


## Representations to Outwoods Draft Neighbourhood Plan

On behalf of  
Barwood Strategic Land LLP et al

February 2015

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**REPRESENTATIONS IN RESPECT OF OUTWOODS DRAFT NEIGHBOURHOOD PLAN 2014-2031 SUBMISSION DRAFT 2015**

**ON BEHALF OF:                      BARWOOD STRATEGIC LAND LLP ET AL**

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**DATE:                                      FEBRUARY 2015**

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- Appendix 3 - Examiner's Reports from Rolleston-on-Dove, Backwell and Chapel-en-le-Frith Neighbourhood Plans**

## 1.0 INTRODUCTION

- 1.1 Alliance Planning act on behalf of Barwood Strategic Land LLP et al ('Barwood'), in respect of their land interests at Red House Farm, Burton upon Trent, which falls within the Outwoods Parish Council Neighbourhood Area ('the Parish Council'/'Neighbourhood Area') and within the administrative area of East Staffordshire Borough Council ('ESBC'/'the Borough Council'). These representations are submitted to the present consultation under Regulation 16 of the Neighbourhood Plan (General) Regulations 2012 and follow on from those made to the first draft of the Neighbourhood Development Plan published for Regulation 14 consultation in June 2014. Many of the comments made at that stage remain valid, although few have been addressed in the present iteration. They are therefore repeated here.
- 1.2 Barwood have also instructed specialist Counsel from No5 Chambers to advise and these submissions make reference to the relevant legal framework and planning policy and guidance and the flaws demonstrated within the Neighbourhood Plan. These submissions are however strictly without prejudice to the identification of further legal errors arising out of any Examiner's Report produced and any other course of conduct by the Borough Council who would be the primary defendant in judicial review proceedings.<sup>1</sup>
- 1.3 Barwood Strategic Land LLP et al already have outline planning permission, granted at appeal (APP/B3410/A/13/2197299) for the erection of up to 250 dwellings at Red House Farm, granted in November 2013. A plan identifying the site that benefits from this planning permission is attached at **Appendix 1**.
- 1.4 Alliance Planning submitted an outline planning application to ESBC on 26<sup>th</sup> November 2014 for the development of Phase II of the Red House Farm development. The outline planning application (ref: P/2014/01530) proposes the erection of up to 150 dwellings, associated landscaping, public open space, access, drainage, associated infrastructure, earthworks and other ancillary and enabling works.
- 1.5 The current outline planning application seeks the delivery of up to 150 new homes with ancillary infrastructure in the adjacent site which is itself a sustainable location. The scheme will also deliver a number of wider benefits for the future and existing local community. These will include:
- High quality new homes including affordable properties;
  - High quality designed development;
  - New public open space;

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<sup>1</sup> Section 61N of the Town and Country Planning Act 1990

- National Forest tree planting;
  - The protection and enhancement of existing landscape features and biodiversity habitats;
  - Improved linkages to the surrounding area;
  - New Homes Bonus of £1.06m over 6 years; and
  - Provision of land for a new Primary School.
- 1.6 The sustainable location of the Site was confirmed by the Secretary of State when determining the planning appeal for the Phase 1 development at Red House Farm. The Site is accessible by a range of sustainable modes of transport, including pedestrian and cycle access, and with access to a public transport service. The sustainability will be further increased through the introduction of new pedestrian linkages throughout the site and the introduction of a public service bus link as part of the adjacent residential proposals.
- 1.7 The scheme's design has been informed by the detailed Landscape and Visual Impact Assessment and Ecological Surveys produced by specialist consultants, (Influence and the Environmental Dimension Partnership (edp)), which have assessed the existing landscape/biodiversity features present at the site and the likely impact that the proposed development would have upon its surrounding environment. The proposed development will sit within the existing landscape features which will screen the development from long distance views.
- 1.8 The proposed development will deliver a high quality environment and a mix of housing types that vary in size, type and tenure to provide choice for the local and future community. The proposed development will also deliver a range of affordable houses in accordance with the identified need.
- 1.9 The site will set aside new areas of open space and woodland planting in accordance with relevant policies. The scheme has demonstrated that it is able to accommodate 20% new woodland, and it will enhance the woodlands setting of the site and future residents' access to green spaces, in circumstances where the site is presently inaccessible to the public and would remain so if permission were not granted or a Local Green Space designation were imposed.
- 1.10 The proposed development also includes the transfer of land to Staffordshire County Council's Education Department, in the event that planning permission is forthcoming for the proposed development. The Education Authority has stated to Barwood Strategic Land LLP that they would accept the transfer of land for a new primary school and Heads of Terms

have been agreed to transfer land to the County Education department. This will be secured through commitments made in the Section 106 Agreement.

- 1.11 The Planning Acts (s70(2) TCPA 1990 and s38(6) PCPA 2004) require that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The principal East Staffordshire Borough Council (ESBC) housing policy (Policy H1) is out of date as it was established against the now revoked Regional Spatial Strategy and Structure Plan policy with a 2011 end date and is not a saved policy. The Council also acknowledges that it cannot demonstrate a five year supply of housing land, which currently stands at 3.89 years (Council published figure). In this case, para 49 of the NPPF is engaged and with it the para 14 *“presumption in favour of sustainable development.”*

## 2.0 LEGISLATIVE FRAMEWORK AND PRINCIPLES OF POLICY INTERPRETATION

2.1 Before addressing our specific objections to the policy content of the plan and its evidence base, we wish to emphasise the following points about the basic conditions set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

### Paragraph 8(2)(a) National Policy and Advice Contained in Guidance

2.2 The National Planning Policy Framework (“NPPF”) is the sole document comprising “national policies”. The Planning Practice Guidance (PPG) is covered under “advice”, it does not rewrite the NPPF or supersede it. (All references below to the PPG three-digit paragraph references are to the Neighbourhood Planning chapter unless otherwise stated).

2.3 It is now well established that the meaning of policy provisions within development plan policies and national planning policy is a matter of objective interpretation for the courts.<sup>2</sup> Generalising, broad brush statements as to compliance with national policy, without any enumeration, citation and express interpretation of the relevant policy will invariably indicate a failure of interpretation.

2.4 The NPPF must also be read as a whole, which will usually require examination of a number of different provisions<sup>3</sup>. Selective citation of the NPPF, without consideration of the full text is equally impermissible and will amount to a failure of interpretation.

### Having Regard to National Policy/Appropriate to Make the Plan

2.5 The statutory requirement under paragraph 8(2) (a) requires an Examiner (and a qualifying body in preparation) to carefully and systematically assess the accordancy and consistency of each draft neighbourhood plan policy with identified national planning policy.

2.6 A qualifying body in producing a draft neighbourhood plan and a Basic Conditions Statement for Regulation 16 consultation must clearly identify for each neighbourhood plan policy:

- (a) what the relevant NPPF paragraphs are;
- (b) what the relevant provisions of the PPG are, with express reference back to the lead policy wording within the NPPF;
- (c) whether the proposed neighbourhood plan policy is in specific accordancy with those NPPF and PPG paragraphs;

<sup>2</sup> *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13 [18]-[19]; *City and District Council of St Albans v R (on the application of) Hunston Properties Limited and the Secretary of State for Communities and Local Government* [2013] EWCA Civ 1610, [4]; *Gallagher Homes Ltd v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin), [25], [91]

<sup>3</sup> *Tewkesbury BC v SSCLG* [2013] EWHC 286 (Admin), [62]

(d) finally, whether the neighbourhood plan policy is in accordance with the NPPF's overarching approach to neighbourhood planning at paragraphs 14, 16 and 184, read as a whole.

The finalised Basic Conditions Statement is the key document for demonstrating compliance (see PPG 070).

- 2.7 NPPF, paragraph 14 makes clear that the presumption in favour of development requires:  
*“local planning authorities should positively seek opportunities to meet the development needs of their areas and should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change.”*
- 2.8 NPPF, paragraph 15 confirms that that requirement extends to neighbourhood plans:  
*“All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.”*
- 2.9 NPPF, paragraph 16 then confirms that:  
*“The application of the presumption will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should: develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development...”*
- 2.10 NPPF, paragraph 17 then provides:  
*“Every effort should be made objectively to identify and then meet the housing ... needs of an area.”*
- 2.11 It is also clear from NPPF, paragraph 47 that the assessment of full, objectively assessed needs must proceed on the basis of adequate, up-to-date and relevant evidence (see also NPPF, paragraph 158).
- 2.12 Under NPPF, paragraph 49, a policy which cannot provide for objectively identified need and instead imposes a housing constraint will be automatically become out-of-date from the moment of adoption, thus activating the paragraph 14 presumption.
- 2.13 NPPF, paragraph 156 provides:  
*“Local planning authorities should set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver: the homes and jobs needed in the area;”*
- 2.14 Paragraph 184 is central to the correct assessment of basic condition 8(2) (a). Read properly, it clearly requires that if a neighbourhood plan seeks to constrain housing delivery, there



- must be an up-to-date local plan in order for a neighbourhood plan to be able to reflect the policies of the local plan and for it to plan positively to support those policies.
- 2.15 The third sentence states that *“Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan”*, and this provides the context for the two sentences that follow. The fourth sentence states that *“To facilitate this, [i.e to make it possible for neighbourhood plans to be in general conformity] local planning authorities should set out clearly their strategic policies for the area and ensure that an up to date Local Plan is in place as quickly as possible.”* The fifth sentence ties neighbourhood plans to policies in up to date local plans: *“Neighbourhood plans should reflect these policies [i.e policies in up to date local plans] and neighbourhoods should plan positively to support them.”*
- 2.16 PPG 069 makes clear that the central consideration is that *“a neighbourhood plan must not constrain the delivery of national policy objectives”*. It has now been established by the High Court and the Court of Appeal that paragraph 47 contains a *“policy imperative”* to boost significantly the supply of housing.<sup>4</sup> PPG 070 makes clear that NPPF, paragraph 16 requires that neighbourhood plans must support strategic development needs set out in neighbourhood plans, including housing needs (see also NPPF, paragraph 156 and PPG, 075).
- 2.17 Where, as here, certain policies within the plan have been included with the express intention to shape the delivery of housing within the neighbourhood plan area for the full plan period, but the qualifying body’s apparent intention in making the Plan is thereby to prevent further housing provision beyond existing permissions in a time of recognised shortfall in five year supply of housing land, then paragraph 8(2)(a) requires full regard to national policy on housing development, NPPF, paragraphs 14, 16, 47, 49, 156, 159, 184: objective assessment and provision for housing needs.
- Paragraph 8(2) (d)
- 2.18 Paragraph 8(2) (d) requires evidence to be presented in accordance with PPG, 072 and 073, which is normally a sustainability appraisal. The qualifying body must identify that *“consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset.”* (PPG, 072).
- 2.19 This basic condition reinforces paragraph 8(2) (a). A neighbourhood plan that does not contribute to sustainable development will not be in accordance with national planning

<sup>4</sup> *Hunston*, as applied in *Gallagher v Solihull MBC*, 31(ii) (upheld by the Court of Appeal: [2014] EWCA 1610 and [91] “a consideration of particular standing” and *Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government* [2014] EWHC 754 (Admin), [108])

policy and guidance and will automatically infringe Paragraph 8(2)(a) [and vice versa], see NPPF, paragraph 6:

*“6. The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.”*

2.20 This is, in turn, underscored by NPPF paragraphs 14, 16, 17 and 184.

Paragraph 8(2) (e)

2.21 Paragraph 8(2) (e) also demands a structured approach. Parliament’s clear intention in legislating for paragraph 8(2) (e), through the Localism Bill (as expressed by the Minister of State promoting the Bill, Greg Clark MP, in unambiguous terms in the Commons Committee debates) was that “the development plan” was to be an up-to-date development plan with strategic policies which had been examined against up-to-date national planning policy contained in the NPPF.

2.22 Mr Clark MP observed in the Committee debate 17th sitting: House of Commons 1 March, 2011 (1), Column number 700:

*“it was clear from our extensive discussions that the national planning policy framework and its responsibility for lower-tier plans should be explicit and in the Bill. It is absolutely our intention, that everything conforms to that, so that there is a trickle-down through the whole process. One test of the soundness of a neighbourhood plan—as the hon. Gentleman knows, that is a requirement for it even to go to a referendum—is that it has to be consistent with the local plan, which itself has to be consistent with national policy. We are clear, therefore, that that thread needs to run through everything, and the examination arrangements need to reflect that.” [emphasis added]*

2.23 The qualifying body must therefore begin by clearly identifying for each policy:

- (a) what the relevant “development plan” is;
- (b) whether there are “strategic policies”, with which conformity can actually be assessed
- (c) what those policies state;
- (d) finally, it must demonstrably assess conformity between the neighbourhood plan policy and those relevant strategic policies.

2.24 Paragraph: 074 Reference ID: 41-074-20140306: What is meant by ‘general conformity’? provides:

*“When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

*whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy the rationale for the approach taken in the draft Neighbourhood plan or Order and the evidence to justify that approach.”*

2.25 Paragraph: 075 Reference ID: 41-075-20140306 What is meant by strategic policies? provides:

*“Paragraph 156 of the National Planning Policy Framework sets out the strategic matters about which local planning authorities are expected to include policies in their Local Plans. The basic condition addresses strategic policies no matter where they appear in the development plan. It does not presume that every policy in a Local Plan is strategic or that the only policies that are strategic are labelled as such.”*

2.26 Paragraph: 076 Reference ID: 41-076-20140306 How is a strategic policy determined? provides:

*“Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:*

- *whether the policy sets out an overarching direction or objective*
- *whether the policy seeks to shape the broad characteristics of development*
- *the scale at which the policy is intended to operate*
- *whether the policy sets a framework for decisions on how competing priorities should be balanced*
- *whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan*
- *in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan*
- *whether the Local Plan identifies the policy as being strategic*
- *Planning practice guidance on Local Plans provides further advice on strategic policies.”*

2.27 Strategic policies on housing provision are therefore the quintessential strategic policies within the development plan (see NPPF, paragraph 156, and PPG 075). The prime example is

a policy setting out the overall housing target for a district. Where, in the case of housing or for policies that restrict housing: such as Local Green Space, there are no “strategic policies” with which to assess conformity of a key policy then the Examiner cannot properly undertake the task under paragraph 8(2)(e) and must consider that the basic condition cannot be met in respect of that policy. In such a case, the appropriate course will usually be a modification to remove the relevant neighbourhood plan policy from the plan or a recommendation that the Plan cannot proceed to referendum.

Basic Condition 8(2) (f)

2.28 Basic condition 8(2)(f) underscores the requirement to have regard to and apply relevant European legislation, notably:

(a) The Habitats Directive: Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as amended and consolidated by Council Directive 2006/105/EC of 20 November 2006); implemented in UK law by the Conservation of Habitats and Species Regulations 2010/490 and of particular relevant to Special Conservation Areas (SAC);

(b) The Birds Directive: Council Directive 2009/147/EC on the conservation of wild birds) on the protection of all European wild birds and the habitats of listed species, in particular through the designation of Special Protection Areas (SPA);

(c) The SEA Directive: Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (implemented in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004).

2.29 A breach of either Directive through a failure to meet their requirements will amount to a straightforward obstacle to further progress (as in the Slaughtam Neighbourhood Plan, considered further below), see section 38A(6) PCPA:

*“(6) The authority are not to be subject to the duty under subsection (4) (a) [to make the neighbourhood plan following a supportive referendum] if they consider that the making of the plan would breach, or would otherwise be incompatible with, any EU obligation.”*

### 3.0 PREMATURITY

- 3.1 Before addressing the specific policy wording and content of the Submission Version of the Neighbourhood Plan, we wish to emphasise that there is a significant issue of prematurity in the submission of the Neighbourhood Plan at all at this stage. By seeking to progress the Neighbourhood Plan (NP) ahead of the Council's own Development Plan process, the NP is leaving itself open to early obsolescence. As the Submission Draft NP acknowledges, it needs currently to demonstrate compliance with the Development Plan; in this case, that is the 2006 East Staffordshire Local Plan. That Local Plan has a time horizon for strategic housing policies of 2011 and is therefore already out-of-date, a point now acknowledged in numerous appeal decisions.
- 3.2 Whilst PPG 009 contemplates that there may be circumstances where a NP may come forward alongside an emerging Local Plan, there is a high risk of potential conflict between plans and consequent abortive work. This is especially so in the circumstances pertaining to East Staffordshire, whereby the current Development Plan is out of date and provides no strategic guidance for emerging NP's. The emerging plan is still the subject of significant unresolved objection and may need to be altered in ways material to the Outwoods NP before it can be adopted.
- 3.3 Attention is drawn to s38 (5) of the Planning and Compulsory Purchase Act 2004, that makes it clear that in the event of conflict between plans of equal Development Plan status, then the most recently adopted plan will take precedence. PPG 009 makes express reference to the importance of minimizing conflicts between the Local and Neighbourhood Plans to avoid the operation of s38(5).
- 3.4 Therefore, if the Outwoods NP is pushed forward and adopted ahead of emerging Local Plan being resolved there is a real risk that upon any subsequent adoption of the Local Plan the NP may be immediately out of date where there is a conflict in objectives. In any event, given the 'basic conditions' for adoption of a NP, it is difficult to see how the NP could be adopted, given that it is patently not in conformity with the out of date Development Plan's Housing Spatial Strategy. This is more than a point of legal technicality, it goes to the heart of the soundness of the NP if it does not address the housing requirement aspects of its own plan period. Indeed it cannot do so while the emerging Local Plan remains untested. The accompanying 'Basic Conditions Statement' and its Appendix 2 which identify how the NP complies with the adopted Local Plan, are wholly silent on how the emerging NP is compliant with either the policies directing the quantum of residential development or their spatial

distribution. It is therefore impossible to assess how the NP's housing requirements or spatial distribution policies meet the Basic Condition test of general conformity to the Development Plan. It is also made more problematic by the adopted Local Plan having no 'allocated sites', as it was brought forward against a context of a then full supply – it therefore had no spatial distribution policy or settlement hierarchy/strategy. It should be further noted, that in fulfilling the basic conditions test against the adopted Local Plan policies, the NP is aligning itself to both revoked Structure Plan and RSS policies, which provided the strategic context of the adopted Local Plan.

- 3.5 This goes to the heart of the appropriateness of making the NP for the purposes of basic condition 8(2) (a): the Plan does not address the housing requirement aspects of its own plan period and therefore it cannot be appropriate having regard to NPPF 16, 47 and 187 to impose any policies that restrict the total quantum of housing that can be delivered, notably restrictive Local Green Space policies.
- 3.6 In all these regards, the Parish Council and the Borough Council, properly exercising their statutory responsibility under paragraph 3 of Schedule 4B TCPA are strongly urged to place the progression of the NP on hold until the emerging Local Plan is settled, and then to progress the NP against the settled policies of a current and recently adopted Development Plan, thus producing a robust NP which will meet the needs of the Parish for the full plan period. Failure to do so leaves the emerging plan at risk of early obsolescence and legal challenge.

## 4.0 PLANNING POLICIES OF THE OUTWOODS NEIGHBOURHOOD PLAN

4.1 Without prejudice to the above submissions, we set out our objections on the drafting of the policies in order of their importance to the Phase II site:

- LR5 – Local Green Space and Views
- CF1 – Schools and Education
- TA1 – Public Realm
- TA3 – Parking
- TA5 – Public Transport

4.2 In summary, Policies LR5: Local Green Space and Views and CF1: Schools and Education have been produced on such a legally flawed basis, without regard to national policy and relevant legal framework, that these raise fundamental obstacles to the progress of the plan.

4.3 We consider that in the first instance LPA should request that the plan is sent back for further amendment and a further re-consultation, compliant with Regulation 16.

4.4 If the Plan does proceed, then the Policies (or the identified component parts which directly impact on the Red House Farm Phase 2 site) should be deleted or be subject to extensive modification through textual addition and deletion under paragraph 10 of Schedule 4B.

### **Policy LR5: Local Green Space and Views**

4.5 Policy LR5 seeks to impose a Local Green Space designation on an area termed: “Fields behind Burton Hospital (accessed from Lower Outwoods Road)” and identified on the attached Proposals Map (internal page 56). Below, we identify the relevant policy, assess evidence that has been produced and the consultation responses, and make the recommendation that the Plan cannot proceed to referendum without deletion of the reference to this land as to do so would be contrary to basic conditions 8(2) (a), (d) and (e).

4.6 The detailed representations to draft Policy LR5 are supplemented by a Position Note on landscape issues in respect of this draft policy. The Note has been prepared by ‘edp’ (a consultancy firm who provide independent environmental and design advice) and is attached to these representations at **Appendix 2**.

4.7 The fundamental starting point is the text of the NPPF; this makes clear that Local Green Space (LGS) is an exceptional designation. NPPF 77 states that LGS designation is not appropriate for most green spaces or open space, as under NPPF 78 LGS is equivalent to Green Belt. The imposition of a “very special circumstances” approach inevitably carries with

- it the same exceptionality requirement for designation at the plan-making stage to be applied in the Green Belt context.
- 4.8 Second, any LGS site must be physically limited and constrained: NPPF, 77: “reasonably close proximity” and cannot be an “extensive tract of land”.
- 4.9 Third, LGS must also serve some community activity or purpose (it is not a Green Belt prevention of development policy):  
*“the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife;”*
- 4.10 Finally, and most importantly: LGS can only be designated where a determination has been made in respect of the sufficiency of housing provision, NPPF, 76:  
*“Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.”*
- 4.11 Thus an Examiner can only approve an LGS designation (especially one that impacts upon a site that is already the subject of an application for sustainable residential development that forms the second phase of a permitted site), where he has made a prior, positive finding that the NP has made provision for sufficient homes. That “sufficiency” can only be assessed by reference to Objectively Assessed Needs (OAN), NPPF, 47.
- 4.12 NPPG, Paragraph: 007 Reference ID: 37-007-20140306 ‘How does Local Green Space designation relate to development?’ further provides:  
*“Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.”*
- 4.13 Paragraph: 015 Reference ID: 37-015-20140306 ‘How big can a Local Green Space be?’:  
*“There are no hard and fast rules about how big a Local Green Space can be because places are different and a degree of judgment will inevitably be needed. However, paragraph 77 of the National Planning Policy Framework is clear that Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. Consequently blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name.”*



- 4.14 Paragraph 019 ‘Does land need to be in public ownership?’ provides:  
*“A Local Green Space does not need to be in public ownership. However, the local planning authority (in the case of local plan making) or the qualifying body (in the case of neighbourhood plan making) should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.”*
- 4.15 For the purposes of basic condition 8(2) (a), the above policy must be read as a coherent whole (see the High Court authorities: *Tewkesbury, Hunston, Gallagher*). Basic condition 8(2)(a) requires the Examiner to engage closely with the policy wording and determine that the designation would be in accordance with the NPPF tests within the text of the Report, applying a very close reading (in light of the stringency identified above).
- 4.16 Basic condition 8(2) (d) reinforces basic condition 8(2) (a) and requires a careful examination of the national policy and guidance requirements, see the text of NPPF, 76.
- 4.17 Basic condition 8(2)(e) is also engaged: where there is no strategic guidance in the development plan in respect of sufficiency of housing needs, then the assessment cannot be undertaken.
- 4.18 The exceptional nature of the designation has been recognised by the Examiners of the Rolleston-on-Dove, Backwell and Chapel-en-le-Frith Neighbourhood Plans (**Appendix 3**).
- 4.19 In the Rolleston-on-Dove Report (October 2013), Examiner Christopher Collison held *“The Framework recognises that local communities, through neighbourhood plans, should be able to identify for special protection green areas of particular importance to them. The Local Green Space designation should only be used where the green space is local in location and character and is special to the local community holding a particular local significance.”* In respect of the College Playing Fields site, which was deleted he stated: *“On my site visit I did not see anything to indicate that this land was available for public recreational use. In addition I cannot identify any particular feature of this land that would distinguish it, from the vast majority of other land surrounding the village nor can I see that it has any particular merit for special designation.”* The same approach applies in the instant case.
- 4.20 In the Backwell Report (29 October 2014), Examiner Nigel McGurk observed that Local Green Space is a *“restrictive and significant policy designation”* equivalent to Green Belt designation. He held that *“it is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full.”* The Examiner then made observations on the size of the site, but based his decision on the

importance of robustness of evidence not size alone. He found that the direct conflict with national policy meant that the Local Green Space Policies in the Neighbourhood Plan did not meet the basic conditions under paragraph 8(2) of Schedule 4B and that national policy did not permit a failure to meet policy requirements to be balanced against other considerations when designating LGS and therefore proposed deletion.

- 4.21 In the Chapel-en-le-Frith Report (January 2015), Examiner Janet Cheesley observed at paragraphs 158 and 159 that *“I must emphasise that in order for an area to be designated as a Local Green Space, it has to meet all the criteria for designation.”* The Examiner dealt with the individual sites in some detail, and deleted those that did not meet all the relevant tests. Her comments in respect of 7. Target Wall Field and woodland adjacent to Warmbrook at 170 should be noted: *“170. It is not the purpose of the Local Green Space designations to include countryside land that provides wider views of the countryside.”* [emphasis added]

#### Assessment of Plan Content

- 4.22 Appendix 4: Local Green Spaces Assessment Table of the draft NP document records that the land is:
- (a) 3.1 hectares in size;
  - (b) Surrounded by housing and hospital land on two sides;
  - (c) There is no public access to the site – it is privately owned;
  - (d) No Local or Community Vale has been identified: “None known”;
  - (e) No Historical Value has been identified: “None known”;
  - (f) The land has no formal landscape designation, simply: “attractive rising views of the countryside from the hospital”;
  - (g) The land has no wildlife value;
  - (h) The purpose of the designation is to “offer a buffer from developments at Redhouse Farm”.
- 4.23 No supporting technical information has been provided to alter or qualify the above conclusions: for example to explain recreational, heritage or wildlife use. This is confirmed in the Position Note at **Appendix 2** of these representations, which identifies, from the Neighbourhood Plan’s own Appendix 4 assessment, that the site is well enclosed by development, has no local community value, no historic value and no recreational value.
- 4.24 The Basic Conditions Statement records that the policy has no Local Plan/strategic support beyond Policy BE1: Design. It further records that in formulating the policy, the plan-makers

- had regard to NPPF 76 and 77 only. No reference is made to any provision of the Practice Planning Guidance, including those cited above.
- 4.25 We commented on this matter earlier in Regulation 14 submissions: submission (b) (internal page 17). The response does not illuminate the position any further:
- “The Local Green Spaces have been designated and are therefore fill [sic] gaps in order to create the Green Space Strategy. The vision for the future of these spaces is clearly identified within Policy LR5. To go into more detail is unnecessary and would resemble an Implementation Plan as opposed to a NDP. Your suggestions are therefore beyond the remit of the Plan.”*
- 4.26 None of the concerns expressed therein have been addressed. In our view, the site remains far too large (at 3.1 hectares) to be designated as a Local Green Space, but in any event, the robust evidence required has simply not been provided.
- 4.27 The Health Check Examiner Ann Skippers (a Neighbourhood Plan Examiner and former president of the Royal Town Planning Institute) was particularly unimpressed by the Local Green Spaces designation. She identified this as one of four main problems with the Plan: *“There is insufficient justification for each of the proposed Local Green Space designations”*. The response recorded thereafter states: *“Noted. More work need to be done to demonstrate compliance with NPPF.”* To date, that work has still not been undertaken and her comment has effectively been ignored.
- 4.28 To be clear, the Local Green Spaces Assessment Table shows a serious gap in the plan preparation work: where the only argument to support an LGS designation is *“to create a buffer to development”* (i.e. a Green Belt by another name); and to protect *“attractive rising views of the countryside from the hospital”*, on a site that has no public access and the robust evidence base expected has simply not been provided.
- 4.29 In stark contrast the development of the land at Red House Farm that is currently subject to a planning application for residential development will provide public access to the land through improvements in pedestrian linkages in and around the site and the proposed open space offer. However, the proposed LGS designation would not result in public access to the land, which would remain in private ownership and not accessible to the public.
- 4.30 As set out in these representations and in the ‘edp Position Note’ at **Appendix 2**, the proposed Local Green Space designation at Red House Farm is in conflict with the NPPF particularly para 7. The Outwoods Neighbourhood Plan is not considered to have demonstrated that the hospital Local Green Space site is ‘demonstrably special’ or that it

'holds particular significance'. For both these reasons plus the other points made above, Policy LR5 and the reference to the Red House Farm Phase II land should be deleted.

