

Dronfield Town Council

Dronfield Neighbourhood Development Plan

A report to North East Derbyshire District Council of the
Independent Examination of the Dronfield Neighbourhood
Development Plan

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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 taken as a whole	17
The Neighbourhood Plan Policies	28
Policy C1 Retention of important community facilities	
Policy C2 Supporting new and enhanced community facilities	
Policy C3 Assets of Community Value	
Policy ENV1 Green Belt	
Policy ENV2 Landscape character	
Policy ENV3 The Lea Brook Valley green corridor	
Policy ENV4 Ecology	
Policy ENV5 Local Green Spaces	
Policy ENV6 Trees and woodlands	
Policy HOU1 Windfall housing development	
Policy HOU2 Housing mix	
Policy HOU3 Affordable housing	
Policy HOU4 Infrastructure for new housing and other forms of development	
Policy HOU5 Developer contributions	
Policy T&A1 Highways	
Policy T&A2 Traffic management	
Policy T&A3 Cycling and walking	

Policy T&A4 Car parking	
Policy E1 Maintaining and enhancing the role and attractiveness of Dronfield town centre	
Policy E2 Shop frontages in the town centre	
Policy E3 Shopping hubs and other local shops outside Dronfield town centre	
Policy E4 Hot food takeaways	
Policy E5 Existing employment uses	
Policy E6 New small-scale employment uses	
Policy D1 Listed Buildings	
Policy D2 Dronfield character buildings and structures of local heritage interest	
Policy D3 Good design	
Summary and Referendum	77
Annex: Minor corrections to the Neighbourhood Plan	78

Overall Finding

This is the report of the Independent Examination of the Dronfield Neighbourhood Development Plan. The plan area is the whole of the Parish of Dronfield being also the administrative area of Dronfield Town Council within the North East Derbyshire District Council area. The plan period is 2016-2034. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for development.

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

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”¹
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Dronfield Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Dronfield Town Council (the Town Council). The draft plan has been submitted by the Town Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Dronfield Neighbourhood Area which was formally designated by North East Derbyshire District Council (the District Council) on 23 September 2016. The Neighbourhood Plan has been produced by the Neighbourhood Plan Steering Group made up of town councillors, representatives of community groups, and neighbourhood planning consultants.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Town Council for submission of the plan and accompanying documents to the District Council.² The District Council arranged a period of publication between 1 March 2019 and 12 April 2019 and subsequently submitted the Neighbourhood Plan to me for independent examination.

¹ Paragraph 183 National Planning Policy Framework (2012) (See paragraph 214 of the NPPF 2019 for an explanation why this Independent Examination is being undertaken in the context of the NPPF 2012)

² Submission date 23 January 2019 confirmed by the District Council

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.³ The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.
6. The District 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 application⁴.
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 area⁵ unless the District 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 plan⁶. The Framework is very clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted⁷.
8. I have been appointed by the District Council with the consent of the Town Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Town Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have

³ Paragraph 10 Schedule 4B Town and Country Planning Act 1990

⁴ Paragraph 216 of the National Planning Policy Framework 2012 explains full weight is not given at this stage

⁵ Section 3 Neighbourhood Planning Act 2017

⁶ Section 156 Housing and Planning Act 2016

⁷ Paragraph 198 National Planning Policy Framework 2012

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,⁸ 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.⁹

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.¹⁰ 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 unaccompanied visits to the Neighbourhood Plan area made during June 2019.

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

⁹ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

¹⁰ 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”.¹¹ 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 2017.¹²

14. As the final basic condition, on 28 December 2018, replaced a different basic condition that had previously been in place throughout much of the period of preparation of the Neighbourhood Plan there is a need to confirm the Neighbourhood Plan meets the new basic condition. I refer to this matter later in my report.

15. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.¹³ All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’¹⁴ and ‘The Neighbourhood Plan Policies’.

16. 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

¹¹ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

¹² 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”.

¹³ The Convention Rights has the same meaning as in the Human Rights Act 1998

¹⁴ Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind

and Compulsory Purchase Act 2004.¹⁵ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

17. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 23 September 2016. A map of the Neighbourhood Plan boundary is included as Map 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Parish of Dronfield boundaries, being also the administrative area of Dronfield Town Council. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁶ and no other neighbourhood development plan has been made for the neighbourhood area.¹⁷ All requirements relating to the plan area have been met.
18. 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;¹⁸ and the Neighbourhood Plan does not include provision about excluded development.¹⁹ I am able to confirm that I am satisfied that each of these requirements has been met.
19. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.²⁰ The front cover of the Submission Version Plan clearly states the plan period to be 2016-2034.
20. 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.²¹ 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

¹⁵ 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)).

