



Intelligent Plans
and examinations

Report on the Appleton Roebuck and Acaster Selby Neighbourhood Development Plan 2017- 2027

**An Examination undertaken for Selby District Council with the support of
Appleton Roebuck and Acaster Selby Parish Council on the November
2016 submission version of the Plan.**

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Main Findings - Executive Summary

From my examination of the Appleton Roebuck and Acaster Selby Neighbourhood Development Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, it meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the parish council;
- The Plan has been prepared for an area properly designated – the parish of Appleton Roebuck and Acaster Selby as shown on Map 1 of the Plan;
- The Plan specifies the period to which it is to take effect (2017-2027); and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Appleton Roebuck and Acaster Selby Neighbourhood Plan 2017- 2027 (the Plan)

- 1.1 Appleton Roebuck and Acaster Selby parish is located to the south west of York. It is predominantly rural in character with scattered hamlets and farms making up the bulk of the parish. Appleton Roebuck is the largest settlement in the parish, Acaster Selby is a small hamlet. The Plan has been prepared by a Steering Group acting on behalf of Appleton Roebuck and Acaster Selby Parish Council (the Parish Council).

The Independent Examiner

- 1.2 As the Plan has now reached the examination stage, I have been appointed as its examiner by Selby District Council (the District Council), with the agreement of the Parish Council.
- 1.3 I am a chartered town planner and former government Planning Inspector, with considerable experience in examining development plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

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The Scope of the Examination

- 1.4 As the independent examiner I am required to produce this report and recommend either:
- (a) that the Plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified Plan is submitted to a referendum; or
 - (c) that the Plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.5 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;
 - Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the Local Planning Authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development';
 - it is the only Neighbourhood Plan for the area and does not relate to land outside the designated neighbourhood area;
 - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
 - Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').
- 1.6 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

- 1.7 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. To meet the Basic Conditions, the Plan must:
- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies of the development plan for the area;
 - Be compatible with and not breach European Union (EU) obligations; and
 - Meet prescribed conditions and comply with prescribed matters.
- 1.8 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for the Plan. This requires that it should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) 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.

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for the area, not including documents relating to excluded minerals and waste development, consists of the *Selby District Core Strategy 2013* (the Core Strategy) and the saved policies of *the Selby District Local Plan 2005*, except those which are amended or replaced by the Core Strategy. The emerging *Sites and Policies Local Plan - PLAN Selby* is at an early stage of preparation. The Plan is not required to be in general conformity with the strategic policies in an emerging plan but, in this instance, it is worthy of note that the emerging plan will, amongst other things, consider allocating land for development in Designated Service Villages such as Appleton Roebuck.
- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (the Framework). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented.

Submitted Documents

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the Submission Draft of the Plan dated November 2016;
 - Map 1 of the Plan which identifies the area to which the Plan relates;
 - the Consultation Statement dated 2016;
 - the Basic Conditions Statement dated 2016;
 - all the representations that have been made in accordance with the Regulation 16 consultation; and
 - the responses received from the Parish Council, Selby District Council and a representor in response to questions raised by me concerning aspects of the Plan. This included a requirement for further consultation to be undertaken on the Strategic Environmental Assessment Screening Report (all correspondence has been placed on the Parish and District Councils' websites).

Site Visit

- 2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 9 May 2017 to familiarise myself with it, and visit relevant sites and areas referred in the Plan and evidence.

Written Representations with or without Public Hearing

- 2.5 This examination has been dealt with by written representations. No request was made for the examination to include hearing sessions and I considered these to be unnecessary. I sought further written comments on a number of points including the question of what constitutes 'small scale development' and the responses to these, together with the Regulation 16 consultation responses, clearly articulated the arguments for and against the suitability of the Plan proceeding to a referendum.

Modifications

- 2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in Schedule 1 of the Appendix.
- 2.7 The Parish Council has, very helpfully, set out its response to the Regulation 16 representations. This practice is to be commended. In its response, the Parish Council accepts that a number of corrections, clarifications and additions should be made to the Plan. Whilst not strictly required to meet the Basic Conditions, such modifications to correct

errors¹ and improve clarity² would benefit the Plan where I consider these to be justified. These are listed in Schedule 2 of the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The Plan has been prepared and submitted for examination by the Parish Council, which is a qualifying body. The designated area of the Plan is the entire parish. Approval of the designated area of the Plan was granted by the District Council on 10 December 2013.
- 3.2 It is the only neighbourhood plan for the parish and does not relate to land outside the parish.

