

**Chapel and Hill Chorlton, Maer and Aston, and Whitmore
Parish Councils**

Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan

A report to Newcastle-under-Lyme Borough Council of the
Independent Examination of the Chapel and Hill Chorlton, Maer
and Aston, and Whitmore Neighbourhood Development Plan

Independent Examiner Christopher Edward Collison

Christopher Edward Collison

BA (Hons) MBA MRTPI MIED MCMi IHBC

Planning and Management Ltd

collisonchris@aol.com

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Contents

Page

Overall Finding	4
Neighbourhood Planning	5
Independent Examination	6
Basic Conditions and other Statutory Requirements	8
Documents	10
Consultation	12
The Neighbourhood Plan as a whole	15
The Neighbourhood Plan Policies	28
Local Green Space Designations	
Policy NE1 Natural Environment	
Policy NE2 Sustainable Drainage	
Policy COM1 Community Facilities	
Policy COM2 Small-scale Development in Local Green Space	
Policy COM3 Developer Contributions	
Policy DC1 Local Heritage	
Policy DC2 Sustainable Design	
Policy DC3 Public Realm and Car Parking	
Policy DC4 Connectivity and Spaces	
Policy DC5 Impact of Lighting	
Policy DC6 Housing Standards	
Policy DC7 Renewable Energy	
Policy EB1 High-Speed Connectivity and Telecommunications	
Policy EB2 Commercial and Tourism Development	
Policy HG1 New Housing	
Policy HG2 Housing Mix	

Policy HG3 Local Play, Sports and Recreation Facilities	
Summary and Referendum	69
Annex: Minor corrections to the Neighbourhood Plan	71

Overall Finding

This is the report of the Independent Examination of the Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan. The plan area comprises the entire administrative areas of the three Parish Councils of Chapel and Hill Chorlton, Maer and Aston, and Whitmore 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 does not allocate land for residential development.

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 the power to develop a shared vision for their area*”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 Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Chapel and Hill Chorlton, Maer and Aston, and Whitmore Parish Councils (the Parish Councils). The draft plan has been submitted by the lead Parish Council Whitmore Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Chapel and Hill Chorlton, Maer and Aston, and Whitmore 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 Neighbourhood Plan Steering Group made up of Parish Councillors representing the three Parishes covered by the Plan and other volunteers from the local communities.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Councils for submission of the plan and accompanying documents to the Borough Council. The Borough Council arranged a period of publication between 23 April 2019 and 4 June 2019 and subsequently submitted the Neighbourhood Plan to me for independent examination.

¹ Paragraph 29 National Planning Policy Framework (2019)

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 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 an up to date neighbourhood plan that forms part of the development plan, permission should not usually be granted⁶.
8. I have been appointed by the Borough Council with the consent of the Parish Councils, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Councils and the Borough Council. I do not have any interest in any land that may be affected by the

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

³ Paragraph 48 of the National Planning Policy Framework 2019 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 12 National Planning Policy Framework 2019

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 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 purpose 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 and an unaccompanied visit to the Neighbourhood Plan area.

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

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:

- 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 development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.¹¹

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

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

¹¹ This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “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”.

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)).

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 area is included as Map 1 of Volume II of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Chapel and Hill Chorlton, Maer and Aston, and Whitmore Parish Council boundaries. The Neighbourhood Plan does not relate to more than one neighbourhood 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 Page 6 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.

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 35 of the National Planning Policy Framework 2019

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 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:
- Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan Volume I: Strategic context, Local Green Space designations and policies January 2019
 - Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan Volume II: Maps and supporting evidence January 2019
 - Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan Consultation Statement January 2019 including Appendices 1 - 8 [*In this report referred to as the Consultation Statement*]
 - Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan Basic Conditions Statement including Appendix January 2019 [*In this report referred to as the Basic Conditions Statement*]

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

- Screening Statement Determination of the need for a Strategic Environmental Assessment (SEA) for the Neighbourhood Plan June 2018
- Screening Statement Determination of the need for a Strategic Environmental Assessment (SEA) Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan March 2019
- Habitats Regulations Assessment (Screening) Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Plan July 2018
- Screening Statement Habitats Regulations Assessment (HRA) Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan March 2019
- Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Plan information available on the website established by the Parish Councils including the Heritage and Character Assessment; Townscape Character Appraisal (TCA); and Housing Need Assessment (HNA) reports prepared by AECOM
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the District and Parish Councils, including the Examiner's initial letter, the Qualifying Body response to the representations of other parties received by me on 12 July 2019, and correspondence relating to clarification of various matters raised by the Examiner
- Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-26 (Adopted)
- Saved policies of the Newcastle-under-Lyme Local Plan 2011 (Adopted 2003)
- The emerging Newcastle-under-Lyme and Stoke-on-Trent Joint Local Plan 2013 – 2033
- National Planning Policy Framework (February 2019) [*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 and subsequently updated) [*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, 15 January 2019, and 4 July 2019
- 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.
- The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

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 first announcement of the intention to prepare a neighbourhood plan occurred at a public meeting held in Whitmore Village Hall on 29 June 2015. Soon after that a Neighbourhood Plan Steering Group comprising Parish Councillors representing the three Parish Councils and other local volunteers representing the three Parishes was established. Since that time a comprehensive consultation programme has been maintained including roadshow and school events; a ‘family fun day’; articles in Parish Council newsletters and the ‘One Way’ magazine; and leaflets distributed to all households in the Neighbourhood Area. Appendix 8 of the Consultation Statement documents the dedicated Local Green Space consultation that took place in August 2017 and September 2017.
26. Pre-submission consultation in accordance with Regulation 14 was undertaken between 19 June 2018 and 31 July 2018. The consultation included a drop-in event; a ‘One-Way’ magazine article; use of banners, noticeboards, Twitter, and websites; and distribution of a 16-

page booklet to all households and businesses. The representations arising from the consultation, amounting to 9 responses from consultees and 61 responses from residents, are summarised in Appendices 3a and 4 of the Consultation Statement where responses and changes made to the Neighbourhood Plan, are set out. The input of the Borough Council is set out in Appendix 3b of the Consultation Statement.

27. As significant amendments were to be made to the Neighbourhood Plan a second pre-submission consultation in accordance with Regulation 14 was held between 19 September 2018 and 31 October 2018. The consultation was again comprehensively publicised through a drop-in event; at a 'Information Day and Autumn Fayre'; and using noticeboards, websites and a flier delivered to all households and businesses. The 10 responses from consultees and the 7 responses from residents are set out in Appendices 6a and 7 of the Consultation Statement and the input of the Borough Council is set out in Appendix 6b of the Consultation Statement. The responses have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Councils, for submission to the Borough Council.

28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 23 April 2019 and 4 June 2019. A total of eight representations 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. Where representations relate to specific policies, I refer to these later in my report when considering the policy in question.

29. A representation submitted by the Borough Council during the Regulation 16 publicity period refers to the Local Green Space designations and aspects of Policies COM2, COM3, and HG2 of the Neighbourhood Plan. I refer to those representations when considering those policies later in my report.

30. The Environment Agency broadly supports the aims and objectives of the Neighbourhood Plan and put forward comments in relation to a number of policies regarding fluvial flood risk. I have taken those

comments into account when considering the policies referred to. Highways England support the commitment to sustainable development contained within the Neighbourhood Plan and confirm that the plans and policies of the Neighbourhood Plan are unlikely to have implications for the continued safe operation and functionality of the strategic highway network. Natural England and the Coal Authority confirm they have no specific comments on the Neighbourhood Plan. National Grid have submitted generic statements relating to neighbourhood plan preparation with no comment on any specific part of the Neighbourhood Plan.

31. A representation by Gladman Developments Ltd refers to elements of the Framework and the Guidance and to the strategic planning context for the Neighbourhood Area. The representation includes *“Gladman is concerned that the plan in its current form does not comply with basic conditions (a) and (d). The plan does not conform to national policy and guidance, nor does it contribute to the achievement of sustainable development”*. I refer to this representation when considering Policies COM2, COM3, HG1, and in respect of the Local Green Space designations. Where other elements of the representation are relevant to other policies or my report in general, I have taken them into account when considering those other policies and in preparing other parts of my report.
32. A representation on behalf of Hinson Parry & Company includes comment on Policies DC2, NE1, DC6, and DC3. I refer to those representations when considering the policies later in my report.
33. I provided the Qualifying Body with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation on the Qualifying Body 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 Qualifying Body responded to the opportunity to comment by setting out a statement in respect of the Regulation 16 representations of other parties. I have taken this response, which I received on 12 July 2019, into account in preparing my report. Where the response relates to matters relevant to the proposed Local Green Space designations and other policies, I have referred to the response when considering those matters. The response also states *“Hinson Parry has not engaged with previous consultations on the NDP. This representation focuses on the settlement of Baldwins*

Gate/Whitmore and ignores the wider NA and its character. The NDP and its policies cover a large rural NA that is far more extensive than just Baldwins Gate/Whitmore.” There is no requirement for a Regulation 16 representation to be preceded by prior engagement in the Neighbourhood Plan preparation process and no requirement for representations to relate to the entire Neighbourhood Plan area. I advised the Borough Council that the Regulation 16 representations and the response of the Qualifying Body should be posted on their website.

