

Loggerheads Parish Council

Loggerheads Neighbourhood Development Plan

A report to Newcastle-under-Lyme Borough Council of the
Independent Examination of the Loggerheads Neighbourhood
Development Plan

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Overall Finding

This is the report of the Independent Examination of the Loggerheads Neighbourhood Development Plan. The plan area comprises the entire civil parish of Loggerheads within the Newcastle-under-Lyme Borough Council area. The plan period is 2013-2033. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan allocates land for a community and sports facility and sports pitches but does not allocate land for other forms of development including housing.

This report finds that subject to specified modifications the Neighbourhood Plan meets the basic conditions and other requirements. It is recommended the Plan should proceed to a local referendum based on the plan area.

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”¹
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Loggerheads Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Loggerheads Parish Council (the Parish Council). The draft Plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Loggerheads Neighbourhood Area which was formally designated by Newcastle-under-Lyme Borough Council (the Borough Council) on 16 September 2015. The Neighbourhood Plan has been produced by the Loggerheads Neighbourhood Plan Steering Group, made up of Parish Councillors and other volunteer residents.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to the Borough Council. The Borough Council arranged a period of publication between 8 May and 19 June 2018 and subsequently submitted the Neighbourhood Plan to me for independent examination.

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.² The report makes recommendations to the Borough Council including a recommendation as to whether or not the

¹ Paragraph 183 National Planning Policy Framework (2012) (See paragraph 214 of the NPPF 2018 for an explanation why this Independent Examination is being undertaken in the context of the NPPF 2012)

² Paragraph 10 Schedule 4B Town and Country Planning Act 1990

Neighbourhood Plan should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.

6. The Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and the decision taken to put the plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application³.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area⁴ unless the Borough Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan⁵. The Framework is very clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted⁶.
8. I have been appointed by the Borough Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years

³ Paragraph 216 of the National Planning Policy Framework 2012 explains full weight is not given at this stage

⁴ Section 3 Neighbourhood Planning Act 2017

⁵ Section 156 Housing and Planning Act 2016

⁶ Paragraph 198 National Planning Policy Framework 2012

professional planning experience and have held national positions and local authority Chief Planning Officer posts.

9. As independent examiner, I am required to produce this report and must recommend either:

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

10. I make my recommendation in this respect and in respect to any extension to the referendum area,⁷ in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.⁸

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁹ The Planning Practice Guidance (the Guidance) states *“it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”*

12. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary, I proceeded on the basis of written representations.

Basic Conditions and other statutory requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.¹⁰ A neighbourhood plan meets the Basic Conditions if:

⁷ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁸ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

⁹ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

¹⁰ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the 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);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.¹¹

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.¹² All of these matters are considered in the later sections of this report titled 'The Neighbourhood Plan taken as a whole' and 'The Neighbourhood Plan policies'.

15. In addition to the Basic Conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.¹³ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was designated by the Borough Council as a neighbourhood area on 16 September 2015. A map of the Neighbourhood Plan boundary is included as Map 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Loggerheads parish boundary. The Neighbourhood Plan does not relate to more than one neighbourhood

¹¹ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

¹² The Convention rights has the same meaning as in the Human Rights Act 1998

¹³ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

area,¹⁴ and no other neighbourhood development plan has been made for the neighbourhood area.¹⁵ All requirements relating to the plan area have been met.

17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;¹⁶ and the Neighbourhood Plan does not include provision about excluded development.¹⁷ I am able to confirm that I am satisfied that each of these requirements has been met.

18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.¹⁸ The front cover of the Submission Version Plan clearly states the plan period to be 2013-2033.

19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.¹⁹ It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention rights, and the other statutory requirements.

20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.

21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important

¹⁴ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹⁵ Section 38B (2) Planning and Compulsory Purchase Act 2004

¹⁶ Section 38A (2) Planning and Compulsory Purchase Act 2004

¹⁷ Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

¹⁸ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

¹⁹ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the National Planning Policy Framework 2012

that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.

22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.²⁰

Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Loggerheads Neighbourhood Development Plan 2013-2033 Version 2.18 Submission
- Loggerheads Neighbourhood Development Plan Basic Conditions Statement January 2018 [*In this report referred to as the Basic Conditions Statement*]
- Loggerheads Parish Neighbourhood Development Plan Consultation Statement 31 January 2018 including Appendices A-E [*In this report referred to as the Consultation Statement*]
- Strategic Environmental Assessment for the Loggerheads Neighbourhood Plan – Environmental Report to accompany Submission Version of the Neighbourhood Plan January 2018
- Draft Habitats Regulations Assessment (Screening): Loggerheads Pre-Submission Draft Neighbourhood Plan V2.17
- Habitats Regulations Assessment (Screening): Loggerheads Submission Neighbourhood Plan V2.18 October 2018
- Loggerheads Neighbourhood Plan 2013-2033 Equality Impact Assessment January 2018
- Loggerheads Neighbourhood Plan Evidence Base and other information available on the Loggerheads Parish Council Neighbourhood Plan website
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the Borough and Parish Councils, including the Parish Council response to the representations of other parties
- Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026

²⁰ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Newcastle-under-Lyme Local Plan Saved Policies 2011
- The emerging Newcastle-under-Lyme and Stoke-on-Trent Joint Local Plan 2013 – 2033, including Preferred Options consultation February 2018
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance DCLG (June 2017) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2018
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.

Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the Submission Plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

25. The Neighbourhood Plan Steering Group comprising 9 Parish Councillors and 9 resident volunteers first met in October 2015. The Steering Group have used a variety of methods to obtain views from local people including meetings; presentations; interactive workshops; use of the Parish Council website and Annual Parish Meeting; and on-line and paper surveys of residents. Separate surveys of young people at the primary schools and of businesses were undertaken. The Steering Group has also consulted neighbouring parishes; the Borough Council; the County Council; and health and social housing service providers.
26. Pre-submission consultation in accordance with Regulation 14 was undertaken in the period 3 November 2017 to 15 December 2017. The consultation included making the draft Plan available to residents by email, and at 'drop-ins' at the library and at the fire station; through a newsletter delivered to every household; and use of public notices and banners. The representations arising from the consultation are summarised in Appendix E of the Consultation Statement where responses and changes made to the Neighbourhood Plan, are set out. The suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the Borough Council.
27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 8 May 2018 and 19 June 2018. Representations from 7 different parties were submitted during the period of publication. I have been provided with copies of each of these representations. In preparing this report I have taken into consideration all of the representations submitted during the Regulation 16 period even though they may not be referred to in whole, or in part.
28. The representations of Historic England are highly complementary of the approach of the Neighbourhood Plan to the historic environment. This representation and that of Staffordshire Police do not necessitate any modification of the Plan to meet the Basic Conditions. The submissions of Highways England, and of Natural England in respect of the Plan itself, confirm they have no specific comments to make²¹. The Borough Council has commented with respect to the standards used for play and outdoor sports facilities. I have considered this representation in respect of Policies LNP S2 and LNP S3. I have taken

²¹ Later in my report I refer to comments made by Natural England in respect of environmental legislation

account of the representations of Gladman Developments Limited in respect of the Neighbourhood Plan as a whole, and in my consideration of Policy LNP G1 and Policy LNP P1 in particular. I have taken the representations of the Environment Agency into account when considering Strategic Environmental Assessment later in my report.

29. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation on the Parish Council to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council responded to the opportunity to comment by setting out a statement in respect of the representations of three parties. I have taken the Parish Council response into account in preparing my report. The Borough Council and the Parish Council have confirmed to me that the Regulation 16 representations and the Parish Council response have been posted on their respective websites.

30. On 20 July 2018 the Borough Council sent me an additional representation it had received. I wrote to the Borough Council as follows *“I am writing to confirm receipt of your email this afternoon with the attached representation made on behalf of Muller Property Group and related Opinion. I understand the Regulation 16 publicity period closed at 5.00pm on 19 June 2018 and that the representation you have sent me was received after the period for representations had closed. As part of the Regulation 16 process, the local planning authority must consider whether to accept a late representation. I have noted the representation does not include any explanation why it was submitted after the period of publication had closed. I should be grateful if you would inform me whether your Council is accepting this late representation”*. In a response issued jointly with the Parish Council the Borough Council has stated *“A representation from Harris Lamb has been received a month after the closing date for the Regulation 16 public consultation and without any justification for the lateness of the representation. Any Regulation 16 representations should be sent to the Borough Council, and in this instance the letter was addressed to the Parish Council. This suggests that it was not intended to be considered as a Regulation 16 representation. Therefore, the Borough Council do not consider this as a late Regulation 16 representation, merely correspondence to the Parish*

Council. The Parish Council will provide a direct response with input from the Borough Council as appropriate. However, the content of the letter and the advice statement it includes from counsel raises important issues concerning Habitats Regulations Assessment following the Sweetman case. The Borough Council is aware of the case identified and as a matter of course is currently considering the implications of this judgment on any Habitats Regulations Assessment screening report undertaken for this or any other Neighbourhood Plans. The Borough Council therefore thanks Harris Lamb for providing a copy of this advice and confirms that the Borough Council will review the HRA screening report and re-consult with Natural England in due course.” I am satisfied with the response of the Borough Council.