Plan Period

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2017 to 2027.

Neighbourhood Plan Preparation and Consultation

- 3.4 The Consultation Document submitted with the Plan, along with its appendices, sets out who was consulted on the Plan and how they were consulted. These documents contain summaries of the main points raised by consultees and, where relevant, indicate how these have been addressed in the Plan. In particular, the consultations required by Regulation 14 and Regulation 16 have been carried out in the prescribed manner. I am satisfied that the consultations carried out are likely to bring the Plan to the attention of people who live, work and carry out business in the area having regard to the advice in the PPG on plan preparation and that they have met the legal requirements.

Development and Use of Land

- 3.5 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

Excluded Development

- 3.6 The Plan does not include provisions and policies for 'excluded development'.

¹ Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

² Regard should be had to advice in PPG Reference ID: 41-041-20140306.

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Human Rights

- 3.7 The District Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998), and from my own independent consideration of the matter I see no reason to disagree.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The Plan was screened for Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA) by the District Council, which found that it was unnecessary to undertake SEA or HRA, a conclusion supported by the statutory consultees. Having read the Screening Report, I support this conclusion.

Main Issues

- 4.2 Having considered whether the Plan complies with various legal and procedural requirements it is now necessary to deal with the question of whether it complies with the Basic Conditions (see paragraph 1.7 of this report), particularly the regard it pays to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies. This is done by considering:
- General issues of compliance of the Plan as a whole; and
 - Specific issues of compliance of the Plan's policies.

General Issues of Compliance

Regard to National Policy and Guidance

- 4.3 The policies in the Plan are arranged into five groups dealing with, firstly, *Community Facilities*; secondly, *Design of the Built Environment*; thirdly, *Environment, Landscape and Heritage*; fourthly, *Housing*; and, fifthly, *Work and Business*. The aims of these policies are to support and enhance community facilities; to conserve and protect the built environment; to conserve and enhance the environment, landscape, heritage assets and biodiversity; to support sustainable levels of housing to provide for need in the community and support key facilities and services; and promoting small business growth and supporting existing businesses.
- 4.4 These aims have regard to the Framework insofar as this seeks to promote healthy communities, require good design, conserve and enhance

the natural and historic environment, deliver a wide choice of high quality homes and support a prosperous rural economy.

- 4.5 I am satisfied, therefore, that, subject to the comments made below, the Plan has had regard to national policy and guidance thus meeting this Basic Condition.

Contribution to Sustainable Development

- 4.6 The contribution that the neighbourhood plan area should make to sustainable development is, in broad terms, defined in the Core Strategy, Policy SP2 of which identifies Appleton Roebuck, along with 17 other settlements or groups of settlements, as Designated Service Villages which are considered to have some scope for additional residential development and small scale employment. Core Strategy Policy SP5 indicates that some 1,780 new housing allocations will be needed in Designated Service Villages. That policy goes on to state that specific sites for such uses will be identified through the Site Allocations part of the Local Plan and as has already been established (see paragraph 2.1) this is something the emerging *Sites and Policies Local Plan - PLAN Selby* will do. Policy SP13 makes a similar statement about employment land.
- 4.7 In such circumstances it is perfectly legitimate for the Plan to take the approach that it does and not to allocate any housing or employment sites but to leave such matters to the emerging plan. However, the Plan cannot contain policies which would frustrate or pre-empt the emerging plan in seeking to make provision for sustainable levels of development. This is a matter that I deal with when considering individual policies and where I make a number of Proposed Modifications. Subject to those modifications I am satisfied that there is nothing in the Plan which would prevent the emerging plan from making provision for sustainable development. I consider, therefore, that in this respect the Plan makes a contribution to sustainable development and that this Basic Condition is met.