34. 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.²¹
35. The Consultation Statement includes 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.

The Neighbourhood Plan taken as a whole

36. 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

²¹ Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

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 submission, background, and supporting documents, and copies of the representations and other material 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 development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

37. The Basic Conditions Statement states “*Neighbourhood Plans must be compatible with human rights law*” 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).²² I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. A comprehensive and thorough Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan. The Assessment is presented as an Appendix to the Basic Conditions Statement. The Assessment indicates that the impact of the Neighbourhood Plan on protected characteristics is positive. 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.

38. The objective of EU Directive 2001/42²³ 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 programmes which are likely to have significant effects on the environment.*” The Neighbourhood Plan falls within the definition of ‘plans and programmes’²⁴ as the Local planning authority is obliged to ‘make’ the plan following a positive referendum result.²⁵

²² 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.

²³ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

²⁴ Defined in Article 2(a) of Directive 2001/42

²⁵ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

39. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require 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.
40. The Screening Statement Determination of the need for a Strategic Environmental Assessment (SEA) for the Neighbourhood Plan (June 2018) states *“Newcastle-under-Lyme Borough Council has concluded that the emerging Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Plan is not likely to have any significant environmental effects, and accordingly will not require a Strategic Environmental Assessment (SEA). The main reasons for this conclusion are:*
- *The Neighbourhood Plan seeks to align with the adopted Development Plan (Joint Core Strategy and ‘saved’ Local Plan 2011 Policies. Additionally, the Neighbourhood Plan is subjected to a Habitats Regulations screening opinion;*
 - *The Neighbourhood Plan does not provide any site allocations for development. As a result, it is difficult to foresee any specific environmental effects.*
 - *The Neighbourhood Plan seeks to avoid or minimise the environmental effects of future developments. It presents development management themed policies to conserve, protect and enhance environmental, historical, cultural and heritage assets for determining development proposals;*
 - *The Neighbourhood Plan is unlikely to have significant affects to any designated sites, or lead to other environmental effects; □*
 - *The spatial extent and the magnitude of the population affected are not considered significant for the purpose of the SEA.”*
41. The Screening Report includes copies of statutory consultation responses from the Environment Agency, Historic England, and Natural England each agreeing with the conclusion reached. As the Neighbourhood Plan has been amended following the Regulation 14 consultation a further Screening Statement in respect of Strategic Environmental Assessment March 2019 has been prepared. This further Screening Statement reaches the same conclusion as the Screening Statement prepared in July 2018. I have been provided with copies of letters from the Statutory Consultees which concur with the view that a Strategic Environmental Assessment will not be required. I

am satisfied the requirements regarding Strategic Environmental Assessment have been met.

42. The Habitats Regulations Assessment (Screening) Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Plan July 2018 concludes *“As a result of the assessment above, it is considered unlikely that any likely significant effects on European sites would occur from the implementation of the Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Plan. This is because the Neighbourhood Plan does not allocate sites for development and there are no logical pathways between the Neighbourhood Area; and the European or Ramsar Sites identified. If the plan changes, following the Regulation 14 pre submission consultation, it may be necessary to re-screen the plan. However, at this stage, the Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Plan does not require a further HRA appropriate assessment to be undertaken”*. The Screening Document includes a copy of a statutory consultation response from Natural England.

43. I have earlier in my report referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout much of the period of preparation of the Neighbourhood Plan. As a result of this change and because the Neighbourhood Plan had been amended following the Regulation 14 consultation a further Screening Statement in respect of Habitats Regulations Assessment (HRA) March 2019 has been prepared. This further Screening Statement concludes *“As a result of this assessment Newcastle-under-Lyme Borough Council considers it unlikely that any likely significant effects on European sites would occur from the implementation of the Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Plan. This is because the Neighbourhood Plan does not allocate sites for development and there are no logical pathways between the Neighbourhood Area; and the European or Ramsar Sites identified”*. I have been provided with a letter from Natural England dated 1 April 2019 which states *“Natural England notes the screening process applied to this Neighbourhood Plan. We agree with the conclusion of the report of no likely significant effect upon the named European designated sites:*

- *Midland Meres and Mosses Phase 2 Ramsar site (Cop Mere)*
- *Midland Meres and Mosses Phase 1 Ramsar site (nearest site Betley Mere)*

- *Midland Meres and Mosses Phase 2 Ramsar site (Black Firs & Cranberry Bog)*
- *Midland Meres and Mosses Phase 2 Ramsar site (nearest site Oakhanger Moss)*
- *West Midlands Mosses SAC (nearest site Wybunbury Moss)."*

I am satisfied that the Neighbourhood Plan meets the revised Basic Condition relating to Habitats Regulations.

44. 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.

45. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

46. 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. The 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).²⁶

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

47. 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

²⁶ Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

part of the test of soundness provided for in respect of examinations of Local Plans²⁷ which requires plans to be “*consistent with national policy*”.

48. Lord Goldsmith has provided guidance²⁸ 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.*”
49. The most recent National Planning Policy Framework published on 19 February 2019 sets out the government’s planning policies for England and how these are expected to be applied. I have undertaken this Independent Examination of the Neighbourhood Plan in the context of the Framework published in February 2019 and the Planning Practice Guidance that was most recently updated on 22 July 2019.
50. The Basic Conditions Statement includes Table 2 which sets out a clear statement of how the Neighbourhood Plan policies contribute to the policy areas of the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.
51. The Neighbourhood Plan includes an overarching aim and a positive vision for the Chapel and Hill Chorlton, Maer and Aston, and Whitmore Parishes that include economic dimensions (“*appropriate development, “diversified rural economy*”) and social components (“*range of homes to meet the needs of community members*”, “*sustainable community*”, “*health and well-being*”) whilst also referring to environmental considerations (“*maintain and enhance the rural character*”; “*protect and enhance the area’s built and natural heritage*” “*renewable energy*”). The overarching aim and vision are supported by seven aims relating to: biodiversity and natural environment; heritage assets; community assets; design and character; economy, business and transport; housing; and leisure and tourism. The aims of the

²⁷ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

²⁸ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords 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)

Neighbourhood Plan provide a framework for the policies that have been developed.

52. Chapter 3 of Volume I of the Neighbourhood Plan identifies “*non-policy matters*” that have not or cannot be addressed through the planning policies of the Neighbourhood Plan. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. 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 acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning 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.*”²⁹ I am satisfied the approach adopted in the Neighbourhood Plan presenting the “non-policy matters” in a separate chapter that is clearly described as “*a range of issues that cannot be the subject of planning policy*” adequately differentiates those matters from the policies of the Plan and has sufficient regard for the Guidance.

53. 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.*”

54. At the heart of the Framework is a presumption in favour of sustainable development³⁰ which should be applied in both plan-making and decision-taking.³¹ The Guidance states, “*This basic*

²⁹ Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

³⁰ Paragraph 10 National Planning Policy Framework 2019

³¹ Paragraph 11 National Planning Policy Framework 2019

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.

55. 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.

56. The Framework states there are three dimensions to sustainable development: economic, social, and environmental. The Basic Conditions Statement includes in Section 3 a statement demonstrating how the policies of the Neighbourhood Plan simultaneously contribute to the economic, social and environmental dimensions of sustainable development. The appraisal does not highlight any negative impacts.

57. 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 serve economic needs; will protect and enhance social facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan seeks to:

- Protect natural heritage, landscape, habitats, biodiversity, and valued views;
- Ensure new development enhances and does not degrade specified features of the natural environment;

³² Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

- Require development to include sustainable drainage and water management measures;
- Conditionally support new or improved community facilities;
- Designate Local Green Spaces;
- Identify priorities for use of developer contributions;
- Conditionally support reuse and conversion of historic buildings;
- Establish sustainable design principles for new development;
- Require high standards of public realm including car parking provision;
- Enhance the active travel network;
- Maintain dark skies;
- Establish requirements for housing development;
- Support renewable energy and high-speed telecommunications installation;
- Conditionally support expansion of rural business activity;
- Establish sustainable locations where new housing development will be conditionally supported;
- Establish housing mix requirements for residential schemes of 5 or more dwellings; and
- Establish local play, sports and recreational facilities requirements in residential developments.