31. During the course of this Independent Examination a Habitats Regulations Assessment Screening Report Update has been produced. I am satisfied this document has been subject to required consultation with Statutory Consultees.
32. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
 - b) explains how they were consulted;
 - c) summarises the main issues and concerns raised by the persons consulted; and
 - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.²²
33. The Consultation Statement and Evidence Base include information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

²² Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

The Neighbourhood Plan taken as a whole

34. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the background and supporting documents and copies of the representations provided to me.

Consideration of Convention rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

35. I have considered the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).²³ I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. An Equality Impact Assessment (January 2018) has been prepared in respect of the Neighbourhood Plan which concludes that none of the policies will have any negative impacts upon groups with protected characteristics. The Assessment also identifies how the Plan will advance equality of opportunity. From my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

36. The objective of EU Directive 2001/42²⁴ is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and*

²³ The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

²⁴ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

programmes which are likely to have significant effects on the environment.” The Neighbourhood Plan falls within the definition of ‘plans and programmes’²⁵ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²⁶

37. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Newcastle-under-Lyme Borough Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
38. On 10 April 2017 the Borough Council issued a Screening Opinion which stated *“The council’s view is that the Draft Neighbourhood Plan does not demonstrate to the council’s satisfaction, that the policies and proposals it contains will not have significant environmental effects and therefore we have taken the view that a Strategic Environmental Assessment is required.”*
39. The Environmental Report dated January 2018 which accompanies the Submission Neighbourhood Plan states that it is the third document to be produced as part of the Strategic Environmental Assessment process following a Scoping Report, and a SEA report that was consulted on at the Regulation 14 (Pre-Submission) Consultation stage of Plan preparation.
40. The Environmental Report states its purpose is to *“identify, describe and evaluate the likely significant effects of the LNP and alternatives; and provide an opportunity for consultees to offer views on any aspect of the SEA process, which has been carried out to date.”* The Environmental Report confirms reasonable alternatives have been considered with respect of the location of a site for a multi-sport and community facility, and in respect of the extent of the village envelopes. The Environmental Report confirms that the Neighbourhood Plan has been appraised against each of the environmental objectives in the SEA Framework and that each of the Plan policies has been considered individually and collectively. The findings are summarised as positive in respect of four objectives, positive/uncertain in respect of one objective, and neutral in respect of the remaining three objectives. I have noted the Environmental Report has not identified any negative environmental effects and states *“and*

²⁵ Defined in Article 2(a) of Directive 2001/42

²⁶ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

so there are no corresponding mitigation measures". I have also noted the recommendations of the Environmental Report presented at paragraph 5.13 stated "a small number of mitigation measures were identified as the Plan was being prepared in order to reduce any potential negative effects resulting from individual policies".

41. The Environmental Report was consulted on alongside the other Plan documents during the Regulation 16 publicity period. The Environment Agency has stated *"In our previous response to a Strategic Environmental Assessment Scoping Report (letter ref. UT/2006/000035/SE-03/SP1-L01, dated 31 September 2017) we had recommended further work to be undertaken as it had been suggested that development is unlikely to be affected by fluvial flood risk where the area falls within Flood Zone 1. The ordinary watercourse flows in a westerly direction out of Loggerheads itself, and through the extended development boundary area. As this has been classified as an ordinary watercourse and only falls within low risk Flood Zone 1 as no mapping has been undertaken due to its position high in the catchment. In light of this, there may well be risk associated with this watercourse which is currently unassessed and is not shown on our Flood Map for Planning (Rivers and Sea)."*
42. The Parish Council has stated *"This letter was sent to Aecom who carried out the Strategic Environment Assessment for the Loggerheads Neighbourhood Plan. They include reference to this letter in the final report at section 3.1 and they state 'Scope updated to consider the potential for flooding in unmapped areas.' At section 5.7 in the final report Aecom concludes: 'It was recommended that Policy LNP-S2 could be amended to refer to sustainable/natural drainage systems'. Following the Reg 14 Consultation, these changes were made to the policy, which ought to ensure that development at the site is more positive with regards to water quality and drainage. This is an improvement on the neutral effects that were predicted in the previous version of the SA Report. The Parish Council are confident that the SEA addresses the Environment Agency's issue."*
43. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
44. A Draft Habitats Regulations Assessment Screening Report has been prepared by the Borough Council in January 2018 *"to assess whether the Loggerheads Neighbourhood Plan will result in any significant effects on any European sites within relative proximity of the*

Neighbourhood Plan Area.” The Screening Report states there are no European sites within the plan area and identifies four sites within 10km of the Plan area namely Cop Mere (Midlands Meres and Mosses Phase 2 [Ramsar]; Betley Mere (Midlands Meres and Mosses Phase 1) [Ramsar]; Black Firs and Cranberry Bog (Midlands Meres and Mosses Phase 2 [Ramsar]; and Wybunbury Moss (West Midlands Mosses) [SAC]. The Screening Report includes findings of the screening assessment for each of the policies of the Neighbourhood Plan and site assessments in relation to sites LV1 and LV2. The Screening Report demonstrates consideration of in-combination effects and includes a summary which states “*As a result of the assessment above, it is considered unlikely that any significant effects will occur from the implementation of the Loggerheads Neighbourhood Plan.*” In a letter dated 14 March 2018 Natural England concurs with this view.

45. The Draft Habitats Regulations Assessment Screening Report had been prepared by the Borough Council prior to the EU Court of Justice ruling in *People Over Wind and Sweetman v Coillte Teoranta*. (Judgement of the Court Seventh Chamber 12 April 2018). As a matter for clarification I asked the Parish Council and Borough Council to jointly review the Screening Report in the context of the EU Court of Justice ruling and asked the Borough Council to confirm, in consultation with Natural England, that the Report is considered to be compliant with the identified EU Court of Justice ruling, or alternatively to state what actions are proposed to rectify the situation. On the 13 August 2018 the Borough Council and Parish Council sent me a joint response as follows, “*The Draft Habitats Regulations Assessment Screening Report has been prepared by the Borough Council prior to the EU Court of Justice ruling in People Over Wind and Sweetman v Coillte Teoranta. As a matter of course, the Borough Council is reviewing any Habitats Regulations Assessment Screening reports undertaken this year to ensure that they are still legally compliant in the context of the EU Court of Justice ruling in the Sweetman case. In respect of this Neighbourhood Plan the Borough Council will review and refresh the previous Habitats Regulations Assessment Screening report and re-consult with Natural England. The Borough Council will confirm to you once this has been undertaken and keep you informed of the outcome.*”

46. On 21 August 2018 I drew the attention of the Borough Council and the Parish Council to the Court of Justice (Second Chamber)

judgement of 25 July 2018 Grace, Sweetman, and National Planning Appeals Board Ireland (ECLI:EU:C2018:593). The Judgement relates to how the conclusions of the Appropriate Assessment should be interpreted which in turn determines whether Article 6(3) or Article 6(4) of the Directive applies. The trigger point for the Judgement to apply is once the Screening Stage has concluded that Appropriate Assessment of a plan or project is required. Where an HRA Screening concludes that Appropriate Assessment of a Neighbourhood Plan is not required this Judgement is not applicable.

