

---

# Representations to the Draft Deepings First Neighbourhood Plan

## *Land off Millfield Road*

---

On behalf of Lincolnshire County Council,  
Corporate Property Team

## Contents

1.	Introduction	1
2.	Land off Millfield Road, Market Deeping	3
3.	Planning Policy Context	4
4.	Representation to Draft Neighbourhood Plan Policy DNP2	11
5.	Representation to Draft Neighbourhood Plan Policy DNP11	14
6.	Representation to Draft Neighbourhood Plan Policy DNP13	15
7.	Conclusions	21

## Appendices

Appendix 1: Planning application reference S18/2146: Indicative site layout

Appendix 2: Cheltenham Local Plan 2011-Inspector's Post Hearing Advice (April 2019)

Appendix 3: Tatenhill Neighbourhood Plan (Examiner's Report dated November 2015)

Appendix 4: Oakley and Deane Neighbourhood Plan (Examiner's Report dated December 2015)

## 1. Introduction

- 1.1. This Report has been prepared by Savills on behalf of the Lincolnshire County Council's Corporate Property Team (LCC CPT) in response to the pre-submission draft version of The Deepings Neighbourhood Plan (Regulation 14) and in particular, its proposed Local Green Space ('LGS') designation of land within LCC's ownership.

### **Lincolnshire County Council, Corporate Property Team**

- 1.2. Lincolnshire County owns land around the county which has been used either by the Council or rented out for farming. The Council is considering the sale of these pockets of land to raise income and, in some cases, encourage residential development to help meet the need for more housing. The ownership includes the following site:

- 11.6ha of land at Millfield Road, Market Deeping

### **The Pre-Submission Draft 'Deepings First' Neighbourhood Plan**

- 1.3. The draft Deepings First Neighbourhood Plan ('the draft NP'), prepared jointly by Market Deeping Town Council and Deeping St James Parish Council is currently subject to a six week consultation period until 2<sup>nd</sup> December 2019.

### **Summary of the Representations**

- 1.4. The draft NP proposes the designation of the aforementioned site as Local Green Space (LGS) through its proposed Policy DNP13. LCC CPT wholly objects to the proposed LGS designation of land off Millfield Road (LGS18) for the reasons which this Report explains in detail. It is also important to note that the Councils did not formally notify LCC of their intention to designate land within LCC's control as LGS. This designation was only brought to LCC's attention following publication of the current draft version of The Deepings NP to which this Report relates.
- 1.5. This Report concludes that Policy DNP13 of the draft NP, and its proposed LGS designation of the above site fails to meet the policy tests set out in national guidance for the designation of LGS' and must therefore be removed from the draft NP before it is subject to further stages of the plan-making process. This Report also explains how several other policies, being proposed by the draft NP are not sufficiently justified nor in accordance with planning policy (and would therefore be unable to meet the necessary 'Basic Conditions' tests).
- 1.6. This Report also addresses the proposed introduction of a settlement boundary in Policy DNP2, which is not in accordance with the policy approach of the emerging South Kesteven Development Plan (SKDC DP) and is also considered to prevent the emerging NP from meeting any 'Basic Conditions' test.

- 1.7. Finally, this Report also challenges the proposed designation of Millfield Road as a 'Green Walk' through policy DNP11 which is not considered to be adequately justified or evidenced within the draft NP.

## 2. Land off Millfield Road, Market Deeping

- 2.1. The land to the west of Millfield Road is designated as LGS18 Mill Field through policy DNP13 of the Pre-Submission Draft of the NP. LCC CPT's representations to policy DNP13 are set out in section X of this report.
- 2.2. LCC own the 11.6 hectare (28.73 acres) Site in its entirety which comprises two roughly rectangular fields and it is currently in agricultural use, and let to an agricultural tenant. The topography of the site is predominately flat.
- 2.3. The site is located to the west of Market Deeping and is enclosed by the A15 which extends along the entire western boundary. It is bordered by extensive mature trees and hedging along its eastern, southern and western boundaries. The northern boundary of the site has limited containment, with two agricultural fields beyond. An earth bund runs the length of the eastern boundary separating the site from the A15. The two fields are separated by one another by a brook that connects to a ditch which runs the length of the western boundary between the site and Millfield Road.
- 2.4. A Public Right of Way (PROW) runs east to west across the centre of the site.
- 2.5. The site is not subject to any statutory designations. It is not located within the Green Belt, an Area of Outstanding Natural Beauty, a Site of Scientific Interest or a Special Conservation area, nor is it located within the vicinity of any Listed Buildings or Scheduled Ancient Monuments.
- 2.6. The site is located within Flood Zone 1 in accordance with the Environment Agency's Flood Map for Planning and, therefore, has a low probability of flooding.
- 2.7. The Agricultural Land Classification England identifies the land as Grade 3.

### 3. Planning Policy Context

- 3.1. The Localism Act (2011) makes provision for Neighbourhood Planning, empowering local communities to develop a shared vision for their neighbourhood and deliver the sustainable development they need through planning policies relating to the development and use of land.

#### **Basic Conditions**

- 3.2. For a Neighbourhood Plan to proceed to a referendum, the Localism Act requires the appointed Examiner to consider whether it meets the 'basic conditions' set out at Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended) and summarised in Paragraph ID41-065-20140306 of the national Planning Practice Guidance (PPG).
- 3.3. The basic conditions are:
- “(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).*
  - (b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.*
  - (c) Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.*
  - (d) The making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.*
  - (e) The making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).*
  - (f) The making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.*
  - (g) Prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).”*

#### **National Planning Policy and Guidance**

- 3.4. The National Planning Policy Framework ('the NPPF'), published in February 2019, sets out the requirements for the preparation of Neighbourhood Plans and the role they must play in meeting the development needs of the local area.

- 3.5. The requirements set out in the NPPF have now been supplemented by the Neighbourhood Plan section of the national Planning Practice Guidance ('the PPG') and its allied sections on Viability, Housing Land Availability Assessment and Strategic Environmental Assessment. The provisions of the NPPF and the PPG are mandatory material considerations for the purposes of basic condition 8(2)(a).
- 3.6. The NPPF, in placing a presumption in favour of sustainable development at its heart, recognises at paragraph 13 that for Neighbourhood Planning, this will mean:
- "The application of the presumption has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies."*
- 3.7. Paragraph 29 of the NPPF further makes it clear that Neighbourhood Plans should not undermine local strategic policies and states:
- "...Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies<sup>16</sup>"*
- <sup>16</sup> *Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.* [Savills emphasis].
- 3.8. The PPG adds at paragraph 040 (Reference ID 41-040-20160211) that "...proportionate, robust evidence should support the choices made and the approach taken" by a Neighbourhood Plan and in respect of their preparation, states that:
- "A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared."* [Reference ID: 41-041-20140306].
- 3.9. The PPG also advises that those responsible for a Neighbourhood Plan, i.e. the qualifying body, must demonstrate how the draft Neighbourhood Plan will contribute towards sustainable development, being underpinned by "proportionate evidence....on how the draft neighbourhood plan or order guides development to sustainable solutions" (paragraph 072 Reference ID: 41-072-20190509).

### **Local Green Space Provisions**

- 3.10. Paragraph 99 of the NPPF states that local communities through local and neighbourhood plans “...allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should 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 updated, and be capable of enduring beyond the end of the plan period.” [Savills emphasis].
- 3.11. Paragraph 101 of the NPPF acknowledges that “Policies for managing development within a Local Green Space should be consistent with those for Green Belts.” In the Green Belt, paragraph 143 confirms that “inappropriate development should not be approved except in very special circumstances.” As such, the designation of LGS “should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services” (paragraph 99, NPPF).
- 3.12. The NPPF is clear that designation of Local Green Space should only be used where the green space is:
- “a) in reasonably close proximity to the community it serves;
  - 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; and
  - c) local in character and is not an extensive tract of land.” (Paragraph 100, NPPF).
- 3.13. In order for an area to be designated as Local Green Space, it has to meet all the criteria for designation set by paragraph 100 of the NPPF. It is therefore essential that, when seeking to designate LGSs, plan-makers clearly demonstrate, through compelling evidence, that the requirements for its designation are met in full, these being it is reasonably located to the community it serves; it is demonstrably special to a local community and is of a particular local significance; it is local in character and it is not an extensive tract of land.
- 3.14. The Local Green Space designation affords protection consistent with policy for Green Belts. Therefore, is crucial that plan-makers include evidential and robust information to support their proposed LGS designations and clearly demonstrate that their application meets national planning policy requirements in full. To assist plan-makers further in this regard, the PPG provides the following advice:
- Paragraph: 007 Reference ID: 37-007-20140306: “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”.
  - Paragraph: 008 Reference ID: 37-008-20140306: “Local Green Space designation will rarely be appropriate where the land has planning permission for development. Exceptions could be where the development would be compatible with the reasons for designation or where planning permission is no longer capable of being implemented”.



- Paragraph: 009 Reference ID: 37-009-20140306: *"Local Green Spaces may be designated where those spaces are demonstrably special to the local community, whether in a village or in a neighbourhood in a town or city"* [Savills emphasis].
- Paragraph: 011 Reference ID: 37-011-20140306: *"Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space"*.
- Paragraph: 013 Reference ID: 37-013-20140306: *"The green area will need to meet the criteria set out in paragraph 100 of the National Planning Policy Framework. Whether to designate land is a matter for local discretion. For example, green areas could include land where sports pavilions, boating lakes or structures such as war memorials are located, allotments, or urban spaces that provide a tranquil oasis"* [Savills emphasis].
- Paragraph: 014 Reference ID: 37-014-20140306: *"The proximity of a Local Green Space to the community it serves will depend on local circumstances, including why the green area is seen as special, but it must be reasonably close. For example, if public access is a key factor, then the site would normally be within easy walking distance of the community served"*.
- Paragraph: 015 Reference ID: 37-015-20140306: *"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 100 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".* [Savills emphasis].
- Paragraph: 017 Reference ID: 37-017-20140306: *"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. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected"*.
- Paragraph: 018 Reference ID: 37-018-20140306: *"Areas that may be considered for designation as Local Green Space may be crossed by public rights of way. There is no need to designate linear corridors as Local Green Space simply to protect rights of way, which are already protected under other legislation"*.

- Paragraph: 019 Reference ID: 37-019-20140306: “A Local Green Space does not need to be in public ownership. However...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.” [Savills emphasis].

### **The Development Plan**

- 3.15. In order to meet basic condition (e), the draft NP must be in general conformity with the “...*strategic policies contained in the Development Plan...*”.
- 3.16. The Local Plan for South Kesteven currently comprises of a suite of Development Plan Documents. These include the Core Strategy (2010), Site Allocations and Policies Development Plan Document (2014) and a few remaining ‘saved’ policies and allocations within the 1995 Local Plan.
- 3.17. South Kesteven District Council are currently preparing a replacement local plan which will replace all current policy advice, and will establish the policy framework for development up to 2036. The replacement plan will set out the strategic direction for sustainable development, covering housing and employment and provide the Council’s objectives and vision for development across the District. This emerging local plan is at an advanced stage, having concluded a consultation on Main Modifications in October 2019. An updated Local Development Scheme published in September 2019 anticipates that the new local plan will be adopted in January 2020.

### **Adopted Local Plan**

- 3.18. Policy SP1 ‘Spatial Strategy’ of the Core Strategy directs the majority of all new development towards Grantham to support and strengthen its role as a Sun-Regional Centre. This also allows new development to support the role of the three market towns, Stamford, Bourne and The Deepings, with priority given to sustainable sites within the built up part of the town. It goes on to state that ‘*if insufficient land within the built-up part of the settlement is available to meet the development needs of each town, appropriate sites on the edges of the towns may also be considered suitable for development*’.
- 3.19. Policy H1 ‘Residential Development’ reinforces the spatial hierarchy for the distribution of housing with an emphasis on delivery within Grantham and the 3 market towns of Bourne, Stamford and the Deepings. It states that ‘*development rates in Stamford and the Deepings should be maintained at a modest level to meet the needs of these market towns, and to support the provision of additional community infrastructure*’.

### **Emerging Local Plan**

- 3.20. Policy SP1 ‘Spatial Strategy’ re-enforces the 2036 vision for South Kesteven and allows for growth within the market towns and larger villages.

- 3.21. Policy SP2 'Settlement Hierarchy' aims to focus most development in Grantham in order to strengthen its role as a Sub-Regional Centre, followed by significant development in the three market towns of Stamford, Bourne and the Deepings, providing the nature and character of the settlement is not compromised. It gives *'priority to the delivery of sustainable sites within the built up part of the town and appropriate edge of settlement extensions'*.
- 3.22. Policy SP4 'Development on the Edge of Settlements' allows for development on the edge of a settlement, where it is in accordance with all other relevant Local Plan policies and other relevant criteria as set out in this policy.
- 3.23. The site was proposed as an allocation for housing in the Regulation 18 Consultative Draft Local Plan 2017 (CDLP) under 'DEP1 H2' for 200 dwellings (indicative). The site was only removed from the Regulation 19 Pre-Submission version of the Local Plan pending the outcome of the subsequently unsuccessful application for Village Green status. The outcome of the Village Green Application was not published until July 2019, over two months after the Local Plan Examination sessions had closed.

## Planning application

- 3.24. A planning application for the land was submitted to SKDC in November 2018 (reference S18/2146) and remains undetermined. The indicative layout is submitted at Appendix 1. As the layout demonstrates, the scheme includes a large area of Public Open Space, 2.6ha in size, which equates to 22.5% of the site. The application would therefore contribute a generous amount of recreational space which could be used not only by the new residents of the proposed housing scheme, but also by those already living nearby.
- 3.25. The supporting technical work accompanying the application demonstrates that there are no known constraints which would prevent the site being developed for housing. Responses from the statutory consultees generally confirm this position. No objections have been received from the following statutory consultees (subject to appropriate conditions and measures which would be attached to the planning permission):
- LCC Highways and Flood Risk
  - LCC Countryside Service
  - Welland and Deepings Internal Drainage Board
  - Environment Agency
  - Education
  - Lincolnshire Fire and Rescue
  - Anglian Water
- 3.26. Additional information has been requested by the following bodies which is underway at present:
- Minerals and Waste Policy Team
  - Heritage Lincolnshire
  - Peterborough City Council, Highways

### **Summary**

- 3.27. For a Neighbourhood Plan to proceed to a referendum, it must meet all 'basic conditions' set out at Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).
- 3.28. It is clear, from the above, that the approach towards the designation of LGS is one which requires compelling evidence to clearly demonstrate that it meets the requirements of national planning policy in full.

## 4. Representation to Draft Neighbourhood Plan Policy DNP2

- 4.1. This section provides the representations to policy DNP2 of the draft Deepings First NP 'Additional Residential Development in The Deepings', on behalf of LCC CPT.

### **Policy Wording and Justification**

- 4.2. Policy DNP2 reads:

*"1. Proposals for residential development, including the conversion of existing buildings over and above that of the allocated sites on Map 3, will only, be supported if the development is located within the existing development limit of the Deepings (illustrated on Map 2). All proposals must also demonstrate that they have met all the following:*

- a) It does not significantly harm or alter the built character and appearance of either Market Deeping, Deeping St James or Frognall;*
- b) It does not significantly harm or alter the character and appearance of the surrounding countryside or rural setting of Market Deeping, Deeping St James or Frognall;*
- c) It does not cause any unreasonable harm to the private amenity of any surrounding properties;*
- d) It does not cause any unreasonable negative impact to the capacity or safety of the existing highway network;*
- e) It does not cause any unreasonable negative impact to the capacity of the existing water or sewage infrastructure; and*
- f) It does not lead to an overdevelopment of a site, where the proposal is considered out of character in terms of its scale or its proposed density.*

*2. Land outside the development limit, including any individual or small groups of buildings will be treated as open countryside where development will be carefully controlled in line with local and national strategic planning policies."*

- 4.3. The supporting justification to this policy is set out in paragraphs 8.6-8.10, which notes that *"an appropriate amount of development will be acceptable in principle"*. It also notes *"Focussing development within the agreed Limits to Development will support existing services within the town centre and protect the countryside and the remainder of the NP area from significant development which is surplus to demand or out of keeping with the rural setting and highly attractive and historic landscapes of the Parish."*

### **Policy critique**

- 4.4. Policy DNP2 and its supporting justification are contradictory. Whilst suggesting that appropriate growth will be acceptable in principle, the settlement boundary has been drawn around the existing extent of development, even excluding allocations which are proposed through the emerging Local Plan, one of which has already been granted permission. Therefore, this approach is inherently anti-growth in its application.
- 4.5. The Deepings are identified within both the adopted and emerging Development Plans as a suitable location for growth. In the emerging Local Plan, The Deepings is identified as one of four Market Towns, and second in the settlement hierarchy, beneath Grantham. Policy SP1 of the emerging Local Plan states: *"The focus for the majority of growth is in and around the four market towns, with Grantham being a particular focal point."*
- 4.6. In addition, the introduction of a settlement boundary is insufficiently flexible to respond rapidly to any changes in the market and is not therefore compatible with the local authority's requirement to meet the housing needs of district over the plan-period, which extends until 2036 (emerging Local Plan).
- 4.7. The introduction of a settlement boundary is also not in accordance with the policy approach of either the adopted or emerging Development Plan which identifies The Deepings as a sustainable location for growth. Neither of these plans include the use of settlement boundaries, setting instead a range of policy criteria to determine the location of development. In addition to SP1 which is discussed above, the emerging Local Plan includes additional strategic policies, such as SP2 and SP4, which specifically support growth in Market Towns over and above allocated sites, and growth on the edge of settlements in certain circumstances.
- 4.8. SP2 states:
- "Development which maintains and supports the role of the three market towns of Stamford, Bourne and the Deepings, will be allowed, provided that it does not compromise their nature and character. Priority will be given to the delivery of sustainable sites within the built up part of the town and appropriate edge of settlement extensions." [Savills emphasis].*
- 4.9. SP4 states:
- "Proposals for development on the edge of a settlement, as defined in Policy SP2, which are in accordance with all other relevant Local Plan policies, will be supported provided that the essential criteria a-f below are met." [Savills emphasis].*
- 4.10. Therefore, DNP2 directly contradicts the policy approach of the emerging Local Plan, which has significant weight and is due for adoption imminently.

