

DECISION STATEMENT

NEIGHBOURHOOD PLAN PROCEEDING TO REFERENDUM

1. Lydiate Neighbourhood Plan

- 1.1 I confirm that the Lydiate Neighbourhood Plan (LNP), as revised according to the modifications set out below, complies with the legal requirements and Basic Conditions set out in the Localism Act 2011, and with the provision made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. The Plan can therefore proceed to referendum. A provisional date has been set for the referendum of 18 December 2018.
- 1.2. I also declare that I have no personal or prejudicial interest in respect of this decision.

Signed

Stuart Barnes

Chief Planning Officer

2. Background

- 2.1 Sefton Council confirms that for the purposes of section 5(1) of the Neighbourhood Planning (General) Regulations 2012 ('the Regulations') the Parish Council is the "Qualifying Body" for their area.
- 2.2 On 6 July 2015 Lydiate Parish Council requested that, in accordance with section 5(1) of the Regulations, that the Parish of Lydiate be designated as a Neighbourhood Area, for which a Neighbourhood Development Plan will be prepared.
- 2.3 In accordance with section 6 of the Regulations, Sefton Council placed on their website this application, including a map showing the Parish boundary, for a 6 week period between 8 July and 21 August 2015.
- 2.4 Sefton Council approved the Lydiate Neighbourhood Area on 28 September 2015.
- 2.5 In accordance with Regulation 7 of the Regulations, the decision to designate the Lydiate Neighbourhood Area was advertised on the Council website together with the name, area covered and map of the area.
- 2.6 The Parish Council consulted on a pre-submission version of their draft Neighbourhood Development Plan between 1 December and 31 January 2018 fulfilling all the obligations set out in Regulation 14 of the Regulations.
- 2.7 The Parish Council submitted their Neighbourhood Plan to Sefton Council on 19 April 2018 in accordance with Regulation 15 of the Regulations.
- 2.8 Sefton Council publicised the submitted Plan and its supporting documents for 6 weeks between 13 June and 30 July 2018 in accordance with Regulation 16 of the Regulations.
- 2.9 Andrew S Freeman BSc (Hons) DipTP DipEM FRTPI of Intelligent Plans and Examination (IPE) was appointed by Sefton Council to examine the Plan. The Examination took place between August and September 2018, with the Examiner's Report being issued on 18 September 2018.
- 2.10 The Examiner concluded he was satisfied that the Lydiate Neighbourhood Plan and its supporting documents were capable of meeting the legal requirements set out in the Localism Act 2011, including meeting the Basic Conditions, subject to the modifications set out in his report, as set out in the table below.
- 2.11 Schedule 4B s.12 to the Town and Country Planning Act 1990, as inserted by the Localism Act 2011, requires that a Local Authority must consider each of the recommendations made in the Examiner's report and decide what action to take in response to each recommendation. If the Local Authority is satisfied that, subject to the modifications made, the draft Neighbourhood Plan meets the legal requirements and Basic Conditions as set out in legislation, a referendum must be held on the 'making' (adoption) of the Plan by the Local Authority. If the Local Authority is not satisfied that the plan meets the basic conditions and legal requirements then it must refuse the proposal. Should a referendum take place, a majority of residents who turn out to vote must vote in favour of the Neighbourhood Plan (50% plus one vote) before it can be 'made'.
- 2.12 Once the Lydiate Neighbourhood Plan is 'made' (adopted) by Sefton Council, it

becomes part of the Development Plan for the area. Planning applications have to be decided in line with documents in the Development Plan unless there is a very good reason not to do so.

2.13 The Basic Conditions are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. They set out the Neighbourhood Plan must:

1. Have regard to national policy and guidance issued by the Secretary of State;
2. Contribute to the achievement of sustainable development;
3. Be in general conformity with the strategic policies contained in the development plan for the area;
4. Be compatible with and not breach, European Union (EU) obligations; and
5. Meet prescribed conditions and comply with prescribed matters.

2.14 Regulation 32 of the Regulations prescribes a further Basic Condition that requires a Neighbourhood Plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2017) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007) either alone or in combination with other plans or projects.

