

## **DECISION STATEMENT (Regulation 18(2))**

### **NEIGHBOURHOOD DEVELOPMENT PLAN PROCEEDING TO REFERENDUM**

#### **1 Marchington Neighbourhood Development Plan**

1.1 I confirm, that the Marchington Neighbourhood Development Plan, as revised according to the modifications set out below, complies with the legal requirements and basic conditions set out in the Localism Act 2011, and can therefore proceed to referendum. The referendum will be held on 15<sup>th</sup> September 2016.

1.2. I also declare that I have no personal or prejudicial interest in respect of this decision.

Signed



Sal Khan  
Head of Service

#### **2. Background**

2.1 On 5<sup>th</sup> February 2014, Marchington Parish Council requested that, in accordance with Regulation 5(1) of the Neighbourhood Planning (General) Regulations 2012 (“the Regulations”), their parish area be designated as a neighbourhood area, for which a Neighbourhood Development Plan will be prepared.

2.2 The Council confirms that for the purposes of section 5 (1) of the Regulations the Parish Council is the “relevant body” for their area.

2.3 In accordance with Regulation 6 of the Regulations, East Staffordshire Borough Council placed on their website these applications, including parish boundary maps, details of where representations could be sent, and by what date, for a six week period (10<sup>th</sup> February to 24<sup>th</sup> March 2014). In addition, it publicised the application by issuing a press release, although maps and individual letters did not appear with this. Similarly, the

relevant application, together with details of where representations could be sent, and by what date, were advertised within the appropriate parish via the Parish Council.

2.4 The Borough Council designated the Neighbourhood Area by way of Executive Decision of the appropriate Deputy Leader on 7<sup>th</sup> April 2014.

2.5 In accordance with Regulation 7, the decision to designate the Neighbourhood Area was advertised on the Council website together with the name, area covered and map of the area.

2.6 The Parish Council consulted on a pre-submission version of their draft Neighbourhood Development Plan between 28<sup>th</sup> September and 8<sup>th</sup> October 2015, fulfilling all the obligations set out in Regulation 14. A further round of Regulation 14 consultation was undertaken by the Parish Council between 4<sup>th</sup> January and 16<sup>th</sup> February 2016.

2.7 The Parish Council submitted their Neighbourhood Development Plan to East Staffordshire Borough Council in March 2016 in accordance with Regulation 15.

2.8 The Borough Council publicised the submitted Neighbourhood Development Plan and its supporting documents for 6 weeks between 7<sup>th</sup> April and 20<sup>th</sup> May 2016 in accordance with Regulation 16.

2.9 Ms Deborah McCann was appointed to examine the Neighbourhood Development Plan, and the Examination took place in June 2016.

2.10 The Examiner concluded he was satisfied that the Neighbourhood Development Plan was capable of meeting the legal requirements set out in the Localism Act 2011, including meeting the Basic Conditions, subject to the modifications set out in his report (see table below).

2.11 Schedule 4B s.12 to the Town and Country Planning Act 1990 requires that a local authority must consider each of the recommendations made in the Examiner's report and decide what action to take in response to each recommendation. If the authority is satisfied that, subject to the modifications made, the draft Neighbourhood Development Plan meets the legal requirements and Basic Conditions as set out in legislation, a referendum must be held on the making of the Neighbourhood Development Plan by the Borough Council. (If the local authority is not satisfied that the Neighbourhood Development Plan meets the Basic Conditions and legal requirements then it must refuse the proposal.) A referendum must take place and a majority of residents must vote in favour of the Neighbourhood Development Plan before it can be 'made'.

2.12 The Basic Conditions are:

1. Has regard to national policy and guidance from the Secretary of State
2. Contributes to sustainable development

3. Is in general conformity with the strategic policy of the development plan for the area or any part of that area
4. Does not breach or is otherwise compatible with EU obligations – this includes the SEA Directive of 2001/42/EC
5. The making of the Neighbourhood Plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species regulations 2010(d) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats &c) regulations 2007 9(e) (either alone or in combination with other plans or projects).