47. On 8 October 2018 I received from the Borough Council an HRA Screening updated report (dated October 2018) that had been prepared subsequent to me drawing to the attention of the Borough and Parish Councils the European Union Court of Justice Judgement in 'People over Wind' dated 12 April 2018, and the Court of Justice (Second Chamber) ruling on 25 July 2018 in the case of Grace, Sweetman and the National Planning Appeals Board Ireland (ECLI:EU:C2018:593). The HRA Screening updated report takes into account changes made to the Neighbourhood Plan following Regulation 14 consultation and incorporates responses of Natural England and the Environment Agency. I consider a paragraph of the HRA Screening updated report requires correction. I refer to this matter in the annex to my report. I consider this deficiency does not affect the purpose or validity of the conclusions of the updated report. The HRA Screening updated report concludes *"As a result of the assessment above, it is considered unlikely that any likely significant effects will occur from the implementation of the Loggerheads Neighbourhood Plan because of the nature of the Neighbourhood Plan's policies described in Table 3 and 4, and the absence of impact pathways connecting the Neighbourhood Plan area and the European sites identified. The Neighbourhood Plan has been revised, following the Regulation 14 pre-submission consultation, and this report re-screens the plan. It is considered that the Loggerheads Neighbourhood Plan does not require progression to the Appropriate Assessment stage as likely significant effects have been screened out."*

48. The HRA screening report updated in October 2018 includes: policy assessment in Table 3; site assessment in Table 4; consideration of in-combination effects; a description of consultation undertaken; and sets out the conclusion reached. I noted the Borough Council published on its website my email of 30 July 2018 in which I requested

clarification regarding HRA. I have noted the Borough Council provided a consultation period to give interested parties an opportunity to comment on the HRA screening report updated in October 2018. The Borough Council has confirmed to me that this consultation did not result in any additional representations. I have considered the consultation response of Natural England dated 4 October 2018, and the stage of preparation of the emerging Newcastle-under-Lyme and Stoke-on-Trent Joint Local Plan 2013 – 2033 which is referred to with respect to in-combination effects. I conclude the Neighbourhood Plan meets the requirements of the EU Habitats Regulations.

49. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

50. I conclude that the Neighbourhood Plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

51. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. Newcastle-under-Lyme Borough Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations:

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).²⁷

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

²⁷ Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

52. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans²⁸ which requires plans to be “*consistent with national policy*”.

53. Lord Goldsmith has provided guidance²⁹ that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

54. The Basic Conditions Statement includes a statement that “*The Neighbourhood Plan has been prepared against the context of national policy, in particular the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)*”. The Basic Conditions Statement also includes a Table that sets out how the Neighbourhood Plan aims and policies have regard to the 12 core principles of the Framework. The Basic Conditions Statement also identifies those policies of the Neighbourhood Plan that align with the policy dimensions of the Framework. I am satisfied the Table and demonstration of alignment of policies demonstrate how the Neighbourhood Plan has regard to relevant identified components of the Framework.

55. The revised National Planning Policy Framework was published on 24 July 2018 and sets out the government’s planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in March 2012. Paragraph 214 of the revised Framework states “*The policies in the previous Framework will apply for the purpose of*

²⁸ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the National Planning Policy Framework 2012

²⁹ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord’s Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

examining plans, where those plans are submitted³⁰ on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned." I have undertaken this Independent Examination of the Neighbourhood Plan in the context of the Framework published in March 2012.

56. The Neighbourhood Plan includes a 'Growth Strategy' at Section 5 focussed on well-designed development to meet identified needs. It is stated *"The Plan enables development that enhances the economy or provides much needed community and recreational facilities, without having a detrimental impact on the heritage and landscape of the area"*. This positive vision for Loggerheads Parish acknowledges change and includes economic dimensions and social components whilst also referring to environmental considerations. The growth strategy includes statements relating to housing need; road safety and active travel; Local Green Space designations; sport and community spaces; a thriving centre for local shops and services; and employment opportunities. These statements are consistent with the underlying principles of the Framework, specifically, the need to jointly and simultaneously seek economic, social and environmental gains through the planning system. It is stated the growth strategy underpins the policies of the Neighbourhood Plan.
57. The Neighbourhood Plan includes, at section 7, a series of eleven projects and aspirations relating to 'Place and Heritage'; 'Transport and Movement'; 'Sport Health and Community Facilities'; and 'Economy'. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on matters considered important in the local community. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The Guidance states, *"Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements."* The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use

³⁰ Footnote 69 of the Revised Framework states that *"for neighbourhood plans, 'submission' in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012."*

planning is consistent with this guidance and represents good practice. The Guidance states, *“Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”* I am satisfied the approach adopted in the Neighbourhood Plan presenting the projects and aspirations in a separate section which clearly states it is not part of the statutory Neighbourhood Plan adequately differentiates the community actions from the policies of the Plan and has sufficient regard for the Guidance.

58. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to *‘have regard to’* national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition *“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”*

59. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.³¹ The Guidance states, *“This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”*³².

³¹ Paragraph 14 National Planning Policy Framework 2012

³² Planning Practice Guidance (Ref ID:41-072-20140306)

60. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

61. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement confirms the Neighbourhood Plan has taken account of the need to contribute to the achievement of sustainable development setting out how the Neighbourhood Plan “*delivers growth*”. The Table presented at pages 10 and 11 of the Basic Conditions Statement sets out the results of an assessment of sustainability of the Neighbourhood Plan policies. The assessment shows one or more of the policies makes a positive contribution to each of the three dimensions of sustainability, namely economic, social and environmental factors.

62. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate quality; will protect and enhance social facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan seeks to:

- Direct new housing development to within a village envelope except where stated criteria are met;
- On major housing developments achieve a housing mix that meets local needs;
- Ensure affordable housing provision occurs on-site;
- Ensure new developments meet high standards of design;
- Ensure new development complements and reinforces local character and heritage;
- Designate eight Local Green Spaces;

- Ensure new development includes a balanced and sustainable approach to transport;
- Ensure major housing developments are supported by adequate community infrastructure;
- Allocate sites for multi-sport and community facilities, and sports pitches;
- Ensure loss of open space and sports pitches at the football field at Burntwood and the cricket pitch at Hales would only occur in stated circumstances;
- Conditionally support the creation of different types of enterprise and employment space in suitable locations;
- Support new retail development within and immediately adjacent to the existing retail area or on other existing retail sites; and
- Ensure development schemes provide for broadband connection.

63. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the 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)

64. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.³³ “*Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them.*”

³³ Paragraph 16 National Planning Policy Framework 2012

*Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies”.*³⁴

65. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”³⁵
66. In this independent examination, I am required to consider whether the making of the 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). Newcastle-under-Lyme Borough Council has informed me that the Development Plan applying in the Loggerheads neighbourhood area and relevant to the Neighbourhood Plan comprises the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011.
67. Newcastle-under-Lyme Borough Council is preparing the emerging Newcastle-under-Lyme and Stoke-on-Trent Joint Local Plan 2013 – 2033. A Preferred Options consultation document was issued in February 2018.
68. The Neighbourhood Plan can proceed ahead of preparation of the Joint Local Plan. The Guidance states: “*Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body*

³⁴ Paragraph 184 National Planning Policy Framework 2012

³⁵ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

and the local planning authority should discuss and aim to agree the relationship between policies in:

- *the emerging neighbourhood plan*
- *the emerging Local Plan*
- *the adopted development plan*

with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”³⁶

69. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the emerging Joint Local Plan when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan, however the Guidance is clear in that potential conflicts should be minimised.

70. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Joint Local Plan is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states “*Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan*”. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester*

³⁶ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20160211

BC [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

71. In considering a now repealed provision that “*a local plan shall be in general conformity with the structure plan*” the Court of Appeal stated “*the adjective ‘general’ is there to introduce a degree of flexibility.*”³⁷ The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

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

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.*”³⁸

My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance.

73. Consideration as to whether the making of the 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) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

³⁷ Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P & CR 31

³⁸ Planning Practice Guidance (ID ref: 41-074 201 40306)

The Neighbourhood Plan policies

74. The Neighbourhood Plan includes 12 policies as follows:

Policy LNP G1 New Housing Growth

Policy LNP G2 Housing Mix

Policy LNP P1 Urban Design and Environment

Policy LNP P2 Local Character and Heritage

Policy LNP P3 Local Green Space

Policy LNP T1 Sustainable Transport

Policy LNP S1 Community Infrastructure

Policy LNP S2 Site Allocation for Multi-Sport and Community Facility and Sports Pitch

Policy LNP S3 Sports Pitches

Policy LNP E1 Employment

Policy LNP E2 Retail

Policy LNP E3 Broadband

75. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.”* *“Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*³⁹

76. The Guidance states *“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*

³⁹ Paragraphs 184 and 185 National Planning Policy Framework 2012

respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”⁴⁰

77. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*⁴¹

78. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”*⁴²

79. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

Policy LNP G1 New Housing Growth

80. This policy seeks to establish that new housing development will be considered for approval within a defined village envelope. The policy also seeks to establish criteria for consideration of approval of proposals outside the village envelope. I have considered Policy LNP G1 in two respects, firstly the approach to identify a village envelope, and secondly the village envelope alignment.