**Policy CF1: Schools and Education**

- 4.31 Policy CF1 contains a confusing policy wording which appears on its face to frame 'in principle' resistance to educational development, e.g. new primary/secondary school buildings unless these are on "allocated sites". It is considered to be fundamentally flawed and is objected to.
- 4.32 The definition in the Glossary of the Outwoods NP (page 53) states: *"Allocated sites are identified on a Policy [Proposals] within the Local Plan and illustrate the delivery of spatial policies and objectives of planning authorities."* This refers to a document that does not exist, nor will do until after adoption of the NP.
- 4.33 By the plan's own admission Education is a key issue, and the system locally is "already experiencing capacity issues". However the response of the NP is to only permit the creation of new primary or secondary schools on allocated sites or sites with outline planning permission. This approach will fail to deliver the Plan's objectives for a number of reasons;
- 1) There are no allocated sites in the adopted Local Plan, against which the NP's basic conditions statement is prepared.
  - 2) Those sites with outline planning permission are identified at page 10 of the Plan: Red House Farm permission makes no education provision, Lower Outwoods also has outline permission, and makes education provision in the form of a 210 place, one form entry primary school with a pre-school children's nursery. There is no opportunity to retrospectively insert additional primary school building into these consented schemes.
- 4.34 Whilst the NP recognises:
- a) that the County Council has not planned for sufficient spaces at both Primary and Secondary level,
  - b) 1,700 new homes within the parish and immediately adjoining will create even greater pressure on the education system, and
  - c) The existing education system is 'already overloaded',
- the response of the NP is to produce a policy which specifically excludes the potential to address that need by locating new educational facilities where they are needed on the urban fringe to the west of Burton. The NP fails to provide any practical alternative solution, or

- proposed site to address the need. The County Council has undertaken an exhaustive site search exercise, and has not identified an alternative opportunity.
- 4.35 Our client has agreed Heads of Terms to transfer land for a new primary school site, adjacent to their existing consented site at Red House Farm – exactly where the new and additional demand will be arising, thus reducing (not increasing as the plan alleges) traffic movements onto the wider local network. However the policy as drafted would expressly exclude the potential of that site to be realised. This runs in direct conflict with Objective 2 of the NP, and will fail in the delivery of the very community facility which the NP states is necessary. The policy should be re-worded to allow for new sites to come forward, wherever they are located within the NP area, subject to normal design and development management considerations.
- 4.36 Ms Skippers also criticised this policy asking (somewhat incredulously): *“is a policy that resists school development unless it is connected to a new allocated site, really what is sought?”* She observed that as framed the Plan had to offer flexibility and could not prevent development.
- 4.37 We also made clear in our Regulation 14 representations on “Future Opportunities” that an approach that restricted development of the site would be contrary to the basic conditions. The NP’s response does not grapple or conscientiously take on board that component of the consultation response.
- 4.38 Policy CF1 – Schools and Education is contrary to basic conditions 8(2) (a), (d) and (e) and should be removed. The sole purpose of the policy appears to be to resist applications such as the current Phase 2 application, in order to protect existing undeveloped land from development. The policy is inflexible and prevents development, contrary to NPPF.

#### **Policy TA1 – Public Realm**

- 4.39 Policy TA1 sets out an “expectation” for the highest quality of “public realm design” and requires the preparation and implementation of a public realm design strategy. The Basic Conditions Statement accompanying the draft policy provides reference to NPPF paragraphs 57, 58 and 59 which seek to encourage high quality design in new developments, but there is no reference to PPG.
- 4.40 The requirement for production of a ‘Public Realm Design Strategy’ goes significantly beyond any requirement of the Local Plan, indeed the only ‘policy’ which the NP states this draws upon is the National Forest policy NE14. Policy NE14 does not seek to require production of

general Public Realm Strategies. It does not support or promote the use of Public Realm Design Strategies. In any event, such provision will be required as part of any Design & Access statement, which is a national requirement of planning applications. It is not therefore necessary for this policy to require production of additional application supporting material. In the event that the policy is sought to be retained within the NP, it ought properly to distinguish between the level of detail necessary to accompany an outline planning application (where many of the detailed requirements sought would not necessarily be specified), or a Reserved Matters or Full application.

- 4.41 It is not therefore necessary for this policy to require production of additional application supporting material and it conflicts with basic conditions 8 (2) (a), (d) and (e) as it does not refer to PPG or a strategic policy in the Development Plan on design of the public realm.

#### **Policy TA3 – Parking**

- 4.42 The requirements of this policy go above and beyond that of the Development Plan. Specifically the establishment of a minimum ‘garage size’. PPG para 41-005-20140306 requires that: “If the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The National Planning Policy Framework requires that the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.”
- 4.43 There is no evidence that the NP has sought to understand the viability and/or cost implications of this ‘over sizing’ of standard house/garage design, which is likely to have a significant impact on layout/design. At approximately 0.5m over-sized to a standard garage plot, on a development of 150 units that could represent 75m of lost ‘frontage’ to a developer. The NP needs to demonstrate how it has assessed and/or understood the viability implications of this requirement and its potential impact. There is no evidence produced to justify this standard, simply an anecdotal reference to modern cars getting ‘wider and longer’. As an example, a Nissan Qashqai, being one of the largest 4x4 vehicles commonly available, is only 1.8m wide, and does not require a 3.5m wide garage to enable driver access.
- 4.44 Staffordshire County Council in their Regulation 14 response indicated that flexibility should be included in the policy to avoid excessive amounts of hard landscaping.

- 4.45 The policy conflicts with basic conditions 8 (2) (a), (d) and (e) with regard to conformity with the thrust of the NPPF and should be amended.

**Policy TA5 – Public Transport**

- 4.46 The requirement that all development should be within 300m of a bus stop is objected to. There is no evidential basis to support this requirement. It is of note, that despite the Basic Conditions statement seeking to rely to support this policy upon adopted Local Plan Policy T1 and T8, neither of those policies encourage the use of the 300m distance.
- 4.47 The Department for Transport Inclusive Mobility guide (2002) confirms that bus stops in residential areas should be located within a 400 metres walkable distance from anyone's home, and this is widely recognised as the industry standard. Indeed, it is also the figure referenced at the NP's policy CF2, as being the distance which is 'accessible by sustainable transport options'. Again, without any evidential basis for reducing the standard 400m distance to 300m, or an assessment of its viability implications the plan is flawed.
- 4.48 Staffordshire County Council, in their Regulation 14 response to the NP indicated that whilst the promotion of sustainable development is supported, they questioned the reasonableness of requiring all developments of 5 or more dwellings that are not within 400m of a bus stop to subsidise a new route/extension of an existing route.
- 4.49 It is of note that the supporting text can only justify this requirement by reference to emerging plan policy. However that is neither the adopted Development Plan which the Basic Conditions Statement requires the NP to be in conformity with, nor has the emerging Plan policy been independently tested through examination.
- 4.50 On this basis the policy conflicts with basic conditions 8 (2) (a), (d) and (e) and should be reconsidered.

## 5.0 STRATEGIC ENVIRONMENTAL ASSESSMENT

- 5.1 In *R (Larkfleet Homes) v Rutland County Council* [2014] EWHC 4095 (Admin) Mr Justice Collins made clear at paragraph 1 the importance within neighbourhood plan-making that *“all necessary procedures are followed and that powers are not misused.”* These remarks are of overarching relevance to this plan, but particularly in respect of the Screening Assessment document.
- 5.2 The Screening Assessment is a very basic document. It relies to a significant extent upon the Local Plan Strategic Environmental Assessment (SEA) work but this is now overshadowed by the Inspector’s recent decision, which puts the future of the Local Plan in doubt. PPG, Paragraph: 046 Reference ID: 11-046-20150209 makes clear that *“A strategic environmental assessment may be required, for example, where:*
- *A neighbourhood plan allocates sites for development*
  - *The neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan*
  - *The neighbourhood plan is likely to have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan.”*
- 5.3 The Plan covers a very significant quantum of housing and if adopted will be the most up-to-date component of the statutory development plan.
- 5.4 In the specific case of the Red House Farm Phase II site, we consider that the cumulative impact of the policies raised above and the plan’s intention to constrain the delivery of housing beyond the existing allocations ensures that if implemented the plan would give rise to significant environmental effects by preventing development in a sustainable location and therefore restricting housing supply, whilst further disrupting the proper planning for delivery of the site. The decision not to subject the plan to full SEA is therefore legally flawed and the Neighbourhood Plan is therefore proceeding towards adoption contrary to Regulation 8 of the Environmental Assessment of Plans and Programmes Regulations 2004 (“EAPP”), transposing the SEA Directive 2001/42/EC, to take into account *“(a) the environmental report for the plan or programme;”* because there is no environmental report. In particular, it has failed to identify, describe and evaluate the likely significant effects on the environment including in respect of reasonable alternatives, notably the allocation of the Red House Farm Phase II site contrary to Regulation 12(2) (b) and Schedule 2, paragraph 8.



## 6.0 EXAMINATION PROCEDURE

- 6.1 We have five combined observations in respect of examination procedure, if the Neighbourhood Plan proceeds towards examination under paragraphs 8-12 of Schedule 4B.
- 6.2 First, in our submission this is a case that would be suitable for a hearing. The Examiner must have regard to the statutory requirement to ensure adequate examination of the above issues and to give Barwood and Alliance, the Environmental Dimension Partnership and legal representatives acting on their behalf a fair chance to make their case (paragraph 9(2) and 9(6)).
- 6.3 Second, each of the policies explored above is a distinct issue, “a particular issue” in the terms of paragraph 9(2). Each needs to be addressed separately, by reference to the applicable law. We request that individual agenda items covering each identified policy and the strategic environmental assessment issue are allocated in the hearing agenda and formal timetable.
- 6.4 Third, detailed submissions on planning policy (and where necessary neighbourhood planning case law and legislation) are an essential part of the examination process in what is now an increasingly complex area of planning law.
- 6.5 Fourth, therefore, the examination must be conducted in a manner that allows detailed expert planning and legal submissions to be made, if necessary, by reference to the relevant legislation or case law. In the instant case, following the delay to the East Staffordshire Local Plan, the current examination would stand in the place of a more detailed Sites/Allocations development plan document and a consequent Examination in Public. Paragraph 9 of Schedule 4B requires an Examiner carefully to consider the interests of all participants. In our experience from the inquiry and local plan examination context, allowing experts to speak on technical issues and answer public questions, notably on landscape/green space/planning benefit issues is a more direct and effective way to ensure effective community understanding and participation than simply relying on written documentation. We would therefore request a time allocation for the hearing that permits sufficient time for the complexity of the subject matter. The well-established principles on the conduct of hearings are set out in *Dyason v Secretary of State for the Environment* (1998) 75 P & CR 506, 512, which makes clear that informality of procedure must not give rise to laxity in examination:

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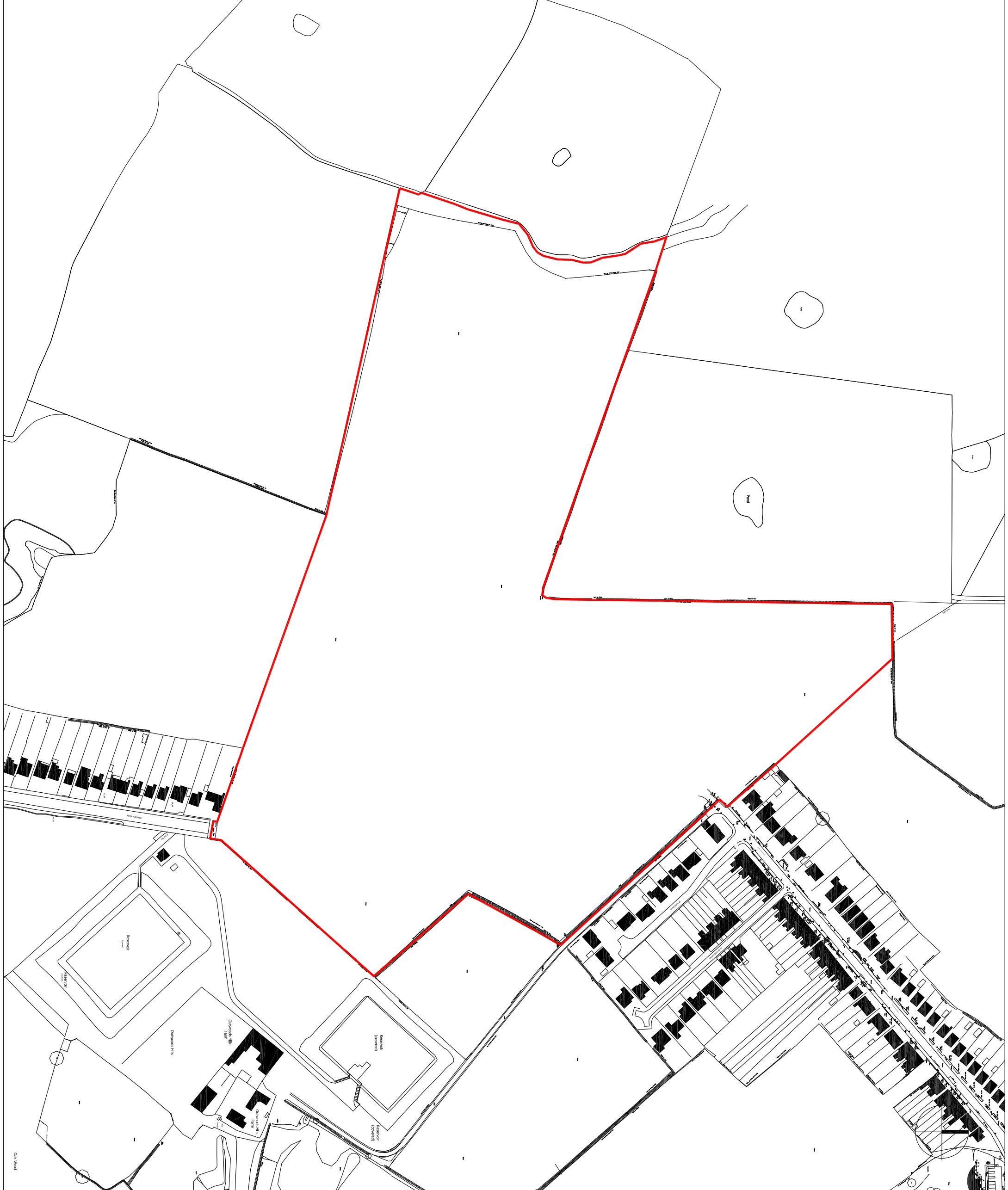
*“The danger is that the “more relaxed” atmosphere could lead not to a “full and fair” hearing but to a less than thorough examination of the issues. A relaxed hearing is not necessarily a fair hearing. The hearing must not become so relaxed that the rigorous examination essential to the determination of difficult questions may be diluted. The absence of an accusatorial procedure places an inquisitorial burden upon an Inspector.”*

- 6.6 The examination hearing should therefore be scheduled for at least one full day. Examiners at Cringleford (Timothy Jones), Winsford (Charles Mynors), Slaugham (Ann Skipper) Neighbourhood Plan, all held examinations over one or two days. In the instant case, a hearing of at least one day would be appropriate given the scale of policy and legal objections, and the need to explain the relevant submissions to the Examiner. The practice of conducting examinations in half-day sessions which has emerged elsewhere, including artificially limiting submissions to units of 10-15 minutes prevents effective discussion of the relevant issues. It serves no useful purpose in terms of making the process more accessible, as members of the public are actually prevented from making their own contributions and participants are left unable to explain their case publicly.
- 6.7 Fifth, and finally, this is a fast-moving area within planning law and planning policy. The end of the consultation period on 16 February 2015 does not represent the end of new and relevant developments. It may therefore be necessary to send further submissions in due course, in respect of a number of outstanding and forthcoming High Court and Court of Appeal judgments. Consideration of submissions (with appropriate time allowed for response by the District Council and Parish Council) after the Regulation 16 deadline is entirely consistent with 9(1) of Schedule 4B which provides that the general rule is that an examination is “to take the form of the consideration of written representations” and the broader duty to approach procedural matters in such a way as to ensure adequate examination of the issues and to allow parties a fair chance to put their case, by analogy with paragraphs 9(2) and (5). Paragraph 22 of the NPIERS document “Top Tips for Local Planning Authorities – Independent Examination of a neighbourhood plan” provides that “The Examiner should set ground rules for dealing with late representations on a case by case basis.” (This is the only formal statement that we are aware of as to correct procedure towards written submissions). As soon as the Examiner is appointed, we therefore request that the ground rules on additional submissions are made clear to all participants.

## 7.0 CONCLUSIONS

- 7.1 Alliance Planning act on behalf of Barwood Strategic Land LLP et al in respect of their interests at Red House Farm, Burton upon Trent. These representations to the Outwoods Draft Neighbourhood Plan 2014-2031 Submission Draft 2015 make reference to the relevant legal framework and legal and policy interpretation flaws within the draft Neighbourhood Plan.
- 7.2 The representations are made with reference to the Barwood land interests at Red House Farm and have reiterated the benefits of the current outline planning application (Ref: P/2014/01530) before the Council for up to 150 dwellings, associated landscaping, public open space, access, drainage, associated infrastructure, earthworks and other ancillary and enabling works. The outline planning application is currently before the Council and will deliver up to 150 new homes in a sustainable location along with a number of wider benefits for the future and existing local community, including:
- High quality new homes including affordable properties;
  - High quality designed development;
  - New public open space/National Forest tree planting;
  - The protection and enhancement of existing landscape features and biodiversity habitats;
  - Improved linkages to the surrounding area;
  - New Homes Bonus of £1.06m over 6 years; and
  - Provision of land for a new Primary School.
- 7.3 The Plan has been shown to be premature in light of the emerging East Staffordshire Local Plan and by seeking to progress the Plan ahead of the Council's own Development Plan process, the Neighbourhood Plan is leaving itself open to early obsolescence and legal challenge.
- 7.4 The Parish Council and the Borough Council, properly exercising their statutory duty under paragraph 3 of Schedule 4B of the Town and Country Planning Act are strongly urged to place the progression of the NP on hold until the emerging Local Plan is settled, allowing a robust NP to then be pursued which will meet the needs of the Parish for the full plan period.

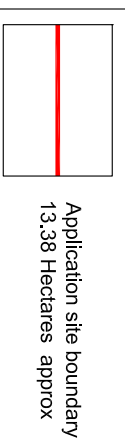
- 7.5 Alongside the comments made on prematurity of the NP and the discrete policy objections made within these representations, we have emphasised relevant points relating to basic conditions and their application to the formulation of policies within Neighbourhood Plans.
- 7.6 In particular, Policies LR5: Local Green Space and Views, and CF1: Schools and Education, have been produced on such a legally flawed basis, without regard to national policy and the relevant legal framework that they raise fundamental obstacles to the lawful progress of the Plan.
- 7.7 In addition, Policies TA1: Public Realm, TA3: Parking and TA5: Public Transport are also flawed and in conflict with the requirements of basic conditions and need to be reconsidered.
- 7.8 If the NP does proceed then the policies (or the identified component parts which directly impact on the Red House Farm Phase 2 site) should be deleted or subject to extensive modification through textual addition and deletion under paragraph 10 of Schedule 4B to the Town and Country Planning Act.



**Note:**

1. This drawing is to be read in conjunction with all relevant drawings and specifications for the project with any conflicting information to be brought to the attention of the CA before work commences on site.
2. Do not scale from this drawing; always work to noted dimensions.
3. All given dimensions in mm.

**KEY**



DATE	DRAWN	DESCRIPTION OF REVISION	REVISION	LETTER	CHECKED BY

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**FOR PLANNING**

**CLIENT :**  
Barwood Strategic Land II LLP  
**PROJECT TITLE :**  
Red House Farm, Outwoods  
Burton upon Trent  
**DRAWING TITLE :**  
Red House Farm, Outwoods

**DRAWING SCALE :** 1:2500  
**PAPER SIZE :** A3  
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**DRAWN DATE :** 25.09.12  
**APPROVED DATE :** 25.09.12

## Position Note – 3 February 2015

**From** Dai Lewis, EDP  
**To** Keith Fenwick  
**Subject** Outwoods Neighbourhood Development Plan –  
Final Submission Draft



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Dear Keith

Please find, set out below, my thoughts in respect of landscape issues in relation to the submitted draft of the Outwoods Neighbourhood Development Plan. I trust these suffice for your purposes at this stage.

### **Context**

#### ***National Planning Policy Framework***

The National Planning Policy Framework (the Framework) sets out at paragraphs 76-78 a suggested new designation of 'Local Green Space' (LGS) which it recommends should be considered during the preparation of Neighbourhood Plans. The exact text of the Framework is as follows:

*"76. Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.*

*77. The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- where the green space is in reasonably close proximity to the community it serves;*
- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- where the green area concerned is local in character and is not an extensive tract of land.*

*78. Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts."*

### **Outwoods Neighbourhood Development Plan**

In January 2015, the final Submission Draft of the Outwoods Neighbourhood Development Plan (ONDP) was published for consultation purposes by East Staffordshire Borough Council. Within that document the Parish Council proposes the designation of a number of Local Green Spaces, including one to the rear of Burton upon Trent Hospital, hereafter referred to as the 'Hospital LGS'.

### **Red House Farm Phase 2 Application**

In November 2014 Barwood Strategic Land II LLP submitted an outline application (ref P/2014/01530) for up to 150 new homes on land to the south of Burton Upon Trent Hospital. Within those proposals, the land identified as Local Green Space within the ONDP (wholly controlled by Barwood Strategic Land II LLP and, until very recently, under cultivation for turf production) is utilised to provide the main access to the site while also accommodating a significant area of public open space, a proportion of the proposed new housing and an overspill parking area to serve the hospital site.

At the time of writing, this application has not been determined. Clearly, however, the two proposals are, in their current form, mutually exclusive. On this basis, Chartered Landscape architects at EDP – a multidisciplinary Environmental Planning Consultancy – have been asked to review and comment upon the appropriateness of the LGS designation to the rear of Burton Upon Trent Hospital as set out within the ONDP.

### **Local Green Space Designation within the ONDP**

The ONDP provides a summary of the landscape of the parish at Chapter 2 (paras 2.6 – 2.9). Paragraph 2.8 states:

*“The identified Landscape Character Area of the parish is Settled Plateau Farmland Slopes and the parish is also located adjacent to an area of Settled Plateau Farmlands. This character area defines the parish as an area of rolling land form with intensive arable and pastoral farmland. The landform within the parish creates long views across the surrounding landscape. The landscape has been identified as a ‘landscape at risk’ of sudden loss of quality, meaning that the landscape is very sensitive to the impacts of development and land use change.”*

It should be noted however, that this broad description of the character of the parish is not intended to describe every part of the parish in detail, nor is it meant to describe the urban areas within the parish. The Hospital LGS sits wholly within the urban area, between the hospital, settlement areas off Lower Outwoods Road and the consented scheme at Red House Farm (Phase 1). On this basis, it should be made clear from the outset, that the Hospital LGS site should be considered far less sensitive to ‘the impacts of development’ than more rural and tranquil parts of the parish. This is a well enclosed urban site adjacent to the very busy hospital area and established settlement.



Chapter 3 of the document sets out a vision and objectives for the parish. At Chapter 4 it identifies (within table) that the 'Protected Open Spaces and Views' policies within the ONDP meets objective 5, Public Open Space, namely:

*"The retention of existing green space and woodland is important and efforts should be made to protect and enhance these assets. The creation of new recreation land and play areas should be supported. In addition the plan seeks planting of more trees to create a more attractive public realm."*

It should be noted that the imposition of a Local Green Space Designation on an area of land signifies no change to the availability of public access to that land. Designation of the Hospital LGS will not result in any increase in Public Open Space – there is presently no legal right of access to the land which, as noted earlier, was, until very recently, in commercial use for turf production.

Chapter 8 provides the 'Landscape and Recreation Policies' of the ONDP. Here, at 8.3, it states:

*"Policies LR3 - LR5 focus on preserving and enhancing the landscape and biodiversity within the parish through new developments and protecting existing assets. The approach is based around a Green Space Strategy which seeks to link the parish together through maintenance and enhancement of the green and blue infrastructure network. Certain areas are protected for ecological, recreational and amenity purposes, designed to ensure that the new urban edge resulting from the growth of Burton on Trent is of a high quality and that the landscape can continue to flow into the heart of the parish."*

Taking each of these policies in turn:

### **Policy LR3**

Policy LR3 requires new development to demonstrate how they contribute to the achievement of the Greenspace Strategy provided at Appendix 3. However, that diagram is presented as a '*fait accompli*' with no apparent evidence base to back it up.

Having examined the diagram it is considered that the broad, pale green arrow which crosses the Hospital LGS area is inappropriately identified as a 'Landscape Corridor' given that there is no right of access across the site (no physical connection) and the site is well enclosed to its east and west (no visual connection). The arrow would be far more appropriately located at the northern edge of the Red House Farm scheme boundary where a green corridor is proposed as part of the consented scheme and where a physical connection is available (Public Footpath) and views towards Burton upon Trent are available in close proximity to the reservoirs.

Furthermore it is unclear why a star is located on the Hospital LGS site, keyed as 'Focus for Improvement where deficiencies exist'. It is unclear what deficiencies are referred to or how these may be addressed within a privately owned, inaccessible, commercial farming enterprise.



### **Policy LR4**

Policy LR4 requires incorporation of Sustainable Drainage Systems within developments, along with an appropriate treatment of proposed new settlement edges, with 'outward facing development'. While these principles are supported, it should be acknowledged that such features/approaches are not always technically achievable and should be subject to detailed consideration. Some flexibility should be built into the policy to allow for this.

However, the policy also demands that new development should be separated from existing development by virtue of 20m wide, secured planted buffers. Such a policy is inconsistent with sound urban design principles, prevents integration between new and existing communities and creates safety/security issues to the rear of existing/new properties. It is extremely land hungry, likely to make smaller schemes infeasible, and will have significant management challenges. The protection of private views is not supported by planning policy at any level and should not be supported here. Residential amenity policies at a Borough level should suffice in this regard.