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

| Examiner's Recommendation   | Section in Neighbourhood Development Plan Examination Document | ESBC comments              | Additional/new text if applicable   |
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| <p><b>For clarity I suggest the following minor modification (see final column)</b></p> | <p>Policy DP1, page 30</p>                                     | <p>Agreed, for clarity</p> | <p><b>Overall Policy –DP1 Sustainable Development Principles (all objectives)</b></p> <p><b>A. Planning Permission will be granted for development in Marchington Parish at a scale and in locations that accord with the policies set out in the Neighbourhood Plan where it can be shown that the development would support the community by:</b></p> <p><b>1. Providing new homes, to meet the development requirements of approximately 20 new dwellings as</b></p> |

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|  |  |  | <p><b>identified in the adopted East Staffordshire Local Plan, also taking into account the setting and character of the village and addressing local housing demand needs in terms of size, type and tenure.</b></p> <p><b>2. Providing a high standard of design and an appropriate location, ensuring that new buildings especially housing, meet contemporary construction, energy efficiency and water management standards and reflect the character of the surroundings.</b></p> <p><b>3. Providing other forms of development which meet the economic, social and environmental needs of the area and are appropriate in terms of scale, location and design.</b></p> |
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|  |  |  | <p><b>4. Ensuring that potential for ground pollution is taken into account and, where necessary, measures taken to manage this threat through a pollution prevention plan.</b></p> <p><b>5. Providing superfast broadband (fibre optic) connection, unless it can be demonstrated through consultation with NGA Network providers that this would not be either possible, practical or economically viable. In such circumstances sufficient and suitable ducting should be provided within the site and to the property to facilitate ease of installation at a future date.</b></p> <p><b>B. Demonstrating that new development has regard to the principles set out in the Neighbourhood Plan and is located to ensure that it does not adversely affect the</b></p> |
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|  |                            |                            | <p><b>following:</b></p> <ol style="list-style-type: none"> <li><b>1. The amenity of nearby residents</b></li> <li><b>2. The character and appearance of the local area in which it is located.</b></li> <li><b>3. Social, built, historic, cultural and natural heritage assets.</b></li> </ol> |
| <p><b>The second paragraph lacks clarity, National Policy does not require Flood Risk assessments for all developments, to seek to exceed the requirements would not have regard to national policies and advice contained in guidance issued by the Secretary of State and therefore not meet the Basic Conditions. Whilst I do not think it is the intention of this policy to exceed National Policy requirements it is unclear. It should also</b></p> | <p>Policy DP2, page 31</p> | <p>Agreed, for clarity</p> | <p><b>In line with the requirements of national policy and advice from the Environment Agency and/or Staffordshire County Council proposals for new build development must be accompanied by a site- specific flood risk assessment.</b></p>   |

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| <p>be noted that it is not necessary for Neighbourhood Plans to repeat National Policy. The second paragraph should be reworded as follows:</p> <p>(see final column)</p>   |                            |   |   |
| <p>This policy seeks to require the use of S106 agreements to deal with issues which are most appropriately dealt with as part of the application process or by condition and therefore fails to have regard to national policies and advice contained in guidance issued by the Secretary of State and does not meet the Basic Conditions. I suggest the following minor modification:</p> <p>(see final column)</p> | <p>Policy AB2, page 36</p> | <p>Agreed, to meet the basic conditions</p> | <p><b>Policy AB2 Development principles on the site of the former Marchington Barracks</b></p> <p>Proposals for the re-use and/or redevelopment of the former barracks site and buildings, will be supported subject to meeting the following criteria, (where they are relevant to the proposed use):</p> <ul style="list-style-type: none"> <li>- Achieving a satisfactory relationship with the Industrial Estate &amp; Forestside.</li> </ul> |



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|  |  |  | <ul style="list-style-type: none"><li>- <b>Demonstrating that the impact on existing open space, wildlife habitats and woodland has been considered and mitigation measures are included where necessary.</b></li><br/><li>- <b>The scale of development takes account of longer views of the site from public footpaths and the higher ground of Marchington Cliff.</b></li><br/><li>- <b>If practicable, measures to improve connectivity (pedestrian/cycle links) between Forestside and the Industrial Estate and (if possible) onto the village.</b></li><br/><li>- <b>Proposals should include a drainage strategy to include details of how surface water run off and drainage requirements of the development are adequately dealt with, and do not add further to</b></li></ul> |
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|   |                           |                            | <p><b>flooding and foul drainage problems.</b></p> <ul style="list-style-type: none"> <li>- <b>Proposals should be accompanied by any necessary contaminated land and/or ground conditions report to ensure that any on site problems identified can be adequately identified and where necessary mitigation measures be put in place.</b></li> <li>- <b>Proposals should include acknowledgment of the past military use and local heritage value of the site.</b></li> </ul> |
| <p><b>This policy does not clearly set out the material planning considerations usually taken into account when assessing the impact of proposals on residential amenity. I suggest the following minor modification.</b></p> | <p>Policy H1, page 38</p> | <p>Agreed, for clarity</p> | <p><b>Policy H1 Smaller infill sites – general criteria (objective 2)</b></p> <p><b>In principle development will be supported on small sites on previously developed land and in large gardens, within the settlement boundary</b></p>  |