General Conformity with Strategic Development Plan Policies

- 4.8 The general aims of the Policies in the Plan are set out in paragraph 4.3 above. These are in general conformity with the strategic policies in the Core Strategy, which sets out to address the key challenges of meeting development needs, moderating unsustainable travel patterns, concentrating growth in the Selby area, providing affordable housing and developing the economy.
- 4.9 As to the individual policies in the Plan these are dealt with in the following section. Subject to the comments made there I am satisfied

that the Plan is in general conformity with the strategic policies in the Core Strategy and that this Basic Condition is met.

Specific Issues of Compliance

- 4.10 **Policies CF 1** and **CF 2** of the Plan seek to retain key community facilities and support the growth of the village primary school. These aims are entirely consistent with Framework insofar as it seeks to deliver the social, recreational and cultural facilities and services that communities need (paragraph 70) and with Core Strategy **Policy SP14** which seeks to achieve similar ends.
- 4.11 **Policy DBE 1** of the Plan designates a number of Local Green Spaces. This is something the Framework (paragraphs 76 and 77) specifically empowers the Plan to do, where the space is reasonably close to the community it serves, where it is demonstrably special to the local community and where it is not an extensive tract of land. Appendix A1 of the Plan contains a Local Green Space Assessment in which a number of candidate sites are evaluated in terms of their size and value with the designated sites emerging from this process.
- 4.12 Having looked at these sites and examined the evidence I am satisfied that each of them possess some combination of community, landscape, historical, recreational, wildlife or green infrastructure value. **Policy DBE 1** follows closely the advice in the Framework and is consistent with the aims of Core Strategy **Policy SP19** insofar as this seeks to secure public and private spaces that are clearly distinguished, safe and secure, attractive and which complement the built form. The Parish Council has, however, confirmed that it is a mistake for the Policies Map to include the 'Ridge and Furrow Field' as that site was rejected following the Local Green Space Assessment. The Policies Map should be amended accordingly as indicated in **PM1** as shown in the Appendix to this report.
- 4.13 **Policy DBE 2** of the Plan seeks to ensure that development respects traditional building design and scale while allowing for modern architectural detailing. This policy is to be read in conjunction with the Character Area Assessment set out in Appendix A2 of the Plan which identifies and describes five broad character areas in terms of their layout, roads, buildings, streetscape and views. This policy has regard to the Framework insofar as it requires good design (paragraph 56 - 68) and is in general conformity with Core Strategy **Policy SP19** which seeks to achieve design quality.
- 4.14 **Policy DBE 3** of the Plan encourages the integration of green infrastructure into new developments as does the Framework (paragraphs 99 and 114) and Core Strategy **Policy SP18** with its reference to identifying, protecting and enhancing locally distinctive landscapes, areas

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of tranquillity, public rights of way and access, open spaces and playing fields.

- 4.15 **Policy DBE 4** of the Plan deals with drainage and flood prevention. Both the Framework (paragraphs 100 to 104) and **Policy SP15** of the Core Strategy seek to steer development towards land which is least likely to flood. They do not, however, rule out the possibility that there will be situations in which development will need to take place in areas of flood risk provided, to use the words of **Policy SP15**, it can be made safe without increasing flood risk elsewhere. **Policy DBE 4** of the Plan, on the other hand, takes a somewhat more restrictive approach stating categorically that *'New development beyond that permitted should not take place in those areas defined as flood zone 2 and 3'*.
- 4.16 However, there is evidence that the parish has an ageing and deteriorating sewage system that is frequently overloaded with flooding and 'foul water back up' occurring in streets and gardens. It is in this context that Policy DBE 4 takes the restrictive approach that it does. Such an approach is justified by the local evidence indicating the need to protect properties from flooding and foul water contamination and there is no evidence that it will unduly restrict the emerging local plan in its search for suitable development sites in Appleton Roebuck.
- 4.17 There is a mistake in paragraph 4.3.4 of the supporting text where flood zone 1 is described as 'most at risk' rather than 'least at risk'. In the interests of accuracy this mistake should be corrected as shown in **PM2** in the Appendix to this report.
- 4.18 **Policy ELH 1** of the Plan seeks to safeguard the best and most versatile agricultural land except in exceptional circumstances where the benefits to the community are shown to outweigh the harm. In other words, it requires a balance to be struck between the merits of safeguarding the best and most versatile agricultural land and any benefits which might flow from developing such land. The Parish Council has confirmed that the lack of suitable and sustainable housing or employment sites on lower grade agricultural land would amount to an exceptional circumstance.
- 4.19 This approach is consistent with the Framework, which seeks to protect and enhance valued soils (paragraph 109) and which requires that account be taken of the economic and other benefits of best and most versatile land, and where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality (Paragraph 112). The Core Strategy does not have a policy dealing specifically with agricultural land.