¹⁶ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹⁷ Section 38B (2) Planning and Compulsory Purchase Act 2004

¹⁸ Section 38A (2) Planning and Compulsory Purchase Act 2004

¹⁹ Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

²⁰ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

²¹ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the National Planning Policy Framework 2012

have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other Statutory Requirements.

21. 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.
22. 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.
23. 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.²²

Documents

24. 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:
 - Dronfield Neighbourhood Plan 2016-2034 Submission Draft 15b January 2019 including Appendices 1 to 6 and Maps 1 to 10
 - Dronfield Neighbourhood Plan Statement of Basic Conditions January 2019 [*In this report referred to as the Basic Conditions Statement*]
 - Dronfield Neighbourhood Plan Consultation Statement January 2019 including Appendices A to I [*In this report referred to as the Consultation Statement*]
 - Dronfield Neighbourhood Plan 2017-2034 Strategic Environmental Assessment Screening and Habitats Regulations Assessment Screening Report December 2018 and Addendum published on the District Council website June 2019

²² See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990 and *Kebell Developments Ltd v Leeds City Council* [2018] EWCA Civ 450 14 March 2018 paragraphs 34 and 35

- Evidence base documents listed in Appendix 7 of the Submission Neighbourhood Plan and available on the Town Council website
- Background documents published on the District Council website including: Dronfield Housing Characteristics; Dronfield Neighbourhood Plan Local Green Spaces Report; and Dronfield Neighbourhood Plan Local Heritage Evidence Report
- Representations received during the Regulation 16 publicity period and the representation setting out the District Council Officer comments
- Correspondence between the Independent Examiner and the District and Town Councils (including the Town Council response to the representations of other parties dated 18 April 2019 and sent to me by the District Council on 24 June 2019; the Examiner's initial letter dated 7 June 2019; and the Examiner's letters seeking clarification of matters and the responses, including provision of maps)
- List of Local Plan 2001-2011 saved policies considered to be strategic policies confirmed in a District Council email sent to me on 11 June 2019
- North-East Derbyshire Local Plan 2001-2011 (saved policies)
- North-East Derbyshire Local Plan 2014-2034 (subject to examination which commenced November 2018 and ongoing at the time of preparation of this report)
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*] (and later revisions confirming applicability)
- 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 Town and Country Planning (General Permitted Development) (England) (Amendment) (No 2) Order 2017
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- Community Right to Bid: Non-statutory Advice Note for Local Authorities. Department for Communities and Local Government October 2012
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations including those coming into force 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

25. 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.
26. The Plan preparation process commenced in July 2016 when a Working Group was established comprised of town councillors and other volunteers from the community. A dedicated neighbourhood plan webpage was incorporated in the Town Council website. Publicity throughout the plan preparation process also included use of noticeboards and flyers; adverts and editorial in the 'Dronfield Eye' publication distributed to all households; publication of Steering Group meeting minutes; and use of 'Twitter'. Four community consultation drop-in events including an exhibition held in March 2017 were followed by meetings with key stakeholders and an exhibition at the Lea Brook Valley Festival. A further two-day drop-in with exhibition event was held in February 2018 which generated 45 completed response forms and verbal feedback.
27. Pre-submission consultation in accordance with Regulation 14 was undertaken between 17 July and 11 September 2018 during which period electronic and paper versions of the draft Plan were made available for inspection. Publicity included use of the 'Dronfield Eye' delivered to all properties; a notice on the Town Council and District Council websites; use of social media and the Civic Society newsletter; posters displayed around the area; and emails or letters to statutory

consultees and other organisations. This consultation generated 143 observations contained within 59 submissions. The representations arising from the consultation are summarised in Appendix I of the Consultation Statement and responses and changes made to the Neighbourhood Plan, are set out. The suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Town Council, for submission to the District Council.