### **Policy LR5**

Policy LR5 purports to prevent urban sprawl and retain the openness of the landscape. The suggested LGS sites are identified as contributing to the formation of the Green Space Strategy (discussed above in relation to the Hospital LGS) and to the character of the landscape and visual amenity of the settlement edge.

Appendix 4 to the ONDP sets out the rationale for the designation of the LGS sites. In respect of the Hospital LGS it suggests:

<b>Name / Location</b>	<b>Adjacent to existing properties?</b>	<b>Local or Community Value</b>	<b>Landscape Value</b>	<b>Historical Value</b>	<b>Recreational Value</b>	<b>Wildlife or GI Value</b>
Fields behind Burton Hospital	Surrounded by housing and hospital on two sites. Closely related to hospital site.	None known	Attractive rising views of the countryside from the hospital and other nearby properties.	None known	No public access	Offers a clear opportunity to establish the east-west green infrastructure link through the parish. Placed adjacent to hospital to offer buffer from developments at Redhouse Farm

This assessment clearly states that the site is well enclosed by development (surrounded), has no local or community value, no historic value or recreational value (acknowledging there is no access).

It identifies an opportunity to establish an east west link through the parish but it is unclear what this link is supposed to connect to with private inaccessible woodland to the east. No existing biodiversity value is identified.

In respect of landscape value it states that the site offers attractive rising views of the 'countryside' from the hospital and nearby properties. Such views are typically from private locations (residences or hospital) and are of the turf production area, not open countryside. The photos below, and the associated text, give an idea of the range of views available.



**Photo 1** – viewed from the western end of the hospital car park the site is heavily filtered by the existing tree belt and would be almost entirely screened when this is in leaf.





**Photo 2** – from further east within the car park, looking south towards the site, the strength of the existing vegetation all but blocks views towards the site.



**Photo 3** – from Belvedere Road there is a glimpsed view between the existing clinic building to the left of shot and the housing on Lower Outwoods Road, right of shot. Moving just a few metres in either direction results in the loss of this view as it becomes screened by the existing buildings.



**Photo 4** – a little further up Lower Outwoods Road, an entrance to the site (for agricultural access) allows a further isolated view towards its interior. It should be noted that the submitted planning application identifies this area as public open space.

The availability of views towards the Hospital LGS is extremely limited. There is a robust hedgerow/scrub area between the car park and the Hospital LGS site, and existing built form screens the site from most publicly accessible areas. This effect, demonstrated in part by the photos above, can readily be experienced on foot/by vehicle but can also be clearly understood by reviewing Google Earth Streetview.

Based on the above then, the two 'value' elements which the ONDP suggests make the Hospital LGS worthy of LGS designation are an 'opportunity' to create an east west connection (seemingly to nothing in particular) and an overstatement of the visibility and landscape quality of the site.

## Summary

The Framework is very clear on the applicability of the Local Green Space designation (EDP emphasis):

*"77. The Local Green Space designation **will not be appropriate for most green areas or open space**. The designation should **only** be used:*

- *where the green space is in reasonably close proximity to the community it serves;*



- *where the green area is **demonstrably special** to a local community and holds a **particular local significance**, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.”*

EDP does not consider that the ONDP has demonstrated that the Hospital LGS site is ‘demonstrably special’ or that it holds ‘particular local significance’.

The Green Infrastructure strategy is unrealistic in respect of the location and ‘strength’ of the ‘landscape connection’ identified – this would be more appropriately located further south, where a green connection is already proposed as part of the consented Red House Farm phase 1 scheme and which incorporates the public footpath link to the east and west.

The suggestion that a 20m buffer be created between any existing properties and new development areas is unrealistic, unsustainable and will make many sites unfeasible.

Overall, it is EDP’s informed opinion that the Chapter 8 of the ONDP should be substantially reconsidered, the Green Infrastructure strategy diagram redrawn, policy LR4 reworded and the designation of the Hospital LGS removed in its entirety.

Yours sincerely

A handwritten signature in black ink that reads "Dai Lewis".

**Dai Lewis**  
Director

# **“BACKWELL FUTURE” BACKWELL NEIGHBOURHOOD PLAN 2014 - 2026**

A Report to North Somerset Council  
of the Examination into the Backwell Neighbourhood Plan

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

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## 1. Introduction

### The Neighbourhood Plan

This Report provides the findings of the Examination into the Backwell Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”*  
(Paragraph 183, National Planning Policy Framework)

Backwell Parish Council (the Parish Council) is the *qualifying body*<sup>1</sup> responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

The Parish Council established a steering group to lead on the production of the Neighbourhood Plan. This included Parish Councillors, former members of the Backwell Community Plan 2010 steering group and further to advertising, other people from within the community.

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Neighbourhood Plan would be *made* by North Somerset Council. It would then be used to determine planning applications and guide planning decisions in the Backwell Neighbourhood Area.

### Role of the Independent Examiner

I was appointed by North Somerset Council, with the consent of Backwell Parish Council, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience. I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

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<sup>1</sup>The qualifying body is responsible for the production of the Plan.



As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Backwell Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the contents of this Report, I am satisfied that all of the above points have been met.

#### Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan clearly states that it covers the period from 2014 to 2026. I therefore confirm that the Neighbourhood Plan satisfies the relevant requirement in this regard.

## Public Hearing

It is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only. I confirm that I have considered written representations as part of the examination process.

However, according to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

With regards to the above and on consideration of all the evidence before me, I decided that it, in the case of the Backwell Neighbourhood Plan, it was necessary to hold a Hearing (the Hearing).

Notice of the Hearing was sent to all respondents to the Neighbourhood Plan's publicity consultation. It was advertised on public notice boards, in the local press and on the North Somerset Council and Backwell Parish Council websites. A number of parties were invited to speak and the Hearing itself was open to the public. It took place on Thursday 25 September 2014 and was held at Backwell Parish Hall, in the Neighbourhood Area.

At the Hearing, invited parties were asked to consider specific parts of the Plan and to clarify points made during consultation. A neighbourhood plan public hearing provides for the Independent Examiner to consider matters against the basic conditions, referred to in section 2 of this report. It is specific to neighbourhood planning. It is held at the discretion of the Independent Examiner and is different to a planning inquiry, an examination in public or a planning appeal hearing.

I confirm that *all* representations to the Neighbourhood Plan have been taken into account in undertaking this examination. This is the case whether or not people who made representations took part in the Hearing. As above, it is a general rule that neighbourhood plan examinations are held on the basis of written representations and a representation is not more, or less, valid than another simply because it has been considered in further detail at a hearing.

Further to being invited to the Hearing, one party submitted a request to add to the Agenda, to speak on a matter of its own choice and to make a new submission. Prior to the Hearing, all invitees were informed of the Agenda and the fact that I would not be calling for new submissions and party concerned was reminded that this was the case.

## 2. Basic Conditions and Development Plan Status

### Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>2</sup> following the Localism Act 2011. In order 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 European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I have examined the Neighbourhood Plan against all of the basic conditions above.

### EU and ECHR Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary. I am satisfied that the Neighbourhood Plan does not breach, nor is in any way incompatible with the ECHR.

A Strategic Environmental Assessment (SEA) screening exercise was carried out by North Somerset Council. This concluded that there are unlikely to be any significant environmental effects arising from the Backwell Neighbourhood Plan and that consequently, a full SEA does not need to be undertaken.

The screening assessment above has been considered by Natural England, a statutory consultee, which has confirmed that it is satisfied that the Backwell Neighbourhood Plan is unlikely to give rise to significant environmental effects and that North Somerset Council’s conclusion is reasonable in this regard. I also note that neither English Heritage nor the Environment Agency has any objection in this regard.

Further to the above, I note that a Habitats Regulations Assessment (HRA) screening assessment was undertaken and that this concluded that there are unlikely to be significant effects on European sites as a result of the Neighbourhood Plan. Natural England wrote to North Somerset Council to state that it is satisfied that this conclusion is reasonable. As above, the Environment Agency has no objection in this regard.

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<sup>2</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

Whilst not a legislative requirement, a detailed Sustainability Appraisal (SA), which was compliant with SEA regulations<sup>3</sup>, was carried out and published in December 2012. This SA concluded that there whilst no significant adverse environmental effects would arise, there was some potential to improve the draft version of the plan.

The completion of an SA, whilst not essential, formed a helpful part of the Neighbourhood Plan's Evidence Base. In this regard, I note that it was the view of Natural England that the SA *“provides a clearly presented and systematic assessment of the emerging Backwell Neighbourhood Plan, in terms of its consistency with the principles of sustainable development, including social and economic, as well as likely environmental effects.”*

Taking all of the above into account, and in the absence of any substantive evidence to the contrary, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

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<sup>3</sup> European Directive 2001/42/EC.

### 3. Background Documents and Backwell Neighbourhood Area

#### Background Documents

In undertaking this examination, I have considered a number of documents, in addition to the Backwell Neighbourhood Plan, including:

- The National Planning Policy Framework (The Framework) (2012)
- Planning Practice Guidance (2014)
- The Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning Regulations (2012)
- North Somerset Core Strategy (2012)<sup>4</sup>
- North Somerset Replacement Local Plan (2007)<sup>5</sup>
- Backwell Basic Conditions Statement
- Backwell Future Consultation Statement

Also:

- Representations received during the publicity period

In addition, I spent an unaccompanied day visiting the Backwell Neighbourhood Area.

I have also considered the comprehensive set of reports that, together, provide the substantial Evidence Base for the Neighbourhood Plan. I note here that the Evidence Base is a significant body of evidence and reflects the enormous amount of time and effort dedicated to the production of the Neighbourhood Plan.

#### North Somerset Core Strategy (2012)

A number of representations, largely from landowners and/or developers, have been received with regards the development plan for North Somerset. In particular, these refer to the remitted policies of the North Somerset Core Strategy (2012).

The North Somerset Core Strategy was adopted in March 2012. Further to judicial review, the North Somerset Core Strategy (2012) overall housing requirement Policy CS13 was remitted back to the examination stage, along with other policies, listed in Note 4, at the bottom of this page.

A Planning Inspector reached the view that an overall housing figure for North Somerset of between 20,220 and 25,950 dwellings would be more appropriate than

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<sup>4</sup> NB, policies CS6, CS13, CS14, CS19, CS28, CS30-33 remitted.

<sup>5</sup> Extant policies.

that proposed by North Somerset Council (17,130 dwellings) in re-assessing the original Policy CS13 figure of 14,000 dwellings.

Subsequently to the above, North Somerset Council proposed that Policy CS13 be changed to provide for 20,985 dwellings during the period 2006-2026. On the 12 August 2014, the Planning Inspector wrote to North Somerset Council to state that this figure “would provide a potential basis for moving the Examination forward.”

Taking all of the above into account, the relevant strategic housing policies for North Somerset are not up-to-date. However, this factor does not, as has been suggested, mean that a neighbourhood plan cannot be made within the District.

Whilst the specific circumstances relating to the remitted policies of the North Somerset Core Strategy (2012) are perhaps uncommon, there is nothing unique about a situation where a neighbourhood plan is coming forward in the absence of adopted District-wide housing numbers. Indeed, a neighbourhood plan has already been *made* under such circumstances.

Legislation does not seek to stop, or slow down the neighbourhood plan-making process wherever up-to-date housing policies are absent. Such an approach may conflict with the Framework’s aim of enabling development that is sustainable to go ahead without delay. Indeed, National Planning Practice Guidance is explicit in stating that a neighbourhood plan “*can be developed before or at the same time as the local planning authority is producing its Local Plan.*”

One of the advantages of neighbourhood plans is the relative speed with which they can come forward, enabling local communities to exercise their direct power to set policies to determine decisions on planning applications. In this regard, I am mindful that a *made* neighbourhood plan can provide for certainty in areas where there may otherwise be an absence of up-to-date policy.

Further to consideration of all of the evidence before me and following discussion of the matter at the Hearing, I am satisfied that North Somerset Council has taken a proactive and positive approach to the Neighbourhood Plan and that there has been significant and sustained collaborative working between North Somerset Council and the qualifying body.

During the Neighbourhood Plan Hearing, I heard that “from the beginning” there was pro-active collaborative working between the qualifying body and North Somerset Council. This included officers from North Somerset Council attending Steering Group, sub-group and working party meetings. North Somerset Council’s input into the Neighbourhood Plan was described by Backwell Parish Council as “tremendous.” There is no evidence before me to suggest that this was not the case.

Such an approach is entirely in line with (and therefore has regard to) National Planning Policy Guidance, which, in confirming that a neighbourhood plan can come

forward before an up-to-date Local Plan is in place, states that the local planning authority should work proactively and collaboratively with the qualifying body.

Given that proactive, positive and collaborative working has taken place, I consider it relevant that North Somerset Council is largely satisfied that the Neighbourhood Plan meets the basic conditions - even taking into account the certainty that District-wide housing numbers will be considerably higher than previously thought.

Information relating to the Core Strategy has been taken into account by plan-makers together with a wide range of other information. The Neighbourhood Plan's housing policies are not simply a regurgitation of remitted Core Strategy policies, but comprise policies that have emerged out of a comprehensive range of factors and an Evidence Base relevant and distinctive to the Neighbourhood Area. Furthermore, I note below that the Neighbourhood Plan was widely consulted upon, on an on-going basis and in a robust manner. The Neighbourhood Plan's approach to housing has emerged through this consultation process.

In summary, the Neighbourhood Plan is not "premature" and there is evidence to demonstrate that the approach to housing numbers has emerged further to consideration of a wide range of factors, robust consultation and collaborative working between North Somerset Council and the Parish Council.

#### Backwell Neighbourhood Area

The Backwell Neighbourhood Area coincides with that of the parish boundary. The first page of the Neighbourhood Plan shows a plan of the Neighbourhood Area ("Plan Boundary").

Further to an application made by the Parish Council, North Somerset Council approved the designation of Backwell as a Neighbourhood Area on 3 September 2012 and published its decision in this regard on 6 September 2012.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## 4. Public Consultation

### Introduction

As land use plans, the policies of neighbourhood plans will become the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a successful 'Yes' vote at Referendum.

### Backwell Neighbourhood Plan Consultation

Backwell Parish Council has submitted a Consultation Report to North Somerset Council. The information provided in the Report provides evidence of who was consulted and how, together with the outcome of consultation, from the announcement of the publication of the draft version of the plan in October 2012, through to the formal submission stage.

The Consultation Report includes a specific reference to a previous consultation statement produced alongside the draft version of the plan. This information was submitted as part of the Evidence Base. I recognise that a complete set of information relating to consultation has therefore been provided, although effectively splitting up the Consultation Report into two separate parts is a less common approach.

When taken together, I am satisfied that all of this information provides evidence of who was consulted and how, together with the outcome of the consultation. It was explained at the Hearing that the approach taken was done so on the basis of preventing repetition. Whilst I am of the view that the Consultation Report would have more clearly reflected guidance had all of the relevant information been presented in one single document, I note that all of the relevant information was provided.

Notwithstanding the above, it is clear from the evidence provided that the public consultation undertaken was significant, detailed, well-organised and robust.

The draft version of the plan emerged further to comprehensive publicity. This included the leafleting of residents and businesses and direct communication with landowners and developers. I note that a succession of meetings were held with different groups and that a Local Green Space questionnaire was also distributed. The draft version of the plan underwent consultation accompanied by four public consultation events, on different days, at Backwell Parish Hall, during November



2012. These were organised as open days and hundreds of comments were made and recorded. These are summarised in the Consultation Report.

The main issues and concerns of statutory and other consultees, and how these were considered and addressed in the Neighbourhood Plan, are set out in the Consultation Report.

In summary, I note that the Neighbourhood Plan emerged further to on-going publicity, numerous meetings and public events. The information before me demonstrates that the process was transparent and widely promoted. There were plentiful opportunities for comment. Comments were duly considered.

Consequently, the evidence demonstrates that the Neighbourhood Plan emerged as a result of seeking and taking into account the views of local people and other consultees.

I am satisfied that robust public consultation was central to the production of the Neighbourhood Plan.

## 5. The Neighbourhood Plan – Introductory Sections

**Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in italics.**

The policies of the Neighbourhood Plan are considered against the Basic Conditions in Chapter 6 of this Examiner’s Report. However, I have also considered the introductory sections of the Neighbourhood Plan and make recommendations below. These are aimed at making it a clearer and more user-friendly document.

### Background, Vision and Objectives

The Neighbourhood Plan opens with a Foreword. This refers to previous documents and the Referendum process. Whilst this may have been appropriate for a draft and submission version of the plan, its content appears historic and in some parts is incorrect and/or confusing – for example, it refers to a previous Community Plan as being “upgraded” to the Neighbourhood Plan, which is not the case. I recommend the following:

- **Delete Foreword. If required a short, new Foreword could replace the deleted version.**

The wording of the Contents page would be made clearer if it referred simply to “Subjects” rather than “Subjects in this Volume.” The document comprises a Neighbourhood Plan, rather than a Volume. Also, the Subjects list would be tidier if capitals to headings were consistently applied throughout, eg “Car Parking,” not “Car parking.”

Further to the above, the list of supporting documents detracts from the clarity of the Contents page – which should be about the contents of the Neighbourhood Plan.

- **Change Contents table reference to “*Subjects*”**
- **Adopt a consistent approach to capital letters in headings**
- **Delete reference to Basic Conditions Statement and list of supporting documents. If so required, these can be moved to an appendix**

Paragraph 1.1 would become more accurate as a result of the following recommended modification:

- **Para 1.1 re-word as “*The Localism Act and National Planning Policy Framework empower local communities to draw up Neighbourhood Plans, such as...*”**

The reference to strategic vision in paragraph 1.3 appears to take the Plain English guide to the Localism Act too literally. In legislative terms, the Neighbourhood Plan should be in general conformity with the strategic policies of the development plan for the area. The footnote to the strategic vision has the potential to introduce uncertainty and the following modification is recommended:

- **Delete footnote to paragraph 1.3**

I acknowledge that the Vision and Objectives have been criticised as being too general and indistinctive. In this regard, I am conscious that the task of building consensus around an exciting, distinctive vision and related objectives is a difficult and potentially thankless task. However, I find that the Vision in the Neighbourhood Plan is clear and simple. Furthermore, the Neighbourhood Plan goes on to confirm that it is based on the wishes of residents (paragraph 5.6).

Subject to the recommended modifications below, the Objectives are similarly clear and are reflected by many of the Neighbourhood Plan's policies. However, in some cases, the wording would benefit from being tightened up to ensure that the list comprises specific Neighbourhood Plan Objectives, rather than refer to uncompleted tasks, or be worded in a way that introduces policy conflicts. This in mind, I recommend the following modifications:

- **Change first Objective to *"The policies of the Neighbourhood Plan are based on the views of the local community"***
- **Delete second Objective. General conformity with the strategic policies of the development plan is a requirement**
- **Change fourth Objective to *"Support the needs of the community"***
- **Fifth Objective, delete "by number and type" – the Policies of the Neighbourhood Plan are more flexible than this.**
- **Change penultimate Objective to *"Protect the best and most versatile agricultural land, as appropriate, so that it is available for sustainable food production."* This avoids fundamental policy conflict.**

#### Preparation, Policy and Backwell

Made neighbourhood plans comprise development plan documents. Their status is completely different to community plans. There is little need to refer to the historic Backwell Community Plan in the Neighbourhood Plan. It is simply one of a number of documents that informed the Neighbourhood Plan. Placing too much emphasis on the Community Plan detracts from the importance of the Neighbourhood Plan as a development plan document. I recommend the following:

- **Delete reference to the Community Plan and accompanying photograph**

- **Delete Paras 3.1 and 3.2 and change Para 3.3 to read “*and former members of the Backwell Community Plan Steering Group.*”**

The consultation undertaken would be better reflected by the following recommended modification:

- **Para 3.5 re-word as: “*Public Consultation was central to the production of BACKWELL FUTURE. A Consultation Statement and further evidence supported the Submission Version of BACKWELL FUTURE.*”**

The Neighbourhood Plan relates to the Neighbourhood Area. It would be helpful and accurate if paragraph 3.6 made reference to this:

- **Change Para 3.6 to read: “*The Neighbourhood Area coincides with the Backwell Parish boundary. BACKWELL FUTURE covers the whole of the Neighbourhood Area.*”**
- **Map title on Page 5 – delete “proposed.” The Neighbourhood Area was designated in September 2012**

Whilst perhaps helpful at consultation stage, the content of Page 6 simply repeats historical information relating to the North Somerset Core Strategy (2012), remitted policies and legislative requirements. It adds nothing to the Neighbourhood Plan other than unnecessary additional wording, historic information and the potential for confusion – for example, the situation regarding the remitted policies of the North Somerset Core Strategy (2012) has moved on since the content of Page 6 was written and will, inevitably, continue to move on.

- **Delete all of the content of Page 6**

The Backwell Community and Environment page provides interesting information and together with photos and a walking map, provides the Neighbourhood Plan with distinctiveness. Its inclusion enhances the Neighbourhood Plan.

Paragraph 5.3 refers to “a semi-rural environment that is in contrast to endemic traffic problems.” The previous sentence already recognises that there are congestion issues and the reference to “endemic traffic problems” appears unnecessary and particularly negative, detracting from an otherwise useful, descriptive sentence.

- **Para 5.3, delete “that is in contrast to endemic traffic problems”**

## 6, Neighbourhood Plan Policies

The Neighbourhood Plan clearly distinguishes between policies and supporting text. Policies are set out in coloured boxes - a clear and helpful approach.

The Neighbourhood Plan includes references, at the beginning of each section, to the Framework and North Somerset Core Strategy (2012) policies which are set apart in coloured boxes. I find this to be confusing – the Neighbourhood Plan is about policies for the Neighbourhood Area, rather than other policies from other Plans. Whilst the inclusion of this information may have been helpful at draft stage, I find that it detracts significantly from the impact of the Neighbourhood Plan policies themselves.

In addition, I note that the references themselves are not comprehensive, but are highly selective. There is no explanation as to why some North Somerset Core Strategy (2012) Policies and some extracts from the Framework have been referenced, whilst others have not.

In order to meet the basic conditions, the Neighbourhood Plan needs to be in general conformity with the strategic policies of the development plan and needs to have regard to the Framework. Consequently, it is not necessary to include these additional policy references. Additionally, as the references are selective, I find that they are more confusing than helpful.

Further to the above, the Neighbourhood Plan also provides occasional and selective references to supporting documents in the Evidence Base. Again, this approach is unnecessary. In some parts of the Neighbourhood Plan, excessive references to supporting documents lead, in my view, to the supporting information to Policies becoming almost unreadable. The Neighbourhood Plan already makes reference to supporting documents in the introductory section. This is sufficient. There is no need to provide sporadic, selective and at times, excessive references to supporting information throughout the rest of the Neighbourhood Plan.

To be clear, the Evidence Base simply comprises supporting information. In some cases, the Neighbourhood Plan appears to be worded as though the Evidence Base itself forms part of the Policies of the Neighbourhood Plan. This is not the case.

Taking all of the above into account, I find that the Framework extracts, Core Strategy policy summaries and supporting document references are unnecessary and confusing. They detract significantly from the Neighbourhood Plan. I recommend the following:

- **Delete all “blue box” Framework and Core Strategy policy references**
- **Delete all “blue box” and “white box” Evidence Base references**

The purpose of a Neighbourhood Plan is not simply to provide a local version of a District-wide development plan. Taking this into account, I recommend making Paragraph 6.1 more distinctive to the Neighbourhood Plan itself, via the following modification:

***“6.1 Re-word as: “The Neighbourhood Plan recognises and addresses the environmentally focused objectives in the North Somerset Core Strategy (2012). The objectives comprise: - reducing unsustainable...”***

- **Further to modifications below, remove “Green Belt, Strategic Gap” from chapter heading**

### **Policy Sustainability 1**

Sustainability 1 does not provide clarity as to what would make a community led renewable energy scheme “appropriate.” As such, the Policy is unclear and fails to have regard to paragraph 154 of the Framework which states that only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.

- **Sustainability 1, delete “Appropriate”**

There may be circumstances where the harm arising from a renewable energy project is outweighed by the overall benefits of a sustainable development. The Framework requires sustainable development to go ahead, without delay. As worded, Sustainability 1 would not allow for this. The following modification would therefore enable the Policy to meet the basic conditions in this regard:

- **Sustainability 1, re-word “Proposals for the generation of renewable energy will be supported where adverse impacts are satisfactorily addressed or are outweighed by the overall benefits of the proposal. Community led...”**

It is unnecessary and confusing to refer to a possible future change to a Core Strategy policy in the Neighbourhood Plan:

- **Para 6.3 end final sentence “...may change the approach to Code levels.”**

### **Policies Sustainability 2 and 3**

Sustainability 2 simply sets out existing policy. Sustainability 3 largely repeats existing policy. It is not the role of neighbourhood plans to repeat existing development plan policies. In addition, Sustainability 3 refers to social “acceptability.” This reference is unexplained and there is nothing before me to suggest that it is a land use planning term that has regard to national policies or is in general conformity with the strategic policies of the development plan.

- **Delete Policies Sustainability 2 and 3, and Paras 6.4 and 6.5**

#### **Policy Sustainability 4**

In many circumstances, it will not be possible to “eliminate” surface water run-off, as referred to in the Policy. The Policy would be clearer if the following modification was made:

- **Sustainability 4, re-word as “...to reduce or ensure that there is no increase in surface water run-off...”**

The second part of Policy 4 states that “environmental infrastructure” should be integrated into the design of buildings and landscaping features. There is no clarity as to what “environmental infrastructure” comprises.

- **Sustainability 4, delete second sentence**

Subject to this modification, the Policy contributes to the achievement of sustainable development.

The Neighbourhood Plan must be in general conformity with the strategic policies of the development plan. Paragraph 6.7 includes an unnecessary reference to the Neighbourhood Plan “supporting” a Policy in the North Somerset Core Strategy (2012).

- **Para 6.7 delete sentence after title**

Paragraph 6.8 is worded as though the X1 bus service is well-known to all readers of the Neighbourhood Plan. Furthermore, it simply reads as a critical summary of the North Somerset Core Strategy (2012) and then refers to another part of the Neighbourhood Plan (Transport).

Paragraph 6.9 comprises a quote from one cyclist, presenting what appears to be a subjective opinion. This is followed by a statement referring to a Working Party to be set up by the Parish Council.

Together, paragraphs 6.8 and 6.9 do not provide the supporting text to any Policy. They do not appear to be based on land use planning matters, but appear as opinions. Paragraph 6.10 then refers to matters more appropriately (and already) covered elsewhere in the Neighbourhood Plan. I recommend the following:

- **Delete Paras 6.8 - 6.10**

#### **Policy Sustainability 5**

This Policy is introduced by a paragraph referring to a remitted Policy.

- **Delete Para 6.11**



National policy attaches great importance to Green Belts. Sustainability 5 introduces its own version of Green Belt policy for the Neighbourhood Area. This would seek to prevent all development that would harm the purposes of the Green Belt. This fails to have regard to national policy, which does not adopt such a restrictive approach. The Policy does not meet the basic conditions.