58. 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)

59. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.³³ “Plans should make

³³ Paragraph 13 National Planning Policy Framework 2019

explicit which policies are strategic policies.”³⁴ “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area”³⁵. “Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies”.³⁶

60. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”³⁷

61. 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). The Borough Council has informed me that the Development Plan applying in the Chapel and Hill Chorlton, Maer and Aston, and Whitmore 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. The Borough Council considers all of the policies of the Core Spatial Strategy as well as the following 29 Local Plan saved policies are strategic for the purposes of Neighbourhood Planning:

- S3 Development in the Green Belt
- H1 Residential Development: Sustainable Location and Protection of the Countryside
- H7 Protection of Areas of Special Character
- H10 Renewal of Existing Permissions for Residential Development
- H13 Supported Housing
- E2 Chatterley Valley
- E3 Lymedale Park Extension
- E4 London Road, Chesterton
- E5 Church Lane, Knutton
- E6 Chemical Lane
- E7 Kidsgrove Station Yard
- E8 Keele University and Keele Science Park

³⁴ Paragraph 21 National Planning Policy Framework 2019

³⁵ Footnote 16 National Planning Policy Framework 2019

³⁶ Paragraph 29 National Planning Policy Framework 2019

³⁷ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

- E9 Renewal of Planning Permission for Employment Development
- E11 Development of Employment Land for Other Uses
- R12 Development in Kidsgrove Town Centre
- R13 Non-retail uses in Kidsgrove Town Centre
- R14 Development in District Centres
- R15 Non-Retail uses in District Centres and other groups of shops
- T9 Rail Freight
- T16 Development – General Parking Requirements
- T17 Parking in Town and District Centres
- C4 Open Space in New Housing Areas
- N3 Development and Nature Conservation – Protection and Enhancement Measures
- N10 New Woodland – Considerations
- N14 Protection of Landscape Features of Major Importance To Flora and Fauna
- N16 Protection of a Green Heritage Network
- N17 Landscape Character – General Considerations
- B10 The requirement to preserve or enhance the character or appearance of a Conservation Area
- IM1 Provision of Essential Supporting Infrastructure and Community Facilities

62. Newcastle-under-Lyme Borough Council is preparing the emerging Newcastle-under-Lyme and Stoke-on-Trent Joint Local Plan 2013 – 2033. Consultation on a Preferred Options document closed on 1 March 2018.

63. 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 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. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination. 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.”³⁸

64. 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.

³⁸ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

65. 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”*³⁹. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester 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.

66. 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.”*⁴⁰ 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.

67. 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;*

³⁹ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

⁴⁰ *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.*⁴¹

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

68. 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. This consideration has been informed by Section 2.4 of the Basic Conditions Statement which includes a series of statements that indicate the relationship between the Neighbourhood Plan policies and relevant Core Strategy policies. 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.

The Neighbourhood Plan Policies

69. The Neighbourhood Plan includes Local Green Space Designations and 17 policies as follows:

Policy NE1 Natural Environment

Policy NE2 Sustainable Drainage

Policy COM1 Community Facilities

Policy COM2 Small-scale Development in Local Green Space

Policy COM3 Developer Contributions

Policy DC1 Local Heritage

Policy DC2 Sustainable Design

Policy DC3 Public Realm and Car Parking

Policy DC4 Connectivity and Spaces

Policy DC5 Impact of Lighting

⁴¹ Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

Policy DC6 Housing Standards

Policy DC7 Renewable Energy

Policy EB1 High-Speed Connectivity and Telecommunications

Policy EB2 Commercial and Tourism Development

Policy HG1 New Housing

Policy HG2 Housing Mix

Policy HG3 Local Play, Sports and Recreation Facilities

70. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*. Footnote 16 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*
71. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*
72. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that*

apply to a particular area (including policies in this Framework, where relevant).

73. 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 respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*⁴²

74. *“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”.*⁴³

75. A neighbourhood plan should contain policies for the development and use of land. *“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. 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).”*⁴⁴

76. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.”*⁴⁵ *“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. Guidance on assessing sites and on viability is available.”*⁴⁶

⁴² Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

⁴³ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

⁴⁴ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

⁴⁵ Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

⁴⁶ Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

77. 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.
78. The seventeen policies of the Neighbourhood Plan that are presented after the Local Green Space designations are each accompanied by an "Interpretation" section. A number of these interpretation sections include elements of policy that are not included in the relevant policy, which they must not. Examples of this include the requirement for bungalows in the interpretation of Policy HG2; the requirement for garages not to dominate frontages in the interpretation of Policy DC3; and the requirement for infill housing not to lead to the appearance of over-cramming in the interpretation of Policy HG1. Planning policy can only be established through the policies of the Neighbourhood Plan. I recommend a modification such that the interpretation section that follows each policy does not introduce elements of policy that are additional to those included within the relevant policy so that the Neighbourhood Plan policies provide a clear and unambiguous statement of how "*a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

Recommended modification 1:

Adjust the interpretation sections that are presented after each policy so that they do not introduce any element of planning policy that is additional to that contained within the policies of the Neighbourhood Plan

Local Green Space Designations

79. The Neighbourhood Plan proposes the designation of 85 Local Green Spaces.
80. The Borough Council consider that "*there are far too many proposed Local Green Space designations and that many of them are unlikely to meet the NPPF criteria. Many are linear routes such as public rights of way which are protected under separate legislation, along with roadside verges, of fairly ordinary value that are not, in the opinion of*

the Borough Council demonstrably special or possess some elements of local significance to meet the NPPF criteria. If verges are part of local character they could be conserved and enhanced through other policies and actions that might not be part of the Neighbourhood Plan. The supporting text to this policy makes reference to enabling small scale storage and changing facilities to support a sports or recreational use, an open-air shelter to support use for community events, or fixed play and/or outdoor gym area equipment, however most of the proposed designations are not recreational or play areas. To designate so many spaces seems excessive when so many of them would rarely be used for any other purpose than for highway visibility or general amenity.” The Borough Council has also made reference to relevant parts of the Framework and the Guidance and commented on individual proposed designations under the headings of: linear routes focussed on public rights of way; highway verges and visibility splays; utilities; agricultural land or woodland; green open space or recreation sites; and memorials.

81. Gladman Developments Ltd state *“Given the NP’s attempt to allocate such a wide-ranging variety of land as LGS, Gladman object on the basis that this approach undermines the purpose of the policy. It is not appropriate to designate all green spaces, regardless of current or aspirational use and whether private or public access is available.”* The representation also includes information relating to Independent Examinations elsewhere, and draws attention to paragraphs of the Framework and of the Guidance. The representation also states *“Whilst the Parish Council have sought to undertake some form of evidence base it does not overcome the failure to meet the specific policy requirements set out above with regards to the scale of land to be designated. In terms of meeting the second test there is no evidence base to support that certain LGS designations are ‘demonstrably special to a local community.’ In relation to their beauty, they are not of any particular scenic quality. Some designations have not been made in accordance with basic conditions (a) and (d). Gladman therefore recommend that some require deletion as LGS in their entirety”.*

82. The Qualifying Body has commented *“Comments noted. The rationale for the LGS designations is clearly set out in sections 2.1 and 2.2 of Chapter 2 of the Plan. Proposed LGS were evaluated in 2017 against the criteria in NPPF 2012 and using the guidance in Locality’s Local Green Spaces toolkit (2017 edition). All LGS were subsequently rechecked against the criteria in NPPF 2018.*

The evaluation of each proposed LGS against NPPF criteria and a description of the space and the reason for its proposed designation are documented in Appendix 1 Local Green Space designations, where the proposed LGS are individually recorded.”

83. Paragraph 99 of the Framework states *“The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.”*

84. In respect of all of the areas proposed 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 proposed Local Green Space designations are consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services by contributing to the achievement of healthy communities and by conserving and enhancing the natural environment as set out in the Framework. There is no maximum or minimum limit on the number of areas that can be designated as Local Green Space

85. Paragraph 100 of the Framework states that Local Green Space designation *“should only be used where the green space is:*

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

The Guidance states *“Whether to designate land is a matter for local discretion”*⁴⁷ and *“there is no lower size limit for a Local Green Space”*⁴⁸ and *“land could be considered for designation even if there is no public access (eg green areas which are valued because of their*

⁴⁷ Planning Practice Guidance Paragraph: 013 Reference ID: 37-013-20140306 Revision 06 03 2014

⁴⁸ Planning Practice Guidance Paragraph: 016 Reference ID: 37-016-20140306 Revision 06 03 2014

wildlife, historic significance and/or beauty). Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected.”⁴⁹ The Guidance also states “Areas that may be considered for designation as Local Green Space may be crossed by public rights of way. There is no need to designate linear corridors as Local Green Space simply to protect rights of way, which are already protected under other legislation.”⁵⁰

86. 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, and is local in character. The Guidance states “There are no hard and fast rules about how big a Local Green Space can be because places are different and a degree of judgment will inevitably be needed. However, paragraph 100 of the National Planning Policy Framework is clear that Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. Consequently, blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name.”⁵¹ I consider the proposed designations do not individually or collectively constitute blanket designation of open countryside and none are an extensive tract of land. There is no minimum size of a Local Green Space that meets the requirements set out in the Framework.

87. The Guidance states the Qualifying Body “should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.” The areas proposed for designation as Local Green Space have been subject to extensive consultation with statutory consultees and the local community.