28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 1 March 2019 and 12 April 2019. Representations from 11 different parties were submitted during the period of publication. I have been provided with copies of each of these representations and the representation made by the District Council. In preparing this report I have taken into consideration all of the representations 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, particularly where they are relevant to the reasons for my recommendations.²³

29. Two individuals state support for many elements of the Neighbourhood Plan. One of the individual's states disappointment that Dronfield Station is not listed as an important community asset and that there is no reference to improved rail links and improving bus services. There is no requirement for the Neighbourhood Plan to identify Dronfield Station as an important community asset nor to include other references as indicated. Dronfield Civic Society also support many elements of the Neighbourhood Plan but consider there should be policies to improve the market offer of the Town Centre and to reduce the number of charity shops. There is no requirement for the Neighbourhood Plan to include policies of that nature. Dronfield Civic Society also considers it is important that character appraisals for each Conservation Area should be updated. There is no requirement for the Neighbourhood Plan to include reference to that matter.

30. I refer to comments made by the Environment Agency when considering Policies H1 and EN4 later in my report, and comments of Chesterfield CAMRA when considering Policies C1 and C3. The Coal Authority, Natural England, and Highways England do not have any specific comments to make. Coal Aston Village Hall charitable

²³ *Bewley Homes Plc v Waverley Borough Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6)

incorporated organisation request reference should be made to the village hall rather than a community hall. I refer to this matter in the Annex to my report.

31. Derbyshire County Council has suggested the Neighbourhood Plan should place more emphasis on a number of issues notably renewable energy, buildings fit for future climate change, and dark skies. The County Council also suggest additional matters should be addressed including deliverability of highway infrastructure; low emission vehicle infrastructure; dementia friendly communities; design of homes to a lifetime standard; and renovation of poor-quality housing stock. It is beyond my remit to recommend additional issues are addressed or further emphasis is placed on particular matters. Where Derbyshire County Council refer to specific policies of the Neighbourhood Plan, I have taken these comments into account when considering the relevant policies. Later in my report I refer to comments the Town Council has made in respect of the timing of representations made by the County Council.

32. Gladman Developments refer to the housing requirement in the emerging Local Plan and state *“With this in mind and given that NE Derbyshire Council have an uncertain 5-year supply, Gladman suggest sufficient flexibility is provided in the policies of the plan to safeguard the DNP from conflicting with future development proposals should they be required.”* The representation also states some policies of the Neighbourhood Plan do not reflect the requirements of national policy and guidance. The representation recommends alternative options with respect to Policies ENV1, ENV5, D2, and D3. I refer to these representations when considering those policies later in my report. Gladman Developments also raise general objections with regard to the Housing and Infrastructure Chapter of the Neighbourhood Plan and in particular suggest removal of text on page 20 that states *“It is considered that the town is not a suitable and sustainable location for the scale of development proposed”*. The representation suggests that where the Neighbourhood Plan does not support housing allocations in the Green Belt (of which it is stated there are three in the emerging Local Plan) it is not in conformity with the emerging Local Plan. I address the issue of the relationship between the Neighbourhood Plan and the emerging Local Plan later in my report.

33. The District Council has submitted a substantial representation setting out Officer comments on the Neighbourhood Plan. The representation includes *“Overall, the draft Plan is well presented, and scoped*

appropriately, dealing with relevant local issues, relying on surveys from the local populace to highlight local concerns, and create the policies and objectives of the plan.” The representation identifies a number of areas where changes are considered necessary. The District Council representation in large part relates to the policies of the Neighbourhood Plan. I have taken the comments into account when considering the relevant policies. Where the District Council has identified necessary corrections of the Neighbourhood Plan, I have referred to these in the Annex to my report. A number of the District Council representations propose changes to the Plan that are not necessary to meet the Basic Conditions or Convention Rights and are therefore beyond my remit with respect to the recommendation of modifications. I have made reference to some of these matters in the Annex to my report.

34. I provided the Town Council with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation on the Town Council to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Town Council responded to the opportunity to comment by asking the District Council to confirm I had been sent a letter of the Town Council dated 18 April 2019 relating to representations of Derbyshire County Council. The District Council sent me the letter in question on 24 June 2019 which states *“I have been asked to write to you on behalf of the Dronfield Neighbourhood Plan Steering Group regarding the recent consultation feedback provided by Derbyshire County Council on the submission draft of the Dronfield Neighbourhood Plan. Derbyshire County Council were consulted with during the six-week statutory consultation period that the Town Council undertook between 17th July 2018 – 11th September 2018. This gave them the opportunity to provide detailed feedback at this stage. However, no feedback was received from any department within Derbyshire County Council. Had the Steering Group received feedback at that time they would have reviewed the comments and could have taken any recommendations into consideration. However, from their feedback at this latest stage of consultation it appears that Derbyshire County Council failed to give a copy of the previous draft to the correct departments within the Council. The Steering Group are therefore unable at this latest stage of consultation to take the feedback from Derbyshire County Council into consideration. The Steering Group would therefore be grateful if you could please ensure the examiner takes this into consideration”*. Parties seeking to