Notwithstanding the above, Green Belt policy already exists, there is no need for the Neighbourhood Plan to attempt to seek to introduce its own Green Belt policy.

- **Delete Sustainability 5**

### **Policy Sustainability 6 – Strategic Gap**

Sustainability 6 states that it would not permit development that would harm the purposes of a proposed Strategic Gap. There is no reference to what the purposes of a Strategic Gap are, although a supporting paragraph refers to North Somerset Core Strategy (2012) Policy CS19. There is very little detail in the Policy, as it instead appears to rely on Policy CS19.

Policy CS19 has been remitted. This creates a significant problem, as the strategic context and the essential detail that Sustainability 6 relies upon, does not exist within an adopted policy of the development plan. In effect, Sustainability 6 seeks to prevent development without providing clarity as to why or how.

By its very nature, the “Strategic Gap” forms a strategic land use planning policy. As envisaged in the remitted Policy CS19, it would operate between various settlements on a District-wide basis and would impact on places outside the Neighbourhood Area. In this case, the proposed Strategic Gap would be between Backwell and Nailsea, yet it would end, abruptly, at the edge of the Neighbourhood Area and fail to continue into a similar area of open countryside within Nailsea Parish. In effect, it would be a “part Strategic Gap.” This would be inappropriate and at worst, could increase pressure for development on land in Nailsea Parish between Nailsea and Backwell, where no such restrictive policy would exist. There is no substantive evidence to demonstrate that this is the intention of Strategic Gap policy.

Further to all of the above, the proposed wording of Sustainability 6 is unclear. Even if the Policy were to clarify what the purposes of the Strategic Gap are, there is no indication of what kind of development would, or would not, be harmful. The Policy would fail to have regard to the Framework’s requirement for policies to provide clarity to decision makers. Also, as worded, the Policy is more restrictive than countryside policy, or even Green Belt policy, as set out in the Framework. In this way, it fails to have regard to national policy.

The Policy does not meet the basic conditions and I recommend the following modification:

- **Delete Policy Sustainability 6**
- **Delete Paras 6.12 – 6.14**
- **Delete Strategic Gap plan and Backwell Lake/Strategic Gap reference**

I acknowledge that the proposed approach to the Strategic Gap has been the result of substantial work, which, as part of the Neighbourhood Plan, has undergone significant consultation. I also recognise that there is local support for it. Given this, it is important to note that, even without Sustainability 6, the open countryside is afforded protection from inappropriate development by national policy. Furthermore, the work undertaken to date can support the consideration of the Strategic Gap through the development plan process.

It is unnecessary and confusing to include a reference to Local Green Spaces at paragraph 6.15. Local Green Spaces are considered, in detail, later in the Neighbourhood Plan.

Paragraph 6.16 is not a policy, but is worded as though it is. It states that priority will be given to keeping the best and most versatile agricultural land. I find that the wording of the paragraph fails to have regard to national policy, which has a presumption in favour of sustainable development. Furthermore, this matter is considered in a later Policy in another section of the Neighbourhood Plan.

- **Delete paras 6.15 and 6.16**

I note that Paragraph 6.17 sets out some non-policy aims that would contribute to the achievement of sustainable development in the Neighbourhood Area.

## Transport and Highways

- **As reasoned above, delete box with references to various Evidence Base reports**

As set out, the first eight paragraphs of the Transport and Highways section comprise a selective summary of a transport assessment. As such, the paragraphs appear to draw negative speculative conclusions based on estimates and predictions. I am mindful that this approach has been questioned and criticised by a number of parties, including North Somerset Council.

I acknowledge that there are local concerns about traffic and congestion. However, the early paragraphs of this section appear to be presented in a subjective and to some degree, emotional manner. As a consequence, paragraphs 7.2 to 7.8 detract significantly from the content of the Neighbourhood Plan by, in particular, turning attention away from those parts of the Transport and Highways section where the Neighbourhood Plan does have regard to national policy's approach to sustainable transport.

I recommend the following modifications:

- **Para 7.1 Re-word as *"The Backwell Neighbourhood Plan promotes sustainable patterns of movement. This section sets out key Transport and Highways policies and initiatives to reduce the use of private cars."***
- **Delete Paras 7.2 to 7.8**

Paragraphs 7.9 to 7.13 set out a mitigation strategy that contributes to the achievement of sustainable development and recognises the challenges associated increased use of the private car. In contrast, paragraphs 7.14 to 7.17 revert to the more subjective approach of paragraphs 7.2 to 7.8 and as such, detract from the Neighbourhood Plan.

- **Delete Paras 7.14 to 7.17**

Paragraph 7.18 opens with a statement that the Neighbourhood Plan supports a remitted North Somerset Core Strategy Policy. It then goes on to present something of a confused message with regards the development status of Backwell village. Paragraphs 7.18 a) and 7.18 b) state that the settlement is constrained by its road infrastructure and paragraphs 7.18 c) and 7.18 d) state that "therefore" development should be limited.

In this regard, I am conscious that settlement status is determined by a wide variety of factors, not just road infrastructure. Furthermore, I am mindful of comments from North Somerset Council in particular, that the predicted effects of other roads, for

example the South Bristol Link Road, on traffic in Backwell, have not been taken into account.

Paragraph 7.19 includes an unnecessary reference to the Evidence Base and paragraph 7.20 starts to consider wider development issues, not specific to Transport and Highways. To add to the confusion, this paragraph is in a coloured box, yet does not contain a policy; and it goes on to refer to “this planning policy remaining in force” as well as to another section of the Neighbourhood Plan.

None of the above is helpful and all of it detracts from the clarity of the Neighbourhood Plan.

- **Delete Paras 7.18 to 7.20**

The four Highway Policies are then set out. Generally, these relate well to the approach to sustainable patterns of movement set out in those paragraphs that are not recommended for deletion. On a minor point, unlike other policies in the Neighbourhood Plan, they are introduced by a paragraph number and title. This presents an inconsistent approach:

- **Delete title “7.21 BACKWELL FUTURE: HIGHWAY POLICIES”**

#### **Policies Highway 1 - 4**

Highway 1 requires provision of a transport assessment for development proposals that will generate a significant number of vehicle movements. This will help guide decision makers and help applicants to take vehicle movements into account in their proposals. Consequently, it has regard to the Framework and contributes to the achievement of sustainable development.

As worded, Highway 2 is not a land use planning policy, but sets out an aim to “encourage” engagement. However, the intent of the Policy is clear and the recommended modification below will enable it to have regard to the Framework’s support for sustainable patterns of movement and as such, contribute to the achievement of sustainable development:

- **Highway 2, change to: “*Subject to this and other policies of the Neighbourhood Plan, proposals for new development in Backwell will be supported where early engagement has taken place to ensure that transport infrastructure will be provided (within, and where appropriate, outside development sites) in a timely manner to meet the needs of traffic generated by the development.*”**

Highway 3 is not a land use planning policy but a general aim of the Parish Council. This aim can be retained in the Neighbourhood Plan further to the recommended modification:

- **Delete Policy Highway 3 and move the text of the deleted Policy to the end of the section, to form a new supporting paragraph**

Highway 4 promotes walking and cycling. It has regard to the Framework and contributes to the achievement of sustainable development. It meets the basic conditions.

## Car Parking

This section identifies a shortfall of car parking in Backwell. It presents a strategy to address car parking. It does not contain any policies.

- **Delete reference to Evidence Base before Para 8.1 and in Para 8.2 b)**

There is no evidence to demonstrate that the delivery and management of new parking facilities is within the control of the qualifying body. Consequently, the text should be worded in a way that recognises that the Neighbourhood Plan is seeking to influence the provision and management of car parking facilities.

- **Para 8.2, re-word first line to: “BACKWELL FUTURE supports the provision of additional car parking at Nailsea and Backwell Railway Station”**
- **Para 8.2 b), change to: “BACKWELL FUTURE supports the introduction of parking restrictions in appropriate areas.”**
- **Para 8.3, change first line to “BACKWELL FUTURE supports the provision of additional...”**
- **Para 8.7, delete the last two sentences**

Whilst the list in the yellow box at the end of the Car Parking section does not comprise a policy, it would be helpful to provide a title to make this clear. I recommend the following modification:

- **Provide new title above the yellow box at the end of the section “Community Actions”**

## New Development

- **Delete Evidence Base reference before 9.1**

### **Policy Development 1**

The first paragraph of this section, as worded, makes little sense. It points out that the (now remitted) housing policies of the North Somerset Core Strategy (2012) contain no numerical targets for new development in Backwell, but goes on to refer to the Neighbourhood Plan providing “up to 60 new dwellings” in Backwell. This is not reflected, in any way, by Policy Development 1, which does not set out any housing numbers, but states that housing development will be commensurate with that of a “Service Village.”

Paragraph 9.2 refers explicitly to the remitted policies of the Core Strategy and this and the following paragraph also reference the traffic study referred to earlier. Taken together, these first three paragraphs do not introduce a positive framework for sustainable development and in this way, they fail to have regard to national policy. Notably, Policy Development 1 does not appear to relate to the preceding paragraphs. I therefore recommend the following:

- **Delete Paragraphs 9.1 to 9.3**

Whilst Development 1 does not reflect the earlier paragraphs, it provides for development that is distinctive to Backwell. It does not place a cap, or a maximum limit on the number of dwellings to be built in Backwell during the plan period. This approach has regard to the Framework’s presumption in favour of sustainable development.

I note above that the Policy refers to a “Service Village” definition. As the relevant housing policies of the North Somerset Core Strategy have been remitted, there cannot be certainty that the “Service Village” definition will remain, or that Backwell would fit into this category.

However, the general intent of the Policy – around development being appropriate to the size and character of the settlement – is clear. The recommended modification below can enable the Policy to better reflect this and take into account the circumstances relating to settlement categories, thus providing the clarity required by national guidance:

- **Development 1, change first sentence to: “...at a level appropriate to the size and character of the settlement.”**



Furthermore, I find that, through the following modification, the Policy can confirm its positive approach, enabling it to clearly contribute to the achievement of sustainable development:

- **Policy Development 1: re-word as “...character of the settlement *will be supported.*”**

This modification, together with the Policy’s reference to infilling, provides for a sufficiently flexible approach to take account of changing market conditions over time and as such, has regard to national policy.

The Policy goes on to state that development will be “focused on Backwell’s priority needs” although I note that the following Policy seeks to address “Backwell’s need” and as such, this would seem the appropriate place to consider need.

- **Development 1: delete “...and focused on Backwell’s priority needs.”**

Policy Development 1 goes on to support infilling and commercial development and as such, contributes to the achievement of sustainable development. However, this is described, confusingly, as “business development” which could be considered as something completely different to land use planning:

- **Development 1: change “Business” to “Commercial”**

The explanatory note underneath the Policy repeats information, the deletion of which has already been recommended. It does nothing to explain Policy Development 1.

- **Delete the Explanatory Note**

Subject to the proposed modifications, I find that the Neighbourhood Plan adopts a pragmatic and positive approach towards providing for sustainable development. It meets the basic conditions.

## **Policy Development 2**

Paragraph 9.4 recognises Backwell’s needs, further to the work undertaken to inform the Neighbourhood Plan. Development 2, as expressed, would fail to have regard to the Framework, which supports sustainable development, but does not prioritise all residential development in favour of small dwellings. Such an approach would fail to have regard to the national policy assumption in favour of sustainable development or to paragraph 50 of the Framework which requires housing policies to be sufficiently flexible to take account of changing market conditions over time.

However, the intent of the Policy is clear and the wording can be modified to have regard to the Framework – which enables local communities to deliver the sustainable development they need:

- **Development 2, change to read: “*Subject to this and other Policies of the Neighbourhood Plan, development proposals that provide smaller dwellings, with an internal floor space of not more than 100 square metres, will be supported.*”**

### **Policies Development 3 - 5**

Development 3 simply repeats North Somerset Core Strategy (2012) Policy CS16. It is not the role of neighbourhood plans to replicate policy that already exists. As such, Development 3 is unnecessary:

- **Delete Policy Development 3**

Development 4 provides for exception sites for affordable social housing if required. This has regard to the Framework, which requires housing policies to be flexible to take account of changing market conditions over time. Whilst the Policy allows for sites to be considered outside of the settlement boundary, its wording is unclear. To be in general conformity with North Somerset Core Strategy (2012) Policy CS17, I recommend that the relevant wording be modified as below:

- **Development 4, “*...within the Settlement Boundary. Rural exception sites should be adjacent to the settlement boundary, but not in the Green Belt. Rural exception sites in the Green Belt...*”**
- **Whole of Development 4 to be in bold text**

Development 5 suggests that priority for affordable social housing will be given to Backwell residents. No evidence has been provided to demonstrate that such an approach would be in general conformity with the strategic policies of the development plan, or that it has regard to national policy.

North Somerset Council has provided a representation stating that the Policy is misleading and that it is not possible to give priority to Backwell residents. Furthermore, even if the Policy applied to rural exception sites only, no such sites are allocated in the Neighbourhood Plan.

- **Delete Development 5**

Paragraph 9.8 would benefit from reference to North Somerset Council’s Affordable Housing Supplementary Planning Document (SPD), so as to provide the full context for the delivery of affordable housing.

- **Para 9.8, add “and Affordable Housing Supplementary Planning Document (SPD)” after “...in more detail in CS16...”**

### **Policy Development 6**

This Policy seeks to remove permitted development rights from all new “properties” (taken to be “houses”) within “easy walking distance” of the Local Centre to prevent “major extensions.”

The Government has recently extended the scope for permitted development rights and the above approach fails to have regard to this. Furthermore, there is no definition of “easy walking distance” and no definition of “major extensions.” Consequently, the Policy does not provide clarity to decision makers with regards what kind of development will be permitted and where. The Policy does not meet the basic conditions.

- **Delete Policy Development 6**
- **Delete Para 9.12**

### **Policy Development 7**

This Policy states that priority will be given to keeping Grades 1, 2 and 3a agricultural land available for agricultural use. As worded, this approach fails to have regard to the Framework, which simply steers “significant” development towards areas of poorer quality agricultural land in preference to higher quality agricultural land. The Framework does not focus on specific Grades of agricultural land. The intent of the Policy is clear though and the following modification can ensure that it has regard to national policy:

- **Development 7, change wording to “*Significant development of agricultural land that has been demonstrated to be necessary should also demonstrate that it prioritises the use of poorer quality agricultural land over the use of higher quality agricultural land.*”**
- **Delete Para 9.13**

### **Policy Development 8**

This Policy prevents the development of “gated” communities. It reflects the views of the local community and takes into account existing local character. It has regard to the Framework which empowers local communities to control development and which protects local character. Policy Development 8 meets the basic conditions.

## Site Allocations

I acknowledge that representations have been received with regards the absence of a site allocation policy. There is no legislative requirement for neighbourhood plans to include site allocation policies. In this case, in the absence of adopted strategic housing policies, it is a sensible and pragmatic approach to allow for development appropriate to the size and character of the settlement. Crucially, such an approach does not place an absolute limit on development, but has regard to the national policy assumption in favour of sustainable development.

It is helpful that, in addition to Policy Development 1, the Neighbourhood Plan, in its supporting text and plans, identifies some sites where residential development will be supported. However, nowhere in the Neighbourhood Plan are there any policies stating that development will be limited to these specific sites.

Paragraph 9.15 as currently worded, is a little unclear. I propose the following modification:

- **Para 9.15, delete Para and bullet points and re-word as *“The Neighbourhood Plan identifies sites where residential development and in the case of Sites A and B, residential and employment development, is supported. These are shown on the adjacent plan.”***

This approach also provides for the flexible approach supported by the Framework.

Paragraphs 9.16 and 9.17 are simply confusing and furthermore, paragraph 9.17 is presented as though it is a policy, which it is not. I note that Coles Quarry has since received planning permission.

- **Delete Paras 9.16 and 9.17**

Land at Ettrick Garage/Red Cross Hall; and at BT Laboratory (in the Green Belt) were considered at the Hearing. Further to the proposed modifications, I am satisfied that the Neighbourhood Plan does not fail to meet the basic conditions in respect of these sites.

## Employment

### **Policy Employment 1**

This Policy has regard to the Framework, which supports economic growth and recognises economic sustainability as a major tenet of sustainable development. The Policy contributes to the achievement of sustainable development.

Paragraph 10.3 refers to the Evidence Base and other sections of the Neighbourhood Plan. Whilst Policy 10.4 provides detail about employment sites, the Policies of the Neighbourhood Plan do not designate, or allocate sites and the wording should reflect this fact. I have referred to Coles Quarry previously and the wording of paragraph 10.5 should change to simply provide informative detail.

Taking the above into account, I recommend the following modifications:

- **Para 10.4 a), delete all after first sentence and add: *“The Neighbourhood Plan favours the use of this site for mixed use development. Such an approach should help its viability and thus help to bring it forward.”***
- **Para 10.5, delete and replace with: *“Coles Quarry This site provides scope for employment uses.”***

The remaining part of this section introduces important aims to support business in the Neighbourhood Area.

## Village Shops, Services and the Local Centre

- **Delete wording above 11.1**

### **Policy Centre 1 – 4**

Together, these Policies seek to address the decline of Backwell village centre. Generally, they have regard to the Framework, which recognises the importance of local centres and supports proposals that safeguard their vitality and viability. As such, the Neighbourhood Plan sets out a pro-active and supportive framework for local shops and services.

Centre 1 identifies Backwell's Local Centre. Centre 2 supports proposals that will safeguard vitality and viability. Centre 3 seeks to protect existing Local Centre uses and Centre 4 seeks to encourage Local Centre uses and ensure that there will be no adverse impacts resulting from development elsewhere.

Subject to the recommended modification below, the Policies have regard to the Framework and together, contribute to the achievement of sustainable development. They are also in general conformity with North Somerset Core Strategy (2012) Policy CS21.

Centre Policies 1-4 all refer to "shops and businesses." Businesses can encompass a very wide range of uses, some of which may not be compatible with the Local Centre. Given this, I recommend a modification that better reflects national policy:

- **Centre 1 – 4, change "shops and businesses" to "*town centre uses*"**

I note in the above regard that "town centre uses" is a generic term, also used to refer to local centres within villages.

### **Policy Centre 5**

Whilst this Policy has regard to the Framework, in that it intends to support the vitality and viability of the Local Centre, requiring the provision of parking could impact on the deliverability of town centre uses and there is no substantive evidence to demonstrate that this would not be the case. This would fail to have regard to the Framework, which establishes that policy burdens should not render development proposals unviable. Furthermore, I am mindful in this regard of North Somerset Council's comment that the Policy's requirement for development to provide parking for other town centre uses appears unreasonable.

However, I acknowledge that the Policy seeks to address issues associated with parking provision and seeks to encourage more parking, to help vitality and viability. Consequently, I recommend the following modification:

- **Centre 5, change to read *“Proposals for town centre uses within the Local Centre which provide new customer parking will be strongly supported.”***
- **Delete second sentence of paragraph 11.5**

Paragraphs 11.6 to 11.9 deal with issues outside the control of the Neighbourhood Plan. They do not relate to any Policies in the Neighbourhood Plan.

- **Delete Paras 11.6 to 11.9**

## Local Green Spaces

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. It goes on to state that

*“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.” (Para 76)*

The Neighbourhood Plan identifies two areas of Local Green Space – Farleigh Fields and Moor Lane Fields.

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land.

The Framework is explicit in stating that

*“The Local Green Space designation will not be appropriate for most green areas or open space.” (Para 77)*

Taking all of the above into account, it is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land.

I observed the two sites allocated as Local Green Space and the topic was considered in some detail at the Neighbourhood Plan Hearing. Moor Lane Fields extends away from the western side of Backwell and Farleigh Fields is located on the eastern side of the settlement. Farleigh Fields is relatively unusual in that, whilst outside the settlement boundary of Backwell, it is surrounded by, largely ribbon, development on all sides.

Whilst both included attractive countryside and contained public footpaths, I observed that the most striking thing about Farleigh Fields and Moor Lane Fields was their substantial size. In this regard, it was established at the Hearing that Farleigh Fields comprises at least 19 hectares and Moor Lane Fields, at least 32 hectares. Taking the latter of these first, there is no doubt in my mind that an area covering some 32 hectares is “an extensive tract of land.”

Consequently, the proposed allocation of Moor Lane Fields does not have regard to national policy, which states that the Local Green Space designation should only be used where the area concerned *“is not an extensive tract of land.”*



I note that, in support of both of the Local Green Space designations, Backwell Parish Council considers that the sites are not extensive “relative to the rural or semi-rural area in which they are located.” However, the Framework does not make any such distinction – it does not state, for example, that Local Green Spaces should not be extensive, except in rural or semi-rural areas.

In the case of Farleigh Fields, it is my view that 19 hectares also comprises an extensive tract of land. To provide some perspective, at least twenty three full size football pitches would easily fit into an area of this size<sup>6</sup>.

Given that the Framework is not ambiguous in stating that a Local Green Space designation is not appropriate for most green areas or open space, it is entirely reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements. Specific to demonstrating that Farleigh Fields, and Moor Lane Fields are not extensive tracts of land, no substantive or compelling evidence has been presented.

A wide variety of arguments were put forward, both in favour of and in objection to the Local Green Space allocations. Whilst I acknowledge these, I find that the direct conflict with national policy, above, means that the Local Green Space Policy does not meet the basic conditions. Furthermore in this regard, I am mindful that nowhere does national policy suggest that a failure to meet policy requirements should be balanced against other considerations when designating Local Green Space. Plainly, the fact that there may be other benefits arising from a Local Green Space designation does not mitigate against, or overcome a failure to meet, a policy requirement.

Notwithstanding the above and my decision below, I do recognise that an enormous amount of work has gone into considering Farleigh Fields and Moor Lane Fields. It is clear from the evidence provided that both areas include attractive, sensitive and well-loved areas of land and there is no doubt in my mind that there are parts of both areas that have been demonstrated to be special to a local community, for a variety of reasons. In seeking to designate Local Green Space, the Neighbourhood Plan was responding to local support – evidenced through a robust consultation process - for the protection of green areas and open space, regarded as special. Whilst individually, or together, these factors do not overcome the failure to meet a specific policy requirement, they are nevertheless important local considerations that have emerged through the Neighbourhood Plan process.

My recommendation below does not mean that the areas for which Local Green Space designations were sought will automatically become available for development. National and local planning policy protects the countryside from inappropriate development. As pointed out by North Somerset Council, this examination only considers the merits of Farleigh Fields and Moor Lane Fields as Local Green Spaces – not as potential housing sites.

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<sup>6</sup> Based around FIFA standards, at 0.62 ha (30 pitches would fit into 19 ha) at 0.82 ha (23 pitches would fit into 19 ha).

I recognise that plan-makers and members of the local community will be disappointed with the recommendation below. However, with regards the significant work that has been undertaken in relation to Local Green Spaces, it is worth emphasising that neighbourhood plans are not the only mechanism through which local communities can seek to make such designations. This can also be achieved through local plans. It may be that the work already undertaken provides a basis for the future promotion of Local Green Spaces that do not conflict with policy criteria.

I recommend the following modifications:

- **Delete section 12 Local Green Spaces. For the avoidance of doubt, I recommend that the Neighbourhood Plan does not contain a Local Green Space policy**
- **Delete Local Green Space Map**
- **Rather than lose sight of the aspiration, I recommend that an addition is made to paragraph 6.15 of the Neighbourhood Plan. This should state that:**
- ***“The community consultation undertaken during the preparation of the Neighbourhood Plan highlighted that two areas of land at Moor Lane Fields and Farleigh Fields are valued by the local community for reasons including their character, recreational value and the richness of wildlife. Backwell Parish Council will work with North Somerset Council to establish how recognition of their valuable features may, in future, be incorporated into the development plan.”***
- **Add, below revised para 6.15, *“Community Action: Backwell Parish Council will seek to promote the allocation of appropriate areas of Local Green Space at Moor Lane and Farleigh Fields in the development plan.”***

- **Para 13.13 Change title to “Community Actions” – these are not Policies and this change avoids confusion.**

### **Policy Community Assets**

This Policy appears confusing. It refers to Community Assets but no evidence is provided of there being any designated Community Assets. The supporting paragraph provides examples of “facilities that will be safeguarded” but these appear to comprise land and buildings that are not designated as Community Assets. The examples also appear to include land already protected by national and local policy. The list also includes Conservation Areas. Conservation Areas are subject to national policy that would conflict with Policy Community Assets.

Taking the above into account, the Policy is unclear. It fails to have regard to the Framework, which requires policies to clearly indicate how a decision maker should react to a development proposal.

- **Delete Policy Community Assets and revise Village Map**
- **Delete Paras 13.14 and 13.15**

## 7. Village Map, Downside, Funding and Contributors

A Map is provided on Page 32. This provides a helpful summary of policies, but will need modifying further to the above recommendations:

- **Modify Village Map to take into account the recommended modifications**

A section is included on Downside, a hamlet towards the southern boundary of the Neighbourhood Area. No Policies are proposed. Paragraph 14.2 of this section refers to remitted policies of the North Somerset Core Strategy (2012). I recommend the following modification:

- **Para 14.2, Delete beginning of paragraph, and commence “*Downside is washed over*” by *Green Belt* and is outside...”**

The Neighbourhood Plan ends with an interesting and informative section on Funding and a list of Contributors.

## 8. Summary

The Backwell Neighbourhood Plan has emerged further to around three years of sustained and significant community efforts. It is the result of much hard work and has relied on dedicated commitment from many people.

I have recommended that the Neighbourhood Plan be modified. I am mindful that, together, these modifications amount to considerable changes. My recommended modifications are not intended as a criticism of the Neighbourhood Plan, or of plan-makers, in any way. I acknowledge and respect the tremendous community effort that the Neighbourhood Plan embodies.

I have made the recommended modifications with specific regard to the basic conditions. Crucially, subject to these modifications, I consider that the Backwell Neighbourhood Plan:

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.

In this way, the Backwell Neighbourhood Plan meets the Basic Conditions.

I have already noted above that the Plan meets paragraph 8(1) requirements.

## **9. Referendum**

I recommend to North Somerset Council that, subject to the modifications proposed, the **Backwell Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

Neighbourhood Plan Area - I am required to consider whether the Referendum Area should be extended beyond the Backwell Neighbourhood Area. I consider the Neighbourhood Area to be appropriate and no evidence has been submitted to suggest that this is not the case.

I recommend that the Plan should proceed to a Referendum based on the Backwell Neighbourhood Area as approved by North Somerset Council in September 2012.