88. A justification for each proposed designation is set out in Appendix 1 of the Neighbourhood Plan. The evidence describes why the areas proposed for designation as Local Green Space are “demonstrably

⁴⁹ Planning Practice Guidance Paragraph: 017 Reference ID: 37-017-20140306 Revision 06 03 2014

⁵⁰ Planning Practice Guidance Paragraph: 018 Reference ID: 37-018-20140306 Revision 06 03 2014

⁵¹ Planning Practice Guidance Paragraph: 015 Reference ID: 37-015-20140306 Revision 06 03 2014

special to local community". The evidence presented includes relevant matters referred to in the Framework. A description is presented in respect of each proposed Local Green Space. These descriptions, combined with the other information set out, have assisted me in formulating a professional opinion whether or not each area proposed for designation as Local Green Space *"holds a particular local significance"*. I have considered each of the areas individually but present my findings in terms of groups of areas with similar characteristics.

89. Five of the proposed Local Green Spaces are linear right of way routes assigned reference numbers LGSC1, LGSC5, LGSM6, LGSM7 and LGSW28. The Guidance states *"areas that may be considered for designation as Local Green Space may be crossed by public rights of way. There is no need to designate linear corridors as Local Green Space simply to protect rights of way, which are already protected under other legislation"*.⁵² Area reference LGSC5 includes a metalled surfaced lane functioning as a public right of way and the other four linear right of way proposals relate to footpaths. In some locations, the scale of map used to identify the route means it is unclear what width of land is proposed to be designated. In each of the five cases there is insufficient evidence to conclude the land holds a particular local significance. I recommend those areas are deleted from the list of areas to be designated as Local Green Space. These linear right of way routes will have the protection afforded by Policy DC4. When considering that policy later in my report I recommend the routes in question are specifically identified in the interpretation text that follows that policy.
90. Many of the areas proposed for designation as Local Green Space are located within a highway boundary, in most cases forming a highway verge or visibility splay, with other areas completely surrounded by carriageway. With respect to most of these areas there is insufficient evidence to conclude the land holds a particular local significance. I recommend the following areas are deleted from the list of areas to be designated as Local Green Space: reference numbers LGSC2, LGSC3, LGSC4, LGSC7, LGSC9, LGSC10, LGSC11, LGSC12, LGSC13, LGSC14, LGSC15, LGSC16, LGSM1, LGSM2, LGSM3, LGSM4, LGSM5, LGSM8, LGSM9, LGSM10, LGSM11, LGSM14, LGSM15, LGSM16, LGSM17, LGSM18, LGSM19, LGSM20, LGSM21, LGSM24, LGSM26, LGSW1, LGSW2, LGSW3, LGSW5, LGSW6,

⁵² Planning Practice Guidance Paragraph: 018 Reference ID: 37-018-20140306 Revision 06 03 2014

LGSW7, LGSW8, LGSW12, LGSW13, LGSW14, LGSW15, LGSW16, LGSW20, LGSW21, LGSW22, LGSW24, LGSW26, LGSW29, LGSW30, LGSW31, LGSW32, LGSW34, LGSW35, LGSW36, LGSW37, and LGSW38. Those areas that are highway verges and other green areas within the highway boundary will nevertheless have the protection afforded by Policy DC2 as recommended to be modified later in my report. I have recommended they are specifically identified in the interpretation that follows that policy, as particular examples of verges and other green areas within the highway boundary that should be retained. I have identified a number of exceptions to this approach on the basis of particular local significance, namely areas LGSM13 and LGSW33 due to the special contribution these areas make to the built form in their setting; LGSM12 due to the special nature and context of the ornamental planting; and LGSW4 due to its special contribution to biodiversity.

91. Appendix 1 of the Neighbourhood Plan provides sufficient evidence for me to conclude that each of the remaining areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance (reference numbers: LGSC6, LGSC8, LGSC17, LGSM22, LGSM23, LGSM25, LGSW9, LGSW10, LGSW11, LGSW17, LGSW18, LGSW19, LGSW23, LGSW25, LGSW27, LGSW39, LGSW40, LGSW41, LGSW42). Whilst area reference LGSW18 does not have particular local significance it is included on the basis of being a continuation of the immediately adjacent area reference LGSW17. The areas reference LGSM23 and LGSM25 and LGSW40 have been included in relation to their prominent visibility in the landscape. In the case of these latter three areas there is no reference to public access but this is not a requirement of designation of a Local Green Space. The Guidance states *“land could be considered for designation even if there is no public access”* and *“designation does not in itself confer any rights of public access over what exists at present.”*⁵³ With respect to the representation that a line of trees is not a green area I consider area reference LGSW40 would indeed be a green area including land between the trees.

92. The Guidance states if the land is already protected by Green Belt policy then consideration should be given to whether any additional local benefit would be gained by the designation as Local Green Space. Designating a green area as Local Green Space would give it

⁵³ Planning Practice Guidance Paragraph: 017 Reference ID: 37-017-20140306 Revision 06 03 2014

protection consistent with that in respect of Green Belt. Decision makers must rely on paragraph 101 of the Framework that states *“Policies for managing development within a Local Green Space should be consistent with those for Green Belts”* and the part of the Framework that relates to ‘Protecting Green Belt land’, in particular paragraphs 143 to 147 inclusive. Where the Neighbourhood Plan seeks to designate Local Green Space in areas of Green Belt it is necessary to consider whether any additional local benefit would be gained by that designation.

93. Paragraph 133 of the Framework states *“the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”*. Planning Practice Guidance states *“If land is already protected by Green Belt policy, or in London, policy on Metropolitan Open Land, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space. One potential benefit in areas where protection from development is the norm (eg villages included in the green belt) but where there could be exceptions is that the Local Green Space designation could help to identify areas that are of particular importance to the local community.”*⁵⁴
94. In response to my request for clarification in this respect the Qualifying Body stated *“Please see the descriptions in Appendix 1. All proposed LGS were considered against NPPF criteria. Proposed LGS within the Green Belt are all in Whitmore parish: LGSW 1, 2, 3, 4, 5, 6, 7, 8, 9, 10. We understand that the local planning authority is considering the release of land from the Green Belt in order to meet housing numbers. The descriptions to support each of the proposed LGS include the rationale for each space. The Qualifying Body did consider at the start that some spaces were within the Green Belt which affords a different level of protection. The Qualifying Body applied the Locality Local Green Space guidance¹ as the tool for recording and examining each of the original spaces proposed. The guidance makes clear what the purpose of the Green Belt is (page 14-15 of the guidance). The Qualifying Body understand that in the preparation of the emerging Local Plan that some Green Belt may need to be released to provide sufficient available land for housing across the Borough. The Qualifying Body have been careful when identifying the proposed LGS not to apply the designation as an arbitrary level of protection to*

⁵⁴ Planning Practice Guidance Paragraph: 010 Reference ID:37-010-20140306 Revision 06 03 2014

protect against growth as this would fail to meet the Basic Conditions. Any proposed Local Green Space is demonstrably special as evidenced in the descriptions and as the Locality guide clearly indicates there are circumstances where LGS can be proposed within the Green Belt". The Borough Council confirmed the extent of Green Belt and stated *"It is understood the forms at Appendix 1 of the NDP Volume 1 document provide all the evidence to demonstrate the suitability of the sites as LGS. There is also a response to a LGS Audit consultation at Appendix 8 of the Consultation Statement."* I am satisfied these statements confirm awareness of the need to question the additional local benefit when proposing Local Green Space designations in Green Belt and there is sufficient evidence to confirm the application of that awareness in substance. I am satisfied designation of Local Green Space sites LGSW4, LGSW9, and LGSW10 that are within Green Belt is appropriate under these circumstances. I have also taken into account the practical issue of perceived consistency in the situation where three Parish Councils are working together to produce a Neighbourhood Plan.

95. I find that the following areas (reference numbers: LGSC6, LGSC8, LGSC17, LGSM12, LGSM13, LGSM22, LGSM23, LGSM25, LGSW4, LGSW9, LGSW10, LGSW11, LGSW17, LGSW18, LGSW19, LGSW23, LGSW25, LGSW27, LGSW33, LGSW39, LGSW40, LGSW41, and LGSW42) are suitable for designation as Local Green Space and have regard for paragraphs 99 to 101 of the Framework concerned with the identification and designation of Local Green Space. As the designation of Local Green Spaces is a policy of the Neighbourhood Plan, I have recommended the designations should be incorporated within Policy COM2 and that supporting text should be transferred also.

96. 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 proposed Local Green Spaces that I am recommending should be designated are presented on Maps included in Appendix 1 of the Neighbourhood Plan at a scale that allows the identification of the precise boundaries of the land concerned. Other information provided under the headings of name; post code; national grid reference; and on photographs, assists in identification. A number of the maps do not include any name of a property or road. I have recommended that every map should include the name of a least one

property or road to ensure that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

97. As recommended to be modified the designations are in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
98. The designations seek to shape and direct sustainable development to ensure that local people get the right type of development for their community. As recommended to be modified the designations have regard to the components of the Framework concerned with promoting healthy and safe communities. Subject to the recommended modification the designations meet the Basic Conditions.