81. In a representation Gladman Developments state *“Gladman do not consider the use of settlement boundaries to be an effective response to future development proposals if they would act to preclude the*

⁴⁰ Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306

⁴¹ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

⁴² Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20140306

delivery of otherwise sustainable development opportunities, as indicated in the policy. The Framework is clear that development which is sustainable should go ahead without delay. The use of settlement limits to arbitrarily restrict suitable development from coming forward on the edge of settlements does not accord with the positive approach to growth required by the Framework and is contrary to basic condition (a). Gladman recommend that this policy is deleted.”

82. The Parish Council states *“The research undertaken for the Neighbourhood Plan has been extensive and is based on local knowledge that can evidence that the village envelope reflects areas suitable for significant development that are sustainable”*.
83. A village envelope is used in the Neighbourhood Plan as a policy tool to define where plan policies are to apply, and in particular where development proposals will normally be supported and where proposals will be carefully controlled. Proposals are subject to other policies of the Neighbourhood Plan including those which establish design principles. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the Local Plan, as required by paragraph 184 of the Framework.
84. The adopted Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006-2026 includes Strategic Policy ASP6 – Rural Area Spatial Policy which states *“There will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key rural service centres (see Key Diagram), namely - Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements – in particular, the need for affordable housing.”* The Core Spatial Strategy does not assign a housing need number to each key rural service centre.
85. The Guidance states *“Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development.”* The Joint Local Plan Preferred Options

Consultation document (February 2018) envisages limited housing development in the rural area of Newcastle-under-Lyme, making up 3% of the total requirement, and identifies 5 Preferred Housing Sites in the Loggerheads character area at: Tagedale Quarry; Mucklestone Road; Eccleshall Road; Market Drayton Road; and Hookgate, with a total capacity of 328 dwellings. Clearly if there is a future conflict between a policy of the Local Plan and the Neighbourhood Plan then the conflict is resolved in favour of the Plan that last became part of the Development Plan, however the Guidance is clear in that potential conflicts should be minimised.

86. The Parish of Loggerheads Housing Needs Assessment (June 2016) and Update (June 2017) demonstrate a potential supply of housing sufficient to meet total anticipated needs. These documents identify a total of 315 homes have been permitted in Loggerheads between 2013 and 1 June 2017, and note a further 76 homes are being proposed in planning applications at the end of June 2017.
87. The contribution arising from identified sites amounts to a significant boost to the supply of housing. Whilst no total figure can be assumed there is undoubtedly potential for a significant number of additional dwellings to be provided on infill plots or through the redevelopment of sites within the proposed village envelope. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the Loggerheads village envelope. I conclude Policy LNP G1 will not lead to the Neighbourhood Plan promoting less development than set out in the Local Plan, as required by paragraph 184 of the Framework.
88. Paragraph 55 of the Framework states “*Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:* • *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or* • *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or* • *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or* • *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:* – *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas; – reflect the highest standards in architecture; – significantly enhance its immediate setting; and – be sensitive to the defining characteristics of the local area.”* Policy LNP

G1 is silent with respect to the possibility of these special circumstances that would justify support of a proposal for an isolated home outside the village envelope. I have recommended a modification so that the policy has sufficient regard for national policy in this respect.

89. I now consider issues relating to the precise alignment of the village envelope. A village envelope can represent the dividing line between built areas and open countryside, and can follow clearly defined features such as walls, hedgerows or water courses. Extant planning permissions and allocations can be included within a village envelope. The definition of the boundary however does not have to relate to some observable land use difference or dividing feature. A village envelope does not have to include the full extent of a settlement, and a village envelope does not have to reflect land ownership boundaries or the precise curtilages of properties. A village envelope can be used to identify the limits to future development of a settlement. One approach is to exclude curtilages of properties which have the capacity to extend the built form of a settlement in areas where this is not considered desirable. Such areas could include parts of large residential gardens.

90. The Neighbourhood Plan sets out in Section 6.1.2 an explanation of the method used in defining the village envelope. Consideration has been given to the character of the settlement and its development form. I am satisfied the village envelope indicates a physical limit to development over the plan period and will guide development to sustainable solutions. The village envelope proposed has been subject to community engagement and consultation during the plan preparation process. I have noted the village envelope defined in the Neighbourhood Plan includes additions to the village envelope defined on the Proposals Map of the Newcastle under Lyme Local Plan and referred to in Saved Policy H1. It is beyond my role to consider whether any alternative alignment of the village envelope would offer a more sustainable solution.

91. Whilst the supporting text (titled rationale and evidence) to Policy LNP G1 refers to the Ashley village envelope and includes Map 3 which illustrates proposed changes to the Ashley village envelope, neither the policy text itself, nor the interpretation section, make any reference to the Ashley village envelope. The policy differentiates between land within the Loggerheads village envelope and land outside that envelope. Ashley clearly lies outside the Loggerheads village envelope. The Ashley village envelope has no consequence with

respect to Policy LNP G1 of the Neighbourhood Plan. I have noted the Proposals Map of the Newcastle under Lyme Local Plan includes a village envelope for Ashley and Saved Policy H1 refers to the village envelopes defined on the Proposals Map. I have also noted the 'Rationale and Evidence' to Policy LNP G1 states "*Ashley is not sustainable for further development.*" In a joint response to a request for clarification the Borough and Parish Councils confirmed to me on 3 September 2018 that "*The first paragraph of Policy LNP G1 should relate to only the Loggerheads village envelope including proposed additions defined on Map 2. The Ashley village envelope will be covered by existing policy in the Core Spatial Strategy and the saved Local Plan policies and second paragraph of Policy LNPG1. The second paragraph of Policy LNP G1 should relate to those parts of the Neighbourhood Area outside the Loggerheads village envelope (as proposed).*" I have recommended the supporting text to Policy LNP G1 (titled Rationale and Evidence) should be adjusted so as to be wholly consistent with the policy.

92. The term "*considered for approval*" is without consequence. The terms "*complement the existing housing*" and "*excessive urbanisation or loss of garden space*" are imprecise. The mixing of options and essential requirements is such that it is unclear which of the criteria must apply for a scheme to be supported outside the village envelope. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
93. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
94. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned delivering a wide choice of high-quality homes and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 1:

In Policy LNP G1

- **in both the first and second paragraphs delete “considered for approval” and insert “supported”**
- **replace the bullet points with:**
 - **“it is a replacement dwelling, or limited infill housing, or within a built frontage of existing dwellings; and**
 - **it will reflect the character of surrounding dwellings and will not lead to significant loss of garden space; and**
 - **it will not cause significant harm to residential amenity; or**
 - **it is a new isolated home in the countryside that meets the special circumstances described in paragraph 55 of the Framework.”**

The supporting text to Policy LNP G1 (titled Rationale and Evidence) should be adjusted so as to be wholly consistent with the policy

Policy LNP G2 Housing Mix

95. This policy seeks to establish that housing developments of more than ten houses must include a mix of types of accommodation to meet local need including accommodation for first time buyers and the elderly. The policy requires at least a third of new houses to comprise a combination of one or two-bedroom properties, and one or two-bedroom properties to provide independent living for the elderly. The policy also requires affordable housing to be provided as an integral part of each development, rather than being provided remotely through financial contribution.

96. The policy refers to homes *“suitable to provide independent living for the elderly”*. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.⁴³ The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 states neighbourhood plans should not set out *“any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. Policy LNP G2 is not seeking to

⁴³ <https://www.gov.uk/guidance/housing-optional-technical-standards>

establish any technical standards or requirements but is defining the type of development that will be supported. I have recommended use of the term “homes” in this context as limitation to consideration of “houses” is not sufficiently justified. The term “*accommodation for first time buyers and the elderly*” implies the policy will determine the characteristics of future occupiers. Control of this nature has not been sufficiently justified and so I have recommended a modification requiring accommodation to be suitable for occupation by first time buyers and the elderly.