3 Examiner's Recommendations and Local Authority's Response (Regulation 18(1))

Examiner's Recommendation (incl. page and para no. in his report)	Page no. in submission draft LNP	Sefton Council Decision and reason	New text or amendment to original text, as applicable – as shown in Referendum version LNP
Policy LNP DEV1: Protecting and Enhancing the Character of Lydiate (p10, para 4.6)			
Through the wording of the policy, it would apply to sites allocated in the Local Plan. However, as confirmed by the Parish Council ¹ , it is also intended to apply to sites allocated in any replacement or revised Local Plan and thus included sites that are safeguarded but not yet allocated. This intention is not covered in the present wording of the policy. The matter would be corrected through proposed modification PM1 .	Section 4, p11	Modification PM1 agreed. The re-drafted policy accords with the modification requested by the Examiner. The modification removes any ambiguity regarding sites allocated in revised or replacement Local Plans. As such, the amended policy meets the Basic Conditions test.	Text has been added to criterion ii of LNP DEV1 as follows: ii) they meet all other policies in this Plan and the Local Plan including, in the case of proposals on sites allocated in the Local Plan, <u>or any revised or replacement Local Plan</u> , the site-specific policies in this Plan.
Policy LNP HOU1: Land North of Kenyon's Lane (p10, paras 4.8, 4.9 4.10 and 4.11)			
Criterion iii) of the policy is designed to safeguard access to Moreton's Dairy [sic] should other parts of the site be developed first. However, the provision is lacking in clarity. This would be corrected under proposed modification PM2 .	Section 4, p14	Modification PM2 agreed. The re-drafted policy accords with the modification requested by the Examiner. The modification removes any ambiguity regarding which part of the site may come forward for development at a later stage. As such, the amended policy meets the Basic Conditions test.	Text has been changed in criterion iii of LNP HOU1 as follows: iii) If the site is partially developed until the dairy is relocated, the development must leave satisfactory access to the remainder of the site <u>dairy</u> .

¹ Response to the points raised by the examiner, Lydiate Parish Council, 22 August 2018.

Examiner's Recommendation (incl. page and para no. in his report)	Page no. in submission draft LNP	Sefton Council Decision and reason	New text or amendment to original text, as applicable – as shown in Referendum version LNP
<p>Criterion iv) looks for houses towards the eastern area of the site to face Northway with a landscape buffer similar to the arrangement where Ridgeway Drive runs along Northway. I saw that this landscape buffer comprises a flat, treed, grass verge and hedge. It would offer little noise attenuation. Whilst the solution would be acceptable in visual terms, potential traffic noise from the A59 needs to be taken into consideration. This omission would be included under proposed modification PM3. In terms of sustainable development, the modification would address an environmental role by helping to minimise pollution (NPPF Paragraph 7).</p>	<p>Section 4, p14</p>	<p>Modification PM3 agreed.</p> <p>The re-drafted policy accords with the modification requested by the Examiner. The modification allows for mitigation for the effects of noise. As such, the amended policy meets the Basic Conditions test.</p>	<p>Text has been added to criterion iv of LNP HOU1 as follows:</p> <p>iv) Houses towards the eastern edge of the site face Northway and are accessed by an internal road parallel to Northway with, <u>subject to consideration of traffic noise</u>, high quality landscaping to act as a buffer similar to the arrangement where Ridgeway Drive runs alongside Northway.</p>
<p>There is a mistake in the wording of criterion vi) whereby “the arrangement the height of housing” should read “the arrangement and the height of housing”. This would be corrected in proposed modification PM4.</p>	<p>Section 4, p14</p>	<p>Modification PM4 agreed.</p> <p>The re-drafted policy accords with the modification requested by the Examiner. The modification corrects the mistake. As such, the amended policy meets the Basic Conditions test.</p>	<p>Text has been added to criterion vi of LNP HOU1 as follows:</p> <p>vi) The impact of the development on the rural feel of existing and potential views of the site are mitigated by landscaping and boundary treatments and the arrangement <u>and</u> the height of housing and or extra-care facility along the edges of the development which should be limited to 2 storeys.</p>