Recommended modification 2:

- **delete section 2.2.4**
- **transfer sections 2.2.1 and 2.2.2 and 2.2.3 to become supporting text to Policy COM2**
- **ensure all maps in Appendix 1 include at least one property or road name**

Policy NE1 Natural Environment

99. This policy seeks to establish that new development will be supported that complements the landscape setting and character of the area; and does not harm rural character and ecological and environmental features, some of which are identified.
100. In a representation Hinson Parry & Company state “*We suggest that it is disingenuous of the draft plan to suggest that all of the neighbourhood area is of a special rural character. Certainly, there are many parts of the neighbourhood area that are rural but there are some areas, principally in Baldwins Gate / Whitmore, where the dominating development style is 1970s and 1980s suburban housing. These include Sandyfields, Meadow Way and Lakeside Close in*

Baldwins Gate; and Appleton Drive and Snape Hall Close in Whitmore. Rather than reference 'special rural character' the policy should refer to the 'character' of the area as this will address both rural and suburban parts; because there are numerous examples around Baldwins Gate and Whitmore where suburban development does interface with the countryside. This change would then reflect the fact that the policy on sustainable design (DC2) refers to both local landscape and townscape."

101. The Qualifying Body states *"Comments noted. Objects to the phrase 'special rural character', and that 'there are some areas, principally in Baldwins Gate/ Whitmore, where the dominating development style is 1970s and 1980s suburban housing'. The character of the NA and its settlements, including Baldwins Gate/ Whitmore, are described in the Heritage and Character Assessment and Townscape Character Appraisal (TCA) reports, both by AECOM. Although the design of some more recent developments is very suburban and unsympathetic, the settlement of Baldwins Gate/Whitmore is classed in the TCA as a 'higher order rural village', and it is in a rural setting. No action required"*
102. The term *"special"* is imprecise. The Framework states planning policies should recognise the *"intrinsic"* character and beauty of the countryside. I have recommended a modification in this respect so that the policy has regard for national policy, and so that the policy *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.
103. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
104. 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 conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3:
In Policy NE1 delete “special” and insert “intrinsic”**

Policy NE2 Sustainable Drainage

105. This policy seeks to establish that all development proposals will include sustainable drainage and water management measures, and will not cause flooding.
106. The policy is without consequence. The term “*(in and out of the neighbourhood area)*” is superfluous. The term “*consideration of*” does not provide a basis for the determination of planning proposals. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
107. Paragraph 165 of the Framework states “*Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.*” The requirement for all development proposals, including householder extensions and changes of use, to include sustainable drainage measures has not been sufficiently justified. I have recommended modification of the policy in this respect so that the policy has regard for, without unnecessarily duplicating, national policy.
108. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
109. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. As recommended to be modified the policy has regard to the components of the Framework concerned with meeting the challenge of climate change, and flooding. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy NE2

- delete “All” and insert “To be supported major”
- delete the final sentence

Policy COM1 Community Facilities

110. This policy seeks to establish conditional support for new community facilities, and establish a criterion for support of development proposals relating to identified existing community facilities.
111. The term “*in sustainable and/or accessible locations*” is imprecise. It is unnecessary and confusing for part of one policy to state “*of the Neighbourhood Area*” as all the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is specified. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
112. The Framework states planning policies should “*guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs*”. The requirement for new facilities to have no significant adverse impact on existing community assets has not been sufficiently justified. The Framework states “*development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*” I have recommended modification of the policy in these respects so that the policy has regard for national policy.
113. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

114. 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 and safe communities; promoting sustainable transport; achieving well-designed places; 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 5:

In Policy COM1

- after “have” insert “: 1”
- delete “in sustainable and/or accessible locations,”
- delete criterion 1 and the number 2
- renumber 3 as 2, and before “road” insert “no severe impact on”
- delete “and safety” and insert “or safety”
- renumber 4 as 3 and commence the point with “no significant adverse impact on”
- delete “of the Neighbourhood Area”

Policy COM2 Small-scale Development in Local Green Space

115. This policy seeks to establish the types of development that will be supported within Local Green Spaces.

116. In a representation the Borough Council states *“The supporting text to this policy makes reference to enabling small scale storage and changing facilities to support a sports or recreational use, an open-air shelter to support use of community events, or fixed play and/or outdoor gym area equipment, however most of the proposed designations are not recreational or play areas.”*

117. The Qualifying Body states *“The title of this policy is “Small-scale Development in Local Green Space” From the comments made, it appears that NuL Borough has not understood that the Designation of Local Green Space (Section 2.2) is separate from policy COM2. This policy is necessary in order for small-scale developments to take place that would support the use of certain types of LGS, as stated in the interpretation” and “This policy needs to be modified to update the rationale and interpretation as follows.*

Rationale: Delete the existing rationale and replace with: “To enable small-scale development in Local Green Spaces that would support the use of those spaces for their designated purpose.” Interpretation: Delete “provides protection for Local Green Spaces, whilst enabling” and replace with “enables”.

118. Gladman Developments Ltd state *“this policy should be deleted as it duplicates the thrust of LGS, in which the purpose of Policy COM2 is implicit in any event. That is, that very special circumstances are necessary for development to take place within Local Green Space, much like in the Green Belt. COM2 is therefore repeating the essential components of LGS twice in the same Neighbourhood Plan.”*

119. The Qualifying Body states *“Comments noted. The purpose of this policy is to indicate the type of small-scale development that would be permitted in a designated LGS that would enhance its community uses.”*

120. The terms *“small-scale development”* and *“enhances its overall community value”* are imprecise. In these respects, the policy does not have sufficient regard for paragraph 16d) of the Framework which requires a policy to be *“clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”*. I have given consideration to the possibility of the policy including a full explanation of *“very special circumstances”*. Such circumstances may be that development is proposed that would clearly enhance the Local Green Space for the purposes for which it was designated, or proposals are made for essential infrastructure that cannot be located elsewhere. I have concluded such explanation would necessarily be incomplete and that decision makers, when determining proposals requiring planning permission, must rely on paragraph 101 of the Framework that states *“Policies for managing development within a Local Green Space should be consistent with those for Green Belts”* and the part of the Framework that relates to ‘Protecting Green Belt land’, in particular paragraphs 143 to 147 inclusive. This latter part of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. I have also given consideration to the types of development that can be implemented without the need for planning permission, as permitted development. I have earlier in my report recommended Policy COM2 should be the vehicle for designation of the Local Green Spaces thus serving a clear purpose as required by paragraph 16 f) of the Framework. I have recommended reference numbers should be

adjusted to run from 1 for each Parish to assist plan users and so that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

Recommended modification 6:

In Policy COM2

- **replace the text with “The following areas identified on maps in Appendix 1 are designated as Local Green Spaces: (reference numbers: LGSC6, LGSC8, LGSC17, LGSM12, LGSM13, LGSM22, LGSM23, LGSM25, LGSW4, LGSW9, LGSW10, LGSW11, LGSW17, LGSW18, LGSW19, LGSW23, LGSW25, LGSW27, LGSW33, LGSW39, LGSW40, LGSW41, and LGSW42). Development will only be supported within a Local Green Space where very special circumstances consistent with policies for Green Belts are demonstrated.”**
- **change the policy title to “Designation of Local Green Spaces”**
- **limit Appendix 1 to designated Local Green Spaces only, and adjust the reference numbers to run consecutively from 1 for each Parish.**

Policy COM3 Developer Contributions

121. This policy seeks to establish the infrastructure priorities that are to be considered when determining the use of financial contributions for community and other infrastructure.
122. In a representation the Borough Council states “*The policy does give a position on local priorities (but does not explain how they have been derived) and approaches financial contributions from a perspective that is out of line with national policy. No mention for example is made of the statutory criteria which Section 106 contributions are required to meet – and the policy guidance in the NPPF on such contributions. The policy will raise an expectation that will not be able to be met in practice.*”
123. The Qualifying Body states “*In October 2018 NuL Borough commented: “The policy does not set out any instances when S106 or CIL monies would be charged. At the moment the Council does not have a CIL policy. We consider the policy as worded is vague and may*

be difficult to apply.” The policy was modified in response to the comment.”

124. Gladman Developments Ltd state *“the policy would benefit from additional clarity. Clearly, financial contributions can only be used to make a development acceptable in planning terms. The policy text appears to represent the local community’s ‘wish list’. Presumably, any contributions arising from CIL monies will then be directed in accordance with the list and this is perfectly acceptable. However, to require development proposals to provide financial contributions where these are unnecessary to the development proposal would not be compliant with national policy.”*
125. The Qualifying Body states *“Comments noted. The policy requires developer contributions towards enhanced or new local infrastructure to enable the NA to absorb new development. The policy has been drafted to help facilitate the infrastructure required to improve existing facilities and create new facilities.”*
126. The policy does not seek to place any obligations on any type of development proposals but does seek to establish the priorities for use of any final contributions received. Whilst revenue expenditure is unlikely to be possible the term *“improved public transport services”* could be achieved through capital expenditure on facilities such as bus shelters. It is appropriate to use the neighbourhood plan preparation process to reach consensus on the priorities of the local community to be considered in relation to utilisation of any funds received.
127. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
128. 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 achieving sustainable development; plan-making; decision making; promoting healthy and safe communities; and promoting sustainable transport. This policy meets the Basic Conditions.