97. The term “*to meet local need*” is imprecise. Whilst the justification for the policy is grounded in local survey responses this does not preclude decision making being based on updated evidence of local needs that may emerge during the plan period. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
98. The Parish of Loggerheads Housing Needs Assessment (June 2016) and Update (June 2017) demonstrate a potential supply of housing sufficient to meet total anticipated needs but identifies a mismatch between supply and demand in terms of type of dwellings. A particular need for one or two bedroomed houses and bungalows, providing accommodation for single person households age 60 and above, and affordable homes for young people, has been identified. The requirement in Policy LNP G2 for “*a combination of*” may only result in a single dwelling being developed “*to provide independent living for the elderly*” however this is not a matter in respect of which I can recommend a modification.
99. As a point of clarification, I asked the Parish Council to direct me to the existing evidence that supports the precise requirement of “*at least a third*” of new homes should comprise a combination of one or two bedroomed properties, and one or two bedroomed properties suitable to provide independent living for the elderly. A joint response from the Borough Council and the Parish Council states “*On the Parish Council website under the heading ‘Housing needs assessment for Loggerhead’ is a report ‘Housing needs V5 final June16’ which sets out at section 5 page 7 table 3, between 2001 and 2011 there was a significant increase in the age group 60 -74 years, an increase in over 75 years and 18-19 years and a significant decrease in the 30 to 44 age group. In table 4 and figure 1 the relationships in households*

shows an increase in households with only one occupant and a decrease in households with families with children living at home between 2001 and 2011. The conclusion at section 20.3 is that Loggerheads has a very specific housing need for single person households for the age 60 years and above and affordable homes for young people, namely 1 or 2-bedroom houses or bungalows. Private renting can be an alternative to meet the needs of singles / smaller households, if it is affordable. In the update on housing supply 'Parish of Loggerheads Housing Needs Assessment June 2017v2' the conclusion is at section 3.6 The current housing supply position, if those at the planning application stage are included there could be up to 400 new homes in Loggerheads of which 79 are designated as being affordable. Only 10 of these are 2-bedroom houses, a significant number are large 4-bedroom family homes. A survey of residents section 15.2, page 18 of Housing needs assessment found that 'Most needed were thought to be affordable homes for young people (45%) followed by small family homes (36%) and provision for elderly (29%). (Table 13 below).' This resulted in the policy for 'at least a third' to reflect the severe shortfall in one and two-bedroom properties and those suitable for the elderly while accepting that 3 and 4 and 5-bedroom homes will continue to be proposed by developers. The Parish Council is pleased that, following a meeting in 2017 with a developer when the housing need assessment was shared, the resulting planning application for +22 homes at Hookgate, includes 3 x 2 bed houses and 6 bungalows." The precise requirement of "at least a third" of new homes comprising a combination of one or two bedroomed properties and one or two bedroomed properties suitable to provide independent living for the elderly has not been sufficiently justified. I have recommended a modification in this respect.

100. Strategic Policy CSP6 states *"In some areas the local need for affordable housing may be for less than 25%. In this case a financial contribution to off-site affordable housing provision will be required at the equivalent rate to meet priority needs elsewhere."* The Parish of Loggerheads Housing Needs Assessment (June 2016) includes information relating to housing affordability in the Rural South sub-area (that includes Loggerheads) stating *"45.3% of households could afford to purchase an entry level home, rising to 65.6% who could afford to rent a 2-bedroom dwelling, and 87.4% who could afford to socially rent a 2-bedroom dwelling"*. This information supports the approach adopted in Policy LNP G2. The policy is in general conformity with Strategic Policy CSP6.

101. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

102. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with delivering a wide choice of high-quality homes. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 2:

In Policy LNP G2

- **delete “Housing developments of” and insert “To be supported proposals for”**
- **delete “local need” and insert “requirements identified in the latest assessment of local housing needs”**
- **after “accommodation” insert “suitable”**
- **after “third of new” delete “houses” and insert “homes, unless it can be demonstrated there is not a need for this level of provision,”**
- **after the first reference to one or two-bedroomed properties insert “and”**

Policy LNP P1 Urban Design and Environment

103. This policy seeks to establish that new development should demonstrate high standards of design and sets out 16 ways this can be achieved.

104. The term “*must demonstrate*” is without consequence. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

105. In a representation Gladman Development state “*Whilst Gladman recognise the importance of high-quality design, planning*

policies should not be overly prescriptive and need flexibility in order for schemes to respond to sites specifics and the character of the local area. Whilst, Gladman note that the NP seeks to define different design criteria for developments in each of the 8 defined areas, there will not be a 'one size fits all' solution in relation to design and sites should be considered on a site by site basis with consideration given to various design principles. Gladman therefore suggest that more flexibility is provided in the policy wording to ensure that a high quality and inclusive design is not compromised by aesthetic requirements alone. We consider that to do so could act to impact on the viability of proposed residential developments. We suggest that regard should be had to paragraph 60 of the NPPF which states that: 'Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles'.

106. The Parish Council states *"The interpretation section for this policy (at Page 52) recognises the need for flexibility and includes the following: 'It is essential that the design process is based on an analysis of the site and context and that the design solution responds to the key characteristics of that analysis' and 'The policy avoids any kind of stylistic prescription, as required by the National Planning Policy Framework. Indeed, creative and innovative design solutions are especially encouraged. These will be the heritage of the 21st century. In particular, designs that incorporate low or zero carbon use are strongly encouraged"*.

107. The Framework states *"local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally"* and: *"Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness"*. The policy seeks to reinforce local distinctiveness and encourage innovative design whilst avoiding unnecessary prescription referred to in paragraphs 60 and 59 of the Framework.

108. The Policy includes reference to hedgerows. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a domestic garden. It is appropriate for the Neighbourhood Plan to seek to introduce an additional regime. The policy refers to existing trees. The Framework states development resulting in loss of ancient and veteran trees should be refused unless the need for, and benefits of, the development in that location clearly outweigh the loss. I have recommended a modification in this respect so that the policy has regard for national policy.
109. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
110. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3
In Policy LNP P1**

- **commence the Policy with “To be supported”**
- **in part 7 after “unless” insert “it is demonstrated the need for, and benefits of, development in that location clearly outweigh the loss or they are”**

Policy LNP P2 Local Character and Heritage

111. This policy seeks to establish that new development should complement and reinforce the local character of the area and non-designated heritage and take account of the main character areas described. The policy states non-designated heritage of particular sensitivity is listed in the Loggerheads Heritage book.

112. The policy refers to “*the Loggerheads Heritage book*”. The evidence base presented on the Parish Council website includes 4 documents listed as:

- Heritage Assets Tyrley Ward;
- Heritage Assets Mucklestone Ward;
- Heritage Assets Loggerheads Ward; and
- Heritage Assets Ashley Ward.

As a point of clarification, I asked the Parish Council to confirm that these documents together comprise the “*Loggerheads Heritage book*” or alternatively inform me where I can inspect the Loggerheads Heritage book. The Parish Council provided me with a copy of the Loggerheads Heritage book stating this had been “*reprinted to show the designations more clearly*”. I have noted the Loggerheads Heritage book brings together information relating to each of the four wards.

113. Paragraphs 131 to 136 of the Framework establish a policy regime for the determination of proposals that affect designated and non-designated heritage assets. The balancing of considerations is a part of the judgement necessary in the determination of proposals. In the case of harm to non-designated heritage assets the Framework states it is necessary to balance the scale of any harm or loss and the significance of the asset. Paragraph 135 of the Framework states “*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*” Whilst Policy LNP P2 provides an additional level of detail or local approach to guide the determination of planning applications it does not reflect the balanced judgement required by national policy. I have recommended a modification in this respect.

114. The policy seeks to reinforce local distinctiveness and encourage innovative design whilst avoiding unnecessary prescription referred to in paragraphs 60 and 59 of the Framework. The Guidance states “*Where it is relevant, neighbourhood plans need to include enough information about local heritage to guide decisions and put broader strategic heritage policies from the Local Plan into action at a neighbourhood scale.*”⁴⁴ The identification of design requirements in distinct character areas is consistent with the Guidance.

⁴⁴ Planning Practice Guidance Reference ID: 18a-007-20140306

115. The Guidance also states *“Local Planning Authorities may identify non-designated heritage assets”*⁴⁵ and *“Local lists incorporated into Local Plans can be a positive way for the local planning authority to identify non-designated heritage assets against consistent criteria so as to improve the predictability of the potential for sustainable development.”*⁴⁶
116. As a point of clarification, I asked the Parish Council to confirm it is intended the status of the locally identified heritage assets should be regarded as potential non-designated heritage assets. In a joint response the Borough Council and the Parish Council stated *“Those locally identified non-designated heritage assets in the book were submitted to Newcastle Borough Council in April this year to be considered as Locally Important Buildings and Structures and these applications are currently being considered. The Parish Council accepts that until such time as these assets are adopted by the Borough it would be reasonable to add the word ‘potential’”*.
117. It is appropriate for a community to use the neighbourhood plan preparation process to identify buildings and structures of local interest and to include policies to require particular consideration of assets that have been formally recognised by the Borough Council in the determination of planning applications. The Borough Council maintains a Register of Locally Important Buildings and Structures. When I viewed this Register, it contained 3 entries in Loggerheads namely: Tyrley War Memorial, Waterside Cottage, Tyrley; War memorial, St John the Baptist, Church Road, Ashley; and War memorial, St Marys Church, Blore Road, Hales. I have noted the Borough Council website states the Council is reviewing the Register in 2018 and requested nominations be made before 30 June 2018. The Borough Council has published criteria and a scoring system including weighted criteria relating to: authenticity; architectural interest; historic interest; visual importance; and community value. It is not appropriate for Policy LNP P2 to imply locally identified assets will be recognised by the Borough Council as non-designated heritage assets. The status of the locally identified non-designated heritage assets should be clarified and the process to achieving their formal recognition should be explained. I have recommended a modification in this respect.