#### **Compliance with national policy**

- 4.11. The PPG identifies that *“a neighbourhood plan or Order must not constrain the delivery of important national policy objectives. The National Planning Policy Framework is the main document setting out the Government’s planning policies for England and how they are expected to be applied”*. In being inherently anti-growth/anti-development, Policy DNP2 fails to comply with the requirements of the PPG.
- 4.12. In order that NPs can proceed eventually to referendum, there is a requirement for them to meet the ‘Basic Conditions’ of Town and Country Planning Act 1990.
- 4.13. The Town and Parish Council proposal to introduce a settlement boundary which excludes all land beyond the existing built form of The Deepings is in direct conflict with national planning policy and has the significant and real potential to undermine and restrict the delivery of sustainable development, which is at the heart of the NPPF. In addition, this point would directly contradict the ‘basic condition’ criteria (d) which states *“the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development”*.
- 4.14. Furthermore, the approach is also not in accordance with Basic Conditions (e) which require NPs to be in accordance *“in general conformity with the strategic policies contained in the development plan for the area”*.

#### **Summary**

- 4.15. Policy DNP2 and the introduction of a settlement boundary, as defined on Map 3 has the effect of constraining sustainable development, preventing the District Council from meeting its obligations in relation to housing delivery and sustainable development over the plan-period.
- 4.16. The approach is not in accordance with the strategic policies of the Development Plan.



## 5. Representation to Draft Neighbourhood Plan Policy DNP11

- 5.1. This section provides the representations to policy DNP11 of the draft Deepings First NP 'Green Infrastructure', on behalf of LCC CPT.

### **Policy Wording and Justification**

- 5.2. Policy DNP11 reads:

*"1. Where appropriate, new proposals should preserve, and where possible, enhance the existing local green infrastructure network, including the River Welland Green Corridor, the Green Walk, Green Lanes and existing public rights of way.*

.....

.....

*Green Lanes*

*4. The Green Lanes, as identified on Map 17, shall be protected from unsympathetic development which would have an adverse impact on the character area concerned. New development in the identified Green Lanes should preserve and, where possible, enhance their rural appearance."*

- 5.3. The supporting text of the policy notes:

*"This is the network of footpaths and green spaces linking our facilities and parks in a way that enables residents and visitors to navigate safely across and within The Deepings on foot, by cycle, with a buggy, by wheelchair, or mobility scooter. The Green Infrastructure Network also includes more informal open spaces and natural features, including the River Welland Green Corridor, natural green spaces, wildlife sites, woodlands and "Green Lanes".*

### **Policy critique**

- 5.4. Two 'green lanes' are identified on Map 17, including one which extends along the whole of Millfield Road. The purpose of the policy and the designation is not clear from the information within the NP. Whilst the policy seeks to protect these routes from unsympathetic development, the justification for the policy approach lacks detail, and the purpose of the designation is unclear.

### **Compliance with national policy**

- 5.5. The PPG indicates that *"proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn on to explain succinctly the intention and rationale of the policies."* In this case, it appears that there is no evidence provided within or accompanying the draft NP to support the policy approach, which is restrictive and imprecise. Policy DNP11 is not therefore in accordance with national planning guidance on the making of a NP.



## 6. Representation to Draft Neighbourhood Plan Policy DNP13

- 6.1. This section provides the representations to policy DNP13 of the draft Deepings First NP on behalf of LCC CPT.

### **Policy Wording and Justification**

- 6.2. Policy DNP13 reads:

#### *“Policy DNP13: Local Green Spaces*

*1. The sites, as shown on Maps in Appendix B, are designated as Local Green Spaces:*

- a) LGS1: John Eve Field (1.79ha);*
- b) LGS2: Glebe Field (2.47ha);*
- c) LGS3: Rectory Paddock and cemetery (1.47ha);*
- d) LGS4: Riverside Park (0.25ha);*
- e) LGS5: Welland Gardens (0.1ha);*
- f) LGS7: Tattershall Drive, Towngate (1.55ha);*
- g) LGS8: Sandringham Way (1.54ha);*
- h) LGS9: Tattershall Drive (South) (0.45ha);*
- i) LGS16: Cherry Tree Park (0.22ha);*
- j) LGS17: Greenlands (0.73ha);*
- k) LGS18: Mill Field (10.80ha);*
- l) LGS19: Scout Hut Area (0.74ha);*
- m) LGS24: Charter Avenue (0.24ha);*
- n) LGS30: Jubilee Park (2.29ha);*
- o) LGS31: Woody’s Heights (0.44ha);*
- p) LGS33: Millennium Wood (0.22ha); and*
- q) LGS34: Riverside Park DSJ (0.22ha);*

*2. Development on these sites will only be supported in very special circumstances.”*

- 6.3. Justification for the site’s inclusion is included in Chapter 17, Appendix C – Site LGS18: Mill Field.

### **Policy Critique**

- 6.4. The NPPF and PPG set clear guidance for the designation of LGS, and it is therefore essential that plan-makers clearly demonstrate, through compelling evidence, that the requirements for its designations are met in full, namely 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.

6.5. An assessment of the site and commentary on its inclusion as proposed LGS is included in Chapter 17, Appendix C. Comments on these criteria are provided in the table below:

NPPF Criteria (para 100)	Deepings First Justification	LCC CPT response
<p>a) in reasonably close proximity to the community it serves;</p>	<p>Mill Field forms part of the western gateway into the historic, rural town of Market Deeping and as such it provides an attractive setting. Mill Field is now the last area of accessible countryside within Market Deeping and it is situated very close to the community that it serves.</p> <p>Mill Field is used on a daily basis by local residents, regardless of the weather, because it has a natural beauty and it provides a large, open, green area where children and dogs can run and play freely and safely. Other activities include walking, jogging, cycling, kite flying, berry and wild mushroom picking, sunbathing and relaxing. Some residents sketch or paint there and others go there for peace and tranquillity and are refreshed and inspired by nature. It is important because it is free, can be used at any time of the day or night and is a large, informal green space which is very close to home but makes one feels as if one is walking in the open countryside. The proposed route for the Green Walk will also pass directly through Mill Field.</p>	<p>The site is close to the residents of Millfield Road and those living the west of Market Deeping.</p> <p>There are other areas, which are in use as public open space within close proximity to this part of Market Deeping, including:</p> <ul style="list-style-type: none"> <li>• Tattershall Drive, Towngate (approx. 240m away from site);</li> <li>• Sandringham Way (approx. 220m away from site)</li> <li>• Greenlands (approx. 450m away from site)</li> </ul> <p>Together, these sites provide around 3.8 ha of recreational open space within 450m of Millfield Road.</p> <p>Whilst the land includes a public footpath on the northern section, it is privately owned and is in use for agriculture. Signage exists around the site explaining that people should not trespass onto it. It's status is not therefore 'accessible countryside' as noted in the NP. It is not accessible by virtue of the signage around the site and its private ownership.</p> <p>It also does not 'serve' the community who have been using it without permission.</p> <p>Over the years, there have been a number of occasions where members of the public have been legitimately able to use the site, such as for the Deepings Show, which had taken place in the town for many years. In these instances, access was permitted via agreement in advance with the land owner. This does not therefore imply that the land at that time was 'public open space' simply that permission had been granted to access the land for a temporary period for a specific event. There was and is no ongoing right to use the land.</p>

# Draft Deepings First Neighbourhood Plan

Land off Millfield Road



		<p>It is important to note that whilst the site is currently laid to pasture, it is possible that in the future, it could be let to another agricultural tenant who undertakes other agricultural activities on the site (such as for livestock or the growing of crops). In this case, it could actually be very unsafe for members of the public to try and access the land.</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;</p>	<p>Mill Field is grassland bordered by mature hedgerows and trees which provide a natural habitat for wildlife including muntjac deer, rabbits, owls and woodpeckers. Mill Field is a large area of informal green space which is highly valued by the Town Council and local residents. It epitomizes the rural character of our historic town and for many, many years has significantly benefitted the physical, mental and emotional health of local residents. Mill Field is very valuable to our community because people meet and make lasting friendships there, sharing a common love of nature and walking. Many newcomers to the town make their first contacts and friends at Mill Field and it is also plays a vital part in many lives who are bereaved or lonely.</p> <p>Mill Field has been associated with recreational, sporting and</p>	<p>As noted above, any recreational activities which may have taken place on parts of the site beyond the public footpath have been undertaken without permission. Its agricultural use means that it is not recreational land.</p> <p>Evidence of the use of the site was put forward through the Village Green Application and considered at the Inquiry, however, this concluded that the evidence was not sufficiently robust to support the claim. Much of this evidence was anecdotal, lacking documented proof to support the claims.</p> <p>The ongoing planning application on the site is supported by a wide range of technical reports which have considered matters such as ecology and confirmed that the site is not home to any protected species.</p> <p>It is unclear whether the site is truly special to the community or whether the VGA and subsequent proposal to include the land as LGS are simply a means to prevent the development of this site, both processes following the inclusion of the site within the Regulation 18 Draft of the SKDC Local Plan in 2017.</p>

	<p>cultural events since at least 1882. From 1882 until the First World War, the Oddfellows Charity held a very popular annual Gala, every July, on Mill Field with stalls, brass bands, races, competitions, and fair rides. During the two World Wars there were football matches held on Mill Field and after the second World war the Deepings Agricultural Show, a well-loved, local, community event was held there annually, until 2013. Associated with the Agricultural Show, there were Sometimes community dances and also church services led by the local churches on Mill Field.</p>	<p>Its aesthetic value is affected by the proximity to the A15, which extends along the western boundary of the site.</p> <p>The site exists in its current form as a result of the creation of the road itself.</p> <p>In addition, the site was proposed as an allocation for housing in the Regulation 18 Consultative Draft Local Plan 2017 (CDLP) under 'DEP1 H2' for 200 dwellings (indicative). The site was only removed from the Regulation 19 Pre-Submission version of the Local Plan pending the outcome of the unsuccessful application for Village Green status. The fact of its inclusion within the draft Local Plan confirms that there are no overriding factors relating to the suitability of the site for housing in the future.</p>
c) local in character and is not an extensive tract of land.		<p>This criterion is discussed in detail below. In summary, it is considered that LSG18 does not comprise an "extensive tract of land".</p>

- 6.6. The NPPF is explicit in stating that LGS must not relate to 'extensive tracts of land'. The PPG notes that when it comes to scale, there is *"...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"* before adding that paragraph 100 of the NPPF is clear that the Local Green Space designation should only be used where the green area concerned is *"local in character and is not an extensive tract of land"*. The NPPG states: *"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"*. [Savills emphasis].
- 6.7. Of the 17 LGSs proposed by the draft NP, LGS18, which is stated as 10.80 ha, is the greatest in size by a considerable margin. The site clearly comprises a large tract of land on the edge of the settlement. This is apparent not only by its scale but when viewed within the context of Market Deeping as the Map on page 143 of the draft NP illustrates. The majority of the proposed LGS sites (10) are less than 1 ha in size, with a further six between 1 ha and 2.47 ha in size. Therefore, there is a considerable difference between LGS18 and the other sites proposed for inclusion as LGS.
- 6.8. At 10.80 ha in size, the site is plainly an extensive tract of land. This assessment is supported by examinations into Drafts of Development Plans.

- The Cheltenham Local Plan 2011-2031 proposes the designation of a number of areas of LGS. The Inspector's Post Hearing Advice (April 2019), which is included in Appendix 2, makes the following points in relation to the designation of LGS:
  - *"Care is required to ensure that LGS policies are not misused. Whilst it is a consequence of the successful designation of a site as LGS that it will be protected from future development, that should not be the primary reason for seeking the designation. The aim of the policy is to protect areas of particular importance to local communities and there is nothing in the NPPF which describes their use for the strategic containment of settlements or as a strategic designation to protect the countryside."*
  - *Many of the proposed LGS areas will be important to local communities. Open spaces will be used by local communities for informal recreational uses including dog walking and relaxation. However these are inevitably commonplace activities, in particular within the rural areas around the urban fringe. Sites may also contain varying levels of wildlife, beauty and tranquillity. Nevertheless the available evidence must sufficiently demonstrate why sites are 'demonstrably special' and of 'particular local significance' to distinguish them from other green areas and open spaces which have similar features in order to reach the high bar necessary for LGS designation.*
  - *There are several proposed LGS which cover large areas of land. These include ..... King George V Playing Field (11.70ha), Swindon Village (8.89ha) and Pitville Park (19.51ha). Other large areas are proposed at Leckhampton Fields (39.31ha), the North West Strategic Allocation at Swindon Village (24.5ha) and West Cheltenham Strategic Allocation (18.25ha) ..... Although there is no definition of an "extensive tract of land" in national policy or guidance, an LGS should be "local in character". To designate areas of land of this scale as being "local in character" would require a robust justification."* [Savills emphasis]
- The Brixworth Neighbourhood Plan (Examiners Report dated July 2016) – the Examiner concluded that in relation to three sites of 22.5ha, 7.2ha and 2.7ha on the edge of the settlement *"all [are] arable agricultural land on the edge of the village. They are not in use as green spaces and the only access to the areas is by way of public and permissive rights of way. All three sites are extensive tracts of land. There is no compelling evidence about why the areas are of particular local significance. Footpaths border some of the sites but this is not in itself a reason to designate a parcel of land as a Local Green Space. The sites are important in the landscape setting of the village, however this is not a reason to designate them as Local Green Space. For an area to be designated as a Local Green Space it must meet all three criteria of NPPF paragraph 77 which these sites clearly do not do."*
- The Tatenhill Neighbourhood Plan (Examiner's Report dated November 2015) – the Examiner considered that at 9.2 and 4.3 hectares respectively, sites to the north and south of Branston Road, proposed to be designated as LGS through the NP, constituted extensive tracts of land and instructed their removal from the draft NP, given their inclusion failed to meet the basic conditions. The Examiner's Report is attached at Appendix 3.
- The Oakley and Deane Neighbourhood Plan (Examiner's Report dated December 2015) – the Examiner concluded that a proposed LGS designation on a site of just over 5 hectares to be contrary to national planning policy. The Examiner's Report is attached at Appendix 4.

- 6.9. Having regard to the above, and its scale in relation to Market Deeping, it is considered that LGS18 comprises an extensive tracts of land and its designation is not therefore permissible within the context of national planning policy.
- 6.10. Through DNP13 and its designation of LGS on this large area of land on the edge of the settlement, the draft NP is seeking to apply a similar level of protection as would be afforded to Green Belt. This approach is not appropriate in relation to development in the open countryside and the scale of protection should be commensurate to the degree of importance. Consequently, the Town and Parish Council's 'blanket designation' of open countryside, being proposed by DNP13, is in direct conflict with national planning policy and has the significant and real potential to undermine and restrict the delivery of sustainable development, which is at the heart of the NPPF. In addition, this point would directly contradict the 'basic conditions' that NPs must adhere to in order to be found sound, including (d) which states "*the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development*".

#### **Notification of land owners**

- 6.11. The PPG states that, in respect of LGSs, the qualifying body, i.e. those responsible for the preparation of the Neighbourhood Plan, which in this instance is the Town and Parish Council, "*...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*".
- 6.12. Savills has been advised that LCC CPT (nor any other part of the organisation) has been notified, at any stage of the draft NP's preparation, of the proposed LGSs affecting land within their control. As a result, this is the first opportunity which LCC CPT has been afforded to make representations to the proposed LGS. The Councils have therefore failed to follow PPG advice and so the application of Policy DNP13 of the draft NP further fails to meet 'basic condition (a)' for this reason.