Policy DC1 Local Heritage

129. This policy seeks to establish criteria for support of proposals to reuse or convert historic buildings.
130. The term “*in Conservation Areas and elsewhere in the NA*” is confusing and unnecessary as all of the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is specified. It is confusing and inappropriate to specify some types of buildings to which the policy applies and not others. The term “*appropriate and sensitive*” is imprecise. The term “*strongly encouraged*” does not provide a basis for the determination of planning proposals. Policy DC1 includes the term “*historic buildings*”. The interpretation section that follows the policy is clear that the intention is that the policy relates to non-designated heritage assets. The policy wording should be self-contained and specific in this respect. I have recommended a modification in all of these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
131. 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*”⁵⁵ and “*Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets*”⁵⁶ and “*Plan-making bodies should make clear and up to date information on non-designated heritage assets accessible to the public to provide greater clarity and certainty for developers and decision-makers. This includes information on the criteria used to select non-designated heritage assets and information about the location of existing assets. It is important that all non-designated heritage assets are clearly identified as such. In this context it can be helpful if local planning authorities keep a local list of non-designated heritage assets, incorporating any such assets which are identified by neighbourhood planning bodies.*”⁵⁷

⁵⁵ Planning Practice Guidance Paragraph:005 Reference ID: 18a-005-20190723 Revision 23 07 2019

⁵⁶ Planning Practice Guidance Paragraph:039 Reference ID: 18a-039-20190723 Revision 23 07 2019

⁵⁷ Planning Practice Guidance Paragraph:040 Reference ID: 18a-040-20190723 Revision 23 07 2019

132. Neighbourhood plans can identify and propose non-designated heritage assets. Where non-designated heritage assets are nominated by the qualifying body to the local planning authority on the basis of stated criteria, and the local planning authority maintains a list of non-designated heritage assets, they must include any non-designated heritage assets identified by the qualifying body. If the neighbourhood plan identifies non-designated heritage assets without setting out the criteria a community action to propose they are included in any list maintained by the local planning authority is appropriate. The local planning authority would then decide whether or not to include the non-designated heritage assets in the list against their own published criteria.
133. The Borough Council website includes, under the link “*Register of Locally Important Buildings in Newcastle-under-Lyme*”, a list that includes the buildings and structures set out in Table 6.9 in paragraph 6.11.1 of Volume II of the Neighbourhood Plan. In the absence of clearly stated criteria for selection it is not appropriate for Policy DC1 or supporting text and evidence to imply locally identified assets will be recognised by the Borough Council as non-designated heritage assets. After seeking clarification from the Qualifying Body and Borough Council I recommend Policy DC1 should establish a policy approach in respect of non-designated heritage assets (currently the locally listed structures in Table 6.9). I also recommend section 3.2.2 of the Neighbourhood Plan should be expanded to include a community action relating to future nomination of buildings and features to be considered by the Borough Council for identification as non-designated heritage assets. Later in my report I have given consideration to the reference to non-designated heritage assets in Policy HG1.
134. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
135. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. As recommended to be modified the policy has regard to

the components of the Framework concerned with conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

In Policy DC1 replace the text before the colon with “Proposals for the reuse and/or conversion of non-designated heritage assets will be supported provided that”

Expand section 3.2.2 ‘Local listing of structures’ to include a community action which states “The Parish Councils will consider nominating buildings and structures for assessment by the Borough Council as potential non-designated heritage assets prior to each biennial review of the Register of Locally Important Structures.”

Policy DC2 Sustainable Design

136. This policy seeks to establish design criteria for support of new development proposals.

137. In a representation Hinson Parry & Company state *“The majority of this policy promotes a sensible approach to design. However, there is concern over how Parts 2, 4 and 8, together with some of the Interpretation section, fail to reflect national planning policy. Part 2 requires development to enhance the character and appearance of the landscape or existing townscape. The draft plan does not define what enhancement actually means regarding design. It is relatively easy to judge what enhancement is for certain matters, for example new needed public open space or the resurfacing of a footpath are enhancing the current situation; but design is an emotive issue with conflicting views depending on who one asks. Paragraph 16 of the NPPF requires policies to be clearly written and unambiguous so that it is evident how a decision maker should react. Whilst the policy is clearly written, the use of ‘enhance’ is considered to be ambiguous in the context of design and it is not evident how the decision maker should react. Part 4 requires avoiding the appearance of over-development and over-urbanisation. Whilst in theory this concept is fine when considering development in the round but the restrictive nature fails to reflect the potential for different design approaches. For example, the draft plan notes local consultation has supported 1 and 2 bed properties but this policy would prevent say a small rural-style*

courtyard development which would almost certainly be of a high density. Paragraph 127(e) of the National Planning Policy Framework (NPPF) is clear that planning policies should ensure that developments optimise the potential of a site to accommodate and sustain an appropriate amount and mix of development. Part 4 does not reflect because in essence it would prevent a higher density form of development if the surrounding area is of a lower density, even if it was of a high-quality design. Part 3 already requires development to reflect local character in terms of height, scale and massing. This provides adequate control and therefore there is no need for Part 4 in any case, notwithstanding that it conflicts with the NPPF. Part 8 indicates that existing verges and new green verges should be part of new development. In the majority of cases this can happen but it may not be possible every time. The NPPF recognises that plans can provide a framework for creating distinctive places but at the same time the level of detail and degree of prescription should be tailored to the circumstances of each place and should allow a suitable degree of variety where justified. In the example of a rural-style courtyard development above, new grass verges might not be possible but that would not take anything away from a high-quality scheme. Parts 2, 4 and 8 of the policy do not conform to the requirements of the NPPF, thus do not meet the Basic Conditions. Consequently Parts 2 and 8 need amending and Part 4 should be deleted as the issue is more successfully dealt with in Part 3. Turning to the matter of the Interpretation of the policy, our objection relates to the section on materials. It is far too prescriptive. Although the examples of Staffordshire Blue or scalloped roof tiles will be relevant in some areas of the neighbourhood area, they are not generally the local vernacular in Baldwins Gate or Whitmore. The Interpretation section suggests that Policy DC2 would not be met by the use of poor-quality imitation of traditional materials such as plastic fascias or standard concrete roof tiles. Of course, poor quality materials should be avoided but part of the Design and Character Aim of the draft plan is that all new development is compatible with local built heritage and for certain areas this means the 'local built heritage' is housing development built over the last 40 years. Much of this type of housing has elements and materials of the type the neighbourhood plan seeks to prevent e.g. UPVC windows, fascias and soffits. Furthermore, many of these features have been installed by their owners as a modern solution to worn out materials. Part (c) of NPPF Paragraph 127 cautions against discouraging appropriate innovation or change whilst being sympathetic to local character and history. The references to materials

in this section of the draft plan do not reflect the Basic Conditions because of the failure to have full regard to Paragraph 127 of the NPPF. UPVC is a modern long-lasting material that can be utilised in many styles, as can roof tiles made of concrete. Therefore, the references to plastic materials and concrete roof tiles should be deleted as it is not appropriate to restrict such materials.”

138. The Qualifying Body states “Comments noted. Objection to the word ‘enhance’. “Over-development” depends on the location, context and overall design. E.g. Large houses built very close together on small plots, and with small front gardens create an appearance of over-development. Some of the more recent developments in Baldwins Gate/ Whitmore (Fair-Green Road; Gateway Avenue extension) have a negative impact on local character and have created over-development and over-urbanisation. The policy seeks to promote design that is in keeping with the rural character of the NA’s settlements. The specific design and location of green verges in any new development will depend on the context, location and design of that development. The point is that green verges should be a part of the design of developments. The interpretation includes the phrase ‘materials such as’, and, as such, does not restrict materials. The existence of developments using poor quality imitation materials should not preclude the implementation of a higher quality in future developments.”