⁴⁵ Planning Practice Guidance Reference ID: 18a-039-20140306

⁴⁶ Planning Practice Guidance Reference ID: 18a-041-20140306

118. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

119. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy LNP P2 after “site-specific design.” insert “A balanced judgement will be required having regard to the scale of any harm or loss to a non-designated heritage asset and the significance of the heritage asset. Potential”

The interpretation presented below the Policy should explain the status of the locally identified heritage assets as potential non-designated heritage assets, and the process to achieving their formal inclusion in the Register maintained by the Borough Council should be explained.

Policy LNP P3 Local Green Space

120. This policy seeks to establish a policy approach to apply in designated Local Green Spaces. Whilst the policy does not designate Local Green Spaces nor identify areas of land to be designated I am satisfied the intention to do so has been clear from the evidence referred to in the Neighbourhood Plan. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁴⁷ The ability to correct errors embraces amendments necessary to achieve accuracy and consistency in the wording of policies and their supporting text⁴⁸. In a joint response of the Borough Council and the

⁴⁷ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

⁴⁸ Lindblom L J Court of Appeal *Kebbell Development Ltd v Leeds City Council* [2018] paragraph 35 in relation to LPA power to modify after receipt of an Examiner’s report

Parish Council to a request for clarification that I sent, the Parish Council “confirm that they are happy with the proposal to modify the policy to include the list of Local Green Spaces to be designated so that the policy is clear, as this was always the intent of this policy”. I have recommended a modification in this respect. Through publication of my request for clarification, and the response, on the Borough Council and Parish Council websites an opportunity was provided for any party to comment on this intended modification. No representations were received.

121. The policy wording does not reflect paragraph 78 of the Framework which states “Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts”. Paragraph 76 of the Framework states “Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed and be capable of enduring beyond the end of the plan period.” The wording of the policy does not reflect the terms of the designation of Local Green Spaces set out in paragraph 76 of the Framework where it is stated communities will be able to rule out development other than in very special circumstances. I have recommended a modification so that the Policy has regard to national policy.

122. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The general location of the proposed Local Green Spaces is indicated on Map 6 of the Neighbourhood Plan. The proposed Local Green Spaces are presented on satellite images included in Appendix 3 of the supporting evidence document Loggerheads Neighbourhood Plan Local Green Space Designations (updated June 2017) at a scale that is sufficient to identify the precise boundaries of each Local Green Space proposed for designation. I have recommended these images, or alternatively maps at a similar scale, should be included in the Neighbourhood Plan.

123. In respect of the areas intended for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.

124. Paragraph 77 of the Framework states that: “*Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.”⁴⁹*

I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.

125. I now consider whether there is sufficient evidence for me to conclude that the areas proposed for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance. The Neighbourhood Plan sets out on pages 57 and 58 sufficient justification for the designations. I have noted additional information is included in the supporting evidence document Loggerheads Neighbourhood Plan Local Green Space Designation report (updated June 2017). I conclude each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

126. I find all the areas proposed as Local Green Space are suitable for designation and subject to the recommended modification, have regard for paragraphs 76 and 77 of the Framework concerned with the

⁴⁹ Paragraph 77 National Planning Policy Framework 2012

identification and designation of Local Green Space. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies. Subject to the recommended modification I consider that this policy meets the basic conditions.

Recommended Modification 5:

Replace Policy LNP P3 with “The following areas (identified on the maps below) are designated as Local Green Space where new development is ruled out other than in very special circumstances consistent with policy for Green Belts:

- **Land along Tadgedale Brook between Chestnut Road and Brookfield;**
- **Land at Kestrel Drive;**
- **Land at Hugo Way;**
- **Allotments behind Eccleshall Road;**
- **Turner Hodgkiss Nature Reserve;**
- **Bell Orchard;**
- **Almington Play Area; and**
- **Knighton Play Area.”**

Maps or images at a scale sufficient to identify the precise boundaries of the proposed Local Green Spaces should be included in the Neighbourhood Plan below the policy.

Policy LNP T1 Sustainable Transport

127. This policy seeks to establish that new development will include a balanced and sustainable approach to transport.

128. The term “*will include*” is without consequence. Limitation of the policy to apply to “*houses*” only and no other types of homes has not been justified. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

129. The Framework states “*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*” The Framework also states “*Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable*”. I have recommended modification of the policy in these respects so that the policy has regard for national policy.

130. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

131. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 6:

In Policy LNP T1

- **before “New development “insert “To be supported”**
- **delete “houses” and insert “homes”**
- **delete “will include” and insert “must, subject to viability considerations, demonstrate”**
- **after “safety and” insert “severe”**

Policy LNP S1 Community Infrastructure

132. This policy seeks to establish that new development in excess of 10 dwellings must be supported by adequate community infrastructure.
133. The term “*granting of consent to be considered*” is without consequence. The term “*community infrastructure*” is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
134. The Framework states “*Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable*”. I have recommended modification of the policy in this respect so that the policy has regard for national policy.
135. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
136. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

In Policy LNP S1

- commence the policy with “**To be supported**”

- delete “must be supported by adequate community infrastructure. To enable granting of consent to be considered, developers”
- after “existing community infrastructure” insert “(meeting and activity space, medical facilities, open space, highway infrastructure including footways)”
- after “or” delete “to” and insert “, subject to viability considerations,”

Policy LNP S2 Site Allocation for Multi-Sport and Community Facility and Sports Pitch

137. This policy seeks to allocate an identified site fronting Market Drayton Road in Loggerheads village for a mixed-use community and sports facility and allocate an adjacent site for sports pitches.
138. The Framework states planning policies should *“plan positively for the provision of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public house, and places of worship) and other local services to enhance the sustainability of communities and residential environments.”*
139. The Framework also states *“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required”.*
140. The Guidance states *“It is for local planning authorities to assess the need for open space and opportunities for new provision in their areas”⁵⁰ and “authorities and developers may refer to Sport England’s guidance on how to assess the need for sports and recreation facilities”⁵¹ and “where there is no requirement to consult, local planning authorities are advised to consult Sport England in cases where development might lead to:creation of a major sports*

⁵⁰ Planning Practice Guidance Paragraph: 001 Reference ID: 37-001-20140306

⁵¹ Planning Practice Guidance Paragraph: 002 Reference ID: 37-002-20140306

facility; creation of a site for one or more playing pitches;....”⁵². Paragraph 171 of the Framework states “Local planning authorities should work with public health leads and health organisations to understand and take account of the health status and needs of the local population (such as for sports, recreation and places of worship), including expected future changes, and any information about relevant barriers to improving health and well-being”.

141. The Consultation Statement indicates consultation with the North Staffordshire Clinical Commissioning Group and input from Sport England in plan preparation. In a representation the Borough Council has commented with respect to the standards used for play and outdoor sports facilities stating *“The Borough Council has an adopted Playing Pitch Strategy and Open Space Strategy, both prepared in line with NPPF recommendations and based on local needs assessment. The Loggerheads Neighbourhood Plan has used the Fields in Trust 6 Acre Standard to determine the need for play and outdoor sports facilities - this uses a national standard as opposed to a locally assessed standard. The Borough Council's adopted policies should take precedence over any alternative method of assessing need”.*

142. The Parish Council states *“The Borough Council, in its Open Space Strategy, quotes Fields in Trust 6 Acre standard at Paragraph 4. Indeed, it reads “Fields in Trust (FiT) ‘Guidance for Outdoor Sport and Play: Beyond the Six Acre Standard’ were influential”. Furthermore, the Borough has adopted some of the Benchmark guidelines as is evidenced in Paragraph 4.2 with the following comment: “Table1: ‘Fields in Trust’ guidelines for equipped/designated play space have been adopted in this Open Space Strategy review and should be read in conjunction with Table 2.” If FIT is a national standard that has been adopted by the Borough in its Open Space Strategy the Parish Council would question why is it inappropriate for the Loggerheads Neighbourhood Plan? The research that was done for the Neighbourhood Plan is a local assessment that takes account of the significant growth in housing in Loggerheads with no related growth in sports or play facilities. It is a fact that there is no Neighbourhood Equipped Area for Play (NEAP) or Multi Use Games Area (MUGA) in Loggerheads and inadequate sports facilities. The Borough Council Playing Pitch Strategy appears to have been carried out as a desktop study as it describes the one football pitch in*

⁵² Planning Practice Guidance Paragraph: 003 Reference ID: 37-003-20140306

Loggerheads at the Burntwood as adult standard. This statement is wrong as the pitch is below the size required for adult matches and as a consequence the Loggerheads Football team have to rent a pitch at Eccleshall in order to play league matches. Indeed, Sport England dictate the space requirements for a safe adult pitch are 106.0 x 70.0 m these dimensions are completely unachievable in the current location and the site cannot be expanded due to the adjoining Forestry Commission land and adjacent SSSI's."