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| <p><b>(see final column)</b></p> |  |  | <p><b>subject to the following criteria:</b></p> <p><b>i - There is no adverse impact on the residential amenity of neighbouring properties through: loss of privacy; overshadowing; overbearing by a building or structure; car parking; removal of mature vegetation or landscaping and additional traffic resulting from the development.</b></p> <p><b>ii - Tandem development must have direct highway frontage access.</b></p> <p><b>iii –Conservation Area and Listed Building requirements are met.</b></p> <p><b>iv –The requirements to reflect local character (Policy BE1) are met.</b></p> <p><b>v - The provision of natural landscaping, including native trees, hedgerows, wetland areas and the</b></p> |
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|   |                       |                                      | retention or incorporation of habitats for small mammals, birds and insects.  |
| <p><b>The wording of this policy is a little confusing.</b></p> <p><b>It is assumed that this policy refers to non-designated heritage assets – a term used within the National Planning Policy Framework.</b></p> <p><b>For clarity I suggest the following minor modification:</b></p> <p><b>(see final column)</b></p> | Policy BE2, page 42   | Agreed, for clarity                  | <p><b>Policy BE2 Protecting and enhancing local non-designated heritage assets (objective 3)</b></p> <p><b>All development proposals will be required to take into account the character, context and setting of local non-designated heritage assets (see Appendix 1) including important views towards and from the assets. Development will be required to be designed appropriately, taking account of local styles, materials and detail. The loss of, or substantial harm to a locally important asset will be resisted, unless exceptional circumstance can be demonstrated.</b></p> |
| <p><b>The intention of this policy is protect existing</b></p>  | Policy CFOS2, page 47 | Agreed, to meet the basic conditions | <b>Policy CFOS2 Existing Open Spaces (Objectives 3</b>  |

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| <p><b>open spaces from unsuitable development.</b></p> <p><b>Policy designations seeking to control or preclude development must be supported by appropriate evidence. This policy requires modification in order to meet the Basic Conditions because of the use of the phrase “and other small open spaces throughout the Parish”</b></p> <p><b>These areas have not been identified or any evidence provided to support the inclusion of this “catch all” element of the policy.</b></p> <p><b>In order to meet the Basic Conditions, I therefore suggest the following minor modification.</b></p> <p><b>(see final column)</b></p> |  |  | <p><b>&amp; 6)</b></p> <p><b>Existing open spaces and recreation facilities will be protected from development. Proposals which would reduce the quality or quantity of these facilities may only be permitted where the existing facilities are re provided to a better quality or quantity in a location agreed by the Parish Council.</b></p> <p><b>In addition to those areas proposed to be designated as Local Green Spaces under Policy CFOS3, the areas of land covered by this policy include:</b></p> <p><b>the Bowling Green and Tennis courts in Marchington Village</b></p> <p><b>the school playing fields at St Peters First</b></p> |
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|   |                     |   | <p><b>(Primary) school</b></p> <p><b>the Denstone College Preparatory School playing fields (Smallwood Manor).</b></p>                |
| <p><b>This policy seeks to designate various areas of Marchington Parish as Local Green Spaces (as illustrated on the inset plan forming part of the Neighbourhood Plan). In considering the appropriateness of these proposed designations and whether or not these designations would meet the Basic Conditions it is necessary to have reference to the National Planning Policy Framework and in particular paragraphs 76 and 77 as set out below.</b></p> <p><b>Paragraph 76 of the National Planning Policy Framework</b></p> | <p>Policy CFSO3</p> | <p>Agreed, to meet the basic conditions</p> | <p><b>Delete CFOS3 C from policy and Inset Map.</b></p> <p><b>Add 'Forestside Recreation Area' to Policy CFSO2 and Inset map.</b></p> |