139. The term “*integrates existing verges into new developments*” is ambiguous. In response to my request for clarification the Qualifying Body has confirmed the intention of the policy is that existing verges should be retained as verges in any development scheme. Appendix 1 to the Neighbourhood Plan has identified green areas within highway boundaries that are demonstrably special to a local community. I have, earlier in my report, found that the majority of these areas are unsuitable for designation as Local Green Space. It is, however, appropriate that such areas should be retained when new development schemes are implemented. I have recommended the interpretation text to Policy DC2 should specifically identify the verges and other green areas within highway boundaries deleted from the proposed Local Green Spaces list in Appendix 1 as particular examples

140. The term “*over development and over urbanisation*” does not provide a basis for the determination of planning applications. The term “*All new development*” is ambiguous raising uncertainty of

application to proposals for conversions or extension of existing buildings. Application of the entire policy to new development only has not been sufficiently justified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

141. As recommended to be modified Policy DC2 has regard for national policy by providing a framework for creating distinctive places whilst allowing a suitable degree of variety.
142. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
143. 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 achieving well-designed places; 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 8:
In Policy DC2**

- **delete “All new development” and insert “A development proposal”**
- **delete part 4**
- **in part 8 delete “Integrates existing verges into new developments” and insert “Maintains existing verges, except for the need to create new accesses, and other green areas within the highway boundary (including the particular examples identified in the interpretation below) in new developments”**
- **in the interpretation text to the policy identify as particular examples the verges and other green areas within highway boundaries deleted from the proposed Local Green Spaces list in Appendix 1**

Policy DC3 Public Realm and Car Parking

144. This policy seeks to establish requirements relating to public realm and car parking aspects of development proposals.
145. In a representation Hinson Parry & Company state *“Our concern is not with DC3 per se but with the conflict between its wording and that of its Interpretation section. The latter suggests that parking mix should comprise garage and parking space. On face value this could be interpreted by a decision maker as each new house has to have a garage. This is not reflected in the policy itself, in further parts of the Interpretation section or in the Baldwins Gate Design Statement contained within the draft plan. All of these recognise that a garage is not always part of the parking provision for a new house and this needs to be made clear in the policy’s Interpretation as well.”*
146. The Qualifying Body states *“Comments noted. The policy and its interpretation do not categorically state that each dwelling in a new development should or should not have a garage. The fundamental purpose of this policy is to avoid car-dominated streets.”*
147. The term *“new development”* is ambiguous raising uncertainty of application to proposals for conversions or extension of existing buildings. Application of the policy to new development only has not been sufficiently justified. Not all development proposals will include provision of streets. The terms *“a mix of”* and *“proportionate to the size of the property in terms of number of spaces”* are imprecise. Policy DC5 relates to the impact of lighting. It is unnecessary and confusing for this policy to refer to the impact of lighting also. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
148. The Framework states *“Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* I have recommended modification of the policy in this respect so that the policy has regard for national policy.
149. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

150. 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; and achieving well-designed places. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy DC3

- **delete “new development” and insert “development proposals”**
- **in part 3 delete “Providing streets that” and insert “Designing streets to”**
- **in part 4 delete “a mix of”**
- **in part 5 delete “proportionate to the size of the property in terms of number of spaces” and insert “sufficient to avoid additional on-street parking”**
- **in part 6 after “avoiding” insert “severe”**
- **delete part 7**

Policy DC4 Connectivity and Spaces

151. This policy seeks to establish that new development must avoid negative impacts on specified aspects of active routes and green links and open spaces. The policy also seeks enhancement of the active travel network.

152. The term “*new development*” is ambiguous raising uncertainty of application to proposals for conversions or extension of existing buildings. Application of the policy to new development only has not been sufficiently justified. The term “*must take opportunities to*” does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision*”

maker should react to development proposals” as required by paragraph 16d) of the Framework.

153. The requirement for stated “*opportunities*” to be taken must not undermine the deliverability of the plan, as required by paragraph 34 of the Framework, and must meet the tests set out in paragraph 56 of the Framework. I have recommended modification of the policy in this respect so that the policy has regard for national policy.
154. When considering Local Green Space designations earlier in my report I recommended the interpretation text to Policy DC4 should identify linear right of way routes found not suitable for designation as Local Green Spaces as particular examples of routes to be protected.
155. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
156. 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, and promoting healthy and safe communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 10:

In Policy DC4

- **after spaces insert (including the particular examples identified in the interpretation below)**
- **delete “New development must take opportunities” and insert “Subject to viability considerations, to be supported development proposals must demonstrate opportunities have been taken”**
- **in the interpretation text to the policy identify linear right of way routes deleted from the proposed Local Green Spaces in Appendix 1 as particular routes to be protected (see paragraph 89 of my report)**

Policy DC5 Impact of Lighting

157. This policy seeks to establish requirements relating to floodlighting and other illuminated features of new development.
158. The term “*maintain dark skies and to avoid impact*” is imprecise. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
159. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
160. 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 achieving well-designed places, and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 11:

In Policy DC5 replace with “To be supported planning proposals must: (a) only include external lighting that is essential; and (b) include measures to avoid light spillage beyond the application site.”

Policy DC6 Housing Standards

161. This policy seeks to establish requirements for new housing development.
162. In a representation Hinson Parry & Company state “*Our concern is with Part 2 of the policy. There is no objection to sustainable drainage systems as this is the correct approach but the different elements do depend on various factors including ground conditions and topography. Part 2 requires permeable surfaces in hard landscape*”

areas but if the ground is not suitable for infiltration this is not an option. That is not to say that sustainable drainage methods cannot be employed in such circumstances e.g. use of an attenuation pond to store water before release into the drainage system, but for permeable paving to be used the water needs to be able to enter the soil to avoid run-off. Policy NE2 already addresses sustainable drainage and therefore Part 2 of DC6 is not required and should be deleted.”

163. The Qualifying Body states “Comments noted *The geology and hydrology of the NA are described in Volume II, Chapter 6. Section 6.3: the underlying geology is Triassic sandstone overlaid with clay, sand and gravel. Section 6.4.4: a principal aquifer and high groundwater vulnerability zone underlie much of the NA. These features indicate high ground suitability for infiltration across the NA. Policy NE1 gives protection to watercourses and their floodplains, ponds, lakes, peatland sites and their Functioning Ecological Units, so such areas, where the soil would retain or be likely to retain water, would not be developed. Policy NE2 requires the incorporation of sustainable drainage into proposed developments. No action required.*”
164. The term “ensure permeable surfaces in hard landscaped areas” has not been sufficiently justified. I have recommended a modification in these respects so that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
165. 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.⁵⁸ 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.

⁵⁸ <https://www.gov.uk/guidance/housing-optional-technical-standards>

166. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

167. 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; and achieving well-designed places. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 12:
In Policy DC6 delete part 2**

Policy DC7 Renewable Energy

168. This policy seeks to establish conditional support for the installation of renewable energy technologies as part of new housing or commercial developments.

169. The term “*new development*” is ambiguous raising uncertainty of application to proposals for conversions or extension of existing buildings. Application of the policy to new development only has not been sufficiently justified. The term “*should consider opportunities for*” does not provide a basis for the determination of planning proposals. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

170. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing 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 meeting the challenge of climate change, and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 13:
In Policy DC7**

- delete the first sentence
- delete “new”

Policy EB1 High-Speed Connectivity and Telecommunications

172. This policy seeks to establish that that new housing and commercial developments must incorporate full fibre connections.

173. The term “*new development*” is ambiguous raising uncertainty of application to proposals for conversions or extension of existing buildings. Application of the policy to new development only has not been sufficiently justified. The term “*must take opportunities to*” does not provide a basis for the determination of planning applications. The first sentence of the policy is without consequence. The terms “*will be sufficient*” and “*will be of no detriment to existing users*” are imprecise. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

174. The Framework states policies should set out contributions expected from development (including digital infrastructure). “*Such policies should not undermine the deliverability of the Plan*”. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) sets out what is required from applicants when submitting planning applications. The ‘Guidance on Information Requirements and Validation’ document published by the Department for Communities and Local Government Department (DCLG) in 2010 provides more information on the mandatory national information requirements and states that a valid planning application should include ‘*information to accompany the application as specified by the local planning authority on their local list of information*

requirements'. The use of local lists of information was again promoted in the Framework requiring that local lists be reviewed on a frequent basis to ensure that they remain '*relevant, necessary and material*'. The DMPO states that validation requirements imposed by local planning authorities should only be those set out on a local list which has been published within 2 years before the planning application is made to ensure information requirements are robust and justified on recent research. The Growth and Infrastructure Act 2013 makes clear that local planning authority information requirements must be reasonable having regard to the nature and scale of the proposed development and the information required must be a material consideration in the determination of the application. The policy is seeking to establish information requirements that are outside the statutory framework relating to local lists of information to be submitted in support of planning applications. I have recommended modification of the policy in this respect so that the policy has regard for national policy.

175. 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.⁵⁹ 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.

176. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

⁵⁹ <https://www.gov.uk/guidance/housing-optional-technical-standards>

177. 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. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 14:

In Policy EB1

- delete “New” and insert “To be supported”
- after “must” insert “, unless it can be demonstrated to be not viable,”
- delete the second sentence

Policy EB2 Commercial and Tourism Development

178. This policy seeks to establish conditional support for change of use or new development to create rural business space or to support rural diversification.

179. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

180. 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. This policy meets the Basic Conditions.

Policy HG1 New Housing

181. This policy seeks to establish conditional support for new housing development in identified circumstances or locations. One of those locations is within a defined village envelope for Baldwin’s Gate.