influence the nature and contents of an emerging neighbourhood plan will often make their views known early in the plan preparation process. There is however no requirement for early participation. The County Council could have enjoyed some success in securing changes and additions to the Neighbourhood Plan if they had submitted views at an earlier stage, but there was no requirement for them to do so. The County Council has submitted representations at Regulation 16 stage and is able to do so. Where the County Council representations relate to specific policies of the Neighbourhood Plan, I have referred to those representations when considering the relevant policies later in my report. Earlier in my report I have explained my role and the limitations on modifications to the Neighbourhood Plan that I can recommend.

35. I requested the District Council to publish the Regulation 16 representations, including its own representation, and the Town Council comments on representations of Derbyshire County Council, on their website.

36. 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.²⁴

37. The Consultation Statement and Evidence Base include information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

²⁴ Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

The Neighbourhood Plan taken as a whole

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

39. The Basic Conditions Statement states “*The Plan has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights*”. I have considered the European Convention on Human Rights and in particular Article 6 (1) (fairness); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).²⁵ I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. The Basic Conditions Statement states that in preparing the Neighbourhood Plan the views of the whole community have been embraced “*to avoid any unintentional negative impacts on particular groups*”. 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.

40. The objective of EU Directive 2001/42²⁶ 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*

²⁵ 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.

²⁶ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

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’²⁷ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²⁸

41. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Town Council, as the Qualifying Body, to submit to North East Derbyshire District 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.
42. A Strategic Environmental Assessment Screening and Habitats Regulation Assessment Screening Report prepared in December 2018 concludes *“Having taken all the policies in the Plan into account, in accordance with the topics cited in Annex 1(f) of the SEA Directive, this screening opinion has concluded that a full SEA is not required.”* The Screening Report includes at paragraph 1.1.5 reference to consultation with the Statutory Bodies. The District Council has confirmed that Historic England, Natural England, and the Environment Agency were consulted in respect of the SEA Screening. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
43. The Strategic Environmental Assessment Screening and Habitats Regulation Assessment Screening Report prepared in December 2018 includes an assessment of likely environmental impacts on European Sites in respect of each of the Neighbourhood Plan policies and finds no likely significant effect on the site’s qualifying features in every case. The South Pennines Moors SAC and the Peak District Moors (South Pennine Moors Phase 1) SPA are considered. In-combination effects are considered. The District Council has confirmed that Natural England were consulted. The Screening Report concludes *“The HRA screening finds that no significant adverse effects are likely as a result of the implementation of the Neighbourhood Plan. It is not necessary to prepare an Appropriate Assessment, as part of the Dronfield Neighbourhood Plan preparation.”*
44. 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 the period of preparation of the

²⁷ Defined in Article 2(a) of Directive 2001/42

²⁸ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

Neighbourhood Plan. An Addendum to the Dronfield Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report has been prepared and published on the District Council website. The Addendum identifies the two European sites located within a 10km radius of the Dronfield Neighbourhood Area that were considered in the earlier Screening Report and includes confirmation the District Council *“is satisfied, in consultation with Natural England, that the Dronfield Neighbourhood Plan has no likely significant effects on a European site and thus Regulation 107 does not apply”*. The Addendum concludes *“NEDDC have considered the HRA Screening Opinion in light of the legislative changes, and it is satisfied that the Screening Opinion for the Dronfield Neighbourhood Plan remains valid, as criteria 105 1) to 5) of the Conservation of Habitats and Species Regulations 2017 are met. The reasons are: i) The distance of the Neighbourhood Area from a European site. ii) The HRA screening does not seek to take account of any measures intended to reduce or avoid any harmful effects of the Plan on any European site, in part due to the fact that the Neighbourhood Plan does not allocate any development sites.”* The Addendum states *“Natural England confirmed that their position had not changed in light of the Conservation of Habitats and Species Planning (Various Amendments) (England) and Wales) Regulation 2018 for Dronfield Neighbourhood Plan.”* I am satisfied with this statement and I conclude the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.

45. 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.
46. 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.
47. 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 District

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).²⁹

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

48. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans³⁰ which requires plans to be “*consistent with national policy*”.