**Nigel McGurk, October 2014**  
**Erimax – Land, Planning and Communities**

[www.erimaxltd.com](http://www.erimaxltd.com)

# **Chapel-en-le-Frith Neighbourhood Development Plan 2013-2028**

**Report by Independent Examiner**

**Janet L Cheesley BA (Hons) DipTP MRTPI**

**CHEC Planning Ltd**

**January 2015**

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## Summary and Conclusion

1. The Chapel-en-le-Frith Neighbourhood Development Plan has a clear community vision.
2. As there are a considerable number of policies in the Plan, I have confined the summary to my main findings. I have found that the housing allocations will contribute towards the achievement of sustainable development and that there are no adopted strategic policies to justify a more significant growth strategy.
3. I have recommended the deletion of the Affordable Housing Requirement Policy, as I see no reasoned justification to seek provision at different percentages to that sought in the whole Borough or to distinguish between different types of site in this respect.
4. The approach to employment land provision in the Plan has regard to the National Planning Policy Framework, where it recognises the building of a strong and competitive economy as being central to sustainable development.
5. Reinvigorating the Town Centre is a major aim of the Plan. This has regard to the National Planning Policy Framework, where it seeks to support the viability and vitality of town centres.
6. I have recommended the deletion of the definition of small shops as under 280m<sup>2</sup> in Dove Holes and under 150m<sup>2</sup> in the other settlements. There is no robust evidence to justify either of these figures.
7. Section 4 of the Plan seeks to promote sustainable travel. In this respect, Policy TR1 has regard to National Policy to promote sustainable transport. Whilst Policies TR2 and TR3 contribute towards this objective, they are objectives and projects rather than land use and development policies. Therefore, I have recommended the deletion of these two policies.
8. I do not consider that the proposed extension to the Special Landscape Area is supported by a robust evidence base required to justify this designation. This policy approach to extending the Special Landscape Area does not have regard to the National Planning Policy Framework. In particular, it does not have regard to the requirement for a distinction between the hierarchy of designated landscape areas, so that protection is commensurate with their status.
9. I have found that the following sites do not meet the criteria for Local Green Space designation.
  - Site 7. Target Wall Field and woodland adjacent to Warmbrook.
  - Site 11. Spring Meadow, Whitehough.
  - Site 13. Fields between Homestead Way and Ashbourne Lane.

Site 14. Land approaching Chapel-en-le-Frith South Station, between railways and Bank Hall Drive.

Site 17. North and South of Manchester Road.

Site 19. Fields around Black Brook, alongside tramway, between Longson's and Kelsa Trucks and land on the north side of Bowden Lane.

Site 24. Land South of Manchester Road.

10. I realise that some of my recommendations will not be popular with some people in the local community and some with developer interests. My recommendations ensure that the Plan meets the Basic Conditions. Subject to my recommendations being accepted, I consider that the Chapel-en-le-Frith Neighbourhood Development Plan will provide a strong practical framework against which decisions on development can be made.

## Introduction

11. I was appointed as an independent Examiner for the Chapel-en-le Frith Neighbourhood Development Plan 2013 - 2028 in December 2014.
12. On 11 April 2013 High Peak Borough Council (HPBC) approved that the Chapel-en-le Frith Neighbourhood Development Plan Area be designated in accordance with the Neighbourhood Planning (General) Regulations 2012. The Area covers the whole of the parish of Chapel-en-le Frith.
13. The qualifying body is Chapel-en-le Frith Parish Council. The plan has been prepared by Chapel Vision working in partnership with Chapel-en-le Frith Parish Council.
14. The plan covers the period from 2013 to 2028. Whilst this time period does not equate to that of the emerging High Peak Local Plan, a neighbourhood plan is only required to specify the period within which it is to have effect. Thus, the Plan accords with this requirement.

## Legislative Background

15. As an independent Examiner, I am required to determine, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:
- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
  - the Plan meets the requirements of Section 38B of the 2004 PCPA where the plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area; and

- that the Plan has been prepared for an area that has been designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.
16. Subject to the modifications I have recommended in this report, I am content that these requirements have been satisfied.
17. I am obliged to determine whether the plan complies with the Basic Conditions. These are that the Plan is required to:
- 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 contained in the Development Plan for the area; and
  - not breach, and is otherwise compatible with, EU obligations and human rights requirements.

### **EU Obligations**

18. Chapel-en-le-Frith Parish is within the authority areas of High Peak Borough Council and the Peak District National Park Authority, with over half of the Parish being within the Peak District National Park.
19. A Strategic Environmental Assessment (SEA) screening was undertaken by HPBC and agreed with the Peak District National Park Authority (PDNPA). The screening confirmed that a Strategic Environmental Assessment was not required for this Plan. The screening was submitted to the statutory environmental bodies (English Heritage, Natural England and the Environment Agency). The responses confirmed that the Plan will not result in significant environmental effects and thus a SEA is not required. In particular, an email dated 8 July 2014 from Natural England to HPBC confirmed that there are no likely significant effects on the natural environment from the Neighbourhood Plan.
20. A Habitat Regulation's Assessment screening has been undertaken by HPBC and agreed with the PDNPA. The screening exercise concluded that there were no European sites that would be affected by the proposals within the Plan. Natural England confirmed that there are unlikely to be any significant effects on any European Sites from the Plan.
21. I am satisfied that the Plan is compatible with EU obligations and does not breach the European Convention on Human Rights obligations.

## Policy Background

22. *The National Planning Policy Framework 2012* (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The *Planning Practice Guidance* provides Government guidance on planning policy.
23. The development plan for the Chapel-en-le-Frith Neighbourhood Development Plan Area comprises the Peak District National Park Authority's Core Strategy 2011, saved policies in the Peak District National Park Local Plan 2001 and Saved policies in the High Peak Local Plan (2005). The strategic policies in the PDNPA Core Strategy include policies regarding the conservation and enhancement of the national park. The strategic policies in the HPBC saved Local Plan Policies include policies regarding the countryside, Green Belt and Special Landscape Areas, although the Plan covered the period up to 2011.
24. The Chapel-en-le-Frith Neighbourhood Development Plan has been produced alongside the emerging High Peak Local Plan. The examination of the submission Version has commenced during my examination of the Neighbourhood Development Plan.

## The Neighbourhood Plan Preparation

25. I am required under The Localism Act 2011 to check the consultation process that has led to the production of the Plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.
26. The initial consultation process started in 2011 and included four public meetings, resident's survey, questionnaires to retailers and businesses and open days. The responses were developed into policies for inclusion in the pre-submission Plan.
27. The Consultation period on the pre-submission draft of the Plan ran from 16 December 2013 to 31 January 2014. The plan was available on a dedicated web site with links from both the Parish Councils web site and that of HPBC. Copies were available in the Parish Office and Library. Four open days were held during the consultation period and publicity of the plan included local press and radio coverage and a newsletter delivered to all households. The 172 responses received were considered and addressed. Some of these representations resulted in amendments to the Plan.
28. I am satisfied that the pre-submission consultation and publicity has met the requirements of Regulation 14 in The Neighbourhood Planning (General) Regulations 2012. The consultation and publicity went well beyond the requirements and it is clear that the qualifying body went to considerable lengths to ensure that local residents, retailers and businesses and other interested parties were able to engage in the production of the Plan. I suspect that numerous hours have been spent on the production of this Plan by many people. I congratulate them on their efforts.

29. HPBC publicised the submission Plan for comment during the publicity period between 2 October and 13 November 2014 in line with Regulation 16 in The Neighbourhood Planning (General) Regulations 2012. A considerable number of responses were received, including a number of very detailed representations. I am satisfied that all these responses can be assessed without the need for a public hearing. I am satisfied that the extensive details provided in many of the representations have enabled me to ensure an adequate examination of the issues and have given each person making representations a fair chance to put their case.
30. Some representations suggest additions and amendments to policies. My remit is to determine whether the Plan meets the Basic Conditions. Where I find that policies do meet the Basic Conditions, it is not necessary for me to consider if further suggested additions or amendments are required. Whilst I have not made reference to all the responses in my report, I have taken them into consideration.
31. In the interest of fairness, I have accepted 50 late representations from local residents submitted following a public meeting on the last day of the publicity period, but see no reason to accept the three late representations from authorities.
32. I have been provided with evidence base in the Neighbourhood Plan background supporting documents. This has provided a useful and easily accessible source of background information.
33. As part of my examination of the Plan I have spent two days in the Parish looking at all the sites identified in the Plan and the sites suggested by landowners and developers for inclusion.

## **The Chapel-en-le Frith Neighbourhood Development Plan**

### **Vision and Status of the Neighbourhood Plan**

34. The plan includes a clear community Vision Statement as follows:  
affordable, quality homes to provide for local needs;  
ample, well-paid jobs for local people;  
re-invigorated town and village centres;  
excellent facilities for all ages;  
safe, convenient and sustainable transport links;  
access to, and protection of, countryside recognised as *special*.
35. On page 2 reference is made to the status of the plan. For clarity, it is necessary to amend this paragraph to include reference to the plan becoming part of the development plan for the area, rather than forming 'all planning and development in the Parish'.
36. **Recommendation: modification to the first paragraph on page 2 to refer to the plan becoming part of the development plan for the area.**

37. It is necessary for Neighbourhood Plans to provide ‘a *practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency*’ as stated in the core planning principles in paragraph 17 in the NPPF. I do refer to clarity with regard to a number of recommendations to modifications to the Plan. Where I do so, I have in mind the need to provide a practical framework in accordance with the core principles in the NPPF.

## **Section 1: Housing**

### **H1 Housing Allocation**

38. I note that the minimum figure of 454 new homes in Policy H1 takes account of planning permissions granted during 2013 and is based on the development strategy set out in the emerging High Peak Local Plan. The Neighbourhood Plan does not identify or allocate housing sites in the Peak District National Park, in line with National Park Policy.
39. Policy S3 in the High Peak Local Plan – Preferred Options (February 2013) states a required 400 new dwellings in the Chapel Neighbourhood Plan area as part of the emerging Local Plan. The Neighbourhood Plan has based its allocation of a minimum of 454 dwellings on this emerging Local Plan figure. This figure includes planning permissions granted post February 2013.
40. It is not in dispute that HPBC cannot demonstrate a five year supply of housing land. Policy S3 in the Submission Local Plan (April 2014) sets a requirement of a minimum of 850 new dwellings in the Neighbourhood Plan in addition to a small site allowance of 100 dwellings. The Local Plan does not allocate housing development sites in the Neighbourhood Plan Area, leaving the choice of site specific allocations to the Neighbourhood Plan.
41. Policy H1 in the Neighbourhood Plan allocates a minimum of 42 dwellings on sites at Pickford Meadow and Park Road Factory. Together with commitments for 813 dwellings on other sites, this equates to a minimum of 855 dwellings. The small site allowance is alluded to in Policy H3 where it allows smaller sites in appropriate locations. In the interest of clarity, a map showing the locations of the allocated housing sites should be included in the Plan.
42. The emerging Local Plan seeks a target of 360 dwellings per annum for the whole Borough. This is less than the objectively assessed housing need range of between 420 and 470 new dwellings per year, which HPBC considers is not deliverable due to identified infrastructure and environmental constraints. I realise there is objection to this approach. The Neighbourhood Plan Examination process does not require a rigorous examination of borough wide housing land requirements. This is the role of the Examination of the emerging Local Plan.
43. I have considered detailed representations from a number of interested parties seeking further residential development in the Parish, including



representations on behalf of landowners and developers, including Bloors Homes North West Ltd, Dr and Mrs Bartholomew, Gladman Developments Ltd, Seddon Homes, Innovation Forge Ltd and consultants Emery Planning and a considerable number of representations from local people on this matter. There are no adopted strategic policies upon which to base a more significant growth strategy.

44. The housing allocations in the Neighbourhood Plan meet the requirements of Policy S3 in the emerging Local Plan. In the absence of adopted strategic housing policies, it is not my role to determine whether the Neighbourhood Plan would be inconsistent with the adopted version of the emerging Local Plan if it were to be subject to future amendments to accommodate further growth.
45. National policy emphasises that development means growth. The Neighbourhood Plan has sought to provide for sustainable growth, with the aim to ensuring housing is located on the most sustainable sites that are accessible to local facilities and services.
46. The Chapel Vision Housing Group undertook a Sustainability Appraisal of a number of sites. The sites at Pickford Meadow and Park Road Factory gained the highest ranking for sustainability. Whilst the site selection process has been criticised, the chosen sites received the most local support during a robust consultation process. Any assessment of land availability in the production of Neighbourhood Plans needs to be proportionate. Subject to my detailed comments below, I am satisfied that these sites are deliverable and together with the overall housing strategy in the Neighbourhood Plan will contribute towards the achievement of sustainable development by the provision of sustainable growth.
47. Representations have stated that the Neighbourhood Plan is unsound. Soundness is not a relevant test, although I am satisfied that the Neighbourhood Plan has undergone considerable robust consultation and is the result of collaborative working with the local authorities.
48. Representations have urged that the Neighbourhood Plan does not proceed until the emerging High Peak Local Plan has been adopted. There is no legal requirement to test the Neighbourhood Development Plan against emerging policy although Planning Policy Guidance advises that the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which the neighbourhood development plan is tested. The qualifying body and the local planning authority should aim to agree the relationship between policies in the emerging Neighbourhood Plan, the emerging Local Plan and the adopted development plan, with appropriate regard to national policy and guidance.
49. The Consultation Statement accompanying the Neighbourhood Plan acknowledges that there has been a proactive and positive working relationship between the Parish Council, HPBC and PDNPA. Collaborative working has sought to share evidence and minimise any conflicts between policies in both emerging plans.

50. For the above reasons, I consider that it is not appropriate to halt the process of the Neighbourhood Plan even though there might, in future, be a need for further growth.
51. In reaching my conclusion, I consider it relevant to refer to the recent High Court Judgement of *Gladman Developments Limited v Aylesbury Vale District Council & Winslow Town Council [2014] EWHC 4323 (Admin)* on 18 December 2014.
52. The following is an extract of paragraph 58 of that judgement: *In my judgment, a neighbourhood development plan may include policies dealing with the use and development of land for housing, including policies dealing with the location of a proposed number of new dwellings, even where there is at present no development plan document setting out strategic policies for housing. The examiner was therefore entitled in the present case to conclude that the Neighbourhood Plan satisfied basic condition 8(2)(e) of Schedule 4B to the 1990 Act as it was in conformity with such strategic policies as were contained in development plan documents notwithstanding the fact that the local planning authority had not yet adopted a development plan document containing strategic policies for housing. Further, the examiner was entitled to conclude that condition 8(2)(d) of Schedule 4B to the 1990 Act was satisfied. That condition requires that the making of the neighbourhood development plan “will contribute to the achievement of sustainable development”. The examiner was entitled to conclude that a neighbourhood plan that would provide for an additional 455 dwellings, in locations considered to be consistent with sustainable development, did contribute to the achievement of sustainable development notwithstanding that others wanted more growth and development plan documents in future might provide for additional growth. Similarly, the examiner was entitled to conclude that having regard to national guidance and advice, including the Framework, it was appropriate to make the neighbourhood plan even though there might, in future, be a need for further growth.*
53. **Recommendation: in the interest of clarity, include a map in the Plan to identify the allocated housing sites.**

## **H2 Housing Site Design Briefs**

54. This policy seeks design briefs to accompany all planning applications for housing. Those over 6 dwellings are required to be agreed with the Parish Council. These are onerous requirements that go beyond that required for design and access statements. I see no justified evidence base to support this approach.
55. Policy H2 does not have regard to paragraph 17 in the NPPF, particularly in that it would not provide a practical framework within which planning applications could be made with a high degree of efficiency. Therefore, I recommend the deletion of Policy H2.



56. **Recommendation: to meet the Basic Conditions, I recommend that Policy H2 is deleted.**

### **H3 Smaller Sites**

57. This policy only relates to small housing sites in accordance with the title of the policy. Therefore, in my opinion, it does not preclude otherwise sustainable development from going ahead on larger sites. Such larger sites would have to be considered on their individual merits in accordance with national and development plan policy.
58. The second paragraph refers to single dwellings in the rural area. The categories do not all correspond to those identified in paragraph 55 in the NPPF. It is not necessary to repeat national policy. However, to have regard to national policy, it must be clear that other proposals for single dwellings in the countryside, which are in accordance with paragraph 55 in the NPPF, will be supported.
59. I see no robust evidence to justify the provision of a home for carers and see such a policy requirement to be unworkable. Such proposals for homes for relatives would be determined on their individual merits. In the interest of clarity, I recommend the deletion of this part of the policy.
60. In the interest of clarity, I recommend modification to the policy to show support for single dwellings in the second paragraph.
61. **Recommendation: in the interest of clarity, to meet the Basic Conditions , I recommend modification to the second paragraph of Policy H3 to read as follows:**

**Proposals for single dwellings outside the Peak District National Park and outside the built-up area boundary will be supported where they provide homes for key workers in agricultural, forestry or other rural enterprises or accord with other special circumstances in paragraph 55 in the NPPF, subject to the policies of this Plan, as well as other national and local policy requirements.**

### **H4 Housing Mix**

### **H5 Housing Density**

### **H8 Design**

### **H9 Design Criteria**

62. Policies H4, H5, H8 and H9 provide a detailed list of requirements for housing mix, housing density, high quality design and design criteria. There is some repetitiveness between these policies. In the interest of clarity, I recommend that they are amalgamated into one design policy, subject to my recommendations regarding the detailed wording.

63. Paragraph 59 in the NPPF states that *design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.*
64. Policy H4 refers to the needs of current and future households. It is not clear how these needs will be defined or assessed. I therefore recommend that this is deleted.
65. The second part of Policy H4 is unduly prescriptive where it refers to uniform housing types. In Policy H9 reference is made to a mix of housing types and tenures that suit local requirements. To avoid contradiction and unnecessary prescription, I recommend the deletion of Policy H4 and reliance on Policy H9 with regard to housing mix.
66. Policy H5 is a prescriptive policy with no robust evidence for justification of all the detail. In particular, a density of around 30 dwellings per hectare and a requirement for mainly one and two bedroom accessible dwellings are not supported by sufficient evidence. It must be remembered that the Plan will cover the period to 2028. These detailed requirements would not necessarily optimise the potential of sites to accommodate development, which is a requirement of paragraph 58 in the NPPF.
67. It does appear that one of the aims of Policy H5 is for new development to reflect existing density and ensure the provision of adequate private and public open space. Reference to reflecting local character is raised in Policy H8. In the interest of clarity, I recommend amalgamating reference to local character into the one new policy.
68. The 'integration of sites' in Policy H8 and 'connections' in Policy H9 are similar requirements. Car parking and open spaces are repeated in both policies. The 'forgotten elements' in Policy H8 are over prescriptive and a number, such as telephone lines and satellite dishes, may be added after the initial development. Therefore, I recommend the amalgamation of Policies H8 and H9 into one new policy and the deletion of the 'forgotten elements' criterion. For ease, I make comment on the sub headings in Policy H9, with cross reference to Policy H8 where appropriate.
69. Not every design criterion will be relevant to all new housing development. This should be made clear in the policy. In addition, the requirements listed should be subject to viability, in accordance with paragraph 173 in the NPPF.
70. *Sustainable development.* The Housing Standards Review (March 2014) and a Ministerial Statement on Building Regulations (12 September 2014) indicate that it is unlikely for it to be appropriate to refer to the Code for Sustainable Homes in Neighbourhood Plans once a statement of policy has been produced in early 2015. As this is a clear indication of the direction and intentions of National Policy, I recommend deletion of this section in Policy H9.

71. *Connections.* For clarity, I recommend the amalgamation of both sections from Policies H8 and H9.
72. *Facilities and Services.* The Plan is seeking to concentrate development within the built up area where facilities and services are already concentrated. Thus, I see no need for this criterion.
73. *Public and Private Spaces.* Policy H8 requires private outdoor amenity space for all new dwellings. This may not be appropriate or achievable for high density town centre developments. To ensure the viability of development, I recommend that this criterion is modified to seek 'suitable private outdoor amenity space for new dwellings'.
74. *External storage and amenity space.* Whilst this criterion refers to amenity space in the heading, it only relates to external storage and thus, in the interest of clarity, amenity space should be deleted from the heading. Vehicles are referred to in the car parking sub-section and thus reference to vehicles is not necessary in this section.
75. **Recommendation: to meet the Basic Conditions I recommend the deletion of Policies H4, H5, H8 and H9 and their amalgamation into one new policy to read as follows:**

### **Design Criteria**

**New housing development in the Neighbourhood Plan Area must be of a high quality. The design and density should seek to reflect and distinguish the attractive characteristics of Chapel-en-le-Frith and other settlements within the Parish. Proposals must demonstrate how they have taken into account the following where appropriate and subject to viability:**

#### **Connections**

**Development should integrate into its surroundings by reinforcing existing connections and creating new ones; whilst also respecting existing buildings and land uses along the boundaries of the development site. Developers must demonstrate how they have had regard to movement (vehicular, pedestrian and cycle).**

#### **Public transport**

**Good access to public transport to help reduce car dependency and support public transport use.**

#### **Meeting local housing requirements**

**Development should provide a mix of housing types and tenures that suit local requirements.**

#### **Character**

**Development should seek to create a place with a locally inspired or otherwise distinctive character.**

### **Working with the site and its context**

**Development should take advantage of existing topography, landscape features (including water courses), wildlife habitats, existing buildings, site orientation and microclimates.**

### **Creating well defined streets and spaces**

**Buildings should be designed and positioned, with landscaping, to define and enhance streets and spaces. Buildings should be designed to turn street corners well.**

### **Easy for people to find way around (legibility)**

**Development should be designed to make it easy for people to find their way around and to recognise distinctive places.**

### **Streets for all**

**Streets should be designed in a way that encourages low vehicle speeds and allows the streets to function as social spaces.**

### **Car parking**

**Resident and visitor parking should be sufficient and well integrated so that it does not dominate the street. Car parking must meet minimum standards, as set out by Derbyshire County Council. In addition, frontages must not be entirely dedicated to car parking, but should provide for appropriate and significant public and private open space and landscaping, reflective of the Parish's character and countryside setting.**

### **Public and private spaces**

**Public and private spaces should be clearly defined and designed to be attractive, well managed and safe. There should be suitable private outdoor amenity space for new dwellings.**

### **External storage**

**There should be adequate external storage space for bins and recycling facilities as well as for cycles.**

## **H6 Affordable Housing Requirement**

76. Saved Policy H9 in the High Peak Local Plan (2005) seeks an element of affordable housing on new housing sites, subject to site size, various criteria and viability. The supporting text states that it is recommended that at least 30% of units on such sites throughout the Borough be provided as affordable homes. There is no differentiation between brownfield and greenfield provision of affordable housing, although saved Local Plan Policy H9 does recognise site development constraints need to be taken into consideration.
77. Emerging High Peak Local Plan Policy H5 seeks 30% affordable housing on sites of 25 dwellings or more and 20% affordable housing on sites of

between 5-24 units. A financial appraisal is required to justify a lower provision. Whilst supporting guidance includes The Strategic Housing Market Assessment 2014, I note that there are objections to this emerging policy to be considered as part of the Examination of that Local Plan.

78. In Policy H6 in the Neighbourhood Plan, the justification for distinguishing between the percentage of affordable housing sought from brownfield of greenfield sites is explained as being due to the additional costs of development of brownfield sites. Neither the existing Local Plan nor emerging Local Plan takes this stance. In addition, the 50% requirement for greenfield sites is based on this provision on the greenfield site at Long Lane in Policy H1.
79. I consider the approach taken to justify the different percentages of affordable housing in Policy H6 is not justified by a robust evidence base. In particular it does not take into consideration the varying infrastructure requirements and wide range of development costs for both brownfield and greenfield sites. I refer to paragraph 173 in the NPPF where it states that *'the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened'*.
80. From the evidence before me, I see no reasoned justification to seek affordable housing provision in the Parish at a different percentage or percentages to that sought in the whole Borough or to distinguish between brownfield and greenfield sites in this respect.
81. For the above reason, I consider that Policy H6 does not meet the Basic Conditions. A Neighbourhood Plan is not required to have affordable housing policies. Affordable housing can still be sought in accordance with policy in the development plan. To meet the Basic Conditions, I recommend that Policy H6 is deleted.
82. **Recommendation: to meet the Basic Conditions, I recommend that Policy H6 is deleted.**

### **H7 Affordable Housing Criteria**

83. This policy requires *the type and size of affordable homes to meet the specified and up-to-date needs of the Neighbourhood Plan Area* and requires an affordable housing strategy to be agreed prior to a planning application.
84. The policy and supporting evidence do not clearly indicate how the specified and up-to-date needs are to be defined and it is not clear what is required in an affordable housing strategy. As such Policy H7 does not provide a practical framework for decision making in accordance with the requirements of paragraph 17 in the NPPF. Thus, Policy H7 does not have regard to National Policy in this respect. Therefore, I recommend the deletion of all but the first sentence in Policy H7.

85. **Recommendation: to meet the Basic Conditions, I recommend that Policy H7 is modified to read as follows:**

**Affordable homes should be designed to be well integrated with existing and other new housing development.**

### **H10 Site Specific Policies**

86. To ensure deliverability of the housing sites in Policy H10, the list of requirements in this and other policies can only be met if viable. Therefore, it is necessary to ensure that the list of requirements in this policy does not prevent development of these housing sites.
87. HPBC has commented that the requirements related to affordable housing provision, sustainable development, number of bedrooms and accessibility requirements in the consultation version of the Plan may require a greater degree of flexibility to ensure deliverability of these sites. Part of this assessment has been based on a proposed Community Infrastructure Levy (CIL) charging rate of £45 per sq m for private market houses. I note that the proposed CIL charging is not part of adopted policy.
88. I have already commented on some of these matters under previous policies and consider that my suggested modifications, particularly with regard to the size of dwellings and the Code for Sustainable Homes, will go some way towards achieving viability and deliverability of the allocated sites in Policy H10. In addition, I consider it necessary for the list of requirements in Policy H10 to be subject to viability and deliverability in accordance with paragraph 173 in the NPPF, rather than simply being accompanied by a viability appraisal.
89. English Heritage has raised concern regarding the development of the Pickford Meadow site as it lies within the Conservation Area and states that it is within the setting of St Thomas's Church, which is a Grade II\* listed building.
90. The *Planning (Listed Buildings and Conservation Areas) Act 1990* imposes duties requiring special regard to be had to the desirability: firstly at Section 16(2), of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses; and secondly, at Section 72(1), of preserving or enhancing the character or appearance of a Conservation Area.
91. Having viewed the site at Pickford Meadows and the proximity of St Thomas's Church, I consider it necessary to include a requirement in Policy H10 for development of this site to take into consideration statutory requirements to preserve the setting of the Church and to preserve or enhance the character or appearance of the Conservation Area.