Examiner's Recommendation (incl. page and para no. in his report)	Page no. in submission draft LNP	Sefton Council Decision and reason	New text or amendment to original text, as applicable – as shown in Referendum version LNP
<p>A final point under this heading concerns flood risk. Criterion xi) of Policy LNP HOU1 calls for consultation with the Environment Agency. However, the agency's evidence² points out that the site is within Flood Zone 1. Formal consultation would not be expected. As such, the wording of the criterion needs to be changed; also, to be consistent with other references to the same matter (Policy LNP HOU2). Proposed modification PM5 sets out a suitable change.</p>	<p>Section 4, p15</p>	<p>Modification PM5 agreed.</p> <p>This modification reflects the Environment Agency's role. The re-drafted policy accords with the modification requested by the Examiner. As such, the amended policy meets the Basic Conditions test.</p>	<p>Criterion xi of LNP HOU1 has been deleted and replaced as follows:</p> <p>xi) <u>Flood Risk - local knowledge of flooding incidents must be incorporated into the site specific flood risk assessment via a consultation exercise; and it meets the requirements of other policies in this Plan and the Local Plan, or its successor plan.</u></p>

² Regulation 16 representations of the Environment Agency (10).

Examiner's Recommendation (incl. page and para no. in his report)	Page no. in submission draft LNP	Sefton Council Decision and reason	New text or amendment to original text, as applicable – as shown in Referendum version LNP
Policy LNP HOU2: Land North of Kenyon's Lane (p11, paras 4.13 and 4.14)			
<p>One of the requirements of the policy is that proposals should be consistent with a single detailed master plan for the whole site as approved before the submission of any planning application. This is a laudable objective. However, the Council would not be able to invalidate a planning application or refuse planning permission just because there had been no agreement to a master plan at the pre-application stage. The policy would have to be worded more loosely and embrace both approval of a "voluntary" master plan in advance of a planning application or a master plan that would accompany the related application. Proposed modification PM6 addresses this difficulty.</p>	<p>Section 4, p17</p>	<p>Modification PM6 agreed.</p> <p>The re-drafted policy accords with the modification requested by the Examiner. The modification removes the procedural difficulties Sefton Council would face if the master plan had not been agreed in advance and reflects the wording used in Policy MN3 of the Sefton Local Plan. As such, the amended policy meets the Basic Conditions test.</p>	<p>Text has been changed in criterion i) of LNP HOU2 as follows:</p> <p>i) Proposals for development on this site will only be granted planning permission where they are consistent with a single detailed master plan for the whole site which is approved by the Sefton Council before any planning application is submitted and which may be submitted prior to or with the first application.</p>
<p>A further matter relates to policy criterion xiv). This refers to strategic landscaping incorporating "the natural lay of the land". This expression is lacking in clarity. A clear form of wording is set out in proposed modification PM7.</p>	<p>Section 4, p18</p>	<p>Modification PM7 agreed.</p> <p>The re-drafted policy accords with the modification requested by the Examiner. The modification provides the necessary clarity. As such, the amended policy meets the Basic Conditions test.</p>	<p>Text has been changed in criterion xiv) of LNP HOU1 as follows:</p> <p>xiv) Strategic landscaping must incorporate take account of the natural lay of the land including the ridge to soften any impact development may have.</p>

Examiner's Recommendation (incl. page and para no. in his report)	Page no. in submission draft LNP	Sefton Council Decision and reason	New text or amendment to original text, as applicable – as shown in Referendum version LNP
Policy LNP HER: Heritage and Cultural Assets (p12, paras 4.15, 4.16 and 4.17)			
Neighbourhood Plan Policy LNP HER is directed at safeguarding eight buildings of local heritage and cultural interest. The provisions are analogous to those supported in Paragraph 135 of the NPPF. I have considered whether the policy should apply to any other buildings identified in the future. Given that designation is often part of an on-going process, I agree with the evidence ³ that this would be an appropriate addition. Proposed modification PM8 refers.	Section 4, p20	Modification PM8 agreed. This modification would be helpful to ensure any buildings identified as suitable in the future can be subject to this policy. The re-drafted policy accords with the modification requested by the Examiner. As such, the amended policy meets the Basic Conditions test.	Text has been changed in policy LNP HER as follows (see also PM9 below): Development which affects the following non-designated heritage and cultural assets will only be permitted where the aspects elements of the asset which contribute to its significance are conserved or enhanced. <u>Any such assets identified in the future will also be subject to this policy.</u>
In a further proposed modification (PM9), I am recommending an alternative form of wording that will refer to <i>elements</i> of buildings that contribute to the significance of the assets. This is to meet the evidence of Historic England ⁴ .	Section 4, p20	Modification PM9 agreed. The re-drafted policy accords with the modification requested by the Examiner. The modification provides the necessary clarity. As such, the amended policy meets the Basic Conditions test.	This modification is reflected in the policy wording to PM8 shown above.

