your view.

In general terms, we agree that a Neighbourhood Plan which envisages future expansion is more likely to be successful than a restrictive plan which does not provide scope for any future growth.

A theme of Examiners Reports is to also amend policies so that they are more flexible towards future growth. For example, the Examiner asked for Sandbach's Neighbourhood Plan to delete a policy which sought to restrict future developments to thirty houses or less because it was too restrictive to future growth. However this is more common where a Local Authority have not yet set the target housing provision for the locality, which is not the case for Tarvin as the Local Plan Part 1 seeks to provide at least 200 dwellings.

Parish Council Query; If the Neighbourhood Plan were to be based on the existing boundary as per the CWAC Local Plan Part 2, could this boundary still be changed at a later date to allow for future housing expansion, as suggested in the draft neighbourhood plan beyond 2030?

Neighbourhood Plans can be updated, and the government recognise that communities may decide to update their plan (or part of it) in areas where policies made in a Neighbourhood Plan have become out of date.

There is the potential for the Neighbourhood Plan to state that there will be a review of the settlement boundary within the Plan period, subject to the Authority and Examiners views regarding the future of Tarvin.

At the moment the process for making a replacement Plan is the same as the process for the making of the existing plan. However this is subject to change within the forthcoming Neighbourhood Planning Bill which is looking to streamline the process of making amendments.

5. CONCLUSION

We advise further liaison with the Authority to facilitate as much agreement as possible, in order to secure a Neighbourhood Plan and reduce the risk that it is then deemed out of date because of a subsequently adopted Local Plan Part 2.

Please note that subsequent planning changes may alter the advice provided.