92. I recommend modification to Policy H10 by the deletion of reference to one and two bedrooms, for the same reasons as I have outlined under my comments on Policy H5 above.
93. **Recommendation: to meet the Basic Conditions, I recommend modification to Policy H10 to read as follows:**

**Pickford Meadow (behind Pickford Place)**

**Proposals should demonstrate how they have taken into account the statutory requirements to preserve the setting of St Thomas's Church and to preserve or enhance the character or appearance of the Conservation Area.**

**Subject to viability and deliverability in accordance with paragraph 173 in the NPPF, proposals should demonstrate how they have taken into account the following:**

**Accessibility for wheelchairs or those with impaired mobility.  
A high quality design approach to the provision of a higher density scheme.**

**Provision of appropriate public and private open space, including an area comprising approximately the north western half of the site, incorporating the pond and ample green space around it to protect wildlife.**

**Arboriculture – Retention of all mature trees worthy of retention and, where trees are, removed the appropriate planting of replacement tree of native species.**

**As a town centre site, the development should demonstrate how it contributes towards town centre improvements in accordance with Policy CNP1.**

**Access should be via Miry Meadow Car Park, and the approach route leading to the site from Eccles Road should be made up and adopted.**

**Park Road – Bungalow and Factory**

**Subject to viability and deliverability in accordance with paragraph 173 in the NPPF, proposals should demonstrate how they have taken into account the following:**

**Accessibility for wheelchairs or those with impaired mobility.  
A high quality design approach to the provision of a higher density scheme.**

**The relevant part of Park Road between Market Street and Grange Park Road should be made up and adopted.**

**Vehicular access to the site is to be from Park Road only. Pedestrian access is to be from both Park Road and Sunday School Lane.**

## **CNP1 Provision of Infrastructure and Facilities and Developer Contributions**

94. This Policy cross refers to emerging High Peak Local Plan Policy CF7 with regard to developer contributions. As Policy CF7 is emerging and may be subject to future amendment, in the interest of clarity, I recommend modification to Policy CNP1 by deleting this reference.

95. Planning Policy Guidance was revised on 28 November 2014 stating at paragraph 012 (Reference ID: 23b-012-20141128) that:

*There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development.*

*Contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm.*

*In designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under section 157(1) of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty.*

*Affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home.*

96. HPBC has confirmed that only the areas of Chapel-en-le Frith Parish that lie within the National Park are within a rural area described under section 157(1) of the Housing Act 1985.

97. To have regard to Planning Policy Guidance, I recommend the inclusion of the wording 'were applicable' in Policy CNP1.

98. **Recommendation: to meet the Basic Conditions, I recommend modification to Policy CNP1 to read as follows:**

**New residential development should, where applicable and where possible, provide appropriate and proportionate new facilities and infrastructure on site, and make appropriate and proportionate contributions to related off-site facilities and infrastructure.**



## **Section 2: Employment, Tourism and Community Land Development.**

### **EP1 New Employment Land**

99. This policy explains the objectives of the employment section, primarily to grow employment from new and existing industrial sites. As such, it is not a land use and development policy in itself as it simply sets out the objectives. Therefore, I recommend deletion of this policy and incorporation of the text into the preceding explanatory paragraphs taking into consideration my comments regarding Policy EP3 below.
100. **Recommendation: in the interest of clarity, to meet the Basic Conditions, I recommend the deletion of Policy EP1 and the incorporation of the wording of this policy into the preceding text.**

### **EP2 Design of Employment Sites**

101. This policy seeks to ensure that new employment development is designed to be compatible with the area and does not have an adverse effect on residential amenity. This policy meets the Basic Conditions.

### **EP3 Existing Employment Sites**

102. The NPPF states at paragraph 22 that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Whilst support for existing employment sites in Policy EP3 has regard to national policy in respect to supporting economic growth, I consider that the first sentence stating that existing employment sites should remain in employment use does not have regard to paragraph 22 in the NPPF. Thus, I recommend the deletion of this first sentence in Policy EP3.
103. **Recommendation: to meet the Basic Conditions, I recommend modification to Policy EP3 by deleting the first sentence.**

### **EP4 New Development Employment Sites**

104. This policy seeks to encourage the provision of a significant number of jobs. This has regard to the national policy commitment to securing economic growth. This policy meets the Basic Conditions.

## **EP5 Employment Land Allocation**

### **EP6 Site Specific Requirements for Allocated Employment Land**

105. Policy EP5 allocates approximately 9.44 hectares of land for employment use. This includes site ES3, where only a small area is still available for development.
106. Policy EP6 lists site specific requirements for the allocated sites. These requirements include suitable access arrangements to the sites, the protection of the amenities of neighbours and site specific design constraints.
107. Representations have referred to an inadequate amount of employment land provision in the Plan. A representation has requested the reintroduction of site ES2 previously allocated in the Consultation Version of the Plan. I understand this was removed primarily for landscape reasons. In addition, a considerable number of representations have requested the allocation of the Old Mill Tip adjacent to Bridgeholme Industrial Estate.
108. There has been objection to site ES5 on the grounds that it would eventually encroach onto the historical High Peak Tramway and destroy a public footpath. I consider this is a matter to be considered in detail at a planning application stage and does not undermine the deliverability of the site. In addition, there is objection to some of the other employment site allocations, particularly to the financial viability of the allocation of land at Bowden Hay Farm. One representation suggests the extension of the boundaries of sites ES4 and ES5 to include all the land up to the A6.
109. The emerging Local Plan does not specify employment land sites for the Chapel-en-le frith Neighbourhood Plan Area. It does state that a minimum of 7.7 hectares of employment land is available within proposed allocations in the Neighbourhood Plan. I have been referred to emerging Local Plan supporting evidence in the Employment Land Requirement Study High Peak and Staffordshire Moorlands ELR Demand Update 2014.
110. The employment policies in the emerging Local Plan are yet to be examined and may be subject to future amendment. In the absence of strategic policy quantifying the amount of employment land, there are no adopted strategic policies upon which to base a more significant growth strategy.
111. Whilst the site selection has been criticised, the chosen sites have been subject to a robust consultation process. The employment land allocation policies together with the other employment policies in the Plan, as modified by my recommendations, are proactive policies which will contribute towards the achievement of sustainable development. The approach to employment land provision has regard to the NPPF where it recognises the building of a strong and competitive economy as being central to sustainable development. Thus, Policies EP5 and EP6 meet the Basic Conditions.

## **EP7 Bridgeholme Industrial Estate**

112. This policy supports improvement to the Bridgeholme Industrial Estate, subject to Green Belt constraints. It specifies that no extension into the Green belt will be permitted.
113. Many local people have objected to this policy with respect to it not allowing further extension of the industrial estate into the Old Mill Tip, which is within the Green Belt.
114. It is important to recognise that a Neighbourhood Plan cannot alter Green Belt boundaries. Green Belt policy in the NPPF at paragraph 87 states that *'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*. Whilst this is very restrictive policy, it does not preclude all development in the Green Belt. Therefore, I recommend the deletion of the last sentence of Policy EP7 which states that *'No extension into the Green Belt will be permitted'*. If any future proposal to expand the site met the stringent tests in Green Belt policy, alongside other national policy and development plan policy, there would be no reason to prevent an expansion of the site.
115. In the interest of precision, 'Green Belt requirements' should be replaced with 'Green Belt policy requirements' at the end of the second sentence.
116. **Recommendation: to meet the Basic Conditions with respect to having regard to national policy I recommend modification to Policy EP7 by the deletion of the last sentence and the policy to read as follows:**

**This site comprises a developed site within the Green Belt. Proposals which lead to the improvement, modernisation or upgrading of the buildings on the site will be welcomed and supported, subject to their meeting Green Belt policy requirements.**

## **TM1 Promoting Tourism**

### **TM2 Touring Caravan and Camping Sites**

117. These policies seek to encourage visitors to stay overnight and these policies support touring caravan and camping sites for this purpose rather than static caravan or lodge sites. I consider that this balance between the economic and social benefits of tourist accommodation and environmental protection will contribute towards the achievement of sustainable development.
118. In the interest of precision, I recommend that development that would improve the quality of existing sites is 'supported', rather than 'encouraged'.
119. **Recommendation: to meet the Basic Conditions, In the interest of precision, I recommend that 'encouraged' is substituted by 'supported' at the end of Policy TM2.**

### **TM3 Development for Community Use**

120. This policy seeks the provision of community facilities. In the interest of precision, I recommend that 'encouraged' is substituted by 'supported'.
121. The second sentence is a statement rather than a land use and development policy. Therefore, I recommend deletion of this sentence. It can be included as explanatory text accompanying the policy.
122. The Theatres Trust has suggested amendments to the wording of this policy. Particularly the inclusion of support for the retention of existing community facilities. Whilst such support would be in keeping with the Plan's Vision Statement, it is not necessary for it to be included in the policy in order for the policy to meet the Basic Conditions.
123. **Recommendation: to meet the Basic Conditions, I recommend modification to Policy TM3 to read as follows:**

**Proposals for community facilities, especially within existing settlement boundaries, will be supported. In the Peak District National Park area community facilities are only permitted through the conversion or change of use of existing buildings or by new build to replace an unsuitable facility, in which case it may be on the same site or another site by agreement with the planning authority taking all relevant planning considerations into account.**

### **Section 3: Town Centre**

#### **TC1 Extent of Chapel-en-le-Frith Town Centre**

124. Reinvigorating the Town Centre is a major aim of the Plan. This has regard to the NPPF where it seeks to support the viability and vitality of town centres.
125. Policy TC1 identifies the extent of the Town Centre. This Policy is a statement rather than a land use and development policy. As such, I recommend the deletion of Policy TC1 and the incorporation of the wording of this policy into the preceding text.
126. This Policy refers to a map of the Town Centre, which has been included in the evidence base, but not in the Plan. In the interest of clarity, the map needs to be incorporated into the Plan. This map differs slightly to that recommended as the town centre boundary in a report commissioned by HPBC: *Quantitative Retail Study Update, High Peak Borough Council and Staffordshire Moorlands District Council, October 2013*. However, the differences are primarily due to the Neighbourhood Plan including areas for proposed car parks. As such, I see no problem with this approach.

127. Representations on behalf of WM Morrisons Supermarkets Plc have requested that the Neighbourhood Plan defines the primary shopping area and has referred to the NPPF requirement for the definition of such area in local plans.
128. Whilst there is no reason why a primary shopping area cannot be included in a Neighbourhood Plan, this is not a requirement of a Neighbourhood Plan. Thus, the inclusion of a defined primary shopping area in this Plan is not necessary to meet the Basic Conditions.
129. **Recommendation: in the interest of clarity, to meet the Basic Conditions, I recommend the deletion of Policy TC1 and the incorporation of the wording of this policy into the preceding text. In addition, I recommend the Town Centre map in the evidence base is included in the Plan.**

### **TC2 New Retail Developments in Chapel-en-le-Frith Town Centre**

130. This policy seeks to encourage new retail development in the town centre. Large parts of the town centre are within Conservation Areas and English Heritage has expressed concern regarding possible conflict between new development and the protection of the historic environment. However, Policy TC6 seeks development in the Conservation Areas in the Town Centre to have regard to High Peak Local Plan conservation and heritage policies. Thus, I do not consider that modification is required to Policy TC2 in this respect.

### **TC3 Mixed Use in the Town Centre**

131. The Theatres Trust has requested reference to the protection of existing community assets and facilities within this policy.
132. Policy TC3 is a proactive policy underlying the aim to reinvigorate the town centre. Whilst the inclusion of the Theatres Trust suggestion would align with these aims, specific reference is not necessary for this Policy to meet the Basic Conditions.

### **TC4 Use of Redundant Buildings in Chapel-en-le-Frith Town Centre**

### **TC5 Use of Shop Upper Floors in Chapel-en-le-Frith Town Centre**

### **TC6 High Quality Town Centre Design**

133. These policies seek to reinvigorate the town centre. As such, they meet the Basic Conditions.

### **TC7 Small Local Shops**

134. Saved Policy TC5 in the High Peak Local Plan defines a small shop as being under 500m<sup>2</sup>.
135. Policy TC7 seeks to encourage small shops. It defines a small shop as under 280m<sup>2</sup> in Dove Holes and under 150m<sup>2</sup> in the other settlements. There is no robust evidence to justify either of these figures. The deletion of these arbitrary figures would ensure that this policy has regard to national policy, where it is committed to securing economic growth.
136. **Recommendation: To meet the Basic Conditions, I recommend modification to Policy TC7 by the deletion of the first sentence of the second paragraph - 'A small shop is defined as under 280m<sup>2</sup> in Dove Holes and under 150m<sup>2</sup> in the other settlements'.**

### **TC8 Partnership Working for Town Centre Developments**

137. Whilst this policy seeks to promote the future vitality of the town centre, it is not a land use and development policy. Therefore, I recommend the deletion of Policy TC8 and the incorporation of the wording of this policy into the preceding text.
138. **Recommendation: in the interest of clarity, to meet the Basic Conditions, I recommend the deletion of Policy TC8 and the incorporation of the wording of this policy into the preceding text.**

### **TC9 Regeneration of Chapel-en-le-Frith Market Place**

#### **TC10 Car Parking Reserved Sites**

139. I note that a study of existing parking patterns is due to be undertaken to inform a future parking strategy. The principle aim being to provide convenient parking space. Policy TC9 proposes the relocation of some parking spaces in Market Place, but only if there is suitable nearby replacement parking.
140. There has been considerable opposition to Policy TC9 from local people with regard to the impact of removing parking from the Market Place on the nearby retail and service businesses in the area.
141. A representation requests the reinstatement of the car parking proposal on Pickford Meadow previously proposed in the Neighbourhood Plan to help towards resolving the identified parking problem.
142. Identified parking problems are clearly going to be difficult to resolve. However, I consider that Policies TC9 and TC10, subject to detailed modifications as outlined below, will make a significant contribution towards maintaining the vitality and viability of the town centre. In the interest of

clarity, the Plan should include a map showing the locations of the sites allocated for additional car parking.

143. As regards the detailed wording of these policies, the first and last sentences in Policy TC9 are not land use and development policy. Thus, I recommend their deletion and incorporation into the preceding text. Likewise, sub-section f) in Policy TC10 is not a land use and development policy.
144. The High Peak Access Group has requested reference in Policy TC10 to the provision of accessible parking spaces to assist disabled people. I am satisfied that this can be considered as part of the detailed design of the proposed car parks.
145. **Recommendation: in the interest of clarity, to meet the Basic Conditions, I recommend the following:**

**modification to Policy TC9 to read: The redevelopment of Chapel-en-le-Frith Market Place, comprising the relocation of some parking spaces, restoration of the surfacing and the provision of seating and other street furniture, and high quality landscaping, will be supported. This will be subject to the provision of suitable nearby replacement car parking spaces elsewhere.**

**Delete sub-section f) in Policy TC10.**

**Include a map in the Plan indicating the locations of the sites allocated for additional car parking.**

#### **Section 4: Sustainable Transport and Movement**

##### **TR1 Information Required to Support Planning Applications**

##### **TR2 Partnership Working to Achieve Objectives**

##### **TR3 Transport Infrastructure Projects**

146. Section 4 of the Plan seeks to promote sustainable travel. In this respect, Policy TR1 has regard to National Policy to promote sustainable transport. Whilst Policies TR2 and TR3 contribute towards this objective, they are objectives and projects rather than land use and development policies. Therefore, I recommend these two policies are deleted and incorporated into the supporting text.
147. A representation has suggested additional detailed wording in Policy TR1, particularly with regard to the cumulative impact of traffic arising from development and a request for plans to show safe walking and cycle routes. Whilst these additions would be in accordance with the promotion of sustainable travel, I am only required to consider if the policy as it stands meets the Basic Conditions. As outlined above, I am satisfied that Policy TR1 meets the objective of promoting sustainable travel.



148. **Recommendation: in the interest of clarity, to meet the Basic Conditions, I recommend the deletion of Policies TR2 and TR3 as they are not land use and development policies and the incorporation of the wording of these policies into the supporting text on sustainable transport.**

## **Section 5: Countryside**

### **C1 Chapel-en-le-Frith Parish Special Landscape Area**

149. The adopted Local Plan includes a Special Landscape Area which lies partly within Chapel-en-le-Frith Parish. The extension to the Special Landscape Area in the Neighbourhood Plan has been derived from a combination of three sources. Firstly the Special Landscape Area previously established by HPBC. Secondly, the area of Primary Sensitivity in the Parish identified in Derbyshire County Council's *Areas of Multiple Environmental Sensitivity (AMES) Study*, as part of a landscape characterisation of the County. Thirdly, an area defined as 'Special Countryside' as a result of local public consultation. The combination has resulted in most of the countryside outside the built up area and outside the National Park as being designated as a Special Landscape Area, with a sub-category of areas identified by local people as being particularly special.
150. I have been referred to the *HPBC High Peak Local Plan Landscape Impact Assessment (January 2014)* prepared by Consultants Wardell Armstrong. I note this assessment is yet to be considered as part of the Examination of the emerging High Peak Local Plan. It does not recommend the extension of the Special Landscape Area to that proposed in the Neighbourhood Plan.
151. Consultants FPRC on behalf of Bloor Homes North West Ltd have indicated that the proposed Special Landscape Area in Policy C1 is not supported by either the Ames Study or the Peak District Landscape Strategy as they are looking at too large a strategic area and not intended to be used in specific allocations or do not undertake qualitative analysis of character areas to be used as a measure of the sensitivity or quality of a landscape. In addition, the consultants conclude that the local survey of residents is not a professionally informed assessment nor representative of the population. I concur with this view. For these reasons, I do not consider that the proposed extension to the Special Landscape Area is supported by a robust evidence base required to justify this designation.
152. Without the evidence base required, this policy approach to extending the Special Landscape Area does not have regard to the NPPF. In particular, it does not have regard to paragraph 113 in the NPPF which requires distinction between the hierarchy of designated landscape areas, so that protection is commensurate with their status. Therefore, to meet the Basic Conditions, I recommend the deletion of the extended Special Landscape Area from Figure 3.



153. I am only required to recommend the minimum modifications necessary to ensure that the Plan meets the Basic Conditions. Sometimes, there is more than one way for a Policy to be modified to meet the Basic Conditions. In this particular instance, I consider that there are two options and I leave the choice to the local community.
154. The deletion of the extension to the Special Landscape Area would still leave in place the designation of a Special Landscape Area as defined in the saved policies in the High Peak Local Plan. The Neighbourhood Plan is not required to include a policy for that existing Special Landscape Area, or indeed to make any reference to it on an accompanying map. As such, Policy C1 can be deleted from the Neighbourhood Plan in its entirety. However, if the local community would prefer to retain Policy C1 to apply to the existing Special Landscape Area as defined in the saved policies in the High Peak Local Plan, then subject to my detailed recommendations below, this would meet the Basic Conditions.
155. On the assumption that Policy C1 is retained to apply to the existing Special Landscape Area in the saved policies in the adopted High Peak Local Plan, I recommend revision to the wording in the first paragraph to accord with saved Policy OC3 in the High Peak Local Plan. The term ‘inappropriate development’ is not clearly defined in Policy C1. In the interest of clarity, I recommend the use of the wording in saved Local Plan Policy OC3, with regard to the need to protect the Special Landscape Area *from development that would detract from the special qualities and character of the area*.
156. In accordance with my recommended modifications to Policy H3, I recommend the deletion of reference to that policy.
157. **Recommendations: Option 1. To meet the Basic Conditions I recommend modification to Figure 3 to remove the extension to the Special Landscape Area and modification to the accompanying text to clarify that Policy C1 only applies to the existing Special Landscape Area in the adopted High Peak Local Plan.**

**Sub-section a) of Policy C1 to be modified to read as follows: In order to complement the conservation-focussed policies both in the plan and as set out in the adopted Local Development plan for the nationally-valued landscape of the Peak District National Park the Chapel-en-le-Frith Parish Special Landscape Area’s distinctive landscape character and key features will be protected from development that would detract from the special qualities and character of the Special Landscape Area and, where possible, enhanced for their environmental value and amenity use.**

**In addition, I recommend the deletion of the last sentence in sub-section b).**

**Option 2. As there is no requirement for a Neighbourhood Plan to include a Policy regarding an existing Special Landscape Area, if the local community does not wish to retain Policy C1 as modified above,**

**the deletion of Policy C1 in its entirety and the deletion of Figure 3 would meet the Basic Conditions.**

## **C2 Local Green Spaces**

158. Paragraph 77 in the NPPF states that: *The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

*where the green space is in reasonably close proximity to the community it serves;*

*where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*

*where the green area concerned is local in character and is not an extensive tract of land.*

159. I must emphasise that in order for an area to be designated as a Local Green Space, it has to meet all the criteria for designation. I realise that footpaths dissect some of the parcels of land. This is not in itself a reason to designate a parcel of land as a Local Green Space.

160. The Planning Practice Guidance advises that: *some areas that may be considered for designation as Local Green Space may already have largely unrestricted public access, though even in places like parks there may be some restrictions. However, other land could be considered for designation even if there is no public access (e.g. green areas which are valued because of their wildlife, historic significance and/or beauty). Designation does not in itself confer any rights of public access over what exists at present.*

161. I have spent a considerable amount of time looking at the areas proposed to be designated as Local Green Spaces. As there are a considerable number of proposed Local Green Spaces, for ease of reference, I refer to each parcel in accordance with the numbering on Figures 4 and 5 and the addresses in Table 1. Whilst this has resulted in a certain amount of repetition, it does make it easier for the local community to understand my views with regard to each individual site.

### **1. Small grass area between Primary School and Methodist Churchyard.**

162. Whilst I understand this land is owned by the Church, it appears to be used for some community events. Clearly it is close to the community, is demonstrably special and holds a particular local significance with regard to its use by the community, is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

## **2. Warmbrook area behind primary school.**

163. There is objection to this designation on behalf of HD Sharman Limited. It appears that the objection is to the extent of the site in a previous version of the Plan. The Examination Version excludes the fenced off land associated with that business.
164. The remaining area currently proposed to be designated as a Local Green Space comprises a green space with footpaths, weirs and trees. It is situated between dwellings with direct access from a number of residential properties. Clearly it is close to the community, is demonstrably special and holds a particular local significance with regard to its use by the community and its beauty, is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

## **3. Tramps' Garden.**

165. This is a small community park with historic interest. Clearly it is close to the community, is demonstrably special and holds a particular local significance with regard to its use by the community and its historic interest, is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

## **4. Orchard, Bowden Lane, between footpath to Bowden Hall and Kelsa Trucks.**

166. This is a small green space with mature trees within the built up area. Public view is obtained from Bowden Land and the footpath alongside the site. Clearly it is close to the community, is demonstrably special and holds a particular local significance with regard to its tranquillity in the built up area, is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

## **6. Land behind Dove Holes community land.**

167. This area includes a children's playground and playing fields. In addition it includes the Bull Ring Henge and Tumulus. Whilst it is a large site, I am satisfied that it is local in character and is not an extensive tract of land. In particular, it is contained to a considerable extent by development on three sides. Clearly it is close to the community of Dove Holes and is demonstrably special and holds a particular local significance with regard to its use by the community and its historic interest. I am satisfied that it meets the criteria for designation as a Local Green Space.

## **7. Target Wall Field and woodland adjacent to Warmbrook.**

168. There have been numerous representations regarding this site, both for and against the designation as a Local Green Space. I note the historical significance with regard to the former target wall, which was demolished in 1991.

169. The site is in a countryside location on the outskirts of the settlement, projecting into the wider countryside. As such, the character of the site is as part of the surrounding countryside, rather than local in character. Whilst there is public access along the footpaths, and these footpaths appear to be well used by the local community, there are many areas of countryside where footpaths allow public access.
170. It is not the purpose of the Local Green Space designations to include countryside land that provides wider views of the countryside. In my view, the site is a large area which projects into the open countryside and is part of the wider countryside rather than local in character. Thus, even with the historical significance and possible wildlife significance, I do not consider that this site meets the criteria for designation as Local Green Space.
171. There is objection to the designation of the area as Local Green Space on behalf of developers wishing to develop the site. My recommendation to delete the designation does not in any way suggest that the site is suitable for development. This is not something for my consideration under the Local Green Space criteria.

#### **8. Land around Combs Reservoir.**

172. These parcels of land border the reservoir. In this particular location, against the backdrop of the reservoir, I can see how they are demonstrably special to the local community and hold a particular local significance and I note the recreational value and wildlife value of these sites. They are local to the communities of Combs and Tunstead Milton. They are local in character in the context of the setting of the reservoir and are not extensive tracts of land. I am satisfied that they meet the criteria for designation as Local Green Space.

#### **9. Field adjacent to Combs School.**

173. This parcel of land on the edge of the village of Combs is used for local community events. Clearly it is close to the community, is demonstrably special and holds a particular local significance with regard to its use for community events is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

#### **10. Field in centre of Combs village.**

174. This small parcel of land in the centre of Combs makes a significant contribution to the tranquil and rural character of the village. Clearly it is close to the community, is demonstrably special with regard to its tranquillity, is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

#### **11. Spring Meadow, Whitehough.**

175. This site is visible from adjacent public rights of way. The site appears to have some ecological value, but otherwise, it is only a field adjacent to the

built up boundary to Chinley and adjacent to a development site. The location as a buffer between the proposed development and the Whitehough Conservation Area is not sufficient reason for designation.

176. From my observations at my site visit and having considered the evidence base and representations made both for and against this proposed designation, I do not consider there to be robust justifiable evidence to show that this site is demonstrably special to a local community or holds a particular local significance. Thus, I do not consider that this site meets the criteria for designation as Local Green Space.
177. There is objection to the designation of the area as Local Green Space on behalf of developers wishing to develop the site. My recommendation to delete the designation does not in any way suggest that the site is suitable for development. This is not something for my consideration under the Local Green Space criteria.

### **13. Fields between Homestead Way and Ashbourne Lane.**

178. These are fields on the edge of the built up area with public access via a footpath. I realise that they provide a green backdrop. However, so does a considerable amount of the surrounding countryside. I realise that the footpath is used by local residents. However, I do not consider there to be robust justifiable evidence to show that this site is demonstrably special to a local community or holds a particular local significance. Thus, I do not consider that this site meets the criteria for designation as Local Green Space.
179. There is objection to the designation of the area as Local Green Space on behalf of developers wishing to develop the site. My recommendation to delete the designation does not in any way suggest that the site is suitable for development. This is not something for my consideration under the Local Green Space criteria.

### **14. Land approaching Chapel-en-le-Frith South Station, between railways and Bank Hall Drive.**

180. This site is not local in character. It is countryside which provides a rural setting to Chapel-en-le-Frith when viewed from the Station. Footpaths around and across the site provide some public access. I do not consider there to be robust justifiable evidence to show that this site is demonstrably special to a local community or holds a particular local significance and the site is not local in character. Thus, I do not consider that this site meets the criteria for designation as Local Green Space.

### **16. High School Fields.**

181. These school playing fields are used by both the school and the local community. The playing fields are close to the community, are demonstrably special and holds a particular local significance with regard to their recreational value, are local in character and do not comprise an extensive

tract of land. I am satisfied that these fields meet the criteria for designation as Local Green Space.

**17. North and South of Manchester Road.**

182. These two fields are situated between Chapel-en-le-Frith and Cockyard and I note that one of the reasons in the evidence base for their designation is to provide a green buffer. This is not a reason for Local Green Space designation. I realise that there are open panoramic views out of and across the fields. However, from the evidence base, there is no robust justifiable evidence to support these fields as being demonstrably special and hold a particular local significance. In addition, they are not local in character as they are part of the wider countryside. Thus, I do not consider that these fields meet the criteria for designation as Local Green Space.

**18. Bowden Lane, between the Lodge Nursing Home and A624.**

183. This site is an area of considerably mature woodland. I note the historical significance of the historic tramway tunnel within the site. The site is close to the community, is demonstrably special and holds a particular local significance with regard to its historic interest, is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

**19. Fields around Black Brook, alongside tramway, between Longson's and Kelsa Trucks and land on the north side of Bowden Lane.**

184. This area of land is not local in character but instead has a wider open countryside character. I realise that it is situated within the built up area boundary and that the land further east is allocated for employment use. It may be that once the employment land is developed, the character of this site would alter to being contained within the developed area. At the present time, I see no robust justifiable evidence to support the designation of this land as Local Green Space.