³ Regulation 16 representations of Historic England (5).

⁴ Regulation 16 representations of Historic England (5).

Examiner's Recommendation (incl. page and para no. in his report)	Page no. in submission draft LNP	Sefton Council Decision and reason	New text or amendment to original text, as applicable – as shown in Referendum version LNP
Heritage and cultural assets in Lydiate are identified on a plan in Appendix 1 of the Neighbourhood Plan. The notation includes “Other Feature (The Gallops)”. However, it is now agreed ⁵ that The Gallops is not an asset suitable to be covered by Policy LNP HER. It should be deleted from the Plan, as under proposed modification PM10 .	Map or Lydiate Heritage and Cultural Assets in Appendix 1, p25	Modification PM9 agreed. This modification would be helpful to as this ‘Other Feature’ is not subject to policy LNP HER. The amendment to the map of heritage and cultural assets in Appendix 1 accords with the modification requested by the Examiner. As such, the amended policy meets the Basic Conditions test.	The map in Appendix 1 of the LNP has been amended to remove the yellow star annotation on the map and in the key identifying the Other Feature (The Gallops)
Other Matters identified by the Examiner requiring attention (p12-13, para 4.20)			
In Paragraph 1.15 (i) and (ii), the Consultation Statement is not attached as an Annex (whether Annex 1 or Annex 4).	Section 1, p6	Sefton officers agree with the Examiner that the reference to the location of Consultation Statement is not clear and this will be clarified and a web link provided in (i), cross referenced in (ii). This is not deemed to be a Basic Conditions matter.	Text has been amended in the final sentence of para 1.15 (i) as follows: A summary of the survey results can be found in our Consultation Statement attached at annex 1 <u>of our Consultation Statement (see www.lydiateparishcouncil.gov.uk/wp-content/uploads/2018/04/lydiate-consultation-statement-19th-April-submission.pdf)</u> Text has been amended in the final sentence of para 1.15 (ii) as follows: A summary of the consultation findings can be found in annex 4 of our Consultation Statement (see link above) .
Paragraph 2.1 sets out the Vision for the parish up to 2030 (not 2027).	Section 2, p7	Sefton officers agree with the Examiner that this is an error and requires correction. This is not deemed to be a Basic Conditions matter.	Text has been amended in para 2.1 as follows: Based on engagement with the Community, Lydiate Neighbourhood Development Plan's Vision for Lydiate Parish for 2027 2030 is for: ...

⁵ Response to the points raised by the examiner, Lydiate Parish Council, 22 August 2018.

Examiner's Recommendation (incl. page and para no. in his report)	Page no. in submission draft LNP	Sefton Council Decision and reason	New text or amendment to original text, as applicable – as shown in Referendum version LNP
In Paragraph 3.5, Issue 3 would benefit from cross-reference to Section 5.0.	Section 3, p9	Sefton officers agree with the Examiner that a cross-reference would be beneficial and requires insertion. This is not deemed to be a Basic Conditions matter.	Text has been amended in para 3.5, Issue 3 as follows: Greater control over how any Community Infrastructure Levy (CIL) and Section 106 money is spent in the Parish, <u>see section 5, paragraph 5.6.</u>
With regard to land at Turnbridge Road (Paragraph 3.2), work does not appear to have started on site.	Section 3, p8	Sefton officers agree, and Lydiate concur with the Examiner that works have not started on site (some trees were removed in late 2016 but this was not related to the planning permission). This reference will be removed. This is not deemed to be a Basic Conditions matter.	Text has been amended in para 3.2, Issue 3 as follows: <u>MN2.28, Land at Turnbridge Road (1.6 Ha, estimated capacity 40).</u> This site lies within Lydiate Parish although it is accessed from Maghull. A proposal for 39 homes was approved in July 2017 on the site at Turnbridge Road, and work has started to prepare the site for development. As such this Plan does not contain any policy for this site.
The formatting in Paragraph 3.3 causes confusion. Only 3.3(i) and (ii) are Local Plan requirements. The matters in 3.3(iii) to (vi) are part of the Plan's context.	Section 3, p8	Sefton officers agree with the Examiner that only 3.3(i) and (ii) are Local Plan requirements, and the remaining points are context. The text will be reformatted to reflect this in the same manner to parts of the Plan where context is explained (see below). This is not deemed to be a Basic Conditions matter.	The text now displays as follows (the wording is unchanged): Context A) This site known locally as Tyson's Triangle currently includes Morton's Dairy and Highways Farm which has been converted into a residential complex. B) etc....to D)
The matters in Paragraph 3.4 D to F are not part of the explanatory note on safeguarding.	Section 3, p8	Sefton officers agree with the Examiner and matters D to F will be shown as Context. This is not deemed to be a Basic Conditions matter.	The text (unchanged) now displays as Context A) B) C)