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| <p><b>“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.</b></p> <p><b>Paragraph 77 of the NPPF</b></p> |  |  |  |
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| <p><b>“The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:</b></p> <p><b>where the green space is in reasonably close proximity to the community it serves;</b></p> <p><b>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</b></p> <p><b>where the green area concerned is local in character and is not an extensive tract of land.”</b></p> <p><b>In my consideration of this policy I have also had regard to representations made. I conclude</b></p> |  |  |  |
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| <p>that the areas referred to as A- the recreation ground and B- the community orchard off Green Lane meet the requirements of paragraph 77 and therefore the Basic Conditions. I am however not convinced that the area identified as C. The playing fields and woodland on/adjoining the former barracks site does meet the tests of Paragraph 77 having reviewed the evidence for the inclusion of this area within the policy. I have reviewed the “Marchington Neighbourhood Plan Landscape Character &amp; Built Environment Assessment Area” document and the references to the area are as follows:</p> <p>“1a Forestside is mainly two storey terraced post war housing in a rural setting. A lack of parking creates untidiness. This could be</p> |  |  |  |
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| <p><b>improved by using areas of adjacent land for parking. There is a lack of community buildings and facilities in Forestside.</b></p> <p><b>Area 1b This is derelict barrack blocks surrounded by scrubland and mature trees. It is a neglected brownfield site which could be greatly improved by re-development without a negative impact on Forestside or the main part of the village. Re-development could be enhanced by a footpath/cycle way to the village shop, school, church and public houses.</b></p> <p><b>Overall, it is considered that new housing could be built in area 1b, with no adverse impact on the village character, but limited in scale, with improvements to Forestside and located so that it does not conflict with 1c (the</b></p> |  |  |  |
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| <p><b>Industrial Estate).’</b></p> <p><b>There is nothing in this document to suggest that this area is:</b></p> <p><b>“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;’</b></p> <p><b>In addition, the owner of the land states that there no public access to most of the land.</b></p> <p><b>Although the area of land in question is large I do not consider it to be “extensive”.</b></p> <p><b>I recognise the community support for the inclusion of area C within the policy but cannot</b></p> |  |  |  |
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| <p><b>agree that the area as currently included within the policy meets the requirements of paragraph 77 of the NPPF and therefore does not meet the basic conditions in this respect.</b></p> <p><b>In conclusion, 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 reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements I am of the opinion that no substantive or compelling evidence has been presented for the inclusion of site C.</b></p> <p><b>In order for this policy to meet the basic conditions under paragraph 8(2) of Schedule 4B and that national the designation of site C</b></p> |  |  |  |
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| <p><b>must be deleted.</b></p> <p><b>I have however given consideration as to whether or not the more limited area – known as the Forestside Recreation Area (forming part of area C) would be more appropriately located within Policy CFOS2 Existing Open Spaces (subject to the suggested modification) to include only the area currently leased for recreational use as illustrated in the letter from Barton Willmore dated 19<sup>th</sup> of May 2016. I find that this reduced area can be added to policy CFOS2 and would then meet the Basic Conditions.</b></p> |                            |   |  |
| <p><b>This policy seeks to impose higher standards of sustainable construction than national standards. Whilst it is possible to encourage</b></p>  | <p>Policy LE1, page 51</p> | <p>Agreed, to meet the basic conditions</p> | <p><b>Policy LE1 Local Employment (Objective 7)</b></p> <p><b>Proposals for the development of new small</b></p> |

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| <p><b>the use of higher standards a Neighbourhood planning policy cannot insist upon them and I suggest that the following minor modification:</b></p> <p><b>(see final column)</b></p> |  |  | <p><b>business units and for the expansion or diversification of existing small scale units will be permitted, providing that:</b></p> <p><b>a) it can be demonstrated that there will be no significant adverse impact resulting from increased traffic, noise, smell, lighting, vibration or other emissions or activities generated by the proposed development;</b></p> <p><b>b) it would not have an unacceptable impact on the character and scale of the site and/or buildings, by virtue of its scale or design, or on the setting in the local landscape;</b></p> <p><b>c) where relevant, opportunities are taken to secure the re-use of vacant or redundant historic buildings (designated and non-designated).</b></p> |
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|  |  |  | <p><b>Development proposals for the provision of new employment space should demonstrate how they meet national standards for sustainable construction to ensure that provision has been made for:</b></p> <p><b>a) Improved broadband connections.</b></p> <p><b>b) Access by pedestrians and cyclists</b></p> <p><b>c) Sustainable drainage management system</b></p> |
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Several minor changes have been made to the plan to update it post-examination, including changing the front page to 'Referendum Version, July 2016' and making some small changes to the foreword and 'next steps' section.

The phrase 'will have been' has been deleted from the Vision on page 30 to correct a grammatical error.

3.2 The Council concurs with the view of the Examiner that:

- subject to the modifications above, the Neighbourhood Development Plan meets the Basic Conditions set out in para. 2.11 above; and that
- the referendum area should be coterminous with the neighbourhood area.

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

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

<http://www.eaststaffsbc.gov.uk/planning/planning-policy/neighbourhood-plans/marchington>