#### **Summary**

- 6.13. This Section clearly demonstrates that the proposed LGS designation LGS18 fails to comply with the requirements of paragraph 100 of the NPPF and in doing so, Policy DNP13 would fail to meet 'basic condition (a)'.
- 6.14. In its current form, DNP13 is extremely restrictive, having real and significant potential to harm and prevent the delivery of sustainable development, contrary to the positive approach required by the NPPF at its paragraph 14. As this Section has explained, the proposed LGS designations at LGS18 fails to comply with the NPPF and in particular, its requirement to exclude 'extensive tracts of land' from LGS designations.
- 6.15. The designation of LGS is wholly inappropriate for anything other than small and very localised areas of land, otherwise it is tantamount to the designation of Green Belt without any of the proper scrutiny and examination. Green Belt designation is a strategic issue and such strategic issues are not appropriate for Neighbourhood Plans.

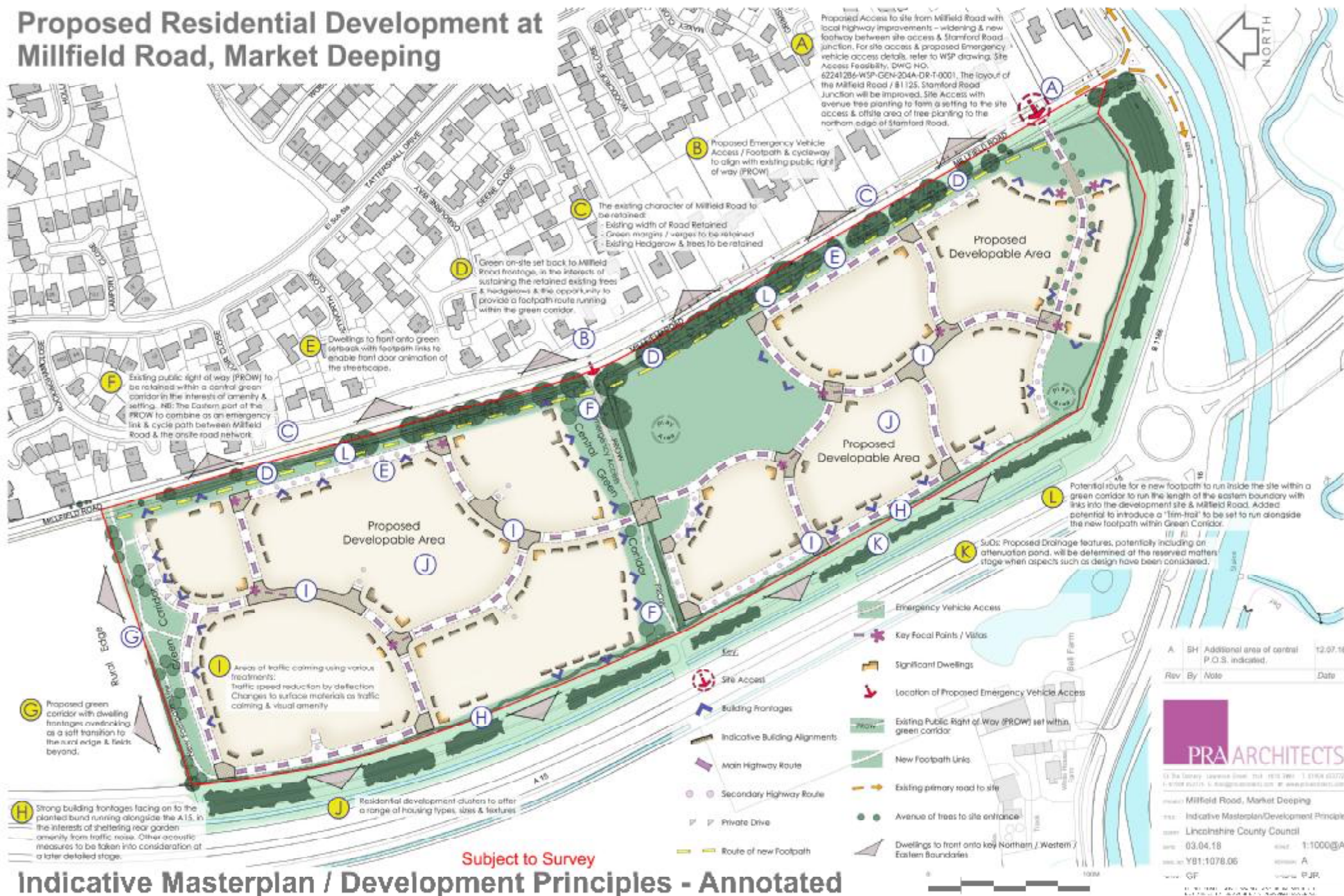
## 7. Conclusions

- 7.1. As this Report as highlighted, there are several areas of concern in relation to The Deepings First NP. The majority of these issues relate to the restrictive nature of policies such as DNP1 and DNP13 which threaten to severely prejudice the delivery of sustainable development.
- 7.2. It will therefore be important that any examination into the NP be undertaken in a public forum, via a hearing.
- 7.3. The presently undetermined planning application on the site has the potential to offer a large area of public open space which the community would be welcome to use. As the masterplan in Appendix 1 demonstrates, the indicative design retains a green boundary along Millfield Road, which would reinforce the green character of the route. It is therefore essential that the NP considers this site in the context of what it is able to offer to Market Deeping over the plan-period.

## Appendix 1: Indicative site layout



## Proposed Residential Development at Millfield Road, Market Deeping



## Appendix 2: Cheltenham Local Plan 2011-Inspector's Post Hearing Advice (April 2019)

# Cheltenham Borough Council

## Local Plan 2011-2031

### EXAMINATION

[www.cheltenham.gov.uk/LPexamination](http://www.cheltenham.gov.uk/LPexamination)

#### **Examination into the soundness of the Cheltenham Plan (CP) 2011-2031**

#### **Post Hearing Advice**

##### Introduction

1. At this stage I consider that the CP is a Plan which could be found sound subject to main modifications (MMs). However I have reached no final conclusions at this time. The MMs will be subject to consultation and I will reach my final conclusions taking any representations into account.
2. During the hearing sessions a number of potential MMs were discussed and a list has been maintained by the Council. In addition I indicated at the hearings that there were matters on which I would need to deliberate before I would be in a position to advise the Councils as to whether any additional work or further MMs should be considered. This letter provides my views on these matters. It also sets out the administrative arrangements relating to all potential main modifications.
3. I am not inviting any comments about the contents of this letter, although I am seeking the Council's response on the matters raised. I will detail my full reasoning on these issues in my final report on the CP.

##### Further potential main modifications

##### *Leckhampton School Site (MD5)*

4. Overall I consider that adequate work has been undertaken of the potential environmental impacts of the school site proposed within the MD5 allocation to meet the requirements for sustainability assessment. The site has also been subject to public consultation at the pre-submission stage; and the results of that consultation are before my examination.
5. However, the NPPF requires proposals to be deliverable. The allocated site is within the control of Miller Homes and is not currently available for Gloucestershire County Council (GCC) as education authority to purchase. GCC has undertaken further work into the need for a school site and concluded that a smaller site would be suitable [M3-1321 paras 14-15]. There is land owned by GCC immediately south of the MD5 proposal, which currently forms a part of the proposed Leckhampton Fields Local Green Space (LGS). I deal with the issue of the LGS designations below. I make no comment on the suitability of the alternative site for the school.
6. With the opposition to acquisition from Miller Homes, and the potential availability of an alternative site in GCC's ownership, it is uncertain that GCC could successfully use CPO powers to purchase the school site as allocated within MD5. In these circumstances it is not certain that the allocation of the school site as currently proposed within Policy MD5 is capable of being delivered.
7. There is an agreement between GCC and Cheltenham Borough Council that a new secondary school is required in the Leckhampton/Warden Hill area. In addition, the NPPF para 72 requires LPAs to take a proactive, positive and collaborative approach to meeting the requirements for new school places to ensure there is a sufficient choice to meet needs. In these circumstances it is appropriate that the Council seek to make provision for the identified need in the emerging CP.

8. It is for the Council to consider the modification which should be brought forward to ensure that provision is made in the CP for the new school. There are two options which the Council might pursue to modify the CP and provide for a new school at Leckhampton, both of which were raised in discussion at the hearings.
9. GCC has indicated that a total site area of 5.9ha is required for the School, rather than the 7ha which was originally identified. On this basis, the area required for the school within the MD5 allocation could be reduced. Consideration may also be given to restricting the MD5 land to the accommodation of the main school buildings alone, with the playing fields and car parking located within the GCC owned land south of the allocation. Having reduced the area of land within the MD5 allocation which is required for education purposes, an assessment should also be made of the extent to which the school is required to meet future needs arising from the new housing proposed at MD5. Provided there is a demonstrable link, changes can be made to Policy MD5 to require that the school site is provided prior to the completion of all or part of the residential development of MD5. Such a modification to the Policy (provided it can be justified) would ensure that an agreement can be reached between the current landowners and GCC.
10. The other option is to allocate the land already owned by GCC as the site for the school. GCC has submitted substantial evidence to demonstrate the impacts on the landscape of a school development in this location, and detailed assessments have been carried out of traffic and other environmental impacts. The Council should give careful thought to the evidence as submitted in order to reach a view as to whether a modification to allocate this site and remove the school from MD5 should be pursued.
11. Through the reduction in size or relocation of the school, land would be released within MD5 for alternative use. I deal with housing and Local Green Space (LGS) later in this note. The land which is released could be considered for an increase in housing numbers, for the provision of LGS to serve the new housing within MD5, or a combination of both.
12. Any proposal to modify Policy MD5 and/or the site of the school may require a review of the SA. The Council will also need to make changes to the site map (currently p84) and the Policies Map to identify the area to be allocated for the school site. As part of the work on the modification to the Plan the Council, in consultation with GCC as highway authority, will need to be satisfied that the traffic impact from a new school site can be accommodated together with the traffic impact from the new and proposed residential development within the area.

### *Employment*

13. In view of the Environment Agency comments on site E4 Land at Chelt Walk, it would not be appropriate to include any residential development within the site. A MM should be made to the text in para 3.25 to reflect the findings of the Level 2 Strategic Flood Risk Assessment (SFRA) and delete the reference to residential development within any future scheme.
14. It is not clear whether the sites listed as "new" employment allocations in Policy EM3 have been previously included within the 63ha of employment land referred to in JCS paragraph 3.2.21. I have not yet had the results of the work requested at the hearings on this matter.
15. To the extent that Policy EM3 may identify previous allocations and extant permissions which have been included in the figure of 63ha referred to in the JCS, it is not appropriate for such sites to be included in the CP as "New employment allocations" in Policy EM3. Policy EM1 deals with safeguarding key



existing employment land and buildings. In the interests of clarity and to avoid any potential for double counting, sites listed in Policy EM3 which are included within the 63ha referred to in the JCS should be transferred to Policy EM1. If Policy EM3 is to be retained, it should only include sites which were not identified within the 63ha and which are clearly a new employment designation.

### *Housing*

16. There is no date provided in Table 2 to indicate the base date for the housing figures in the Plan. Table 2 should be updated to the Council's latest monitoring point, with the base date included within the updated table. Similarly, the housing trajectory provides no base date for the assessment provided for the delivery of housing sites. The trajectory should also be updated to the latest available monitoring point, and the Council should consult with landowners, agents and or developers to clarify the potential delivery of each of the sites within the trajectory using the monitoring point as the base date.
17. When updating the housing figures in Table 2 and in the housing trajectory, changes to the figures which arise from my comments on Sites MD1, MD5, and HD4 will need to be taken into account

### *Site MD1*

18. This site is in active commercial use and has been recently refurbished. Although the landowner raises no objection to the allocation for housing, this is not a reliable indication that a change in the use would be forthcoming. Although it may be appropriate to retain site MD1 as a potential housing site, unless there is evidence to demonstrate that the site will be brought forward before 2031, I consider it should not be counted as contributing to the supply of housing within the Plan period.

### *Site MD5*

19. With any modification to the size or location of the school site proposed for Leckhampton, there is potential for an increase in the housing numbers above 250 dwellings within the allocation, together with the possible provision of LGS to serve the new housing. I look to the Council to identify and agree a satisfactory uplift in the housing numbers for the site. The Council, in consultation with the GCC as highways authority, will need to be satisfied that the traffic impact of any increase in the scale of housing, in addition to the traffic from a potential school site and the housing development at Farm Lane, can be accommodated in accord with Government policy.

### *Site HD4*

20. The site is allocated for some 29 dwellings, and the Council has refused planning permission for a development of 69 houses. I note the position of Historic England (HistE) which raises issues relating to potential impact on the settings of the Grade II\* listed Ashley Manor and the Grade II listed Charlton Manor. However, the views of HistE are disputed by expert evidence which I have taken into account in my consideration of the potential for development of the site. I visited the site on the 5 March 2019.
21. Historic England proposes amendments to the wording of Policy HD4. These would restrict new housing to the west of the site behind the existing tree belt and require improvements to be secured to the Ice House which lies between Charlton Manor and Ashley Manor. However, having reviewed the evidence and visited the site, I consider that the reduction in the area of the development recommended by HistE is not justified. Nevertheless, there is good reason to amend the boundaries of the development area from that currently proposed in

the CP, and to require new tree planting around the east and south boundaries to safeguard the settings of both listed buildings.

22. New housing should be located away from the setting of the west elevation of Ashley Manor. This could be achieved through the amendment to the southern boundary of the allocation site so that it continues in a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development, the eastern boundary of the site should be repositioned at least 30 metres west of the rear boundary with Charlton Manor. The Ice House would remain within the confines of the site, but its future could be secured through the inclusion of the requirement put forward by Historic England as bullet point 2.
23. An MM is required to Policy HD4 to identify the boundaries of the site as suggested above; to identify the level of new housing which could realistically be accommodated within the new site boundary; to identify the need for new tree planting around the east and south boundaries of the site; and to require the improvements to the Ice House in accordance with the views of HistE. Changes will also be required to the Plan of HD4 (currently on page 70) and to the Policies Map.

#### *Site HD8*

24. The changes put forward by HistE for Policy HD8 should be included as a MM.

#### *Green Belt (GB) and Green Infrastructure*

##### *Policy GB2*

25. The test in Policy GB2 Clause d) is potentially too restrictive since any new building is, by definition, harmful to the openness of the GB. I would suggest a MM to Clause d) to ensure that it complies with the wording in the final bullet point of NPPF para 89.

##### *Local Green Space (LGS)*

26. Having reviewed the Council's assessments for the designation of LGS proposed within the CP, I am concerned that the methodology and overall assessment for LGS designation has not been sufficiently rigorous to comply with national policy and guidance.
27. The NPPF sets a significantly high bar for LGS designation given that paragraphs 76-78 state that it "...will not be appropriate for most green areas or open space"; that on such sites new development is ruled out "other than in very special circumstances" and that they are to be managed in line with Green Belt policy.
28. Care is required to ensure that LGS policies are not misused. Whilst it is a consequence of the successful designation of a site as LGS that it will be protected from future development, that should not be the primary reason for seeking the designation. The aim of the policy is to protect areas of particular importance to local communities and there is nothing in the NPPF which describes their use for the strategic containment of settlements or as a strategic designation to protect the countryside.
29. The Council's LGS Study Report, refers to the "threat of development" as an example of the factors to be considered by communities when assessing possible LGS sites, whereas the primary reason for designation should be that the site is of such demonstrable significance to the local community that it should be protected. The use made of Natural England's Accessible Natural Greenspace

Standards (ANGSt) in the LGS Study, and comparisons of the scale of LGS to that of SSSIs are unhelpful since it diverts attention from the criteria set out clearly in National policy and guidance.