182. In a representation Gladman Developments Ltd state *“Policy HG1 attempts to define what development in a sustainable location would represent. The NPPF already defines sustainable development at Chapter 2. As submitted, this policy is more restrictive than national policy and guidance regarding sustainable development. Under the circumstances, the addition of another layer of policy would appear to be both superfluous and pluralist and without necessity or merit. Gladman suggest modifications are made to the wording of the policy to accord with Paragraphs 7 to 14 of the Framework since, in its present form, it does not comply with basic condition (a).”*
183. The Qualifying Body states *“Comments noted. The policy defines sustainable locations in the context of a large rural area with a single higher order village, many small settlements and limited local facilities, and limited public transport to access key services in the urban area. No action required”*
184. A village envelope for Baldwin’s Gate 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. Support is subject to criteria set out in the policy, and would be 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, or undermine those policies, as required by paragraph 29 of the Framework.
185. The adopted Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006-2026 includes Strategic Policy ASP6 – Rural Area Spatial Policy identifies Baldwins Gate/Whitmore within the settlement hierarchy as a village where no further growth is planned. Policy H1 of the Newcastle under Lyme Local Plan allows for new residential development within the Baldwins Gate/Whitmore Village Envelope.
186. 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 2 Preferred Housing Sites in the Neighbourhood Area at Baldwin’s Gate Farm, and land adjacent to The Sheet Anchor Whitmore, with a total capacity of 116 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.

187. The Neighbourhood Plan includes information regarding housing needs assessment undertaken by AECOM in 2016, and a later calculation by the Steering Group based on the 2017 SMHA update, which indicate a very limited requirement within a range of between 7 dwellings a year to 2026 and 11 dwellings a year to 2039 (6 years beyond the Plan period). Housing consents (including 2 completions) between 2013 and 2017 are stated to be 144 dwellings. 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 Baldwin’s Gate village envelope. I conclude Policy HG1 will not lead to the Neighbourhood Plan promoting less development than set out in the Local Plan, as required by paragraph 29 of the Framework.

188. Paragraph 79 of the Framework states *“Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

- (a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- (b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- (c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- (d) the development would involve the subdivision of an existing residential dwelling; or*

(e) the design is of exceptional quality, in that it: is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.” Policy HG1 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. The term “not encroach into the open countryside” is in any case imprecise and requires modification so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

189. 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.

190. The Neighbourhood Plan sets out in Section 2.8 an explanation for adjustment of the previously defined village envelope (on the Proposals Map of the Newcastle under Lyme Local Plan and referred to in Saved Policy H1) to include additional areas on the south-west and north-west edges of the envelope to take account of recent planning permissions in 2015 and 2016 respectively. 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. It is beyond my role

to consider whether any alternative alignment of the village envelope would offer a more sustainable solution.

191. When considering Policy DC1 earlier in my report I referred to the reference to non-designated heritage assets in Policy HG1. In response to a request I made for clarification the Qualifying Body stated *“In a previous policy review meeting with the Planning Policy Officer at NULBC we were advised to include the additional point in policy HG1 for clarity on the reuse and conversion of agricultural buildings. This was also based on the advice from the LPA where appeal decisions had raised this issue.”* The Borough Council stated *“In order to clarify the reference to non-designated heritage assets in relation to policy HG1 the wording of the second bullet point could be amended to ‘the conversion of non-designated heritage assets to residential uses provided it meets the requirements of policy DC1’”*. I have referred to Paragraph 79 of the Framework which specifies a range of circumstances, including one relating to all heritage assets (not just non-designated heritage assets), where isolated homes in the countryside may be appropriate. I have recommended a modification of Policy HG1 in this respect so that the policy has sufficient regard for national policy.

192. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

193. 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 achieving sustainable development; plan-making; decision making; delivering a sufficient supply of homes; promoting sustainable transport; protecting Green Belt land; 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 15:
In Policy HG1**

- **delete the second bullet point**

- replace the full stop after “dwellings” with “; or” and add a further bullet point “in isolated locations in the countryside only where the circumstances set out in paragraph 79 of the NPPF apply.”
- delete criterion 2

Policy HG2 Housing Mix

194. This policy seeks to establish that residential development of 5 or more dwellings must include a balanced mix of dwelling types to meet local need.
195. In a representation the Borough Council states *“The Borough Council acknowledge this policy to be compatible with the current Core Spatial Strategy policy CSP6 which applies a 5 dwelling threshold to the rural areas- that policy indicating that new residential development within the rural areas, on site of 5 dwellings or more will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. However, the NPPF (paragraph 63) states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. For housing development major development is defined as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. The Neighbourhood Area is not a designated rural area as described under section 157 (1) of the Housing Act 1985.”* The Qualifying Body states *“In October 2018 NuL Borough commented: “We acknowledge the revision of this policy to be compatible with the current Core Spatial Strategy policy CSP6 which applies a 5-dwelling threshold to the rural area”*”. I have recommended modification of the policy in this respect so that the policy has regard for national policy.
196. On 26 June 2019 a section was introduced into the Guidance relating to Housing for Older and Disabled People which states *“plan-making authorities should set clear policies to address the housing needs of groups with particular needs such as older and disabled people. These policies can set out how the plan-making authority will consider proposals for the different types of housing that these groups are likely to require. They could also provide indicative figures or a range for the number of units of specialist housing for older people*

*needed across the plan area throughout the plan period.*⁶⁰ The Policy has sufficient regard for the Guidance.

197. The first paragraph is without consequence. The term “*to meet local need*” is imprecise. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

198. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

199. 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 sufficient supply of homes. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 16:

In Policy HG2

- **commence the first paragraph with “To be supported”**
- **delete “local need” and insert “requirements identified in the latest assessment of local housing needs”**
- **commence the second paragraph with “Any”**

Policy HG3 Local Play, Sports and Recreation Facilities

200. This policy seeks to establish that residential development must provide for accessible, high quality, local play, sports and recreation facilities.

201. In response to my request for clarification the Qualifying Body stated “*this policy would not apply to proposals for single dwellings. It*

⁶⁰ Planning Practice Guidance Paragraph: 006 Reference ID: 63-006-20190626 Revision: 26 June 2019

would be triggered at the same point as anything that triggers a section 106 or CIL contribution. We are keen not to make schemes unviable, but to provide new/improved facilities for our rural community. When undertaking the Policy Mapping the community were quite clear that while a policy on Developer Contributions with broader priorities was created a specific policy (HG3) identified and addressed a specific infrastructure benefit/need in the rural community.” The Borough Council stated “To help clarify the application of the policy, Policy HG3: ‘Local Play, Sports and Recreational Facilities’ could be reworded to: ‘Residential development must, subject to the applicable thresholds and viability considerations, provide for accessible, high quality, local play, sports and recreational facilities in the rural location’. The ‘interpretation’ to the policy would include reference to the issue of thresholds in terms of the November 2014 Ministerial Statement and the strategic policies CSP5 ‘Open Space/Sport/Recreation’ and C4 ‘Open Space in New Housing Areas’ within the Core Spatial Strategy and the Local Plan respectively.” Paragraph 34 of the Framework states “Plans should set out the contributions expected from development” and “Such policies should not undermine the deliverability of the plan.” I have recommended a modification in this respect which is compatible with Policy COM3 where priorities for utilisation of developer contributions are established.

202. The policy is without consequence. The term “*in the rural location*” is confusing and unnecessary. The policies of the Neighbourhood Plan apply throughout the plan area unless a smaller area is specified. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

203. The policy is in general conformity with the strategic policies included in the Development Plan applying in the 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 serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

204. 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 and safe communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 17:

Replace Policy HG3 with “To be supported residential development must, subject to the applicable thresholds and viability considerations, provide for accessible, high quality, local play, sports and recreational facilities.”

In the ‘interpretation’ to the policy include reference to thresholds in terms of the November 2014 Ministerial Statement and the strategic policies CSP5 ‘Open Space/Sport/Recreation’ and C4 ‘Open Space in New Housing Areas’ within the Core Spatial Strategy and the Local Plan respectively.”

Summary and Referendum

205. I have recommended 17 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

206. I am satisfied that the Neighbourhood Plan⁶¹:

- 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;

⁶¹ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- 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 development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.⁶²

I recommend to Newcastle-under-Lyme Borough Council that the Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan for the plan period up to 2033 should, subject to the modifications I have put forward, be submitted to referendum.

207. 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.⁶³ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁶⁴. I have seen nothing to suggest the referendum area should be extended for any other reason. 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.

⁶² This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

⁶³ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁶⁴ Planning Practice Guidance Paragraph 059 Reference ID: 41-059-20140306 Revision 06 03 2014

Annex: Minor Corrections to the Neighbourhood Plan

208. A number of consequential modifications to the general text, and in particular the supporting text of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.
209. 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 *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

**Recommended modification 18:
Modify general text to achieve consistency with the modified policies, and to correct identified errors including those arising from updates. Renumber parts of policies arising from deletions.**

Chris Collison
Planning and Management Ltd
collisonchris@aol.com
16 August 2019
REPORT ENDS