49. Lord Goldsmith has provided guidance³¹ 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.*”

50. 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. This most recent Framework supersedes the previous version of the National Planning Policy Framework published in July 2018, which in turn superseded the first National Planning Policy Framework published in March 2012. Paragraph 214 of the most recent Framework states “*The policies in*

²⁹ Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

³⁰ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the National Planning Policy Framework 2012

³¹ 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)

the previous Framework published in March 2012 will apply for the purpose of examining plans, where those plans are submitted³² on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.” As the District Council has confirmed a submission date of 23 January 2019, I have undertaken this Independent Examination of the Neighbourhood Plan in the context of the Framework published in March 2012.

51. The Basic Conditions Statement includes, in Table 1 a comprehensive statement how the objectives and policies of the Neighbourhood Plan have regard to relevant components of the Framework (2012). I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.

52. The Neighbourhood Plan states it *“is primarily for use, and reference when the relevant authorities are making and guiding planning decisions”*. The Plan identifies issues and responds to these by putting forward a set of policies that will be applied through the planning process. The Plan states *“it is important to note that when using the Plan to form a view on a proposed development all of the policies in it must be considered together when forming a view.”* Plan aims are clearly set out in respect of each of the Plan themes. These overarching statements are underpinned by objectives relating to: community facilities and services; natural environment; housing and infrastructure; transport and access; economy; and heritage and design; The Objectives provide a link between the Plan aims and the policies of the Neighbourhood Plan.

53. The evidence base that supports the Neighbourhood Plan includes a series of supporting documents published on the District Council websites. The Dronfield Housing Characteristics; the Dronfield Neighbourhood Plan Local Green Spaces Report; and the Dronfield Neighbourhood Plan Local Heritage Evidence Report explain the choices made in formulating the Plan policies and will be invaluable in assisting Plan implementation.

³² Footnote 69 of the most recent Framework states that *“for neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.”*

54. 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.*”
55. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking.³³ The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*”³⁴.
56. 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.
57. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes at Table 1 an explanation of how each of the Plan policies has shown regard to the Framework and between

³³ Paragraph 14 National Planning Policy Framework 2012

³⁴ Planning Practice Guidance (Ref ID:41-072-20140306)

paragraphs 3.5 and 3.8 a statement that confirms the ways in which the Neighbourhood Plan contributes to the achievement of sustainable development considering social, economic, and environmental factors. The assessment identifies sustainability benefits arising from the Neighbourhood Plan. The assessment does not highlight any negative impacts on sustainability objectives.

58. 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 will protect local distinctiveness; 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:

- Retain existing community facilities and support new provision;
- Protect Green Belt and landscape character;
- Enhance the Lea Brook Valley as a green corridor
- Designate Local Green Spaces;
- Enhance ecology generally including retention and increase in the number of trees and woodlands;
- Support windfall housing development within the built-up area;
- Ensure the mix and type of housing development meets local needs, including affordable provision, and meets infrastructure requirements;
- Establish priorities for utilisation of developer contributions;
- Improve the active travel network;
- Establish criteria for the loss car parking provision;
- Maintain and enhance the role of the Town Centre;
- Establish requirements for shop front design;
- Establish criteria for support of hot food takeaway proposals;
- Avoid loss of employment uses and conditionally support new small-scale employment enterprises;
- Support conservation and enhancement of Listed Buildings, and identify and protect local heritage assets; and
- Establish design criteria for development schemes.

59. 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)

60. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.³⁵ “*Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies*”.³⁶
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). North East Derbyshire District Council has informed me that the Development Plan applying in the Dronfield Neighbourhood Area and relevant to the Neighbourhood Plan comprises the North-East Derbyshire Local Plan 2001-2011 (saved policies). Whilst saved policies of the Derby and Derbyshire Minerals Local Plan (adopted 2000 and amended in 2002) and saved policies of the Derby and Derbyshire Waste Local Plan (adopted 2005) also form part of the Development Plan applying in the Neighbourhood Area these policies are not relevant to the Independent Examination of the Neighbourhood Plan.
62. I have noted the Basic Conditions Statement submitted by the Town Council contains Table 2 which identifies the policies of the Local Plan 2001-2011 that are considered to be relevant to the Neighbourhood Plan and a commentary that highlights aspects of general conformity.
63. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National*