30. Many of the proposed LGS areas will be important to local communities. Open spaces will be used by local communities for informal recreational uses including dog walking and relaxation. However these are inevitably commonplace activities, in particular within the rural areas around the urban fringe. Sites may also contain varying levels of wildlife, beauty and tranquillity. Nevertheless the available evidence must sufficiently demonstrate why sites are 'demonstrably special' and of 'particular local significance' to distinguish them from other green areas and open spaces which have similar features in order to reach the high bar necessary for LGS designation.
31. Many of the sites proposed for LGS in the CP have established uses which are subject to other policy protection. Before putting these sites forward as LGS, consideration should be given to whether the additional designation is justified. For example, the designation of sports pitches and playing fields as LGS is useful where the specific facility is intended to be retained in that location and serves a special purpose for the local community. However, if there is a possibility of alternative or better facilities being provided in the future then the LGS designation would be inflexible and para 97 of the NPPF would provide a more appropriate form of protection. The Victoria Cricket Ground is an example of a sports field for which LGS designation is unlikely to be justified.
32. In addition to the 12 sites which were assessed through the LGS study, the Council has identified all the sites allocated as Public Green Space (PGS) in the 2006 Local Plan as LGS without any consideration as to whether the site would meet the high bar for designation set out in the NPPF and in the associated Planning Practice Guidance (PPG). A further 2 sites are added on the basis that they are owned and managed by the Council and are similar to other PGS sites. Whether or not the PGS allocation was a precursor to the LGS designation, given the particular qualities required to support LGS designation, each of the PGS sites needs to be assessed and justified before the new designation is proposed.
33. There are several proposed LGS which cover large areas of land. These include some of the existing PGS such as the King George V Playing Field (11.70ha), Swindon Village (8.89ha) and Pitville Park (19.51ha). Other large areas are proposed at Leckhampton Fields (39.31ha), the North West Strategic Allocation at Swindon Village (24.5ha) and West Cheltenham Strategic Allocation (18.25ha) which were specifically discussed at the hearings. Although there is no definition of an "extensive tract of land" in national policy or guidance, an LGS should be "local in character". To designate areas of land of this scale as being "local in character" would require a robust justification.
34. Leckhampton Fields is an attractive rural area at the foreground of the Cotswolds AONB, and valued by local residents for its public footpaths, wildlife and tranquillity. However, there is no evidence that the particular features of this area of countryside are so special as to justify its long term protection as an extensive area of LGS. In view of the proposals for large scale residential development within the Leckhampton area, I agree with the Inspector at the JCS examination that an area of LGS would be justified. However, the boundaries fall to be determined through the CP, and the area selected must accord with national policy and advice. I consider that the area of 39.31ha as currently proposed is not justified, and that a new assessment is required to identify an area which would meet the criteria in the NPPF and PPG. LGS proposed within the Leckhampton area will be needed to serve existing and new residential development.

35. These comments also apply to the proposed area of 24.5ha for LGS at the North West Strategic Allocation. An area was identified through a Statement of Common Ground (SoCG) between the developers, Swindon Parish Council and Save the Countryside in April 2016. The area proposed in the SoCG amounts to some 5.9ha. This remains a significant area for designation as LGS. However, in view of the scale of new and existing development which it would serve and the buffer which would be provided between the existing and new housing, I consider the area to be justified. Detailed boundaries should be agreed with the developer and the allocation within the CP modified accordingly.
36. The Council indicated at the hearings that the LGS proposed for West Cheltenham required review. I therefore make not comment at this stage on the proposal in the CP for LGS at West Cheltenham.
37. The PPG states that landowners should be contacted at an early stage about proposals to designate any part of their land as LGS and have opportunities to make representations. Submissions indicate that a number of landowners were unaware of the potential designation of their land as LGS. The views of landowners should be sought during the the LGS selection process and their comments should be robustly addressed within any assessments.

*Further work on LGS*

38. Having regard to the issues I have identified with regard to the methodology adopted in the identification of LGS, and the particular shortcomings in those discussed at the hearings, I suggest that the Council has the following options:

Option 1 – to revisit the assessments for LGS designation of all the sites proposed as LGS in Table 8 of the CP and as shown on the Policies Map having regard to the factors which are highlighted above. Consequential changes may be required to Policy GI1, the supporting text and the Policies Map. This option would require a pause in the examination until all the work is completed, landowners have been contacted and a public consultation has been carried out of the results. It may then be necessary to hear evidence at a further hearing session. Inevitably this would result in a lengthy delay in the examination.

Option 2 – to restrict the new assessment for LGS designation to sites 1-11, 83 & 84 in Table 8 which were not previously designated as PGS in the 2006 Local Plan. The sites to be tested against the factors which are highlighted above, and where amendments are necessary, proposals for LGS to be brought forward as a modification to the CP and as changes to the Policies Map. Consequential changes may be required to Policy GI1 and the supporting text. Those sites previously allocated as PGS (sites 12-82) to be deleted from Table 8 and the Policies Map, pending a separate and fully detailed assessment of each of the PGS sites against National policy and guidance for the designation of LGS. This separate assessment of the PGS sites to be carried out either as a one policy update of the CP, the production of a separate DPD or as part of the 5 year CP review. The PGS policy (GE 1) in the 2006 Local Plan could continue to be saved pending this process. The CP would need to make it clear that these 2006 policies were not being superseded. This option would require a less extensive pause in the examination until the work is completed, and a public consultation has been carried out of the results. It may be necessary to hear evidence at a further hearing session.

Option 3 - to remove all the LGS designations from the Policies Map, delete Table 8 and the accompanying text and make consequential changes to Policy GI1. The Council could then undertake a comprehensive review of the LGS assessment process, either as a one policy update of the CP, the production of a separate DPD or as part of the 5 year CP review. There is the option of continuing to save



PGS policy (GE 1) in the 2006 Local Plan pending this process, provided such an approach is made clear in the modification to the CP.

#### *Flooding*

39. Version 2 of the Level 2 SFRA has been reviewed by the Environment Agency (EA). In their letter to CBC dated 20 February 2019, the EA has set out requests for amendments to the policy wording of the following sites: site EM3, MD4, HD8, HD7 and HD3. In addition, Severn Trent Water (STW) has identified local infrastructure constraints for a number of sites. I agree that site specific policy wording is required for sites highlighted amber or red in the STW email of the 1 February 2019. I look to the Council to produce MMs to meet the requirements of the EA and of STW.

#### *Historic and Built Environment*

40. The Council acknowledge that the CP does not provide the statutory framework within which to carry out a review of the Borough's Conservation areas. Paragraphs 9.22 to 9.30 together with Table 1 should be deleted from the CP as a MM.

#### *Natural Environment*

41. JCS Policy SD7 provides adequate protection for the Cotswolds AONB and its setting from the harmful effects of new development. Paragraph 8.5 of the CP is not necessary or justified and should be deleted through a MM.

#### *Gypsy, traveller and travelling showpeople*

42. The site proposed to be allocated through Policy GT1 is located within the AONB outside any settlement and conflicts with Government policy as set out in "Planning policy for traveller sites". The site should be deleted from the CP.
43. The current need for traveller sites is met as a result of the temporary planning permission on the site proposed for allocation. A permanent solution to this and any future need should be met in the 5 year review of the CP, through the allocation of a site which complies with Government policy. Meanwhile, the criteria based Policy SD13 in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) will provide the basis for the determination of future planning applications.

#### Next Steps

44. The Council should now consider its options in relation to
- An amended school site to meet the need for the Leckhampton/Warden Hill area;
  - The deletion of MD1 from the housing supply;
  - A modification to the Policy wording of MD5, to the scale of housing development for the allocation and the possible inclusion of an area of LGS;
  - the scale of housing development for Oakhurst Rise site HD4;
  - the alternative approaches set out above for the review of the LGS designations.
45. Details of the work which the Council intends to undertake, together with the timescales for the work, should be clearly set out in a programme to be submitted to the Programme Officer by April 26 2019.

46. The additional MMs which will be required as a consequence of the issues raised in this note will need to be incorporated into a consolidated schedule of all the potential MMs. The Councils should also consider the need for any consequential changes to the CP and to the Policies Map that might be required in connection with any potential MMs. All changes to the submission Policies Map must be made available for comment alongside the MMs.
47. I will need to see the draft schedule of MMs and changes to the Policies Map and may have further comments on it. I will also need to agree the final version of the schedule before it is made available for public consultation. For clarity and to avoid an excessive number of MMs, it is best to group all the changes to a single policy together and to include any consequential changes to the explanatory text of that policy as one MM.
48. The Council should also satisfy itself that it has met the requirements for sustainability appraisal by producing an addendum to the Sustainability Appraisal of the submitted plan in relation to the potential MMs, as appropriate. I will need to see a draft of the addendum and may have comments on it. The addendum should be published as part of the future MMs public consultation.
49. The Council may also produce a list of proposed additional modifications (AMs). The AMs are a matter solely for the Council and are not before me to examine. If the Council intends to publicise or consult on them it should be made clear that such changes are not a matter for the Inspector.
50. Advice on main modifications and sustainability appraisal, including on consultation, is provided in "Examining Local Plans Procedural Practice". Amongst other things this states that the scope and length of the consultation should reflect the consultation at the Regulation 19 stage (usually at least 6 weeks). It should be made clear that the consultation is only about the proposed main modifications and not about other aspects of the plan and that the main modifications are put forward without prejudice to the Inspector's final conclusions.
51. The Procedural Practice also states that the general expectation is that issues raised on the consultation of the draft main modifications will be considered through the written representations process and further hearing sessions will only be scheduled exceptionally.
52. I look forward to hearing from the Council by the 26 April 2019, with its work programme and decision as to which approach it wishes to pursue to review the LGS designations. If there are any queries or matters that require clarification please contact me through the Programme Officer.

*Wendy Burden*

Inspector

## Appendix 3: Tatenhill Neighbourhood Plan (Examiner's Report dated November 2015)

# **TATENHILL NEIGHBOURHOOD PLAN 2012 - 2031**

A Report to East Staffordshire Borough Council  
of the Examination into the Tatenhill Neighbourhood Plan

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

Nigel McGurk

Erimax Land, Planning and Communities

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

November 2015

## **Contents:**

### **1. Introduction**

### **2. Basic Conditions and Development Plan Status**

### **3. Background Documents and Tatenhill Neighbourhood Area**

### **4. Public Consultation**

### **5. The Neighbourhood Plan, Introductory Sections**

- **Introduction and Background to the Parish**
- **Vision and Objectives and Policy Overview**

### **6. Neighbourhood Plan Policies**

- **Strategic Policies**
- **Housing and Employment**
- **Recreation and Tourism**
- **Landscape and Countryside**
- **Design and Conservation**
- **Infrastructure**

### **7. Neighbourhood Plan – Other Matters**

### **8. Summary**

### **9. Referendum**

## 1. Introduction

### The Neighbourhood Plan – Background

This Report provides the findings of the Examination into the Tatenhill Neighbourhood Plan (referred to as the Neighbourhood Plan) carried out during October and November 2015.

I examined a previous version of the Tatenhill Neighbourhood Plan in August 2014 (referred to as the Neighbourhood Plan 2014) and the subsequent Examiner's Report was published in September 2014.

The Examiner's Report recommended changes necessary for the plan to meet the Basic Conditions (the Basic Conditions are referred to later on in this Report). On consideration of these recommendations, Tatenhill Parish Council decided that, whilst most recommended changes could be accepted, others would be so significant as to, in the opinion of the Parish Council, potentially result in a "No" vote at Referendum.

Amongst other recommended changes, Tatenhill Parish Council was particularly concerned with the recommended deletion of Policy LC2 – Protected Green Spaces and Green Gap. Whilst its inclusion meant that the Neighbourhood Plan 2014 failed to meet the basic conditions – and so, the Neighbourhood Plan could not have progressed to Referendum whilst it included the Policy - Policy LC2 was strongly supported by members of the local community.

Choosing not to abandon the significant work undertaken and start all over again, Tatenhill Parish Council sought to work together with East Staffordshire Borough Council, in the spirit of the Localism Act (2011) and with the specific aim of achieving a positive solution, as quickly as appropriate. This resulted in the production of the Neighbourhood Plan the subject of this Examination.

By and large, this Neighbourhood Plan is the same as the Neighbourhood Plan 2014. The main differences being that it incorporates the majority of the Examiner recommendations made previously; it includes two completely revised versions of Policies LC2 and IN2 ("Highways Safety"); it includes information to support the revised Policy LC2; and it includes a small number of other changes.

The (revised) Neighbourhood Plan was submitted to East Staffordshire Borough Council and underwent a formal six week consultation period during August and September 2015. East Staffordshire Borough Council, with the agreement of Tatenhill Parish Council, then submitted the Neighbourhood Plan for examination.

This is an unusual situation. In the case of neighbourhood planning, it is my understanding that it is unprecedented. Consequently, I consider the process in more detail below.

## The Neighbourhood Plan - A “Second Examination”

It is a requirement of the Town and Country Planning Act 1990<sup>1</sup> that the recommendations made in an Examiner’s Report must be considered by the relevant local authority, which must then decide on what action to take in response to each recommendation.

If the local authority is satisfied that the Basic Conditions and any legal requirements are met as a result of modifying the neighbourhood plan in accordance with the Examiner’s recommendations, then a Referendum must be held to determine whether the neighbourhood plan should be *made* (the neighbourhood planning equivalent of “adopted”) by the local authority.

The Town and Country Planning Act 1990 states<sup>2</sup> that where

*“the local authority propose to make a decision which differs from that recommended by the examiner, and the reason for the difference is (wholly, or partly) as a result of new evidence or a new fact or a different view taken by the authority as to a particular fact, the authority must notify prescribed persons of their proposed decision (and the reason for it) and invite representations. If the authority consider it appropriate to do so, they may refer the issue to independent examination.”*

In this case, East Staffordshire Borough Council has proposed to make a decision that differs from the Examiner’s recommendations and in particular, it has taken a different view from the Examiner in respect of part of the following three Policies: Policy HE1, Policy LC2 and Policy IN2. It has also taken a different view from the Examiner with regards a minor part of Policy HE5 and the content of some of the Neighbourhood Plan’s supporting text.

Taking the above into account, further to changes being made to the Neighbourhood Plan 2014 East Staffordshire Borough Council decided to undertake a full, six week, submission consultation on the (revised) Neighbourhood Plan. As noted above, this was carried out during August and September 2015.

Following this consultation period, East Staffordshire Borough Council considered it appropriate to refer the (revised) Neighbourhood Plan to independent examination. Taking this and all the above into account, it appears to me that East Staffordshire Borough Council has carried out its duty with full regard to the requirements of the Town and Country Planning Act 1990, with specific regard to the paragraph highlighted above.

I also consider it relevant to point out that the approach taken by East Staffordshire Borough Council appears to sit comfortably within the spirit of the Government’s approach to Localism and planning. In January 2015, when introducing a raft of

---

<sup>1</sup> Paragraph 12, Schedule 4B.

<sup>2</sup> Paragraph 13, Schedule 4B (as inserted by the Localism Act 2011).



proposals to speed up and simplify the neighbourhood planning process, Housing Minister, Brandon Lewis stated that

*“...I want to see more communities making the most of the powers we’ve put in their hands. These measures will speed up the process, making it quicker and easier to get a neighbourhood plan together...”*

In this light, in my view, East Staffordshire Borough Council is to be commended for what appears to be the adoption of a pro-active approach to bringing forward a neighbourhood plan without unnecessary delay, whilst at the same time, carrying out its duties with full regard to the requirements of the Town and Country Planning Act 1990.

## The Setting Out of This Report

The Neighbourhood Plan has been submitted to me for examination. I confirm that I have examined it, and all relevant supporting documents, as a whole. As might be expected, this Report focuses particular attention on those changes that do not necessarily reflect the previous Examiner recommendations. In addition, as time has passed since the previous examination and planning policy – and the world of town planning - is dynamic, I have considered all aspects of the Neighbourhood Plan.

In the above regard, there have been changes to planning over the last year or so, not least as a result of new national planning policy and advice. In addition, the East Staffordshire Borough Council Local Plan was adopted during the course of this examination, on Thursday 15 October 2015. I have taken these factors into account in completing this Report.

## 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)

Tatenhill Parish Council is the *qualifying body* 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 working group, with the Tatenhill Parish Community Group, to lead on the production of the Neighbourhood Plan.

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 East Staffordshire Borough Council. It would then be used to determine planning applications and guide planning decisions in the Tatenhill Neighbourhood Area.

## Role of the Independent Examiner

I was appointed by East Staffordshire Borough Council, with the consent of Tatenhill Parish Council, to conduct an examination and provide this Report as an Independent Examiner. As explained above, I also examined the Neighbourhood Plan 2014.

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.

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 Tatenhill 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 2012 to 2031. I therefore confirm that the Neighbourhood Plan satisfies the relevant requirement in this regard.

#### East Staffordshire Borough Council

In its representation to consultation (September 2015), East Staffordshire Borough Council confirmed that, in its view, the Neighbourhood Plan meets the Basic Conditions.

## Public Hearing

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.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of the written representations submitted, I am satisfied that it was possible to complete the examination of the Tatenhill Neighbourhood Plan without the need for a Public Hearing.

## 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>3</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, that it does not breach, nor is in any way incompatible with the ECHR and that it complies with the Human Rights Act 1998. There is no substantive evidence to the contrary.

Planning Practice Guidance states that where a neighbourhood plan *could* have significant effects, it *may* fall within the scope of European legislation, whereby an SEA is required. According to European legislation, a Habitats Regulations Assessment (HRA) is required when it is considered that likely negative, significant effects could occur on protected sites as a result of the implementation of a plan or project.

A Basic Conditions Statement and an SEA Screening Report were produced for the Neighbourhood Plan 2014. These reports stated that there would be no effect on any habitats subject to the relevant Articles of the Habitats Directive. Whilst the changes between the Neighbourhood Plan 2014 and this Neighbourhood Plan do not appear so significant as to alter this (and there is no substantive evidence to the contrary), I note that the SEA Screening Report which was revised in the light of the revisions to the Neighbourhood Plan 2014, reached the same conclusion – that an SEA was not required.