143. I have noted the Newcastle under Lyme Playing Pitch Strategy (February 2015) describes the current status of the Burnt Wood playing fields (Site ID 87) as *"One standard quality adult pitch with minimal spare capacity. Pitch is minimum size and is not serviced by changing rooms. Drainage works have increased pitch quality. Owned by the Council and leased to the Parish Council. It is used by Loggerheads FC for one of its teams on a gentleman's agreement for a peppercorn rent. One of its teams has to travel outside of the study area (to Eccleshall) to access a suitable pitch for the league it plays in. Granted planning permission to build a changing facility"* and includes a recommended action as follows *"Spare capacity should be retained to help protect/improve quality. Support the Club in its aspirations to develop the site and ensure long term security is agreed and put into place"* with a stated aim to *"enhance."*

144. As a point of clarification, I queried the implications for Policy LNP S2 of applying the Borough Council adopted policies in the Playing Pitch Strategy and the Open Space Strategy. In a joint response the Borough Council and the Parish Council stated *"The assessment of need within the Loggerheads and Ashley Community Project Feasibility Study (Urban Vision 2017) is based on Fields in Trust recommended benchmark guidelines. The Borough Council considers that any assessment needs to be consistent with the Council's own assessment methodology and therefore needs to be in accordance with those in the Playing Pitch (PPS) and Open Space Strategies (OSS). The PPS does not contain a standard against which pitch provision is judged, but amongst other policies, current Core Spatial Strategy policy CSP4 seeks to enhance, maintain and protect the Boroughs open space, sports and leisure assets. Therefore, the principle of enhancement of the Borough's open space, sports and leisure assets could generally be supported subject to compliance with a range of other policies. The Playing Pitch Strategy (PPS) was adopted in 2015, and has not been reviewed or updated. The Strategy*

states that: 'if no review and subsequent update has been carried out within three years of the PPS being signed off by the steering group, then Sport England and the NGBs would consider the PPS and the information on which it is based to be out of date. The nature of the supply and in particular the demand for playing pitches will likely to have changed over the three years. Therefore, without any form of review and update within this time period it would be difficult to make the case that the supply and demand information and assessment work is sufficiently robust. Ideally the PPS could be reviewed on an annual basis from the date it is formally signed off by the steering group. This will help to maintain the momentum and commitment that would have been built up when developing the PPS. Taking into account the time to develop the PPS this should also help to ensure that the original supply and demand information is no more than two years old without being reviewed.' The PPS describes the Burntwood Playing Field at Loggerheads as: "One standard quality adult pitch with minimal spare capacity. Pitch is minimum size and is not serviced by changing rooms. Drainage works have increased pitch quality. Owned by the Council and leased to the Parish Council. It is used by Loggerheads FC for one of its teams on a gentleman's agreement for a peppercorn rent. One of its teams has to travel outside of the study area (to Eccleshall) to access a suitable pitch for the league it plays in. Granted planning permission to build a changing facility.' It also states that 'spare capacity should be retained to help protect/improve quality. Support the Club in its aspirations to develop the site and ensure long term security is agreed and put into place.' The Neighbourhood Planning group explains that the Football Association (FA) has increased the size of an adult Association pitch and the Burntwood site no longer meets this standard. The local football club have therefore withdrawn from using the pitch as it is no longer fit for their purpose. This evidence therefore demonstrates a lack of football provision within the village to meet FA standards. The Parish Council have been discussing local needs for football and sports facilities within Loggerheads with the Borough Council. Any review of the PPS will take into account the current position on football pitch provision (including Burntwood) within the Neighbourhood Area. The Open Space Strategy (OSS) is a review and future guide to how the Borough Council manages its open space asset base to ensure that the needs of the community are met in the most appropriate way. It contains an audit of existing open space and includes the following types of open space; (i) Parks & gardens, (ii) Amenity green spaces, (iii) Natural and semi-natural green spaces, (iv) Designated play spaces for children

and young people, (v) Allotments and (vi) Green corridors. Outdoor sports facilities are not part of the Open Space Strategy review as this is dealt with through the Sport England compliant Playing Pitch Strategy and covered in the earlier paragraphs. The OSS divides the Borough into 3 areas, Newcastle Urban, Kildsgrove Urban and Newcastle Rural. Loggerheads Neighbourhood area lies within the 'Newcastle Rural' area in the southernmost parish within the Borough. In the Framework Plans which support the Strategy the data is presented in respect of the Newcastle rural area as a whole and is not specific to the neighbourhood area. Across the Newcastle Rural area the data identifies a quantity deficit in typologies for allotments and amenity greenspace, a slight surplus in provision for children and young people, and parks; and a significant surplus in typologies for natural and semi-natural green space. The supporting evidence at a Neighbourhood Plan level from the Loggerheads and Ashley Community Project Feasibility Study (Urban Vision 2017) provides data at parish level with its assessment based on Fields in Trust recommended benchmark guidelines. This is different to the Borough Council's assessment methodology. There is variation in standards, for example the Borough's OSS standard for 'designated play spaces for children and young people' is 0.41 Ha per 1,000 population and Fields in Trust standard is 0.25 Ha per 1,000 population, and other outdoor provision including multi-use games areas (MUGAs) and skateboard parks is 0.3 Ha per 1,000 population. The Borough Council's Strategy for those typologies requires a higher per hectare standard than Fields in Trust. Whilst the Loggerheads and Ashley Community Project Feasibility Study (Urban Vision 2017) identifies a required quantity guideline it does not seek to make an assessment of the quantity already provided nor identify a final need figure for play space against that provision".

145. The Guidance states "A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria" and directs the reader to guidance on assessing sites.⁵³ The evidence base supporting the Neighbourhood Plan available on the Parish Council website includes a "Loggerheads and Ashley Community Centre Project Business Case". This is a brief document that sets out a community aspiration. The evidence base also includes "Loggerheads and Ashley Community Project Proposed

⁵³ Planning Practice Guidance Paragraph: 042 Reference ID: 41-20170728

Feasibility Study” dated May 2017. This latter document describes itself at page 17 as a pre-feasibility study. Neither the business case nor the feasibility study includes an appraisal of options and an assessment of individual sites against clearly identified criteria. The Submission Neighbourhood Plan when explaining the choice of Sites LV1 and LV2 states *“there is no other site available of this size in the village”*. I have noted no party has contested this assertion. In response to a point of clarification I raised, the Parish Council has advised me that the term *“in the village”* was intended to include sites outside but close to the village envelope. On this basis *“an appraisal of options and an assessment of individual sites against clearly identified criteria”* cannot be undertaken.

146. I have earlier in my report explained it is not within my role to test the soundness of the Neighbourhood Plan. I am satisfied proportionate, robust evidence supports the choices made and explains the intention and rationale of Policy LNP S2.