**20. Field behind Morton's Yard, Tunstead Milton, between Randall Carr Brook and canal feeder.**

185. This is a contained area of open space on the edge of Tunstead Milton, which forms a tranquil riverside area. The site is close to the community, is demonstrably special and holds a particular local significance with regard to its tranquillity, is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

**21. Burnside Avenue, public green space.**

186. This is a small area of public open space on the edge of a modern housing estate. The area is on the edge of a brook and includes mature trees. It is used for informal play and social gatherings. The site is close to the community, is demonstrably special and holds a particular local significance with regard to its informal recreational use, is local in character and is not an



extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

**22. South Head Drive, small green space.**

187. This is a small green space used for informal recreation by local residents in the surrounding residential area. The site is close to the community, is demonstrably special and holds a particular local significance with regard to its informal recreational use, is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

**23. Bank Hall Drive entrance.**

188. This site lies between two sites in the process of being developed as residential sites. The dense mature trees provide a tranquil verdant setting between the residential areas and for existing residents in Long Lane. The site is close to the community, is demonstrably special and holds a particular local significance with regard to its tranquillity, is local in character and is not an extensive tract of land. I am satisfied that it meets the criteria for designation as a Local Green Space.

**24. Land South of Manchester Road.**

189. This site includes domestic garden areas and land on the periphery of Chapel-en-le-Frith between development along Manchester Road and the golf course. It is not usually appropriate to include domestic gardens as Local Green Space and, in this particular instance, I see no exceptional reason to include the domestic gardens.
190. The site is either domestic garden or countryside. As such it is either domestic or rural in character. I have no robust justifiable evidence to clearly indicate that the site is demonstrably special and holds a particular local significance. For these reasons, I do not consider this area meets the criteria for designation as Local Green Space.
191. **Recommendation: to meet the Basic Conditions, I recommend modification to Figures 4 and 5 and Table 1 to remove the Local Green Space Designations on sites 7, 11, 13, 14, 17, 19 and 24.**

**C3 Biodiversity**

192. The NPPF requires the planning system to contribute to and enhance the natural and local environment. Within the list of criteria in paragraph 109 is the requirement to *minimise impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity...*
193. Policy C3 has regard to the NPPF and thus meets the Basic Conditions.

#### **C4 Walking, Footpaths and Public Rights of Way**

194. The High Peak Access Group has requested that this policy refers to accommodating the needs of visually impaired people and disabled people in general. The policy does refer to *accommodating people of all ages and abilities*, which I feel covers this concern.
195. This policy has regard to the NPPF where it seeks to encourage new development to give priority to pedestrian and cycle movements where practical. Thus, this policy meets the Basic Conditions.

#### **C5 Protection of Local Valued Areas**

196. This policy refers to ‘valued local assets’ and refers to examples of harm to such assets. I have not been provided with a precise definition of, or a list of, valued local assets. In the interest of precision and enforceability, in the absence of such a definition or list as part of a justified evidence base, I do not consider this to be a land use policy for development control purposes.
197. **Recommendation: in the interest of precision and enforceability, to meet the Basic Conditions, I recommend the deletion of Policy C5.**

#### **Additional Policies**

198. Natural England has requested reference in the Plan to the importance of the Dark Peak Nature Improvement Area (NIA) and the South West Peak National Character Area (NCA) and Dark Peak NCA profiles. In addition, Natural England has requested that reference to the opportunities for Green Infrastructure is incorporated into the Plan.
199. I am only required to consider whether the Plan meets the Basic Conditions. Subject to the modifications I recommend above, I am satisfied that the Plan meets the Basic Conditions without these suggested additions.

### **Referendum and the Chapel-en-le-Frith Neighbourhood Development Plan Area**

200. I am required to make one of the following recommendations:
- the Plan should proceed to Referendum, on the basis that it meets all legal requirements; or
  - the Plan as modified by my recommendations should proceed to Referendum; or



- the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
201. **I am pleased to recommend that the Chapel-en-le-Frith Neighbourhood Development Plan, as modified by my recommendations, should proceed to Referendum.**
202. I am required to consider whether or not the Referendum Area should extend beyond the Chapel-en-le-Frith Neighbourhood Development Plan Area. I see no reason to alter or extend the Neighbourhood Development Plan Area for the purpose of holding a referendum.

**Janet Cheesley**

**Date** 30 January 2015

## Appendix 1 Background Documents

The background documents include

The National Planning Policy Framework (The Framework) (2012)

The Planning and Compulsory Purchase Act 2004

The Localism Act (2011)

The Neighbourhood Planning Regulations (2012)

The Planning Practice Guidance (2014)

Regulation 14 representations

Regulation 16 Representations

Supporting Documentation:

Consultation Statement

Basic Conditions Statement

SEA Screening Statement

HRA Screening Statement

Three files containing-

General Evidence

Countryside Evidence

Housing, Infrastructure/Economic and Transport Evidence

# Rolleston on Dove Neighbourhood Development Plan

## Submission Version

A Report to East Staffordshire Borough Council of the  
Examination of the Rolleston on Dove Neighbourhood  
Development Plan

By Independent Examiner Christopher Edward Collison

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Summary and Referendum

# 1. Neighbourhood Planning

The Localism Act empowers local communities to take responsibility for the development of planning policy for their neighbourhood through a Neighbourhood Development Plan. It is intended that the empowerment of neighbourhood communities can encourage community ownership of plans and their deliverability, and lead to more certainty for planning applicants and local residents.

The National Planning Policy Framework (the Framework) states that “neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”<sup>1</sup>

Neighbourhood development plans that are in general conformity with the strategic policies of the local development plan for the local area (and which together form the local development plan), and have appropriate regard to national policy, have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.

The Rolleston on Dove Neighbourhood Development Plan is a ‘frontrunner’ being nationally one of the earliest neighbourhood plans to progress, and the most advanced of 12 currently being prepared in East Staffordshire.

Rolleston on Dove Parish Council (the Parish Council) is a qualifying body able to lead the preparation of a neighbourhood plan. In October 2011, the Parish Council established a Steering Group, (the Steering Group), reporting to the Parish Council, to lead the production of the Rolleston on Dove Neighbourhood Plan.

## 2. The Plan area

The Neighbourhood Plan relates to the area that was designated by East Staffordshire Borough Council as a Neighbourhood area on 21 November 2012. This area is coterminous with the Rolleston on Dove Parish boundary. The settlement of Rolleston on Dove is located centrally within the Parish and is surrounded by much attractive countryside, most of which is actively farmed. The Neighbourhood Plan does not relate to more than one Neighbourhood area and so complies with that legal requirement.

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<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012)

### 3. Independent Examination

This report sets out the findings of the Independent Examination into the Rolleston on Dove Neighbourhood Development Plan (the Neighbourhood Plan). The report includes a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. Should the Neighbourhood Plan proceed to local referendum and achieve more than 50% of votes cast in favour, then the Neighbourhood Plan will be 'made' by East Staffordshire Borough Council (the Borough Council). Once 'made' the Neighbourhood Plan will in effect come into force and subsequently be used in the determination of planning applications in the plan area.

I have been appointed by the Borough Council, with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the Independent Examination. I am independent of both the Parish Council and the Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have more than 35 years professional planning experience and have held national positions and the Chief Planning Officer post in several areas.

As Independent Examiner I am required to produce this report and must recommend either:

- (a) that the Neighbourhood Plan is submitted to a referendum, or
- (b) that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- (c) that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

I make my recommendation in this respect in the final section of this report. If recommending that the Neighbourhood Plan is submitted to referendum my report must also recommend whether the area for the referendum should extend beyond the neighbourhood area to which the Neighbourhood Plan relates, and if to be extended, the nature of that extension. I make my recommendation regarding the referendum area also in the last section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.

In my Examination of the Neighbourhood Plan I am also required to check whether:

- (a) the policies of the Neighbourhood Plan relate to the development and use of land for a designated neighbourhood area;
- (b) the Neighbourhood Plan meets the requirements to: specify the period to which it has effect; not include provision about excluded development; and not relate to more than one neighbourhood area;
- (c) the Neighbourhood Plan has been prepared for an area that has been properly designated for such plan preparation;
- (d) the Neighbourhood Plan has been prepared and submitted for examination by a qualifying body.

Subject to the contents of this report I am able to confirm that I am satisfied that each of the above requirements has been met.

The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations<sup>2</sup>. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case.

In reviewing the written representations I have not seen any requests for a hearing. The Steering Group did state that if I am to attach significant weight to observations received from one source they feel they have been deprived of the opportunity to respond, which they would have had if the representations had been made at an earlier point in the Neighbourhood Plan preparation process.

If I had called a hearing I would have conducted it in such a way that it would not have been an opportunity for parties to address representations of others, nor would it have been an opportunity for parties to cross examine one another. I am of the opinion that all parties have had full opportunity to register their views and put their case forward. There are no issues arising from representations in respect of which I require clarification. I took the decision that I would not call a hearing and proceeded by examination of written representations.

## 4. Basic conditions

An Independent Examiner must consider whether a neighbourhood plan meets the “Basic Conditions”<sup>3</sup>. To meet the basic conditions and it be appropriate for a Neighbourhood Plan to be ‘made’ the Plan must:

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<sup>2</sup> Paragraph 9 of Schedule 4B of the Town and Country Planning Act 1990

<sup>3</sup> set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990

- 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 contained in the Development Plan for the area;
- does not breach, and is otherwise compatible with, EU obligations and human rights requirements.

These matters are considered in the later sections of this report titled 'The Neighbourhood Plan – Taken as a whole' and 'The Neighbourhood Plan – Neighbourhood Development Plan policies'.

## 5. Background documents

In undertaking this examination in addition to spending an unaccompanied day visiting the Rolleston on Dove area I have given consideration to each of the following documents:

- Rolleston on Dove Neighbourhood Development Plan Submission Version July 2013 (includes a map of the Plan area)
- Almost 900 representations received during the publicity period
- National Planning Policy Framework March 2012
- The Town and Country Planning Act 1990 (as amended)
- The Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012
- The Adopted East Staffordshire Local Plan, 2006 (saved policies edition)
- East Staffordshire Local Plan 'Planning for Change' Preferred Options Consultation document July 2012
- East Staffordshire Quality Homes and Choice SPD
- Rolleston on Dove's Neighbourhood Plan Appendices document
- Basic Conditions Statement
- Statement of Public Consultation
- Strategic Environmental Assessment Screening determination



- East Staffordshire Borough Council website pages relating to Planning Policy accessed 10 October 2013

## **6. Consultation**

Having examined the nature and scale of consultation involved in preparation of the Neighbourhood Plan my first reaction is to congratulate those volunteers involved for a remarkable effort designed to ensure all parts of the community had full opportunity to shape the future of Rolleston on Dove. I doubt there are many Rollestonians who are unaware of the preparation of the Neighbourhood Plan.

Community engagement has been at the heart of the plan preparation process with use of a range of techniques designed to reach different sectors of the community, especially those who rarely are involved in community matters or who experience difficulty in making their views heard.

The first newsletter was circulated to every home in December 2011 and copies placed on a website and notice boards. Bitterly cold weather could not deter the enthusiasm of volunteers holding drop in sessions and canvassing outside shops. Meetings were held with significant groups and organisations and information was displayed at community events.

A particularly important step was the delivery of questionnaires to 1,450 households. This was rewarded with a high response rate of 38%. The presentation of a detailed analysis of the returns at Appendix 2 to the Plan demonstrates that policy development has a strong grounding in local opinion. This is a particular strength of the Neighbourhood Plan as is the fact that newsletter production and distribution has been maintained and further consultation events have been held to explore matters of detail. The consultation events held in August and September of 2012 related to technical assessments of the availability, suitability and deliverability of potential development allocation sites and selection of locations for growth to be included in the plan as site allocations.

The Regulation 14 Pre-Submission consultation took place in the six week period ending 25 March 2013 and the subsequent six week Regulation 15 consultation concluded on 5 September 2013.

## **7. The Neighbourhood Plan – Taken as a whole**

The Rolleston on Dove Neighbourhood Plan clearly states that it relates to a plan period 2012 to 2031 and so satisfies that legal requirement. The Plan section relating to the local context setting out a schedule of past development schemes is

particularly helpful in painting a clear picture of how the settlement has grown over the last 80 years in terms of numbers of dwellings and their location.

This section of my report considers whether the Neighbourhood Plan taken as a whole has regard to national policies and advice contained in guidance issued by the Secretary of State, and whether the plan contributes to the achievement of sustainable development. Each of the Plan policies is considered in turn in the section of my report that follows this.

### EU obligations and human rights requirements

Although no equalities impact assessment has been undertaken the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

No Habitats Regulations Assessment (HRA) screening statement has been produced. Neither the Neighbourhood Plan documentation nor representations received suggest that such a screening is appropriate. There are no habitats that would trigger an assessment in the Plan area and indeed the Borough Council has confirmed that Habitats information is not required.

A Strategic Environmental Assessment Screening Determination was made on 8 July 2013 concluding that an Environmental Assessment of the emerging Neighbourhood Plan is not required as it is unlikely to have significant environmental effects. This Screening Determination has been published on the Parish Council website, and with the other Neighbourhood Plan documents on the Borough Council website. The Environment Agency has confirmed in writing that it has no comment to make on the SEA Screening Determination.

I consider that the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements and therefore satisfies that Basic Condition.

### Regard to national policies and advice contained in guidance issued by the Secretary of State, and contribution to the achievement of sustainable development

The Framework states that neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.<sup>4</sup> The Neighbourhood Plan clearly has a depth of support in the local community. Although many were to a standard format and wording the vast majority of the representations received were supportive of the Neighbourhood Plan.

The Neighbourhood Plan includes five objectives:

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<sup>4</sup> Paragraph 183 National Planning Policy Framework 2012

- Objective 1: The community accepts some new homes are necessary but these should be built in the most sustainable and least impacting areas of the village, preserving the village atmosphere for future generations.
- Objective 2: The preservation of the village of Rolleston on Dove to prevent merging into the suburbs of Burton and the villages of Stretton and Tutbury, thereby losing its important identity.
- Objective 3: The protection of green open space used for sport and recreation.
- Objective 4: For the scale of development to be in keeping with the village. In particular, large housing developments are not acceptable within the village.
- Objective 5: Developments should meet the housing needs of the local community and be designed to be in keeping with the existing properties in the village.

Subject to comment below these objectives are consistent with, and have regard to, national policies and advice and illustrate how the Neighbourhood Plan aims to contribute to the achievement of sustainable development. I am particularly impressed by the use of the term 'preserving the village atmosphere'. This is a more powerful term than character which is often used in plan making. Atmosphere encapsulates the idea that a place is more than a physical concept but also includes emotional sensibility and mood. It recognises people use and experience places. This in itself goes some distance in grounding the Neighbourhood Plan in sustainability.

Whilst 'preserving' may be acceptable in relation to village atmosphere I consider the use of the term 'preservation of the village' in objective 2 is less acceptable in that it carries with it a perception of resistance to change and this would not be consistent with national policy which has at its heart a presumption in favour of sustainable development.

The technique used in the Neighbourhood Plan to present a grid demonstrating the link between plan objectives and each of the plan policies is a fine example of best practice. These grids identify for every policy exactly which objectives the policy is addressing. They reveal objective 2 is linked to the policies relating to housing provision, the housing site allocations, and the settlement development boundary. These are policies that are central to the issue of development and growth. I consider these in detail in the next section of my report. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking<sup>5</sup>.

<sup>5</sup> Paragraph 14 National Planning Policy Framework 2012

National policy is that neighbourhoods should plan positively to support development.

### **Recommended Modification**

**Objective 2 should be amended to read:**

**“To maintain Rolleston on Dove as a distinct and separate place, to prevent merging into the suburbs of Burton and the villages of Stretton and Tutbury, thereby losing its important identity”**

In this way the objective would more closely have regard to, and sit more comfortably, with the Framework aims of delivering a wide choice of high quality homes and of conserving and enhancing the natural environment. These Framework aims are reflected in Objective 1 where it is accepted that some new homes are necessary. Indeed the preface to the plan states that “the purpose of the plan was to ensure that the Parish grew in accordance with the community’s wishes.” Objective 3 clearly supports the Framework aims of conserving and enhancing the natural environment and promoting healthy communities. Objective 4 and Objective 5 support the Framework aims of requiring good design and delivering a wide choice of high quality homes.

The Neighbourhood Plan states “It is a fundamental principle of the Localism Act and the National Planning Policy Framework that neighbourhood plans are permissive planning tools that must plan positively for growth. The policies reflect a process which the community has engaged with, fully understanding of the particular need to plan for future growth over a plan period to 2031”<sup>6</sup>. There is clearly evidence of regard being given to national policy as set out in the Framework. Additionally the consideration of matters necessitated by the Environmental Assessment screening determination process has provided a further platform to successfully demonstrate that the Neighbourhood Plan contributes to the achievement of sustainable development. Subject to the modification indicated I find that the Neighbourhood Plan, taken as a whole, has regard to national policies and advice contained in guidance issued by the Secretary of State and contributes to the achievement of sustainable development. I examine the detail of each policy of the Neighbourhood Plan in turn later in this report and find the need to recommend other modifications.

### General conformity with the strategic policies contained in the Development Plan for the area

The Framework states that the ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible.

<sup>6</sup> Paragraph 4.5 Rolleston on Dove NDP

Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.<sup>7</sup>

Statutory weight is given to neighbourhood development plans that are in general conformity with the strategic policies of the development plan for the local area, and have appropriate regard to national policy. This ensures neighbourhood plans cannot undermine the overall planning and development strategy for the local area set out in the development plan for the local area.

The East Staffordshire Local Plan 2006 was adopted and saved for three years under the Planning and Compulsory Purchase Act 2004 on the 20<sup>th</sup> July 2006. Those policies still considered relevant in 2009 were saved until such time that they would be replaced by an updated plan. The Adopted East Staffordshire Local Plan, 2006 (saved policies edition) is still part of the 'development plan' for the area. Now that the RSS and Structure Plan saved policies have been abolished, the Development Plan consists of:

- The Adopted East Staffordshire Local Plan, 2006 (saved policies edition)
- Staffordshire and Stoke on Trent Minerals Local Plan 1994-2006 (saved policies)
- Staffordshire and Stoke on Trent Joint Waste Local Plan 2010-2026

The Minerals and Waste Local Plans do not appear to impact in any particular way on the Neighbourhood Plan and the Neighbourhood Plan does not include matters that relate to policies of those plans. Additionally Minerals and Waste are excluded matters for the purposes of policy making in Neighbourhood Plans. Indeed I will take this opportunity to confirm that the Rolleston on Dove Neighbourhood Plan does not relate to any excluded matters.<sup>8</sup>

As the Adopted East Staffordshire Local Plan, 2006 (saved policies edition) predates the Framework, the Framework takes precedence where there is a conflict. The policy of the adopted Development Plan that specified the scale of housing provision has lapsed as it was not one of the saved policies. Policies not saved cannot now be used in determining planning applications nor be taken into account when assessing whether a Neighbourhood Plan is in general conformity with the strategic policies of the Development Plan.

The emerging Local Plan has been through a number of stages and the Borough Council held consultations at: Issues and Options (2007); Strategic Options (2011); Preferred Options (2012); and the Pre-submission consultation stage has almost been reached during the examination of the Neighbourhood Plan. The

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<sup>7</sup> Paragraph 184 National Planning Policy Framework 2012

<sup>8</sup> as set out in section 61K of the Town and Country Planning Act 1990 (as amended)

Neighbourhood Plan preparation process has been proceeding through its necessary stages since the formation of the Steering Group by the Parish Council in October 2011. The two tiers of plan making have been advancing in parallel.

The fact that there is an emerging Local Plan is a situation that applies in many local authority areas. The Framework deals with the issue of prematurity of policy. This states that, “from the day of publication, decision takers may also give weight to relevant policies in emerging plans according to,

- The stage of preparation in the emerging plan (the more advanced the preparation, the greater the weight that may be given)
- The extent to which there is unresolved objections to relevant policies; and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the Framework”.<sup>9</sup>

The East Staffordshire Local Plan has some way to go to reach adoption and it is evident that there are unresolved objections in respect of policies relevant to Rolleston on Dove. There is no statutory requirement for Neighbourhood Plan preparation to be held up awaiting completion of the Local Plan preparation process.

In England, historically, statutory forward planning has tended to be a continuous cyclical process with review commencing soon after adoption. There has been a history of more than one tier of plan making occurring simultaneously and a recurring characteristic has been plan preparation timescale slippage. Multi-tier forward planning can at its best be a mutually influencing iterative process capturing the advantages of both bottom-up and top-down approaches. Local Plans can benefit from being informed by Neighbourhood Planning processes and Neighbourhood Plans can benefit from being informed by Local Plan processes.

There are also advantages to be gained from the sharing of evidence gathering and analysis. To be wholly successful in maximising the benefits there is a requirement for organisations leading plan preparation to actively collaborate. There is limited evidence of close collaborative working in the documentation I have reviewed. It has to be added that much of the relevant work was undertaken in the very earliest days of the introduction of Neighbourhood Planning nationally and since that time the Borough Council has established dedicated staffing resource to support Neighbourhood Plan preparation locally.

The Neighbourhood Plan has been advanced ahead of the Local Plan. Neighbourhood Plan preparation is intended to be relatively straightforward and experience is showing it is capable of achievement by local communities within a period of two years. Given the slow rate of progress in Local Plan preparation in some areas it may not be uncommon for Neighbourhood Plans to be ahead of Local

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<sup>9</sup> Paragraph 216 National Planning Policy Framework 2012



Plans. Indeed the Rolleston on Dove Neighbourhood Plan is ahead of the Local Plan.

If the Neighbourhood Plan is ultimately 'made' it will be part of the Development Plan for the area and the Local Plan will need to give due regard to the policies of the Neighbourhood Plan. Some people may see this as the tail wagging the dog but the reality is that this is one aspect of the nature of localism. The relative speed of Neighbourhood Plan preparation offers the advantage that local communities can establish a degree of certainty in situations where otherwise an absence of up-to-date policy would leave uncertainty, which in itself can present a barrier to development and delivery.

I have seen nothing to suggest that the pace of all Development Plan preparation should be determined by the slowest tier. Rather it would seem that national policy has been to encourage and support early Neighbourhood Plan production in areas generally, and not linked to progress in Local Plan preparation. The statutory framework does not prevent a Neighbourhood Plan containing a housing provision policy where the Development Plan does not contain a strategic housing provision policy. Ultimately the Basic Conditions require assessment whether a Neighbourhood Plan is in general conformity with strategic policies contained in the Development Plan for the area. That Plan is the Adopted East Staffordshire Local Plan, 2006 (saved policies edition) and it is the strategic policies of that plan that I have made the assessment against.

## **8. The Neighbourhood Plan – Neighbourhood Development Plan policies**

### **Policy H1: Housing requirement**

This policy seeks to meet a housing requirement of 85 dwellings over the plan period. The Borough Council has submitted representations that the figure of 85 dwellings is not in conformity with the emerging Local Plan in that Rolleston on Dove is a Tier 1 or 'strategic village' and as such has a strategic allocation of housing development over the plan period 2012- 2031 that equates to 100 dwellings plus 25 windfalls. This 'strategic village' designation is not accepted in several of the representations received, and is opposed by the Parish Council.

The agent for the landowners of the strategic allocation site identified in the emerging Local Plan agrees that the housing needs of the village should be met, but they should be assessed in association with the needs of the Borough which may

require development in excess of the village needs. Additionally the agent considers the housing requirement in the Neighbourhood Plan to be insufficient and unreasonable. The agent states, “As no up-to-date Local Plan is in place the Neighbourhood Plan has worked, to a certain extent in a vacuum. For this reason alone it is not practical or reasonable to progress and adopt the Neighbourhood Plan because it has not received strategic guidance and cannot be seen to be in conformity with the Local Plan.” The agent also comments, “The Neighbourhood Plan cannot be adopted at this present time and is likely to require significant amendment once the Local Plan is published.”

I have dealt with the issue of the emerging Local Plan above. I concluded that I must base my assessment whether the Neighbourhood Plan is in general conformity with the strategic policies of the Development Plan for the area on the Adopted East Staffordshire Local Plan, 2006 (saved policies edition). I have also concluded the statutory framework does not prevent a Neighbourhood Plan containing a housing provision policy in circumstances where the Development Plan does not contain a strategic housing provision policy.

The Framework requires Local Planning Authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. I consider Neighbourhood Plans, where they include policies quantifying housing requirements, should demonstrate objective assessment.

Appendix 5 to the Neighbourhood Plan entitled ‘The logic for the housing numbers. The site selection process’ seeks to explain how the Neighbourhood Plan “has arrived at the housing requirement in Policy H1”. I will examine in turn each of the three components presented in the justification for the overall housing requirement namely:

- Rolleston on Dove’s role as a settlement;
- Rolleston on Dove’s infrastructure capacity;
- housing needs

#### Rolleston on Dove’s role as a settlement

The Steering Group strongly disagrees with the classification of Rolleston on Dove as a Strategic Village in the emerging Local Plan for the following reasons:

- the scoring system is unsound and incorrect with respect to Rolleston on Dove;
- Rolleston on Dove is not a strategic village in terms of the function it performs and its capacity to support growth of a scale considered by the Borough Council as ‘strategic’;
- the threshold of 100 dwellings to define strategic sites is arbitrary



It is contended that the Borough Council score of 53 points in the Settlement Hierarchy assessment (July 2012) should be reduced. Representations already made that would reduce the village score by 5 points had not been accepted by the Borough Council. The representations were that the scout headquarters building cannot count as a community building as it is in use every weeknight by the scouts; the Jinny Inn is not within the necessary distance from the village centre; and food sales at the newsagents are insufficient for the shop to be classified as a village store.

The Steering Group contend there are other reasons to reduce the score namely: the closure of Craythorne Golf Club; the closure of the Methodist Chapel in the near future; and the indication that the Brookhouse Hotel including restaurant will close. These other factors would remove 4 points which alone would reduce the score to 49 resulting in a potential Tier 2 classification for the village. Tier 2 villages are expected to deliver 20 to 40 dwellings. The Steering Group consider facilities and amenities are being lost but more houses are being built resulting in additional strain on the remaining infrastructure.

#### Rolleston on Dove's infrastructure capacity

The Steering Group express particular concern regarding the ability of the John of Rolleston Primary School to accommodate additional child numbers resulting from development in the plan area. It is contended pupil numbers generated by development of 85 dwellings could be accommodated within the 22 places available but 125 dwellings would generate 26 children resulting in an over-capacity situation. It is further contended that nearby schools will not be able to offer capacity. Whilst I appreciate the sustainable development arguments relating to the minimisation of travel I have afforded this aspect of the justification little weight as the Education Authority is able to make adjustments to provision in areas generally, and in any case parental choice results in fluctuations of pupil numbers based on a range of factors not least Inspection reports assessing the performance of a school.