During the previous examination of the Neighbourhood Plan 2014, I noted comments submitted by Natural England. In referring to European designated sites

---

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

located within the vicinity of the Neighbourhood Area, Natural England previously stated that

*"...in so far as our strategic environmental interests are concerned (including but not limited to statutory designated sites, landscapes and protected species, geology and soils) there are unlikely to be significant environmental effects from the proposed plan."*

Natural England has commented upon the Neighbourhood Plan and has not raised any points that conflict with this previous view.

Natural England also previously commented that the boundary of the Neighbourhood Area is 14.5km from Cannock Chase Special Area of Conservation and that housing development that comes forward within the 15km Cannock Chase Zone of Influence should be subject to screening under the Conservation of Habitats and Species Regulations (2010).

As noted in the previous examination, there is no suggestion in the Neighbourhood Plan that housing will be built within the 15km zone and Natural England did not consider that the plan *"would result in likely significant effects on Cannock Chase SAC."* In commenting on the Neighbourhood Plan, Natural England has provided the further comment that

*"We have considered the distance between the parish and the Cannock Chase Special Area of Conservation (SAC) and have no objections to the amended policy."*

I note that the Basic Conditions Statement states that the Neighbourhood Area is *"covered by the National Forest"* but that the National Forest is not, itself, subject to Articles 6 and 7 of the European Habitats Directive.

With regards to whether or not a neighbourhood plan requires an SEA and/or a sustainability appraisal, Planning Practice Guidance is clear:

*"the local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations."*

As stated above, East Staffordshire Borough Council considers that the Neighbourhood Plan meets the Basic Conditions. Taking this, the information before me and all of the above into account, I am satisfied that the Neighbourhood Plan does not require an SEA and that it is compatible with European obligations.



### **3. Background Documents and Tatenhill Neighbourhood Area**

#### Background Documents

In undertaking this examination, I have considered a number of documents, in addition to the Tatenhill 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)
- East Staffordshire Local Plan (Adopted 2015) (Local Plan)
- Tatenhill Neighbourhood Plan Basic Conditions Statement
- Tatenhill Neighbourhood Plan Consultation Report
- Decision Statement by East Staffordshire Borough Council (17 August 2015)

Also:

- Representations received during the publicity period

In addition, I undertook unaccompanied site visits in the Tatenhill Neighbourhood Area, with particular reference to proposed Local Green Space.

#### Tatenhill Neighbourhood Area

The Tatenhill 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, East Staffordshire Borough Council approved the designation of Tatenhill as a Neighbourhood Area in December 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.

### Tatenhill Neighbourhood Plan Consultation

In the previous Examiner's Report, I considered consultation in some considerable detail. I found that the Consultation Report complied with neighbourhood planning *regulations*<sup>4</sup> and that the public consultation undertaken was significant, robust and central to the production of the Neighbourhood Plan.

As above, this Neighbourhood Plan examination is somewhat unusual. Whilst a "Consultation Statement" has been submitted, this simply sets out how consultation has taken place further to receipt of the Examiner's Report for the Neighbourhood Plan 2014. In so doing, it refers to who was consulted and how, together with the outcome of the consultation. In this regard, the Consultation Statement meets the requirements of the neighbourhood planning regulations.

From consideration of the evidence, it appears to me that Tatenhill Parish Council worked in a positive and collaborative manner with East Staffordshire Borough Council to amend the Neighbourhood Plan 2014 with the specific aim of meeting the basic conditions. A public meeting was held, at which modifications were reviewed and opportunity was provided for comment. The results were published (in the Parish Council's Newsletter) and actions agreed "*at public meetings in June 2015.*"

Further to the above, I note that the six week consultation period undertaken during August and September 2015 provided the opportunity for interested parties, including statutory consultees, to comment upon the Neighbourhood Plan.

---

<sup>4</sup>Neighbourhood Planning (General) Regulations 2012.

## 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.

### Introduction

Given the circumstances of this examination, I consider it inappropriate that the Neighbourhood Plan does not refer to the previous Neighbourhood Plan 2014, especially as a major part of the Introduction to the Neighbourhood Plan comprises a description of how it was prepared. This presents a good opportunity to provide clarity with regards the process undergone. I also note that the Introduction includes information that is out-dated and incorrect.

I recommend:

- Para 1.1, change line five to “*...in general conformity with the strategic policies of the development plan and have regard to national policy and advice.*” (delete rest of paragraph)
- Para 1.2, delete first sentence and final sentence. Change second sentence to “*...project (one of 200 such projects supported by the government) in Summer 2012.*”
- Para 1.3, change start to “*Neighbourhood plans are to be...community.*” Change line two to “*...Group was to act...*”
- New Para after 1.3 “*This Neighbourhood Plan incorporates changes to a previous Neighbourhood Plan that underwent independent examination in 2014. These changes were made in order to meet the aims of the local community whilst ensuring that the neighbourhood planning Basic Conditions were met, in line with legislation.*”
- Para 1.5 change to “*...must be in general conformity with the strategic policies of the East...*”
- Para 1.6, line three, delete “*...held over the course of a year.*”
- Para 1.7, delete “*...,for more detail...Report.*”

- Add new row to Table on page 3, with reference to the first three columns of that Table

*“Revisions to previous Plan.*

*“Together with East Staffordshire Borough Council, changes were made to the previous Neighbourhood Plan, following publication of the Examiner’s Report. These were considered at public meetings.*

*“January 2015-September 2015.*

- Add new row to Table on page 3, with reference to the first three columns of that Table

*“Submission Consultation.*

*Formal six week consultation, including statutory consultees.*

*19/08/15 to 30/09/15.*

- Delete Para 1.11

### Vision and Objectives

I note that the Objectives set out on pages 7 and 8 of the Neighbourhood Plan are simply that and that they do not form Policies of the Neighbourhood Plan. With regards Objective 4, I note that the Neighbourhood Plan will not implement traffic calming measures.

In the interest of clarity, I recommend:

- Page 8, re-word *“The TDNDP should create an attractive and useable public realm...services.”*

Paragraph 4.2 is unnecessary, confusing and adds little to the Neighbourhood Plan. There is no reason, for example, why a development proposal in a village should be subject to a Policy that concerns development outside of the villages.

- Delete Paragraph 4.2

## **6, Neighbourhood Plan Policies**

The Neighbourhood Plan clearly distinguishes between Policies and supporting text. Policies are set out in boxes, which themselves are colour-coded, depending upon which category the Policies fall into (eg Housing and Employment, Landscape and Countryside). This provides for a clear and easy to navigate document.

Further to the above, the numbering of the policies is simple. It reflects the relevant categories and adds to clarity.

## Strategic Policies

For the reasons given above, I recommend:

- **Delete the first sentence of Para 5.1**

The Policies do not ensure “*that development preserves and enhances the landscape setting and local design features.*” Such a requirement would be unduly onerous and is not contained in the Policies. I recommend:

- **Para 5.3, delete “...with a strong focus...features.”**

### **Policy SP1 – Settlements (General Principles of Development)**

Part of Policy SP1 is rather vague and could be taken to mean that any development will be supported, so long as it actively contributes to the improvement of services, infrastructure and facilities. This could result in apparent Policy support for inappropriate development. For clarity, I recommend:

- **Policy SP1, change third sentence to “*The improvement of Parish services...will be supported.*”**

Subject to the above, the Policy supports development and has regard to the Framework, which promotes sustainable growth.

### **Policy SP2 – Landscape Features**

Policy SP2 seeks to protect those qualities of the landscape highly valued by the local community. It has regard to national policy, which seeks to protect local character and recognises the natural environment as being essential to wellbeing.

The Policy contributes to the achievement of sustainable development by protecting and enhancing the natural environment and is in general conformity with Local Plan policy SP30, which amongst other things, protects landscape character.

However, as worded, the Policy sets out requirements without providing substantive evidence to demonstrate that all such requirements are achievable. To address this, I recommend:

- **Policy SP2, change second sentence to “*Where possible and appropriate, development outside of villages should seek to achieve the following:*”**

Subject to the above, Policy SP2 meets the basic conditions.

### **Policy SP3 – Contextually Responsive Design (design that fits with its surroundings)**

National policy recognises good design as a key aspect of sustainable development, indivisible from good planning. Together, the Framework and Local Plan policy SP24 seek to encourage high quality design and to protect local character.

Policy SP3 builds upon a previously prepared Parish Design Statement (2012) and establishes design policy for the Neighbourhood Area. It provides for quality development, distinctive to the Neighbourhood Area and in this way, it meets the Basic Conditions.

### **Policy SP4 – Sustainability and Climate Change**

Policy SP4 seeks to encourage sustainable development. It has regard to national policy and meets the basic conditions.



## Housing and Employment (HE) Policy

I note above the position with regards the East Staffordshire Local Plan. Given this, I recommend:

**Para 6.2, delete “...emerging...”**

### **Policy HE1 – Parish Housing Strategy**

Policy HE1 supports the development of “approximately 25 dwellings.” It goes on to require an “approximate” approach to the distribution of dwellings around the Neighbourhood Area.

The Framework, in establishing a presumption in favour of sustainable development, states that plans should meet objectively identified needs, with sufficient flexibility to adapt to rapid change. It recognises that sustainable development is about *positive growth*.

By use of the phrase “approximately,” I consider that Policy HE1 provides for flexibility whilst adopting a pro-active and supportive approach to sustainable growth. It does not unduly restrict or limit development from coming forward, but provides for some degree of certainty by identifying broad locations for sites. Furthermore, I find that the approach will not undermine local character and there is no evidence to demonstrate otherwise. Consequently, the Policy enables the Neighbourhood Plan to provide for sustainable growth in an appropriately flexible manner.

The final sentence of the policy states that applications for the development of more than 6 dwellings in Rangemore and for 6 dwellings in Tatenhill will not be permitted. This approach takes into account the size of the settlements and local character, and is intended to reflect the community aspiration to prevent the development of “large blocks” or areas of land for housing. Whilst the overall approach has regard to national policy, and is in general conformity with Local Plan policy SP24, in that it seeks to protect local character, it provides no substantive evidence for treating Tatenhill differently to Rangemore.

National policy is clear in its support for sustainable growth and the efficient use of land and for clarity, I recommend:

- **Change the final sentence of Policy HE1 to “*Applications for more than 6 dwellings in Tatenhill and Rangemore villages will not be supported.*”**

Paragraph 6.9 refers to overall housing targets. The Neighbourhood Plan identifies broad locations but does not set any housing targets. I recommend:

- **Para 6.9, delete “...but should be counted towards overall housing targets.”**

Subject to the modifications proposed, Policy HE1 has regard to national policy, is in general conformity with adopted local strategic policy and contributes to the achievement of sustainable development. It meets the Basic Conditions.

### **Policy HE2 – Local Housing Needs**

Policy HE2 is a supportive Policy that recognises local needs identified through the plan-making process and supports development that meets these needs. The Policy has regard to the Framework, which empowers local communities to bring forward the sustainable development they need and meets the Basic Conditions.

The final sentence of policy HE2 simply refers to the provisions of another document not under the control of the Neighbourhood Plan. Consequently, Policy HE2 does not, itself, set out planning policy. Whilst I note that the reference provides some guidance with regards affordable housing, I consider that this is a matter sufficiently dealt with by the supporting text.

In addition, I consider it sufficient to simply refer to the Local Plan, rather than to seek to summarise affordable housing requirements in the Neighbourhood Plan. I recommend:

- **Policy HE2, delete final paragraph**
- **Para 6.11, delete “...with a target...balanced community.” (For clarity, end the paragraph at “current Local Plan.”)**

### **Policy HE3 - Employment and Retail**

This policy is supportive of development that supports the vitality and viability of village centres and restricts retail uses away from villages. This has regard to national policy and is in general conformity with Local Plan policy SP21.

### **Policy HE4 – Tatenhill Airfield**

Policy HE5 supports economic growth. It is in general conformity with Local Plan policy SP14, which allows for the assessment of development proposals against various factors including environmental impacts and economic/employment advantages, and it contributes towards the achievement of sustainable development.

By reference to uses that will be “particularly” supported, the Neighbourhood Plan encourages high tech engineering and aerospace related development. This is a

locally distinctive, pro-active approach that contributes to the achievement of sustainable development.

Policy HE4 meets the Basic Conditions.

## Recreation and Tourism (RT) Policies

The policies in this section reflect the high value placed by the local community on sport and recreation within the Neighbourhood Area, and recognise opportunities for tourism.

### **Policy RT1 – Footpaths/Bridleways/Cycle paths**

Policy RT1 seeks to support the improvement of existing and provision of new footpath and cycle connections. This has regard to the Framework, which promotes walking and cycling and supports development that seeks to improve health and wellbeing. To prevent the Policy from inadvertently supporting inappropriate development, I recommend:

- **Policy RT1, change first line to “*the improvement of footpath and cycle connections within the Parish will be supported.*”**

### **Policy RT2 – Designated Trails (Gyms, Heritage)**

Policy RT2 supports the improvement of existing and the creation of new, recreational routes and trails and like Policy RT1, the Policy meets the Basic Conditions.

However, an objection has been received that points out that one of the designated trails shown on the Proposals Map comprises private land and is, therefore, incorrectly included.

Whilst I note later that, visually, the Proposals Maps are of poor quality, it is still essential that all of the information shown on them is correct. If the Proposals Map is showing private land that does not benefit from public access as a designated trail, then this must be removed.

- **Analyse the Proposals Maps and ensure that all information is entirely accurate. Remove any inaccuracies.**

### **Policy RT3 – Recreation and Sports Pitches**

This Policy supports the protection of existing recreation and sports facilities. The policy is in general conformity with Local Plan policy SP32, which, amongst other things, seeks to prevent the undue loss of sports pitches and related facilities.

Policy RT3 goes on to support development that helps deliver play facilities in Tatenhill. This has regard to national policy, which promotes health and well-being. Policy RT3 meets the Basic Conditions.

#### **Policy RT4 – Tourism and Visitor Assets**

This Policy seeks to support the protection and enhancement of existing tourism assets. In line with previous recommendations, with the aim of providing for clarity, I recommend:

- ***Policy RT4, change to “The preservation and/or enhancement of existing tourism...and cycling will be supported.”***

Taking the above into account, Policy RT4 has regard to the Framework, which promotes tourism and meets the Basic Conditions.

## Landscape and Countryside (LC) Policies

The second sentence of Paragraph 8.2 is incorrect. There is no evidence to demonstrate that national or local planning policy requires local character to be enhanced. This would be an onerous requirement that may not be relevant, or achievable, in all circumstances. Consequently, ensuring that this occurs does not have regard to national policy, nor is it in general conformity with the strategic policies of the development plan. I recommend:

- **Para 8.2, delete second sentence**

### Policy LC1 – Key Views and Vistas

Policy LC1 requires all new development to protect and/or to enhance key views, vistas and gateways. This has regard to national policy and is in general conformity with adopted strategic local policy, which, together, protect local character.

There is no policy requirement for development to enhance Conservation Areas and Paragraph 8.4 should therefore reflect this. I recommend:

- **Para 8.4, line 3, change to “*and/or enhancing*”**

Subject to the above modifications, Policy LC1 contributes towards the achievement of sustainable development and meets the Basic Conditions.

### Policy LC2 – Local Green Spaces

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

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

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. Notably, 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)

Consequently, when designating Local Green Space, plan-makers must clearly demonstrate that the requirements for its designation 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.

Policy LC2 seeks to designate “Local Green Spaces.” It refers to these as being shown on the accompanying proposals map. The Proposals Maps do not form part of the Neighbourhood Plan, but have been included as Appendices. This is inappropriate – especially where the Maps include designated areas of land.

Further to the above, the quality of the Proposals Maps is very poor. They are difficult to read, they do not show boundaries in any great detail and they lack general detail. In short, they are inappropriate for inclusion in a Neighbourhood Plan. With specific regard to the designation of Local Green Space, it is essential that each Local Green Space is identified in such detail that all boundaries are clearly visible at a legible scale.

For the reasons given above, I recommend below that a new series of Proposals Maps are produced, using an Ordnance Survey base and that these are included within the Neighbourhood Plan itself, rather than as Appendices to it.

The final paragraph of Policy LC2 does not accurately reflect Local Green Space policy, as set out in the Framework. Rather than have regard to the Framework, it seeks to introduce a new approach to Local Green Space. No evidence has been provided to support such a significantly different approach to that set out in the Framework and Policy LC2 fails to meet the basic conditions in this regard.

The supporting text provides a disjointed summary of Green Belt policy. This is neither helpful nor necessary, but adds much confusion.

Policy LC2 seeks to designate six areas of Local Green Space. These are listed in the Policy but are not individually identified with any clarity on the Proposals Maps. This is inappropriate. Not least given the importance of the designation, each Local Green Space should be clearly labelled.

Policy LC2 goes on to refer to “*these green spaces*.” This fails to have regard to national policy. The Framework, in paragraphs 76 to 78, refers to the ability of local communities to designate “Local Green Space,” rather than “green spaces” in general.