Examiner's Recommendation (incl. page and para no. in his report)	Page no. in submission draft LNP	Sefton Council Decision and reason	New text or amendment to original text, as applicable – as shown in Referendum version LNP
The numbering in Section 4 is abnormal, starting as it does at Paragraph 4.10.	Section 4, p11-22	Sefton officers agree with the Examiner and Section 4 will be renumbered. This is not deemed to be a Basic Conditions matter.	Section 4 renumbered to commence at 4.1 at the supporting text on page 12 and continuing consecutively until 4.33 on page 22. The policies no longer have paragraph numbers
Point "H" in the text following Policy LNP DEV1 should refer to Appendix 1, not Appendix 4.	Section 4, p11	Sefton officers agree with the Examiner that this is an error and requires correction. This is not deemed to be a Basic Conditions matter.	Point H in text following LNP DEV1 amended as follows: H A small number of landmarks and non-designated heritage & cultural assets (see Appendix 4.1)
At Paragraph 4.11, the Housing Objective is Objective 3, not Objective 4.	Section 4, p12	Sefton officers agree with the Examiner that this is an error and requires correction. This is not deemed to be a Basic Conditions matter.	Paragraph, now 4.1 amended as follows: This policy is included to meet Neighbourhood Plan Objectives: 1 Quality, <u>3</u> Housing and 5 Heritage (as set out on page 7)
Paragraph 4.42 should refer to Appendix 1, not Annex 1.	Section 4, p20	Sefton officers agree with the Examiner that this is an error and requires correction. This is not deemed to be a Basic Conditions matter.	The first sentence of paragraph, now 4.25 amended as follows: Lydiate has a number of listed buildings/scheduled ancient monuments, cultural assets and Conservations Areas which are named and identified in Annex Appendix 1 , which are protected by national legislation and policies in Sefton's Local Plan.

Assessment of the Neighbourhood Plan in achieving sustainable development objectives as required by the National Planning Policy Framework

Objective	Contribution made by Lydiate Neighbourhood Plan
Economic	<p>The Plan seeks to support the local economy through the planning of a local shopping area on the Land at Lambshear Lane site (LNP HOU2). Although there are no existing employment sites and no new employment opportunities are identified in the Plan area, existing businesses will be supported through the protection and enhancement of the character of Lydiate (LNP DEV1).</p> <p>If implemented these policies will have a positive impact on the local economy helping to safeguard jobs and local services.</p>
Social	<p>The Plan promotes the protection and enhancement of existing cultural and community facilities; protects and enhances existing areas and promote new areas of recreational amenity space and walking and cycling routes.</p> <p>Policies seek to create a strong sense of place through promotion of high standards of design and layout and the recognition of locally important cultural and heritage assets.</p> <p>If implemented these policies will help promote and support a strong, vibrant and healthy community.</p>
Environmental	<p>The Plan has policies to safeguard the existing rural and sub-urban built environment; preserve and enhance the historic and cultural environment and preserve and enhance the local natural environment for future generations.</p> <p>If implemented these policies will have a positive impact on the environmental sustainability of the plan.</p>

3 Conclusion

3.1 Sefton Council concurs with the view of the Examiner that:

- Subject to the policy modifications above, the Lydiate Neighbourhood Plan meets the Basic Conditions and other legal requirements set out in paragraph 2.12 above;
- That, once modified the Plan proceeds to referendum;
- The boundary for the referendum area should be the boundary of the designated Neighbourhood Plan area.

4. Availability of Decision Statement and Examiner's Report (Regulation 18(2))

This Decision Statement and the Examiners Report can be inspected online at:

www.sefton.gov.uk/neighbourhoodplanning

A paper copy is available at:

Sefton Council Offices,
Magdalen House,
30 Trinity Road,
Bootle, L30 3NJ

Please ring 0151 934 3898 if this is required.