- 4.20 The aim of **Policy ELH 2** is to conserve, restore and enhance biodiversity. This is in line with the Framework (paragraph 118) and the Core Strategy (Policy SP18) insofar as these seek to conserve and enhance biodiversity.
- 4.21 **Policy ELH 3** of the Plan identifies and safeguards 4 Green Corridors, strips of land and or water which allow for the movement of wildlife and thus help maintain and increase biodiversity. This approach has regard to the Framework (paragraph 117) which encourages the identification and mapping of wildlife corridors and stepping stones and is in general conformity with the Core Strategy (Policy SP18).
- 4.22 **Policy ELH4** of the Plan aims to safeguard the historic rural environment by ensuring that development is modest in scale and reflects the character of its locality. The Framework similarly recognises the importance of the integration of development into, amongst other things, the historic environment (paragraph 61) while the Core Strategy (Policy SP 18) includes reference to safeguarding and where possible enhancing the historic environment.
- 4.23 **Policy H1** of the Plan deals with the design and scale of new housing. In the supporting text to this policy reference is made to the overwhelming preference of residents for housing development to be small scale (under 5 units) but that Selby District Councils 'informal' definition of small scale housing development is 10 units or fewer – that being the definition used in the Plan.
- 4.24 The point has been made by a representor that the District Council does not have a definition of small scale housing development in the development plan, and given the strong views expressed by residents in favour of the lower threshold, this should be adopted. I do not agree.
- 4.25 I have dealt with the question of housing provision earlier in this report (paragraphs 4.6 and 4.7) and made the point that policies in the Plan should not pre-empt the search for housing sites being carried out in the emerging plan. There is no certainty at present as to how many houses will need to be found in Appleton Roebuck and I take the point made by the Parish Council that there is evidence to suggest that Appleton Roebuck is not as sustainable a location for development as other Designated Service Villages.
- 4.26 However, the fact remains that some 1780 units need to be provided for in 18 Designated Service Villages. With future housing requirements on such a scale I am concerned that the placing of an upper limit of 5 units on the size of future housing sites could inhibit the ability of Appleton Roebuck to make its due contribution to sustainable development. I accept that a 10-unit threshold is an arbitrary figure, as indeed is a 5-unit threshold, but am of the view that the larger figure would better enable

the provision of sustainable development as envisaged in Core Strategy **Policies SP2** and **SP5** and thus assisting in delivering the Framework's aim (paragraph 47) of boosting significantly the supply of housing. I consider, therefore, that the 10 unit threshold should be retained.

- 4.27 The District Council has confirmed that while it uses various measures of what amounts to small scale development (for example in 5 year housing land supply calculations a small site is considered to be less than 5 dwellings, while in delegation agreements the cut off point for minor applications – a concept analogous to the concept of a small site – is 10 dwellings) there is no formal definition of small scale in the development plan. In the interests of accuracy, I consider that references to the Council having a definition of small scale housing should be deleted as shown in **PM3**.
- 4.28 **Policy H1** also seeks to ensure that new development is located so as to avoid through traffic in Appleton Roebuck Village. Minimising additional through traffic is an important local issue and nothing in the Framework or the Core Strategy prevents it being addressed as it is in **Policy H1**. In all other respects, I am satisfied that this policy is consistent with the Framework (paragraph 47) and the Core Strategy (Policies SP4, SP5 and SP19) insofar as these variously seek to boost significantly the supply of housing, contribute to the evolution of viable communities and have regard to local character, identity and context.
- 4.29 **Policy H2** aims to provide a mix of housing based on the latest evidence of housing need. This is keeping with the Framework (paragraph 50) and the Core Strategy (Policy SP8) which similarly aim to provide a dwelling mix that reflect local needs.
- 4.30 **Policy H3** deals with car parking and, amongst other things, states that car parking spaces should be suitable for the average family size car. This is because inadequately sized spaces have been provided in the past resulting in problematic on-street parking. This is a legitimate local concern, but a policy should be clear and unambiguous and capable of being applied consistently and with confidence when determining planning applications (PPG ID: 41-041-20140306). The statement that car parking spaces must be suitable for the average family car is neither clear nor unambiguous and should therefore be deleted as shown in **PM4**. Other than that, **Policy H3** is consistent with the Framework which seeks to provide safe and secure layouts avoiding street clutter and congestion (paragraph 35). The Core Strategy does not have a policy dealing specifically with car parking.
- 4.31 **Policies WB1, WB2 and WB3** of the Plan support, respectively, the re-use of redundant buildings, farm diversification and small business development as long as these do not cause harm by reason of,