Appendix 4 is entitled “Local Green Space Justification Table.” This appendix sets out why, in the opinion of Tatenhill Parish Council, the proposed areas of Local Green Space meet the requirements of the Framework.

Three areas of Local Green Space are proposed for Rangemore. The Recreation Area/Bowling Green is demonstrably special to the local community because of its recreational value. Land to the south of the Church and School, and land to the rear of Rangemore Club comprise two sites demonstrably special to the local community



largely because of their historic significance. All three sites are in close proximity to the community they serve and comprise land that is local in character and not extensive.

Land to the south of Cedars, Tatenhill and land opposite The Old Rectory, Tatenhill comprise sites demonstrably special to the local community largely because of their historic significance. The two areas of land are in close proximity to the community they serve and comprise land that is local in character and not extensive.

The two remaining sites comprise land to the north and south of Branston Road, Tatenhill. The sites are immediately adjacent to one another, separated by Branston Road. The smaller of the two sites, to the south of Branston Road, comprises 4.3 hectares. Relative to the size of Tatenhill village, this is a very large site.

By way of example, Policy H1 of the Neighbourhood Plan refers to the delivery of approximately 25 dwellings during the plan period. At a suburban average of 30 dwellings per hectare, all of these dwellings would fit on to less than one third of the site to the north of Branston Road. Furthermore, during my site visit, I estimated that the site was the size of at least five full size football pitches and that the majority of the urban area of Tatenhill village would fit within it.

Taking all of the above into account, it is my view that, relative to the Neighbourhood Area, the proposed Local Green Space to the south of Branston Road comprises an extensive tract of land. Consequently, its designation fails to meet all of the tests set out in the Framework and does not meet the basic conditions.

The proposed Local Green Space to the north of Branston Road is more than twice as large as that to the south. There is no doubt whatsoever that this is an extensive tract of land. In addition, it is located some considerable distance away from the community that it “serves.” The proposed designation of land to the north of Branston Road fails to meet all of the tests set out in the Framework and does not meet the basic conditions.

Whilst for the reasons given above, the designation of these two sites fails to meet the basic conditions, I am also concerned with the reasoning behind the “justification” for the proposed designation of these two sites.

National policy is unambiguous in establishing that the Local Green Space designation will not be appropriate for most green areas or open space. Much of the case for both sites being demonstrably special to the local community appears to be founded on the land being undeveloped and providing a “buffer” to the nearby settlement of Burton on Trent. Indeed, the justification refers specifically to “visual separation.” However, the land is not unique in this regard, as there are many hectares that “visually separate” Tatenhill from Burton.

Furthermore, the Framework provides specific examples of why a site might hold a particular local significance – because of its beauty, historic significance, recreational

value, tranquillity or richness of its wildlife. There is no compelling evidence to demonstrate particular local significance for either site in any of these respects. Whilst I note that some information relating to local history has been presented, much of this could relate to many parts of the wider area and I note that Historic England, the body responsible for the protection of England's heritage assets, has not provided any substantive evidence in support of the proposed designation.

Taking the above into account, there is little in the way of compelling evidence to demonstrate that land to the north and south of Burton Road is, in the context of the Framework, demonstrably special and locally significant.

For all of the reasons set out above, the proposed designation of the two sites as Local Green Space does not meet the basic conditions.

I acknowledge that many members of the local community wish to prevent future development on these two sites. However, this is not a factor that means that the sites pass the necessary tests set out in the Framework.

Taking the above into account, I recommend:

- **Change title of Policy LC2 to “*Local Green Space*”**
- **Produce new Local Green Space Proposals Maps. These should be on an Ordnance Survey base and show the boundaries of the Local Green Space designations in clear detail. Each Local Green Space should be clearly labelled.**
- **Move the Proposals Map from the Appendices into the body of the Neighbourhood Plan. This Map includes the boundary of the Neighbourhood Area and it is important that this is included within the Neighbourhood Plan.**
- **Policy LC2, change first paragraph to “*The following areas of land are designated as Local Green Space:* (delete second sentence, which is unnecessary)”**
- **Delete the fourth and fifth bullet points. For clarity, the land to the north and south of Branston Road is not designated as Local Green Space**
- **Delete final paragraph and replace with “*Within Local Green Space, development is ruled out other than in very special circumstances.*”**
- **Remove Appendix 4 from the Neighbourhood Plan. Delete Paragraphs 8.7, 8.8, 8.9 and the last sentence of Paragraph 8.10.**

Subject to the above, Policy LC2 meets the basic conditions.

### **Policy LC3 – National Forest and Green and Blue Infrastructure**

Policy LC3 is supportive of development that meets the aims of the National Forest. It contributes to the achievement of sustainable development and meets the basic conditions.

## Design and Conservation (DC) Policies

### **Policy DC1 – Design in Conservation Areas**

Policy DC1 aspires to high quality design. This has regard to national policy, which recognises good design as integral to sustainable development.

### **Policy DC2 – Front Boundaries**

The intent of Policy DC2 is to protect local character. This is in general conformity with adopted local strategic policy and has regard to national policy.

## Infrastructure (IN) Policies

### **Policy IN1 – Community Buildings**

Policy IN1 supports mixed use development and the diversification of community buildings and land. This has regard to national policy, which supports sustainable growth.

### **Policy IN2 – Highway Safety**

The opening paragraph of Policy IN2 comprises a positive approach to land use planning. It has regard to national policy and to the strategic policies of the East Staffordshire Local Plan, which together seek to ensure that development provides for a safe environment. The wording of this paragraph can be tightened through the recommendation below.

No indication is provided with regards what *“calming measures and landscape designs which define settlements”* actually means. Consequently, this part of the Policy does not provide decision makers with a clear indication of how to react to a development proposal.

The last paragraph, as worded, is vague. It refers to *“these works”* but no specific works have been identified. No indication is provided as to what *“appropriate contributions”* might be and it is entirely unclear how the Neighbourhood Plan will appropriately seek contributions from development outside the Parish. Furthermore, there is no detailed information to demonstrate how the potential impact of development inside and outside the Parish to *“increase traffic flows”* along every route and junction within the Parish will be measured, including for example, what criteria will be used to establish negative impacts.

In addition, I note that, grammatically, the final paragraph is ambiguously worded - it suggests traffic calming measures being *“negatively impacted,”* rather than routes and junctions.

Taking all of the above into account, I recommend

- **Policy IN2, change first sentence to *“Improvements to highway safety within the parish...Rangemore School, will be supported.”***
- **Re-word the second and third paragraphs of Policy IN2 *“Proposals for traffic calming measures which improve highway safety will be supported. Developer contributions, including the use of the Parish receipts from CIL, may be sought for appropriate traffic calming measures from developments which are likely to significantly increase traffic on routes where there are highway safety problems.”***

### **Policy IN3 – Public Realm in Villages**

Policy IN3 seeks to preserve the public realm and supports development that enhances the public realm. This has regard to national policy, which protects local character.

## **7. Neighbourhood Plan – Other Matters**

The Neighbourhood Plan includes four appendices, including the Proposals Maps and a Glossary. I recommend above that Appendix 3 be removed and that plans be included within the Neighbourhood Plan itself; and that Appendix 4 be deleted.

Part of Appendix 1 reads as though it were a Policy, which it is not. I recommend:

- **Delete last sentence of Appendix 1 ("The Parish...this list.")**

## 8. Summary

There has been a sustained community effort to revise the Tatenhill Neighbourhood Plan in order to meet the Basic Conditions. It is a document that reflects the hard work and commitment of many people.

I have recommended a number of modifications to the Neighbourhood Plan. Subject to these recommended modifications, the Tatenhill 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.

Consequently, the Tatenhill Neighbourhood Plan meets the Basic Conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.



## **9. Referendum**

I recommend to East Staffordshire Borough Council that, subject to the modifications proposed, the **Tatenhill 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 Tatenhill 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 Tatenhill Neighbourhood Area as approved by East Staffordshire Borough Council in December 2012.

**Nigel McGurk, November 2015**  
**Erimax – Land, Planning and Communities**

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

## Appendix 4: Oakley and Deane Neighbourhood Plan (Examiner's Report dated December 2015)

# **OAKLEY AND DEANE NEIGHBOURHOOD PLAN**

Oakley and Deane Neighbourhood Plan Examination,  
A Report to Basingstoke and Deane Borough Council

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

Nigel McGurk

Erimax Land, Planning and Communities

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

December 2015

## **Contents:**

### **1. Introduction**

### **2. Basic Conditions and Development Plan Status**

### **3. Background Documents and Oakley and Deane Neighbourhood Area**

### **4. Public Consultation**

### **5. The Neighbourhood Plan: Introductory Section**

### **6. The Neighbourhood Plan: Policies**

- **Housing**
- **Housing Site Policies**
- **Community**
- **Protection and Enhancement of the Environment**
- **Employment and Skills**
- **Design**
- **Traffic and Transport**

### **7. Summary**

### **8. Referendum**

## 1. Introduction

### The Neighbourhood Plan

This Report provides the findings of the examination into the Oakley and Deane 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)

Oakley and Deane Parish Council is the *qualifying body* 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).

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 Plan would be *made* by Basingstoke and Deane Borough Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Oakley and Deane Neighbourhood Area.

### Role of the Independent Examiner

I was appointed by Basingstoke and Deane Borough Council, with the consent of the qualifying body, 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.

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 Oakley and Deane 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 Neighbourhood Plan is clear in this regard. The title page of the Neighbourhood Plan includes a reference to the plan period, 2011-2029.

In addition to the above, paragraph 1.5 on page 7 of the Neighbourhood Plan states that the Neighbourhood Plan will “be in force” until 2029; and page 1 of the Basic Conditions Statement also refers to the plan period.

Taking the above into account, I confirm that the Neighbourhood Plan satisfies the relevant requirement in this regard.

## Public Hearing

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.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of the written representations submitted, I confirmed to Basingstoke and Deane Borough Council that I was satisfied that the Oakley and Deane Neighbourhood Plan could be examined without the need for a Public Hearing.

## 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>1</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.

The Neighbourhood Plan refers to the basic conditions in the introductory section on page 6. However, it states that the Neighbourhood Plan must “*have appropriate regard*” to national planning policy. This is not quite the case. Furthermore, paragraph 1.4.1 on page 6 goes on to state that the Neighbourhood Plan should “*contribute to the (sic) sustainable development*” and again, this is not quite the case. Furthermore, the basic conditions statement incorrectly asserts that the Neighbourhood Plan “*must comply with*” national policy and guidance.

Whilst these may seem like minor points – and it is not uncommon for neighbourhood plans to seek to paraphrase the basic conditions - the wording of the basic conditions is the result of careful consideration. Paraphrasing them almost inevitably, as in this case, results in their misapplication. In this regard, I note that it is *my* role, as independent examiner, to consider the Neighbourhood Plan against the basic conditions. In this case, no harm has arisen from the small errors noted above.

I recommend:

- **Page 6 Paragraph 1.4.1, change to “*have regard to national policies and advice...contribute to the achievement of sustainable development...*”**

---

<sup>1</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.



## European Convention on Human Rights (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.

## European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>2</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.

With the above in mind, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects. This process is referred to as a “screening” assessment. If the screening assessment identifies likely significant effects, then an environmental report must be prepared.

The Basic Conditions Statement confirms that Basingstoke and Deane Borough Council undertook a screening assessment and found that,

*“when considered in relation to the environmental constraints and the amount of development proposed in the Neighbourhood Area, namely 150 new homes...significant effects on the environment are likely.”*

Consequently, it was determined that a Strategic Environmental Assessment was required. The Basic Conditions Statement confirms that the Neighbourhood Plan “was informed and influenced” by a Sustainability Appraisal, incorporating the requirements of the European Strategic Environmental Assessment Directive. This was submitted alongside the Neighbourhood Plan. Evidence has been submitted to demonstrate that the Sustainability Appraisal was integral to the plan-making process and was consulted upon.

As part of the consultation process, responses from the statutory bodies, the Environment Agency, English Heritage (now, with regards to planning matters, Historic England) and Natural England were considered and taken into account. None of the statutory consultees has raised any concerns with the Sustainability Appraisal or its conclusions.

A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites. The Basic Conditions Statement confirms that there are no European

---

<sup>2</sup> Paragraph 026, Planning Practice Guidance 2014.

sites within a 10km radius of the Neighbourhood Area and Basingstoke and Deane Borough Council is satisfied that an HRA is not required.

In addition to the above, I am mindful that national guidance establishes that the ultimate responsibility of determining whether or not a draft neighbourhood plan meets European obligations lies with the local authority,

*“the local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.”* (Planning Practice Guidance 11-031)

With regards this latter point, Basingstoke and Deane Borough Council has stated that whilst *“it would have preferred if SA (Sustainability Appraisal) work was undertaken to appraise other reasonable alternatives”* with regards the assessment of alternative development sites, it has not stated, anywhere, that in its opinion, the Neighbourhood Plan is not compatible with European obligations.

I note that Basingstoke and Deane Borough Council has stated that it

*“is satisfied that the Neighbourhood Plan and process followed complies with the statutory requirements as set out in paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).”*

Basingstoke and Deane Borough Council has also *“welcomed”* the *“careful consideration”* of its comments concerning the Sustainability Appraisal by plan-makers and has recognised that *“a useful addition”* has been incorporated into it, *“including a new section (9.4) titled “Assessment of options for reserve sites.”* This section includes appraisal of reasonable alternatives for the reallocation of dwellings should one of the allocated sites not come forward and also assesses the merits of different scales of development at each site.

Thus, whilst representations have been submitted in objection to the Neighbourhood Plan on the basis that the Sustainability Appraisal should have been carried out differently, having regard to the above and paragraph 11-031 in particular, I reach the conclusion below.

I also note that there is no legislative requirement for the Sustainability Appraisal to *“be revisited to test whether (the) plan is capable of delivering a pro-growth scenario in the event that the emerging Local Plan requirement is not sufficient to meet the (Borough’s) housing needs,”* as suggested by one objector.

Taking all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

### 3. Background Documents and Oakley and Deane Neighbourhood Area

#### Background Documents

In undertaking this examination, I have considered various information in addition to the Oakley and Deane Neighbourhood Plan. This has included:

- National Planning Policy Framework (The Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning Regulations (2012)
- Basingstoke and Deane Borough Adopted Local Plan (2006) (Saved 2009)
- Basic Conditions Statement
- Consultation Statement
- Sustainability Appraisal

Also:

- Representations received during the publicity period

In addition, I spent an unaccompanied day visiting the Oakley and Deane Neighbourhood Area.

#### Post-Consultation Submission

The Parish Council has submitted a document entitled *“Amendment to Regulation 16 version of the Plan prior to Examination.”* This was submitted after the close of the Regulation 16 consultation. The comments were submitted on the basis of *“improving clarity”* and with the support of Basingstoke and Deane Borough Council, as *“a helpful approach for the examiner.”*

However, it is not a legislative requirement for additional comments to be submitted for examination after the close of Regulation 16 consultation – unless perhaps called for by the Examiner, possibly as part of a public hearing process. For clarity, I did not request the above document.

Public consultation is precisely that. It provides opportunities for people to consider matters in an open and transparent manner. The above document has not been consulted upon in any way, shape or form.

The Submission Version of a neighbourhood plan is the final version submitted for examination. Legislation does not allow for it to comprise *“a sort of final version”* the content of which can change, subject to the qualifying body wishing to respond to Regulation 16 consultation.

Whilst I acknowledge that, inevitably, plan-makers are concerned to ensure that the “best” version of their plan is examined, legislation exists for good reason. It provides appropriate opportunities for consultation and sets a requirement for defined and publicised “cut-off” dates. If legislation is not followed, then legislative requirements are unlikely to be met. This may mean that a neighbourhood plan will not progress to Referendum, or even if it does, that it will be open to subsequent legal challenge.

Having regard to the above, I have not taken “*Amendment to Regulation 16 version of the Plan prior to Examination*” into account as part of this examination.

However, in the above

#### Oakley and Deane Neighbourhood Area

A plan showing the boundary of the Oakley and Deane Neighbourhood Area is provided on page 7 of the Neighbourhood Plan.

Further to an application made by Oakley and Deane Parish Council, Basingstoke and Deane Borough Council approved the designation of Oakley and Deane as a Neighbourhood Area on 24 July 2013.

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 form part of 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.

### Oakley and Deane Neighbourhood Plan Consultation

In line with legislative requirements, a Consultation Statement was submitted to Basingstoke and Deane Borough Council. Further to consideration, I can confirm that this sets out who was consulted and how, together with the outcome of the consultation. In this regard, the Consultation Statement meets the requirements of the neighbourhood planning *regulations*<sup>3</sup>.

At the start of the process, a Neighbourhood Planning Group was formed, with the aim of representing different age ranges and different areas of the Parish. Following background work, the first public consultation took place during January 2014. A leaflet drop to all households in the Neighbourhood Area was followed by four meetings held in three separate locations. During this stage, 21 possible development sites were identified, along with a number of other issues. Over 300 representations were received and considered.