147. In a further point of clarification, I queried the relationship of Policy LNP S2 to relevant strategic policies. In a joint response the Borough Council and the Parish Council stated *“Loggerheads lies within Newcastle-under-Lyme’s rural area where Core Spatial Strategy (CSS) policy ASP6 (2) takes a positive approach towards rural enterprise and seek opportunities to provide essential rural services where the rural economy can continue to diversify, grow and prosper; access to essential services and facilities such as doctors, schools, shops and community facilities is maximised; and the area’s distinctive landscapes and natural resources are preserved. The sites identified as LV1 and LV2 lie very close to the village envelope of Loggerheads which is identified within the CSS as being one of the three Rural Service Centres which are detailed as providing the most comprehensive provision of essential local services. The Borough’s Rural Services Survey (2011), an update of that undertaken in 2008, states that Loggerheads, one of the borough’s larger rural settlements, “has a wide range of local services and is located within a very sustainable and accessible location along the A53”. At that time, it confirmed that within the village there was a post office, 2 food shops, 2 restaurants/takeaways, a school, a pub, a cash point, a library and other local amenities. The Survey went on to conclude that Loggerheads and the other settlements defined as Rural Service Centres offered the most sustainable locations for additional development to meet local needs and to support the vitality and*

*viability of local service provision. Further Core Strategic Policies CSP1 Design Quality, CSP2 Historic Environment, CSP3 Sustainability and Climate Change, CSP4 Natural Assets, and CSP5 Open Space, Sport and Recreation Provision are also relevant. CSP4 seeks to enhance, maintain and protect the Boroughs open space, sports and leisure assets. The submitted Neighbourhood Plan Policy LNPS2 identifies LV1 and LV2 at the edge of the village envelope for the provision of sports and recreational uses. Those sites lie adjacent to a site with planning permission for residential development which was considered a sustainable location. The first part of the policy as drafted omits references to community uses which the first bullet of the policy seeks to achieve; and the Borough Council believe that this wider aspiration for not only sports and recreation uses needs to be strengthened in the first part of the policy. It is suggested that the sentence is amended to add the word community to read: 'Sites LV1 and LV2 fronting Market Drayton Road in Loggerheads Village (See Map 8) are allocated for **community**, sports and recreational uses, subject to the following: etc". The Parish Council accepts this proposed addition makes the policy more consistent." I am satisfied the policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan. I also satisfied the intention of the policy is to relate to community facilities as well as sports and recreation uses and I have therefore recommended a modification in this respect.*

148. Policy LNP S2 allocates sites for development for stated land uses. This will provide clarity to planning applicants and the community regarding land uses that, in principle, are acceptable on the specific sites identified. An allocation is an important tool in guiding decisions about individual development proposals. An allocation provides a starting point for considering whether applications can be approved⁵⁴. The Guidance states “A *neighbourhood plan* attains the same legal status as the *Local Plan* once it has been approved at a referendum. At this point it comes into force as part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.” In the absence of knowledge of material considerations at the time of determination of a future proposal it is inappropriate for the policy to state “*Other uses that do not address*

⁵⁴ Paragraph 12 National Planning Policy Framework (2012)

this need will not be approved.” There could, for example, be a proposal for essential infrastructure that cannot be located elsewhere. The Framework states neighbourhoods should plan positively, and neighbourhood plans should set out a positive vision for the future of the area.⁵⁵ I have recommended a modification in this respect.

149. The Policy includes the term “*The sites will incorporate sustainable/natural drainage systems*”. In a joint response to a point of clarification I had raised regarding the justification for this requirement the Parish Council and Borough Council have drawn my attention to section 5.12 of the SEA Environmental Report to accompany the Regulation 14 consultation on the Neighbourhood Plan which states “*Positive effects upon water could perhaps be achieved for policy LNP-S2 by requiring the new site for multi-sport and community facilities and sports pitch to incorporate sustainable / natural drainage systems*”.

150. The Policy includes the imprecise term “*The impact on amenity, highways, environment is acceptable.*” In response to a request for clarification I made, the Parish Council in a joint response with the Borough Council has confirmed that the intention is to refer to “*the impact on residential and visual amenity, highways safety and on features of the natural built environment adjacent to the sites, are acceptable*”. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

151. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

152. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

⁵⁵ Paragraphs 16 and 17 National Planning Policy Framework 2012

Recommended modification 8:

In Policy LNP S2

- In the opening statement before the colon after “allocated for” insert “community,”
- replace the penultimate line with “The impact on residential and visual amenity, highway safety, and on features of the natural environment adjacent to the sites, are acceptable.”
- replace “are required” with “will be protected for” and delete “Other uses that do not address this need will not be approved.”

Policy LNP S3 Sports Pitches

153. This policy seeks to establish that loss of existing open space and sports pitches will not be supported unless specified circumstances are met. The policy states the football field at Burntwood and the cricket pitch at Hales are existing pitches that are subject to this policy.

154. The policy includes the term “*approved*”. It is not appropriate for a policy to indicate that proposals will be approved or not approved as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁵⁶ All material considerations will not be known until the time of determination of a planning proposal. I have recommended a modification in this respect.

155. The Framework states “*Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location*
- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss*”.

The policy has regard for national policy in these respects.

⁵⁶ Paragraph 196 National Planning Policy Framework 2012

156. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

157. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy LNP S3 delete “approved” and insert “supported”

Policy LNP E1 Employment

158. This policy seeks to establish conditional support for proposals that create B1 Use Class enterprise and employment space, and identifies broad locations considered to be suitable for such developments. The policy also seeks to establish conditional support for Use Class B2 and Use Class B8 proposals on existing industrial or brownfield sites that are located away from residential properties.

159. The terms “*will be considered for approval*” and “*may be considered for approval*” are without consequence. The policies of the Neighbourhood Plan only refer to one village envelope. The term “*away from residential properties*” is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

160. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

161. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with building a strong, competitive economy and supporting a prosperous rural economy. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 10:

In Policy LNP E1

- **delete “considered for approval” and insert “supported”**
- **delete “village envelopes” and insert “Loggerheads village envelope”**
- **delete “may be considered for approval” and insert “will be supported”**
- **delete “away from residential properties”**
- **delete “the local environment and” and insert “residential or visual amenity and the”**

Policy LNP E2 Retail

162. This policy seeks to establish support for new retail development within or adjacent to the existing retail area and support for approval of extension of retail uses.

163. The policy contains, on two occasions, the term “*will be considered for approval*”. This term is without consequence as it only establishes a commitment to consideration. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

164. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

165. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. The policy has regard to the components of the Framework concerned with building a strong, competitive economy; ensuring the vitality of town centres; supporting a prosperous rural economy; and promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 11:

In Policy LNP E2 on both occasions delete “considered for approval” and insert “supported”

Policy LNP E3 Broadband

166. This policy seeks to establish that, with specified exemptions, sites allocated for residential and commercial development in the Plan should be served by high speed broadband. The policy also refers to phasing of provision.
167. The term *“sites allocated for residential and commercial development in the Plan should be”* is without consequence, and the Neighbourhood Plan does not allocate sites for residential or commercial development. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
168. The Framework states *“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable”*. I have recommended modification of the policy in this respect so that the policy has regard for national policy.
169. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these

are required. However, Neighbourhood Plans may not be used to apply these.⁵⁷ The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. I have recommended modification of the policy in this respect so that the policy has regard for national policy.

170. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Loggerheads Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and the Newcastle-under-Lyme Local Plan Saved Policies 2011) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

171. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with supporting high quality communications infrastructure. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 12:

Replace Policy LNP E3 with “To be supported residential and commercial development proposals must, unless it can be demonstrated to be not viable, establish that on-site provision for high speed broadband connection will be made prior to occupation of any building.”

⁵⁷ <https://www.gov.uk/guidance/housing-optional-technical-standards>

Summary and Referendum

206. I have recommended 12 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

207. I am satisfied that the Neighbourhood Plan⁵⁸:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990 and meets the Basic Conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the 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);
 - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.⁵⁹

I recommend to Newcastle-under-Lyme Borough Council that the Loggerheads Neighbourhood Development Plan for the plan

⁵⁸ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

⁵⁹ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

period up to 2033 should, subject to the modifications I have put forward, be submitted to referendum.

208. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.⁶⁰ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁶¹. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Newcastle-under-Lyme Borough Council as a Neighbourhood Area on 16 September 2015

⁶⁰ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁶¹ Planning Practice Guidance Reference ID: 41-059-20140306

Annex: Minor Corrections to the Neighbourhood Plan

209. A number of consequential modifications to the general text, and in particular the ‘interpretation’ of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies. I have, earlier in my report, recommended the supporting text to Policy LNP G1 (titled Rationale and Evidence) should be adjusted so as to be wholly consistent with the policy.
210. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁶² Paragraph 4.7 of the HRA Screening updated report (dated October 2018) should refer to “paragraphs 4.9 to 4.28”. This correction is not of critical significance. I recommend minor change only in so far as it is necessary to correct an error or where it is necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

**Recommended modification 13:
Modification of general text will be necessary to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.**

Chris Collison
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6 November 2018
REPORT ENDS

⁶² Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990