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example, increased traffic, light, noise and smell. These policies are generally consistent with Framework (paragraph 28) which seeks to support economic growth in rural areas and with Core Strategy Policy 13 which, amongst other things, seeks to bring economic growth to the rural economy.

- 4.32 **Policy WB1** could be interpreted as limiting the re-use of redundant buildings solely to 'economic' uses as opposed, for example, residential uses. Paragraph 55 of the Framework does, however, allow for the conversion of redundant or disused buildings to residential use where this would lead to an enhancement of the immediate setting. I see no reason why this should not apply in the Parish. Any ambiguity on this point would be avoided by removing the word 'economic' as shown in **PM5**.
- 4.33 **Policy WB2** defines best and most versatile agricultural land as being Grade 1 and 2; the Framework, on the other hand, defines it as being Grade 1, 2 and 3a. Policy WB2 should be amended to reflect the definition given in the Framework (**PM6**).
- 4.34 Having examined the individual policies in the Plan, and providing the above modifications are made, I am satisfied that they meet the Basic Conditions.

5. Conclusions

Summary

- 5.1 The Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the neighbourhood plan, and the evidence documents submitted with it³.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether the referendum area should be extended beyond the designated area to which the Plan relates. The Plan as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated neighbourhood plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I

³ See paragraph 2.3 above.

recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated neighbourhood plan area.

Afterword

5.4 The Plan is a well presented, clearly written and thoroughly researched document which will help guide and shape development in the parish in the coming years. A lot of time and hard, exacting work will have gone into its preparation and it is a credit to its authors.

R J Yuille

Examiner

Appendix: Modifications

Schedule 1: Modifications to meet the Basic Conditions (and other legal requirements)

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Policies Map	Remove the Local Green Space designation from the 'Ridge and Furrow Field'.
PM2	Page 24, paragraph 4.3.4	(most at risk) <u>(least at risk)</u>
PM3	Page 29, paragraph 4.5.1	However, Selby District Council's definition of small scale development' is 10 houses or fewer. Therefore, this figure has been adopted in order to comply with their policy. However, Selby District Council <u>favour defining 'small scale development' as 10 houses or less as this will give greater flexibility when considering the allocation of housing sites in the emerging local plan</u>
PM4	Page 30, Policy H3	b) Car parking spaces must be suitable for the average family sized car unless alternative and accessible car parking arrangements can be made which do not create on-street parking. e) <u>b)</u>
PM5	Page 31 Policy WB2	Support will be given for the re-use of redundant buildings for new economic use where:
PM6	Page 31, Policy WB2	b) (Grade 1, and 2 and 3a)

Schedule 2: Further Modifications to Correct Errors and to Improve Clarity and Accuracy

Page no./other reference	Modification
Page 5, paragraph 1.1	Largely arable grassland that surrounds the main settlement. <u>There are in addition substantial areas of floodplain grassland around the confluence of the rivers Wharfe and Ouse."</u>
Page 25, Policy ELH 2 Appendix 1, Page 38, The Ings, Wildlife of Green Infrastructure Value	Other types of Ancient Woodland and Ancient/Veteran Trees SSSI <u>SINC</u>
Page 22, third paragraphwider Vale of York regional <u>national</u> character area.