A second consultation period took place during April 2014. Key issues, including potential development sites, were considered and consulted upon. Two public meetings, which included presentations, were well attended and 655 representations were received.

A third consultation, during September 2014, involved a vote on site options, the results of this informed the residential allocations in the plan. Nearly 2,000 people took part in the vote.

The draft plan was then produced and underwent a six week consultation period during March and April 2015. Hard and electronic copies of the plan were made available and people were invited to comment.

---

<sup>3</sup>Neighbourhood Planning (General) Regulations 2012.

Consultation was widely communicated and well-publicised in a variety of ways, including via the Parish Council website, where relevant documents and information could be accessed; via email and social media; via the delivery of leaflets; through notices and posters; and through frequent, regular coverage in Link: The Oakley, Deane, Newfound, Malshanger and Wootton St Lawrence Community Magazine.

Taking all of the above into account, the Consultation Statement presents an audit trail to demonstrate that consultation was wide-ranging, comprehensive and transparent. Comments were pro-actively sought and comments received were duly considered. Evidence has been provided to demonstrate that the Neighbourhood Plan reflects the views of local people.

Consultation was carried out in an open manner, and people and organisations were not just provided with a fair chance to have their say, but were actively encouraged to engage in shaping the Neighbourhood Plan.

I am satisfied that the consultation process was comprehensive and robust.

## **5. The Neighbourhood Plan – Introductory Section**

**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. I have also considered the Introductory Section of the Neighbourhood Plan and make recommendations below which are aimed at making it a clear and user-friendly document.

The Neighbourhood Plan is well presented. The use of plans and diagrams is supplemented with interesting and informative photographs. Text is clearly set out and Policies are distinctive from supporting information.

The Contents spread across three pages. This seems excessive and to my mind, affords the start of the document an off-putting and unduly technical appearance. It would make the Neighbourhood Plan appear more succinct and readable if the following recommendation was taken into account:

- **Contents – reduce to one page by just showing section headings (rather than the detail of what's on every page)**

The Foreword provides a good introduction. There are a couple of unnecessary references to the emerging Basingstoke and Deane Local Plan 2011-2029 (referred to in this Report as the emerging Local Plan). It is not the role of the Neighbourhood Plan to "*help deliver the...aspirations*" of the emerging Local Plan and I find that the references to it in the Foreword add confusion, not clarity. I recommend:

- **F1, delete "...for the Basingstoke...2029." Delete F2 ""...identified by...2029."**

Part of Paragraph 1.1 is confusing and inaccurate. I recommend:

- **1.1 line 5, delete "...to establish strategic general...neighbourhood."**

Paragraph 1.3 shows an incorrect date re: the designation of the Neighbourhood Area. I recommend:

- **1.3 line 6, change "2014" to "2013"**

I recommend changes to Paragraph 1.4.1 earlier in this Report. In addition to these, the opening part of this Paragraph is inaccurate and confusing. A neighbourhood plan is not "*strategic in nature*." I recommend:

- **1.4.1, delete "is strategic in nature and"**

Paragraph 1.4.2 is also inaccurate and introduces confusion. I recommend:

- **1.4.2 line 6, delete “therefore needs to” and change “take” to “takes”**

Paragraph 1.4.2 refers to the strategic allocation at Manydown. Taken as a whole, the Neighbourhood Plan is unclear about Manydown. Whilst it is referred to and indicated on a plan, little indication of the relationship between the strategic allocation and the Neighbourhood Plan is provided. The strategic allocation will potentially have a significant influence on the Neighbourhood Area and in the light of this, and for clarity, I recommend:

- **1.4.2, delete “(see Map1)” and replace with “*It is anticipated that Manydown, as a strategic allocation, will come forward through the emerging Local Plan. The Neighbourhood Plan does not, itself, allocate land at Manydown for development, but it has been prepared in the expectation of development at Manydown coming forward during the plan period. Map 1 shows the expected extent of the Manydown strategic site and related masterplanning area. The residential allocations in the Neighbourhood Plan do not include new dwellings that may come forward at Manydown.*”**

The final sentence of Paragraph 1.5 reads as though the Parish Council has some kind of statutory role to monitor plan progress and take “*appropriate actions as required.*” It does not. Whilst it is anticipated that the Parish Council will monitor the impacts of the Neighbourhood Plan, any changes will need to be the result of an appropriate due process. I recommend:

- **1.5, delete last sentence**
- **2.1.10 line 1 “and” for “an”**

Paragraph b in Section 3, on page 12, refers to “*at the time of writing.*” As such, the paragraph includes information that is, or will become, out of date. Furthermore, part of the Paragraph reads as though it were a Policy, which it is not. I recommend:

- **Section 3, page 12, delete paragraph b**

Part of Paragraph 3.1.2 also reads as though it were a Policy, which it is not. I recommend:

- **3.1.2 line 13, re-word “*The Parish Council will seek to prioritise the combined Project list, with the aim of funding Projects through the Community Infrastructure Levy and Section 106 Agreement funds. The list...*”**



Whilst the final sentence of Paragraph 4.7.2 refers to land being retained for school expansion, no substantive evidence is provided in this regard. I recommend:

- **4.7.2, delete final sentence**

## **6. The Neighbourhood Plan – Neighbourhood Plan Policies**

### **Housing Policies**

#### **Policy 1 – New Housing Development Volume**

Paragraph 5.3 adds little in the way of clarity. The first bullet point introduces the confusing idea of “conforming” to something that is still emerging (and need not be conformed with) and the second bullet point appears as a rather vague statement. I recommend:

- **Delete Paragraph 5.3, retaining title only**

Given the likely scale of the anticipated Manydown development, it would be helpful if the Neighbourhood Plan provided clarity within Policy 1, with regards the relationship between the allocations and Manydown.

In addition, it is inappropriate to allocate sites but not include the plans showing the allocations within the Neighbourhood Plan itself. I recommend:

- **Re-word Policy 1, “...2029. *The allocated sites are shown in Policy 6 below and identified on the accompanying plans. The allocation of approximately 150 dwellings does not include new dwellings that may come forward as part of the Manydown strategic allocation. For clarity, the housing policies of the Neighbourhood Plan do not apply to the Manydown strategic allocation and dwellings that come forward as part of the Manydown strategic allocation will be additional to those allocated in this Neighbourhood Plan.*”**
- **Move Revised Settlement Boundary and Site Plans from Appendices to page 30, to follow Policy 6**

Paragraph 5.3.1.1 provides little in the way of an explanation to Policy 1 and furthermore, it could be read as being in conflict with the Manydown strategic allocation – whereas the Neighbourhood Plan does not seek to prevent Manydown from coming forward.

Paragraph 5.3.1.2 is confusing. It reads as though it is a requirement for neighbourhood planning policies to be in general conformity with those of an emerging plan, which is not the case and could be read as implying that any residential development of less than ten dwellings, within a settlement boundary altered by the Neighbourhood Plan, does not count towards housing numbers. I recommend:

- **Delete Paragraphs 5.3.1.1 and 5.3.1.2**

Neither unusually nor uniquely, a number of representations have been made suggesting that the Neighbourhood Plan should allocate more sites for more housing than it does. However, there is no substantive evidence to demonstrate that Policy 1 does not meet the basic conditions in providing land for approximately 150 dwellings. The figure of approximately 150 dwellings has been derived from the assessment of relevant information and notably, Basingstoke and Deane Borough Council has not raised any concerns in this regard.

The Neighbourhood Plan is being brought forward before an up-to-date Local Plan is in place. In such circumstances, Planning Practice Guidance is explicit in stating that neighbourhood plans *“can be developed before or at the same time as the local planning authority is producing its Local Plan”* (41- 009). Indeed, neighbourhood plans provide an important opportunity to give communities *“direct power”* to provide up to date planning policy that may otherwise not exist due to the absence of an up to date Local Plan.

Whilst I recognise that there is an emerging Local Plan and that housing land matters have not been resolved at the Borough-wide level, I find that the Neighbourhood Plan has been positively prepared with the aim of providing for sustainable growth. In this regard, the Neighbourhood Plan does not actively seek to prevent sustainable development from coming forward, rather, it not only provides for approximately 150 dwellings, but also includes references to a major strategic allocation that will, if it comes forward during the plan period, deliver significantly in excess of 150 new homes.

Policy 1 has emerged through robust public consultation, with evidence provided to demonstrate that the community support the allocations, and further to consideration of available, relevant information, much of it associated with the emerging Local Plan.

The Policy supports sustainable growth, having regard to national policy and it contributes to the achievement of sustainable development. It does not set out a maximum housing number and does not necessarily prevent or preclude sustainable development from coming forward. The Policy meets the basic conditions.

## **Policy 2 – Allocation of Affordable Housing**

Paragraph 5.3.2.1 reads as though it were a Policy, which it is not. Furthermore, it sets out the detailed content of a non-adopted policy in an emerging document. This is inappropriate.

The subsequent Paragraphs provide justification for Policy 2. The Policy aims to ensure that people with a defined local connection are offered affordable housing before other people.

Chapter 6 of the Framework supports planning policy that is responsive to local circumstances and reflects local needs. It supports the delivery of housing that reflects local demand and provides a wide choice of high quality homes. However, whilst I recognise that there is evidence of demand for housing to meet the needs of those with a local connection, Policy 2 is unclear and comprises a Policy that would be difficult to control.

The Policy implies that being offered occupancy is the same thing as actual occupancy. This is not the case. Furthermore, it requires potential occupants to have both parents and children living in the Neighbourhood Area. This is an exceptionally onerous requirement. However, in contrast to such an onerous approach, it then states that someone with *“an offer of employment within the Parish”* would be considered to have a strong local connection. However, this does not appear to relate to another requirement, which is that *“through their work provides important services to the Parish.”* No definition is provided of what such important services would be and would not be.

Taken as a whole, Policy 2 appears contradictory, is confusingly worded and does not provide decision makers with a clear indication of how to respond to a development proposal. It fails to have regard to national policy and does not meet the basic conditions.

I recommend:

- **Delete Policy 2**
- **Delete paragraphs 5.3.2.1 to 5.4.2 inclusive**

In recommending the above, I note that the Neighbourhood Plan does not seek to set out a different level of affordable housing within the Neighbourhood Area to that within the Borough as a whole.

### **Policy 3 – Mix of Dwellings**

It is not clear how Policy 3 will give “*development preference*” to schemes that improve the overall balance of housing in the area. I address this in my recommendation below. Further, as worded, the Policy refers to “*the target*” but does not make it clear that this is a policy requirement. A target is something to aim at, but no indication is provided as to what might happen if this is not hit, met or achieved. I note that, in referring to 90%, the Policy appears to be aimed at developments of ten dwellings or more.

The Framework, as set out in Chapter 6, requires policies to plan for the delivery of a wide choice of homes, reflecting trends, needs and local demand. Policy 3 aims to provide a higher proportion of smaller homes and provides evidence to demonstrate that such an approach is supported by local opinion.

Furthermore, by allowing for viability to be taken into account, it seeks to ensure that such an approach can still reflect trends, needs and demand, as appropriate. Consequently, subject to the recommendations below, Policy 3 has regard to the Framework and contributes to the achievement of sustainable development.

I recommend:

- **Policy 3, re-word “*Proposals for ten dwellings or more should demonstrate how they meet the requirement to increase the proportion of smaller homes in the Neighbourhood Area. Unless viability or other material considerations show a robust justification for a different mix, at least 90% of dwellings in new developments should have less than four bedrooms. Of this 90%, 40% to 50% should have two bedrooms or less.*”**
- **Paragraph 5.7, add at the beginning “*With the exception of the Manydown strategic allocation, large scale development is not supported by...*”**

## **Policy 4 – Site Allocations**

The introductory Paragraphs to Policy 4 summarise how the Neighbourhood Plan determined the residential allocations and the Policy allocates specific sites for *“approximately 150 dwellings.”*

Whilst Policy 4 supports the allocation of 30 dwellings at Oakley Hall, the Neighbourhood Plan recognises that there is a *“full vision”* for land at Oakley Hall to provide a retirement village, comprising around 120-150 dwellings. However, it states that the proposal for the retirement village *“does not address the housing needs of people in the Neighbourhood Area”* with regards it providing *“a complete solution to the housing needs of the community.”*

Evidently, some consideration has therefore been given to the land at Oakley Hall providing most, if not all, of the *“approximately 150 dwellings”* referred to in Policy 1. However, plan-makers have determined that it would be preferable for *“approximately 150 dwellings”* to be allocated to *“multi-sites”* around the Neighbourhood Area, rather than to a single site, at Oakley Hall.

There is evidence to demonstrate that the local community favours a multi-site approach and there is no substantive evidence to demonstrate that such an approach conflicts with the basic conditions. In this regard, the inclusion of land at Oakley Hall, as part of the multi-site approach, adds to the scope for the Neighbourhood Plan to provide for a wide choice of housing, having regard to Chapter 6 of the Framework.

No explanation is provided as to why only the Oakley Hall allocation has the word *“contributing”* included before the allocation and I address this below.

The second part of Policy 4 states that development should be contiguous to existing built development. This is an odd requirement, given that the allocations are the allocations – and are defined in the relevant plans. There is no substantive evidence to demonstrate that this requirement will contribute to the achievement of sustainable development.

I recommend above that the Revised Settlement Boundary plan be moved into the Neighbourhood Plan from the Appendices. However, the plan itself is unclear, incorrect and confusing. It states that it comprises the Revised Settlement Boundary (which I note that the Neighbourhood Plan refers to in different terms in different locations within the document), yet it shows the previous settlement boundary together with dotted lines around various locations. Some of these locations are referred to in Policy 4 as being within the Revised Settlement Boundary, whereas land at Andover Road, for example, is not.

Taking all of the above into account, I recommend:

- Re-word the start of Policy 4 *“Residential land is allocated on the following basis:”* (bullet points to follow)
- Delete “contributing” in the fifth bullet point
- Delete “...contiguous to and...” in P4.2
- Change P4.3 to *“The Revised Settlement Boundary is shown on a plan, together with plans of each of the allocations, following this Policy.”*
- Correct the Revised Settlement Boundary plan to show the actual revised settlement boundary.

## **Policy 5 – Constraints Management**

Paragraph 6.1.9, in introducing Policy 5, refers to “*any development in the Neighbourhood Area.*” The content of Policy 5 is not relevant to many different types of development.

Policy 5 prevents development if proposals cannot demonstrate requirements that are the responsibility of other bodies to control. Furthermore, the requirements set out are unclear. For example, no information is provided to set out what the volume of traffic is in “*existing residential areas,*” which are themselves undefined. It is therefore unclear what an application would measure increases in the volume of traffic against.

In addition, there is no substantive evidence to demonstrate that say a 90% increase in the volume of traffic would not result in significant harm, or that, say a 100% increase in traffic would result in significant harm. It is therefore unclear how the approach set out in Policy 5 will contribute to the achievement of sustainable development.

In addition to the above, no evidence is provided to set out why local roads and/or bridges need to be improved to minimise the impact of development on the local highway network. There is no evidence to demonstrate that such an approach has regard to national policy or is in general conformity with the strategic policies of the Local Plan.

Taking all of the above into account, I recommend:

- **Delete Policy 5 and Paragraph 6.1.9**



## **Policy 6 – Site Specific Requirements**

Policy 6 seeks to provide detailed requirements for each residential allocation. The first requirement of P6.1 is an odd one. The allocated site is provided on Map 7. There is no need to then state, as a Policy requirement, that development will be permitted if it “...is in the area known as...” Such an approach simply adds unnecessary confusion.

Policy 6 introduces the phrase “will be permitted.” Such an approach effectively pre-approves development proposals without considering all irrelevant matters of detail. Further, the Neighbourhood Plan, were it made, would simply comprise part of the development plan. As such, it would be used as a basis against which to consider planning applications, rather than as a tool to formally “permit” them. I address this below.

The second part of P6.1 is not a land use planning policy. It is, rather, a statement relating to an intention.

Taking the above into account, I recommend:

- **P6.1, change to “Development proposals will be supported if:”**
- **Under P6.1 Andover Road, add “No site specific requirements” and delete a) and b)**

The wording of P6.2 is unclear – there are already public pavements throughout the Highland Drive estate. Rather than provide an access “through” the estate, it would be clearer for the Policy to refer to an access “to” the estate. Similarly, it would be clearer if P6.2 referred to direct access to the adjacent footpath, rather than “public footpath 9” – as there is no evidence to demonstrate that most people know what numbers relate to what public footpaths.