The Neighbourhood Plan refers to a further factor described in terms of being an infrastructure constraint, namely, inadequate provision and access to GP surgery facilities in the wider area. Again I have afforded this point little weight as I consider this is a matter that can change rapidly over time not least through interventions by the proper authorities with responsibility for commissioning health facilities. In the case of both education and health facilities I note the Framework requires neighbourhoods to plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan.

## Housing needs

The Steering Group state that the Rolleston on Dove Housing Needs Survey 2010 identified a local need for 9 dwellings, later reduced to 6 by the Borough Council, suggesting local needs are low. The Steering Group anticipate newly arising requirements will not be significant. They also anticipate the emerging Local Plan will reduce affordable housing provision thresholds resulting in provision from the allocated sites in the Neighbourhood Plan.

Appendix 5 also shows that the 85 dwelling allocation is based on voting by villagers in a questionnaire. The level of provision supported by 80% of villagers is utilised but no justification is set out for this opinion cut-off point.

The Steering Group advocate deduction of provision resulting from permissions pre-dating the plan period from the total housing requirement. The Borough Council states that their approach as used in the Local Plan, and also advocated by the agent to the owners of the emerging Local Plan strategic allocation site, is to deduct from the housing requirement for each settlement, dwellings given planning permission from 1<sup>st</sup> April 2012. This is a different approach to that taken in the Neighbourhood Plan in which sites under construction as at 1<sup>st</sup> April 2012 are counted against the housing requirement. The Borough Council has submitted information showing 23 dwellings have been granted planning permission since 1<sup>st</sup> April 2012. They contend that this figure should be deducted from the housing requirement rather than the 36 dwellings figure used in the Neighbourhood Plan.

The important consideration is that there should be no double counting. Development can only be taken into account once, either as a commitment, or as a completion. The choice will depend on the plan preparation method adopted. The approach advocated by the Borough Council is one frequently utilised in Local Plan preparation whereby housing requirement is calculated taking into account a range of factors including population and household size projections with a migration adjustment, and taking into account planning permissions already granted. In this case completions in the plan period relating to permissions granted prior to the plan period will not be counted against delivery of the housing requirement. They have already been taken into account and should not be double counted.

By contrast the housing requirement adopted by the Parish Council is based on a simpler method driven in large part by the paucity of population and household size data at the appropriate spatial level. The method deployed set out in Appendix 5 utilises the framework provided by the emerging Local Plan and presents a justification based in part on re-classification of Rolleston on Dove within the settlement hierarchy. Other factors are brought into the method namely local school capacity, assessed housing need, and derived local opinion. GP surgery health

services are referred to in the Neighbourhood Plan. Given the relative simplicity of selection of a housing requirement level no assumption has been included regarding commitments in the form of planning permissions. On this basis it is acceptable to treat the housing requirement figure as a start point for the plan period and then, as the Parish Council have done, count both completions and new commitments as delivery categories.

The agent acting for the owners of the strategic site identified in the emerging Local Plan states “No justification exists for including the windfall number in the total and no evidence exists to suggest these sites will come forward.” Policy H1 states that an element of provision will be delivered within the village through small-scale development on windfall sites. The plan includes some evidence that such sites have consistently become available in the local area however evidence that they will continue to provide a reliable source of supply is limited to the identification of sites evaluated in order to determine the currently proposed allocations. The policy is however in general conformity with policy H2 Large Windfall Sites in the Adopted Local Plan.

The Steering Group state in Appendix 5 that “it is understood and accepted by the Steering Group that Policy H1 cannot set a dwelling ‘ceiling’ whereby there will be no more residential development once 85 dwellings have been delivered. It represents a housing requirement that, based on the available evidence, is considered to strike an appropriate balance between the need to plan for growth, the sustainability of Rolleston on Dove as a rural settlement and the assessed housing needs of the population.” I recommend that the wording of Policy H1 should be modified to reflect this understanding and acceptance.

In areas where an up to date adopted Local Plan exists this will provide a strategic context for Neighbourhood Plan preparation. I have expressed the view that a Neighbourhood Plan can progress ahead of a Local Plan. In these circumstances the housing requirement must be assessed locally. It is unrealistic to expect a small settlement will have the capacity to assess housing requirements across an entire Borough Council area and then determine the role that settlement will play in that wider context. Population, household size and migration projections are notoriously resource hungry. In the case of Rolleston on Dove the Neighbourhood Plan Steering Group have turned to the emerging Local Plan to provide a framework within which to determine the role the settlement will play in the wider area. The Steering Group see that the basis of housing requirement for Rolleston on Dove set out in the emerging Local Plan is related to the classification of the village in the settlement hierarchy. Their approach to adopt this method would seem to be appropriate and proportionate.

The Neighbourhood Plan has been progressed on the basis that Rolleston on Dove should not be classified such that it would be required to perform the role as a

strategic settlement. This has been based on analysis of actual and anticipated changes to facilities and amenities in the plan area, analysis of local primary school capacity, and consideration of local housing need. Subject to the observations I have already made I find there is a basis to conclude that local housing requirement has been objectively assessed with a degree of consideration of the wider area context, and that this has been explored to a method and degree of penetration that is proportionate and appropriate to the resources available to a Neighbourhood Plan strategy group. The Neighbourhood Plan preparation process is in effect utilising the spatial framework provided by the emerging Local Plan but interpreting the situation differently.

Settlement hierarchies are subject to change over time not least through the interplay of population change and service level provision which adds weight to the need for adequate monitoring arrangements. Given the social importance and human rights aspects of meeting housing need I consider housing requirements should not be left without review for 18 years to the end of the plan period. I therefore recommend Policy H1 explicitly incorporates a commitment to review. Policy H1 currently refers to H4 whereas H5a and H5b would be more appropriate.

### **Recommended Modification**

**Policy H1 should be adjusted to read “An assessed housing requirement of 85 dwellings will be met over the plan period 2012 to 2031 on the sites identified in Policies H5a and H5b, and on windfall sites, and on sites already granted planning permission. The housing requirement does not represent a ceiling on development and will be objectively assessed through independent review at five year intervals throughout the plan period. Such reviews may lead to additional housing land allocations. ”**

This modification will necessitate consequential Plan document text adjustments.

### **Policy H2: Housing types**

This policy seeks to achieve up to 50% of the new dwellings across the allocated housing sites to be appropriate for occupation by older persons. This overall requirement can be delivered either across all allocated housing sites or predominantly on a single allocated housing site, with lower levels of such housing provided on the remaining allocated housing sites. Any planning application coming forward proposing housing on one of the allocated sites will be assessed against the outstanding ‘balance’ of housing appropriate for older persons which is still required to be delivered during the plan period in the parish.

The Framework states that to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community such as older people. The Neighbourhood Plan policy is consistent with this approach and seeks to ensure provision of the type of housing that reflects local demand.

Policies and guidance within the East Staffordshire Quality Homes and Choice document support proposals for homes designed and located for older persons to contribute towards creating mixed communities, however the guidance focuses on this type of development being more achievable on large housing schemes of over 150 units or applications for extra-care schemes. The Neighbourhood Plan includes a calculation to forecast the number of retirement properties required in the plan area. This suggests that approximately 50% of the new dwellings proposed for Rolleston on Dove should be properties appropriate, in terms of size and layout, for people of retirement age.

No viability assessment has been presented to demonstrate this requirement would be deliverable however representations by the agent for the owners of one of the allocated sites has stated the owners are willing to bring the site forward in the plan period and that there is considerable developer interest being expressed in the site. It is further confirmed the site could accommodate the number of dwellings envisaged comprising a mixture of houses to include one and two bedroom properties that would be suitable for occupation by older people and that any housing on the site could include a provision for Lifetime Homes.

The wording of Policy H2 utilises the term “up to 50%”. This could be satisfied by little or no provision. The approach to trade-off provision between sites reflected in the wording of the policy is written to reflect a situation where there are more than two allocated sites.

### **Recommended Modification**

**Policy H2 should be amended to read:**

**“50% of new dwellings on allocated housing sites shall be designed to be appropriate for occupation by elderly persons. Land owners may co-ordinate their proposals so that the overall requirement is met but not necessarily equally on both sites. Planning applications will be assessed against the outstanding balance of provision. Such properties shall fulfil both of the following criteria:**

- Achieve ‘Lifetime Homes’ standards, particularly in respect of wheelchair access.**
- Be either 1 or 2 bed properties.**

**Any development should aim to protect the environment and meet recognised best practice.”**

### **Policy H3: Affordable housing priority**

This policy seeks to ensure people with some form of proven housing need and a demonstrable local connection will have priority in respect of new-build affordable housing for social rent and existing social housing.

Policies must relate to the development and use of land. The allocation of existing social housing is purely an issue of housing management and is not appropriate for inclusion as a policy in a Neighbourhood Development Plan.

It is inappropriate for Housing register bands to be used within the policy wording as a way of describing the criteria for occupation of affordable housing in the plan area. The definition of bands could be subject to change and therefore the policy would no longer be relevant or correct. The policy should be reworded with reference to 'local people with a local connection' and the criteria selected by the local community outlined within either the policy or supporting text.

#### **Recommended Modification**

**Policy H3: Delete the wording and insert "All planning permissions that include affordable housing will be subject to a Section 106 agreement requiring occupation of the affordable housing by people with a local connection. The agreement will ensure that the benefits arising from affordable housing pass on to subsequent occupants."**

### **Policy H4: Affordable housing provision**

This policy seeks affordable housing provision. The Framework states that where local planning authorities have identified that affordable housing is needed, they should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.

Since neither of the allocated housing sites in Rolleston on Dove is large enough to trigger the Borough Council affordable housing threshold of 25 dwellings, the policy envisages all affordable housing is to be provided through the existing housing stock or regeneration of current affordable housing land. The mix of affordable properties



that are for social rent or intermediate tenure is left for future agreement between the Borough Council, the Registered Provider, and the Parish Council.

The Housing Needs Survey revealed a requirement for 9 affordable properties in Rolleston on Dove. There can be no guarantee that this assessed need, and any newly arising affordable housing needs, will be met through the policy. The Neighbourhood Plan indicates that this matter will be subject to monitoring and in particular a new housing needs survey will be undertaken during the plan period. Given the identified local need and desire to encourage affordable housing provision I recommend the policy is modified to create a positive context for the formulation of proposals.

### **Recommended Modification**

**The wording of Policy H4 should be amended to read “Proposals for affordable housing will be supported subject to the following criteria:**

- **The homes would be occupied by people with a local connection;**
- **Proposals would assist in meeting local affordable housing needs in terms of housing types, and mix of social rent, intermediate housing and shared ownership.”**

### **Policy H5a: Housing allocations and phasing – Land at Knowles Hill and**

### **Policy H5b: Housing allocations and phasing – Land off Shotwood Close**

I have seen nothing in the statutory framework pertaining to Neighbourhood Plan preparation that requires housing allocations policies to make up the full total of provision that would meet assessed requirements. It is acceptable for a community to identify sites that they would like to see developed but leave other provision to later decision responding to planning applications coming forward. The disadvantage of reduced certainty regarding precise location is counterbalanced by possible increased certainty of delivery in that live proposals are being assessed.

Site identification and selection processes have been extensive and inclusive, open to all to participate. The Strategic Housing Land Availability Assessment work of the Borough Council has been utilised and extended through processes designed to identify additional sites for evaluation.

The plan includes a statement of justification regarding the phasing stipulation. It is stated that the phasing in the policy seeks to ensure that all the allocated sites do not come forward in the first few years of the plan period, which would potentially subject the key services in Rolleston on Dove to unacceptable levels of strain.

The Neighbourhood Plan identifies John of Rolleston Primary School and the local GP health services as the principal services that will experience the greatest direct impact as a result of new development. With respect to the school the Neighbourhood Plan concludes that additional pupil numbers generated by the whole of the housing provision over the plan period can be accommodated. Similarly all of the five GP surgeries within two miles of Rolleston on Dove are reported in the Neighbourhood Plan to be accepting new patients. This situation does not provide justification for the inclusion of phasing requirements in respect of the housing site allocations.

Agents acting for the owners of the site on land at Knowles Hill request that the phasing of the site should be altered so as to enable the site to come forward at an early stage so as to meet the housing requirements of the village. It is further stated that the site is identified in the Borough Strategic Housing Land Availability Assessment as being deliverable, developable, suitable and achievable for development; and capable of being developed within 0 to 5 years. As the site is confirmed by the owner's agent to be capable of being brought forward at an early stage I recommend the phasing requirement is deleted. Given that the Framework encourages boosting the supply of housing I can see no justification for retention of a phasing requirement in respect of the second housing allocation site either.

The Environment Agency would welcome inclusion of text in relation to the two housing development allocation sites which specifies that sustainable drainage systems should be used and where appropriate provide wildlife areas, ponds, swales and permeable paving.

#### **Recommended Modifications**

- **Delete the phasing requirement in both Policy H5a and Policy H5b.**
- **Add to both policies "Sustainable drainage systems should be used and where appropriate should provide wildlife areas, ponds, swales and permeable paving."**

### **Policy D1: Green spaces within new residential development**

This policy seeks to ensure that where appropriate new residential development schemes should include public green open space provision and all new houses built should include front gardens of sufficient size to plant at least one tree. Off-site contribution in lieu of on-site provision is not considered appropriate in respect of open space or trees. The policy is consistent with the achievement of social benefits not least in respect of health and well-being contributing to sustainable development.



It would appear from the supporting text that the intention is to have trees planted but the policy as drafted merely requires space sufficient to plant a tree. The Framework recognises appropriate landscaping to be a factor in achieving visually attractive development. I recommend the wording of the policy is modified to reflect this approach.

#### **Recommended Modification**

**In Policy D1 Delete “all new houses built (i.e. excluding flatted development) shall include front gardens of sufficient size to plant at least on tree per dwelling” and insert, “the layout and design of every new housing scheme shall include landscaping proposals that provide front gardens to every property with the planting of an appropriate tree in every garden.”**

### **Policy D2: Residential storey heights**

This policy seeks to ensure that no new residential development or extension to residential property should be more than two storeys in height. There is strong community support for this approach that seeks to emphasise the rural character of Rolleston on Dove as distinct from the urban nature of nearby Burton on Trent. The objective is to ensure schemes are in keeping with the rest of the village and protect views into and out of the village. Observations have been made to point out that three storey buildings do exist in the village which I can confirm. Apart from the concentration of three storey property in the relatively recent development in the vicinity of Garrett Square I saw very few three storey dwellings in the plan area.

On this basis I recommend paragraph 5.8 should be adjusted to refer to the predominant characteristic. The Framework refers to understanding and evaluation of the defining characteristics of an area and whilst important to promote or reinforce local distinctiveness appropriate innovation should not be discouraged. Innovation can manifest itself within the constraint of a maximum storey height creating variety and interest in design achieving a sense of place and identity while respecting and enhancing the built as well as the natural and historic forms of the surroundings.

#### **Recommended modification**

**Delete “rest” insert “predominant characteristic”.**

### **Policy D3: Energy efficiency of new developments**

This policy seeks to ensure energy efficiency in new developments. This issue is one that is relevant in almost all communities. This raises the question at what level of planning policy should energy efficiency be addressed. The Framework states that local planning authorities should avoid duplicating planning processes for non-

strategic policies where a neighbourhood plan is in preparation. On this basis I conclude an energy efficiency policy can be appropriate for inclusion in a neighbourhood plan where it introduces a distinct approach to be applied locally.

The policy as drafted presents a number of difficulties. 'Very highest standards' is an imprecise term. The use of adopted nationally described standards is desirable. The Code for Sustainable Homes and the BREEAM<sup>10</sup> standard for non-residential buildings are nationally recognised standards for measuring the sustainability of buildings. Both standards require energy efficiency of buildings beyond the standards set by the Building Regulations but also assess water efficiency, waste and recycling, pollution, health and wellbeing, and construction materials. It would be possible to require Code of Sustainable Homes Level 4 or even Level 5 or beyond. The Government has published a cost review of achieving the different levels of the Code for Sustainable Homes. Similarly the BREEAM 'very good' standard could be utilised.

The present policy drafting presents other difficulties. The fact that a technology or system is visible is not in itself sufficient reason to resist a proposal. The term value is imprecise. The Framework refers to special architectural or historic interest as the justification of conservation area status. The Framework approach to conserving and enhancing the historic environment is not limited to conservation areas but extends to all heritage assets.

#### **Recommended Modifications**

- **Delete “the very highest standards of energy efficiency” insert “Code for Sustainable Homes Level 4 and BREEAM non-residential very good standard.”**
- **After “highly visible” add “and are harmful to visual or residential amenity.”**
- **Delete “value” and insert “special architectural or historic interest”**
- **After “Conservation Area” add “or other heritage assets”**

#### **Policy D4: Parking standards for new residential development**

This policy seeks to ensure a minimum standard of off-road car parking provision. The Framework recognises that local parking standards may be appropriate taking into account matters that include the type of development; availability and opportunities for public transport; and local car ownership levels. No justification is given in the Neighbourhood Plan why single dwellings would be exempt. The Framework applies to all developments. The cumulative impact of a number of infill or other single dwelling schemes can cause vehicle movement difficulties in an area.

<sup>10</sup> Building Research Establishment Environmental Assessment Method

I recommend all residential development schemes should include off-road car parking provision.

#### **Recommended Modification**

**Delete “of more than one dwelling.”**

### **Policy D5: Materials and refuse bin storage for residential development**

This policy seeks to ensure that new residential properties are faced with appropriate materials and that where wheelie bins are stored at the front of properties they are concealed. These matters are appropriate for local determination and are consistent with the Framework aim of requiring good design. The Framework states neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Whilst the Framework states that planning policies should aim to ensure that developments respond to local character and history, and reflect the identity of local surroundings and materials, they should not prevent or discourage appropriate innovation. I recommend that this is reflected in the policy. As waste collection services could vary over time I recommend that the use of other containers should be included.

#### **Recommended Modifications**

- **After “roofs.” add “Schemes incorporating alternative materials may exceptionally be acceptable where they are innovative and enhance visual amenity.”**
- **After “wheelie bins” add “or other containers”**

### **Policy OS1: Development outside the settlement boundary**

This policy seeks to establish a strong presumption against any development outside the settlement boundary of Rolleston on Dove particularly if development serves to reduce the gap between the village and Horninglow and Stretton. This approach does not have regard to national policy in two fundamental respects.

Firstly the Framework establishes a presumption in favour of sustainable development. The application of the presumption has implications for how communities engage in neighbourhood planning. Critically it means that neighbourhoods should plan positively to support local development, shaping and directing development in their area. The Framework states that unless material considerations indicate otherwise decision takers should approve development proposals without delay. The adopted development plan for East Staffordshire is

silent with regard to the strategic consideration of the volume of housing development. Where the development plan is silent the Framework states that decision makers should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate development should be restricted.

Figure 6.1(Village settlement boundary) associated with Policy OS1 maps a tightly drawn village development boundary. I have seen no evidence to confirm the capacity of the area included within the boundary to accommodate the development of sufficient numbers of dwellings to facilitate the achievement of the housing requirement over the plan period that is identified in Policy H1. The particular justification referred to in the Neighbourhood Plan relating to development that serves to reduce the gap between the village and Horninglow and Stretton does not justify the approach adopted in the Neighbourhood Plan where a tightly drawn development boundary is established in every direction. In this respect I find Policy OS1 does not have regard to the Framework.

Secondly the approach adopted in Policy OS1 does not have regard to the Framework in another respect. The Framework aims to support a prosperous rural economy. The Framework states Neighbourhood Plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;
- promote the development and diversification of agricultural and other land-based rural businesses;
- and support sustainable rural tourism and leisure developments

It would be possible to construct a policy wording that defines a countryside area and establishes that planning permission will be granted only for development appropriate to the countryside or for the efficient working of the countryside; sites allocated for development; replacement dwellings; and appropriate extensions to dwellings in the countryside. It would in particular be possible to establish that there is a clear presumption against development which serves to reduce the green gap between Rolleston on Dove and the settlements of Horninglow and Stretton. This approach would overcome the second fundamental issue I have identified but would not however overcome the first fundamental issue identified above relating to the failure of the Neighbourhood Plan to plan positively to support local development.

I am of the opinion that the restriction on development arising from the implementation of Policy OS1 is not in accord with the national approach set out in the Framework. I recommend that the policy should be deleted so that the Neighbourhood Plan has regard to national policy with respect to the need for plan

making to positively seek opportunities to meet the development needs of their area and to support the needs of a prosperous rural economy. I am aware of Policy NE1: Development outside Development Boundaries and Inset number 12 Rolleston on Dove, within the Adopted East Staffordshire Local Plan, 2006 (saved policies edition).

### **Recommended Modification**

**Delete Policy OS1 and paragraph 6.3 including Figure 6.1: Village settlement boundary**

### **Policy OS2: Protection of local green spaces of community value**

This policy builds on local opinion that there are green spaces that should be protected from development. The Framework recognises that local communities, through neighbourhood plans, should be able to identify for special protection green areas of particular importance to them. The Local Green Space designation should only be used where the green space is local in location and character and is special to the local community holding a particular local significance. One representation emphasises the importance of the Knowles Hill frontage to fields with which I agree. I have given consideration to the question whether a bridleway, which Fiddlers Lane appears to be, is suitable for designation as a Local Green Space. I have concluded that there is nothing to suggest that a bridleway should not be designated as a Local Green Space. I do feel however that the identification map is unhelpful in that it includes a wavy boundary extending significantly into adjacent and nearby land. This point applies equally to the way that The Old Dove Site of Special Scientific Interest is mapped.

Representations have been made on behalf of the owners of the College Playing Fields that the site has no authorised recreational or leisure role and is not public open space. Opposition to the designation of this site has also been expressed in representations from Sport England. The Framework sets out examples of how a green area may be demonstrably special to a local community. Beauty, historic significance, recreational value (including as a playing field), tranquillity, or richness of wildlife are set out as examples. The basis for inclusion of the site as an area for protection of local green space stated in the Neighbourhood Plan is that the College Playing Field is “ the best drained sports facility in the area” and “ it is currently used completely free of restrictions by a large number of dog walkers, joggers etc for recreational purposes.” Whilst ownership and access are not issues that will necessarily preclude land from inclusion as Local Green Space they are relevant when the basis of designation is, as in this case, use. On my site visit I did not see anything to indicate that this land was available for public recreational use. In addition I cannot identify any particular feature of this land that would distinguish it

from the vast majority of other land surrounding the village nor can I see that it has any particular merit for special designation. I conclude, following a site visit, that this site does not meet the criteria for inclusion and should be deleted from the list in the policy.

I have visited all the other proposed sites and whilst noting that they include a wide variety of types, sizes and functions of green spaces I can appreciate the reason for inclusion of all of them and concur that designation will be consistent with the Framework and will contribute to sustainable development. I would comment that Rollestonians are fortunate to have such a wealth of green spaces that make an important contribution to the amenity of the area.

### **Recommended Modifications**

- **The map showing the location of Fiddlers Lane should identify the precise boundaries of the land to be designated as a Local Green Space.**
- **The map showing the location of The Old Dove Site of Special Scientific Interest should identify the precise boundaries of the designated SSSI.**
- **The College Playing Fields be deleted from the list in Policy OS2.**

### **Policy OS3: Protection of views of local importance**

This policy seeks to preserve views considered by residents to be of high aesthetic value being the most important views of surrounding land from the village. The policy wording is however imprecise in that direction of view from the bridge is not defined, other than by photograph, nor is there clarity from where the view of the fields on the north side of Station Road is to be seen. Neighbourhood Plans should provide clarity to decision makers. A preferable approach is to identify important countryside frontages that should be kept free from development to protect the setting, character and appearance of the village.

#### **Recommended Modification**

**Delete the wording of Policy OS3 and insert “Development will be strongly resisted when located in areas identified as important countryside frontages.”**

It will be necessary to define the boundaries of the important countryside frontages in map form to be presented as a Figure in the Plan document.

### **Policies IN1, IN2 and IN3: Infrastructure Provision**

These three policies relate to elements of community infrastructure identified by the local community as lacking, or in need of improvement. The first and second policies identify community requirements and give an indication how they can be financed and delivered. The third policy seeks to encourage greater use of public transport



and other alternatives to car borne movement as well as seeking to encourage increased use of local services and shops through provision of increased car parking facilities.

The agent for the owners of the strategic housing allocation site included in the emerging Local Plan has objected to the inclusion of the site referred to as the College Field for return to an operational sports ground. This in itself is an obstacle to implementation. I have concerns more generally that the facilities referred to in the Infrastructure policies IN1, IN2, and IN3 have no certainty of implementation. Funds referred to, resulting from contributions from development occurring within the plan period, will be limited and no evidence is provided to suggest that other funding, including grants, have been, or will be secured. No sites have been identified for the community centre, the allotment space, or for the additional parking facilities. On this basis I consider the projects are aspirational with no certainty of delivery and whilst appropriate for inclusion in the Neighbourhood Plan they should be presented within the general text as indications of intent, but not included as policies. The Framework envisages Neighbourhood Plans will be shaping and directing development and be deliverable.

### **Recommended Modification**

**That Policies IN1, IN2, and IN3 should be deleted.**

The projects should continue to be included in the Neighbourhood Plan in general text as they represent proposals that the community is seeking to achieve.

## **Summary and Referendum**

The examination will be of particular interest locally given the strong participation in the Neighbourhood Plan preparation process, not least in terms of almost 900 representations on the submission version plan, but also in the massive effort that has been expended throughout the plan preparation process. A huge number of hours of work have been contributed voluntarily. Rollestonians have engaged with passion and vigour in much hard work to achieve a sustainable plan for their community. Rolleston on Dove parish clearly has a strong community spirit where people care enormously about the place they live or work in. This resource is a valuable asset.

Also this being the first examination in East Staffordshire there will be interest from within the other 11 communities in the Borough engaged in Neighbourhood Planning. There will also be interest nationally at a time when the extent of the limit on localism in Planning is uncertain. The right to local choice has widespread support but there is a need to consider how local ambition is aligned with strategic priorities of the wider local area especially where there is no up-to-date Local Plan.

The interplay of local objectives, requirements and wishes, with the strategic aims and direction of district and national policy, presents a challenging operating environment for those involved in establishing a way forward.

Although active collaboration between the Parish and Borough tiers of Local Government has been less than strong I am of the opinion that resources designed to facilitate this are now in place and that a way forward can be found.

I consider the Rolleston on Dove Neighbourhood Plan closely reflects views held widely in the local community and establishes, subject to the modifications I have recommended, a realistic and achievable vision for development and change within the plan area. I am satisfied that the Neighbourhood Plan meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified, meets the basic conditions namely:

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies contained in the Development Plan for the area;
- does not breach, and is otherwise compatible with, EU obligations and human rights requirements

**I am pleased to recommend to East Staffordshire Borough Council that the Rolleston on Dove Neighbourhood Development Plan should, subject to the modifications I have put forward, proceed to referendum.**

I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. In all the matters I have considered I have not seen anything that suggests the referendum area should be extended beyond the boundaries of the plan area as they are currently defined. I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area defined by East Staffordshire Borough Council on 21 November 2012.

The Neighbourhood Plan includes a small number of typographical errors that I will draw to the attention of the Borough Council and Parish Council in a separate letter.

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