Part d) of P6.2 is convoluted and grammatically incorrect. Taking this and the above into account, I recommend:

- **P6.2, change to “Development proposals will be supported if:”**
- **P6.2 a), change “through” to “to”**
- **Delete P6.2 b)**
- **Delete P6.2 c) and d) and replace with “B) the development provides direct access to and where possible, upgrades the adjacent footpath to the schools; and provides allotments as part of the development.”**

It is not clear how the proposed new footpath referred to in P6.3 will be delivered and maintained or how it will connect with other footpaths. There is insufficient

evidence to demonstrate the deliverability of this proposal. However, I note that national policy encourages the enhancement of public rights of way (Framework, Paragraph 75). I recommend:

- **P6.3, delete and replace with “*Support will be given to improvements to the local footpath network delivered in association with the development of this site.*”**

Part c) of P6.4, is unclear and poorly worded. Further, it relies on information not set out in any detail in the Neighbourhood Plan and effectively comprises a statement rather than a requirement. I recommend:

- **P6.4, change to “*Development proposals will be supported if:*”**
- **P6.4, delete parts a) and c). Re-word Policy as “*Development proposals will be supported if at least 40%...bungalows.*”**

Part 6.5 largely comprises a general, if rather confusing, statement rather than a land use planning policy. I note that SSSI’s are already protected by planning policy and that the approach set out in 6.5 a) provides significantly less protection than that which already exists. Furthermore, 6.5 b) provides no information or detail as to what might comprise “*appropriate landscape assessment*” and so provides little, if anything, in the way of clarity. I also note that national and local policy afford protection to heritage assets.

I recommend:

- **Under P6.5 Oakley Hall, add “*No site specific requirements*” and delete all other text**

Paragraph 6.4 reads as though it were a Policy, which it is not. I recommend:

- **Delete the first sentence of Paragraph 6.4**

## **Community Policies**

### **Policy 7 – Protection of Existing Allotments**

The Neighbourhood Plan establishes the importance of allotments within the Neighbourhood Area. National policy recognises the role that the provision of shared space and community facilities has to play in enhancing the sustainability of communities (Framework, Chapter 8, “*Promoting healthy communities*”).

In protecting allotments, Policy 7 has regard to national policy and contributes to the achievement of sustainable development. It meets the basic conditions and no changes are recommended.

### **Policy 8 - New Allotments**

Policy 8 encourages the provision of allotments in new developments. This is a positive policy that has regard to the Framework, as considered above.

Policy 8 meets the basic conditions and no changes are recommended.

I note that part of Paragraph 7.2 is worded as though it is a Policy, which it is not. The Neighbourhood Plan is not responsible for other policies in other documents and I recommend:

- **Replace last sentence of Paragraph 7.2 with “*It is noted that the Borough Council applies open space standards to development proposals, as appropriate.*”**

## **Protection and Enhancement of the Environment**

### **Policy 9 – Conservation Areas**

National policy recognises heritage assets as being irreplaceable. Chapter 12 of the Framework, “*Conserving and enhancing the historic environment*” sets out a carefully worded and positive strategy for the conservation and enjoyment of the historic environment.

In setting out just part of national policy, Policy 9 presents an entirely different approach to heritage assets to that established in the Framework. The Policy does not allow for any possible harm or loss to the significance of a heritage asset to be balanced against possible benefits that might result from a development proposal. Consequently, it does not contribute to the achievement of sustainable development and fails to have regard to national policy.

Policy 9 goes on to effectively require Conservation Area Appraisals to be taken into account. However, where adopted Conservation Area Appraisals exist, they must be taken into account in any case.

As Policy 9 does not meet the basic conditions, I recommend:

- **Delete Policy 9. The supporting Paragraphs to be retained as useful background information.**

## **Policy 10 – Protection and Enhancement of the Environment**

The first two parts of Policy 10 seek to introduce a number of requirements relating to ancient woodland, trees, hedgerows and Local Green Space. The last part, P10.3, is confusing. It seeks to retain something that doesn't exist, as well as retain non-designated existing woodland as something called "*natural green (space)*." Natural green space is not defined anywhere in the Neighbourhood Plan and there is no indication of what such a designation would mean for development proposals.

The protection afforded by Policy 10 to ancient woodland, veteran trees and hedgerows does not allow for circumstances whereby the need for and benefits of development clearly outweigh any loss arising. Consequently, this part of Policy 10 fails to have regard to national policy, as set out in Paragraph 118 of the Framework.

In making the recommendation below, I note that planning policy affords significant protection to ancient woodland and veteran trees, and aims to conserve and enhance biodiversity.

Policy 10 seeks to designate Local Green Space. It states that "*Green areas that are demonstrably special...are designated Local Green Space (see Appendix A)*." Paragraph A.1.2 of Appendix A states "*These are the designated Local Green Spaces...and the demonstrably special reasons for designating them (see also Map 5)*." Three separate tables under three different headings then follow, containing eleven different sites, along with a "*Reason for designation*" alongside each site.

Appendix A then includes a further table, under the title "*Green Gap*." This is split into four separate sites, with a further "*Reason for designation*" alongside each. Map 5, entitled "*Local Green Spaces, Green Gap and Views and Vistas in Oakley*" shows 15 separate designations, under a Legend, whereby seven allocations are named as "*Local Green Spaces*," four designations as "*Accessible natural green space*" and four designations as "*Green Gap*."

In addition to the above, Map 5 also includes land labelled as "*Green pathway*" which relates to a proposal in Policy 12.

I set out all of the above, as it demonstrates that, in practice, if not intentionally, Policy 10 only actually seeks to designate seven areas of Local Green Space. However, I note that the tables in Appendix A provide a "*Reason for designation*" for fifteen separate sites.

As set out, the approach to Local Green Space is unclear and inappropriate. It is further obfuscated by the absence of clear plans showing precise boundaries for each proposed Local Green Space.

Local Green Space is a restrictive and significant policy designation. The Framework states that

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

and goes on to state, explicitly, that

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

Consequently, when designating Local Green Space, plan-makers must clearly demonstrate that the requirements for its designation 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. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

Whilst Policy 10 is poorly conceived and drafted, I recognise that there is community support for the designation of Local Green Space. Consequently, with the exception of the areas identified in the Appendices as D1 to D4, Green Gap – an entirely separate designation to Local Green Space and the subject of a separate Policy in the Neighbourhood Plan (and which, I note, mainly comprise extensive tracts of land, designated for the purpose of providing *“visual and physical separation”*) – I have considered whether each of A1-A2, B1-B5 and C1-C4 meet the Local Green Space tests set out in the Framework.

Of these, A1-A2, B1-B4 and C1-C4 all meet the tests set out in the Framework, including being demonstrably special for reasons of beauty, recreational value, tranquillity and richness of wildlife.

However, I note that B5 is some considerable distance from, rather than within reasonably close proximity to, the community it serves. Furthermore, it comprises an extensive tract of land. On further assessment of B5, I note that large areas of farmland are included in the proposed designation, as well as a cricket ground. For these reasons and in the absence of detailed and substantive evidence to the contrary, I am not satisfied that the proposed designation of B5 has regard to the Framework. The designation of B5 as Local Green Space does not meet the basic conditions.

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. Further, the Framework is explicit in stating that the development of Local Green Space will only be permitted in very special circumstances.

However, Policy 10 seeks to introduce its own version of Local Green Space policy, not least by introducing some kind of requirement for “*replacement Local Green Space*.” In so doing, as worded, Policy 10 fails to have regard to national policy.

Taking all of the above into account, I recommend:

- **Replace Policy 10 with a completely revised Policy 10 “*Local Green Space is designated at the sites shown on the plans below, for the reasons set out in the supporting text. Development of Local Green Space will only be permitted in very special circumstances.*”**
- **Create new plans, identifying the precise boundaries of each Local Green Space and show these plans after Policy 10. For clarity, the Local Green Space designation is afforded to A1, A2, B1, B2, B3, B4, C1, C2, C3 and C4. B5 is not designated as a Local Green Space.**
- **Provide the first three tables set out in Appendix A (excluding B5) in the supporting text to Policy 10.**

Subject to the above, Policy 10 contributes to the achievement of sustainable development and meets the basic conditions.

There has been an objection to the designation of C3 as a Local Green Space. However, C3 meets the tests set out in the Framework and I note, specifically, that as a narrow band of land close to Oakley, it is neither extensive nor a considerable distance from the community it serves. The fact that the site is subject to a non-adopted policy of an emerging plan does not prevent it from being designated as a Local Green Space.

I note, in the above regard, that a Local Green Space designation provides protection comparable to that for Green Belt land and that, as such, the designation does not prevent all forms of development.

## **Policy 11 – Protection of the Green Gap**

This Policy seeks to designate a Green Gap, to provide physical and visual separation for Newfound and Oakley from Basingstoke. Paragraph 8.4.4 states that the Green Gap *“is the western fringe of the Basingstoke-Oakley Strategic Gap.”*

Whilst the Basic Conditions Statement submitted alongside the Neighbourhood Plan suggests, on page 14, that Policy 11 is in general conformity with Saved Policy EM5 of the Local Plan, no such Saved Policy exists. I note that Policy EM2 of the emerging Local Plan is a *“Strategic Gaps”* Policy.

By its very nature, a *“Strategic Gaps”* Policy is strategic. Whilst there is no adopted Borough-wide Strategic Gaps Policy, I note above that one is currently emerging through the planning process.

In seeking to designate a Strategic Gap before there is a Borough-wide *“Strategic Gaps”* Policy, the Neighbourhood Plan appears to be “jumping the gun” and taking on strategic Borough-wide matters itself. Furthermore, it seeks to do so in a manner whereby it will introduce a different designation to a Strategic Gap, namely a *“Green Gap.”*

Notwithstanding this approach and the confusion therein, I am concerned that the Green Gap proposed, whilst apparently based on the emerging *“Strategic Gaps”* is different to that proposed in the emerging Local Plan. The justification for such a departure is based on a very general overview provided in a table in Appendix A. This comprises general references to views, rural setting and visual quality. There is no substantive evidence to demonstrate that the *“Green Gap”* is the result of robust, detailed analysis.

Taking all of the above into account, it is not clear to me that Policy 11 will contribute to the achievement of sustainable development. Furthermore, I find that it is not in general conformity with the strategic policies of the Local Plan and there is no substantive evidence before me to the contrary. I recommend:

- **Delete Policy 11 and Paragraph 8.4.4**
- **Delete Appendices page 49**



## **Policy 12 – Protection of Views and Vistas**

The Neighbourhood Plan establishes that the view towards St Leonard's church from specific nearby footpaths is "*A favourite view.*" There is evidence to demonstrate that it forms an important part of local character. Policy 12 seeks to protect the area between the church and the footpaths from changing.

Whilst I note that national and strategic local policy protect local character, I am concerned that, as worded, Policy 12 protects a significant area of land "*from development or obtrusive interference.*" As such, it seeks to prevent development simply for the sake of preventing development, whether or not it harms local character. No substantive evidence has been provided to justify such an approach.

The reference to public footpath numbers is confusing. It would be preferable to show the precise area in question on a map, rather than refer to features that, by their very nature, extend well beyond the area directly impacted by Policy 12.

The Policy refers to the view from St Leonard's church. No indication is provided as to where this view ends and no justification is provided to protect the view from St Leonard's church, within the arc referred, to as far as the horizon.

The Policy goes on to list some "*improvements*" that are "*not excluded.*" This is a confusing approach. The list is by no means comprehensive and its inclusion is unnecessary. I also note that it conflicts with the earlier wording of the Policy considered above.

Taking the above into account, I recommend:

- **Policy 12, re-word as "*The character of the area seen in views of St Leonard's Church from the public footpaths in the area shown on the plan below will be protected from development proposals that would harm it.*"**
- **Include a new plan beneath the Policy. This should identify the specific area protected. It is proposed that this should be in the form of a shaded area over an OS Base.**
- **Delete the second half of Paragraph 8.4.5, from "The present vista...Appendix A)."**

### **Policy 13 – Woodlands and Trees and Rights of Way in New Developments**

Policy 13 largely has regard to Chapter 11 of the Framework, “*Conserving and enhancing the natural environment*” by seeking to encourage biodiversity, and to Chapter 7, “*Requiring good design*,” by encouraging the provision of trees and green space.

However, there is no substantive evidence to demonstrate that every public right of way that passes through or bounds the edges of new development can be enhanced to create green corridors. Consequently, there is a lack of evidence to demonstrate that this part of Policy 13 is deliverable.

I recommend:

- **Delete last sentence of Policy 13**
- **Delete the final sentence of Paragraph 8.4.6 which reads as though it were a Policy, which it is not**

### **Policy 14 - Biodiversity**

The Framework states that the planning system should minimise impacts on biodiversity and provide net gains in biodiversity where possible (Paragraph 109).

Policy 14 has regard to national policy and contributes to the achievement of sustainable development.

I note that the final sentence of the Policy refers to the plan period. This is unnecessary, the Neighbourhood Plan is effective during the plan period. Map 4 on page 40 refers to features that are not the subject of Policies in the Neighbourhood Plan. This is confusing.

I recommend:

- **Delete the final four words of Policy 14**
- **Delete Map 4**

## Employment and Skills

### Policy 15 – Protection of Employment

Policy 15 seeks to protect employment sites. However, no employment sites are identified in the Neighbourhood Plan and the phrase “*employment sites*” is not defined. It is therefore unclear what Policy 15 is seeking to protect. In this regard, I note that Paragraph 9.1.2 refers to “*two small retail centres*.” Whilst not clear, this would suggest that the Neighbourhood Plan may include shops within its undefined term “*employment sites*.”

Paragraph 9.1.1 refers to home working. There is no indication as to whether the offices of home-workers are intended to be included by the undefined term “*employment sites*.” Taking this and the above into account, the first part of the Policy does not provide decision makers with a clear indication of how to react to a development proposal.

Whilst I note that Appendix B contains a list of “*Buildings Used for Business, Education and Trade*,” this is simply a wide-ranging list of all kinds of uses and Policy 15 does not provide any direct link to it.

The second part of the Policy is positive and supports the provision of new or improved employment “*opportunities*.” Whilst, in land use planning terms, the word “*opportunities*” is perhaps inappropriate, the intent of this part of the Policy is clear and has regard to national policy’s support for economic growth, as established in Paragraph 18 of the Framework.

I recommend:

- **Delete P15.1**
- **Change remainder of Policy 15 to “*This plan supports the provision of new or improved employment space, subject to it not harming local character or residential amenity.*”**
- **Paragraph 9.1.1 and 9.1.2, change “Appendix C” to “Appendix B”**

### **Policy 16 – Protection of local facilities**

Policy 16 is a positive Policy that supports local retail. The word “*upgrade*” appears inappropriate in land use planning terms and use of the reference “*suitable*” leads the Policy to appear somewhat vague. However, the Policy has regard to national policy’s requirement for positive planning for community facilities (Paragraph 70). I recommend:

- **Change Policy 16 to read “*Proposals for new or additional local retail facilities will be supported subject to such development not harming existing facilities, local character or residential amenity.*”**

## **Design Policies**

### **Policy 17**

Good design is recognised by national policy as comprising a key aspect of sustainable development. It is indivisible from good planning and national policy requires good design to contribute positively to making places better for people (Paragraph 56, the Framework).

The Oakley Village Design Statement is an adopted planning document that is distinctive to the Neighbourhood Area. The first part of Policy 17 refers to this and in so doing, has regard to recent changes in national planning policy and advice.

The second part of Policy 17 seeks to promote “*zero carbon buildings policy*” by requiring Building Regulations standards to be exceeded. This fails to have regard to the Ministerial Statement of March 2015, which established that “*neighbourhood plans, or supplementary planning documents*” should not set “*any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.*”

Taking the above into account, I recommend:

- **Policy 17, delete from “Each new development...” to the end of the Policy**

## **Traffic and Transport**

### **Policy 18 – Traffic and Safety**

The Framework establishes that

*“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe” (Paragraph 32).*

The opening sentence of Policy 18 is vague to the point of supporting any development whatsoever – say, a nuclear power station – as long as it results in improvements to the free flow of traffic in Oakley. Clearly such an approach could have unintended consequences and is therefore inappropriate.

Policy 18 then seeks to impose a range of requirements on development, whether or not residual cumulative impacts are severe. Such an approach is in clear conflict with the Framework and does not meet the basic conditions.

Taking the above into account, I recommend:

- **Delete Policy 18**

In making the above recommendation, I note that the supporting text in the Traffic and Transport section provides interesting and useful background information and there is no reason why this should not remain in the Neighbourhood Plan.

## 7. Summary

I have recommended a number of modifications further to consideration of the Oakley and Deane Neighbourhood Plan against the basic conditions.

Subject to these modifications, the Oakley and Deane 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.

Taking the above into account, I find that the Oakley and Deane Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

## **8. Referendum**

I recommend to Basingstoke and Deane Borough Council that, subject to the modifications proposed, the **Oakley and Deane 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 Oakley and Deane Neighbourhood Area. I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

I recommend that the Plan should proceed to a Referendum based on the Oakley and Deane Neighbourhood Area as approved by Basingstoke and Deane Borough Council on 24 July 2013.

**Nigel McGurk, December 2015**  
**Erimax – Land, Planning and Communities**

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