³⁵ Paragraph 16 National Planning Policy Framework 2012

³⁶ Paragraph 184 National Planning Policy Framework 2012

Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”³⁷ The District Council has informed me that the Local Plan 2001-2011 did not have strategic policies established, nor has any formal statement been made about the matter. However, in light of work relating to the emerging Local Plan (referred to below) the District Council has stated the following saved policies of the Local Plan 2001-2011 are considered to be strategic: GS1, GS2, GS3, GS5, GS6, GS7, GS9, NE9, E1, E2, E3, E4, E5, E6, E9, E10, E11, E12, H1, H2, H3, H6, H7, H8, H11, SH2, SH3, SH4, SH5, SH6, SH8, SH9, SH11, SH12, T2, T4, T5, T6, T8, R2, R3, R4, R12, R13 and CSU7.

64. The District Council has informed me the Local Plan 2001-2011 is significantly out-of-date and is due to be replaced by the emerging North-East Derbyshire Local Plan 2014-2034. Examination of this emerging plan commenced November 2018, and is ongoing at the time of preparation of my report. Neither an inspector’s report nor any modifications have been published yet, although the Inspector has provided initial letters in response to the hearing sessions.

65. The Neighbourhood Plan can proceed ahead of preparation of the North-East Derbyshire Local Plan 2014-2034. 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*

³⁷ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

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

66. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the emerging North-East Derbyshire Local Plan 2014-2034 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. Table 2 of the Basic Conditions Statement includes statements of general conformity of Neighbourhood Plan policies in respect of policies of the Publication Draft Local Plan 2014-2034.

67. 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 North-East Derbyshire Local Plan 2014-2034 is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states “*Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan*”. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by

³⁸ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20160211

basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole. The emerging North-East Derbyshire Local Plan 2014-2034 is not part of the Development Plan for the purpose of the third basic condition, but its reasoning and evidence may be relevant.

68. 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.*”³⁹ 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.

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

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.*”⁴⁰

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

70. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

³⁹ Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31

⁴⁰ Planning Practice Guidance (ID ref: 41-074 201 40306)

The Neighbourhood Plan Policies

71. The Neighbourhood Plan includes 27 policies as follows:

Policy C1 Retention of important community facilities

Policy C2 Supporting new and enhanced community facilities

Policy C3 Assets of Community Value

Policy ENV1 Green Belt

Policy ENV2 Landscape character

Policy ENV3 The Lea Brook Valley green corridor

Policy ENV4 Ecology

Policy ENV5 Local Green Spaces

Policy ENV6 Trees and woodlands

Policy HOU1 Windfall housing development

Policy HOU2 Housing mix

Policy HOU3 Affordable housing

Policy HOU4 Infrastructure for new housing and other forms of development

Policy HOU5 Developer contributions

Policy T&A1 Highways

Policy T&A2 Traffic management

Policy T&A3 Cycling and walking

Policy T&A4 Car parking

Policy E1 Maintaining and enhancing the role and attractiveness of Dronfield town centre

Policy E2 Shop frontages in the town centre

Policy E3 Shopping hubs and other local shops outside Dronfield town centre

Policy E4 Hot food takeaways

Policy E5 Existing employment uses

Policy E6 New small-scale employment uses

Policy D1 Listed Buildings

Policy D2 Dronfield character buildings and structures of local heritage interest

Policy D3 Good design

72. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.” “Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*⁴¹

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 must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in*

⁴¹ Paragraphs 184 and 185 National Planning Policy Framework 2012

⁴² Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306

⁴³ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”⁴⁴

76. 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.
77. The design and layout of the Neighbourhood Plan is attractive, inviting, and innovative; however, I agree with a comment of the District Council that the policies should be more clearly identifiable as distinct from the supporting text of the Plan. I have recommended a modification in this respect so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

Recommended modification 1:

Use a text box with background shading, or other method, to make the policies of the Neighbourhood Plan more distinct from the supporting text

Policy C1 Retention of important community facilities

78. This policy seeks to establish that development proposals that result in the loss of, or significant adverse effect on, community facilities identified in Appendix 3 will not be supported except where stated circumstances are met.
79. Chesterfield CAMRA states viability assessment should be rigorous and *“there is no test set out whereby an asset is assessed for formal listing. For pubs this is necessary”*. I am satisfied Appendix 3 clearly sets out the facilities to which the policy applies. The approach to viability testing included in the policy has sufficient regard for paragraph 173 of the Framework.
80. The Framework states planning policies should guard against the unnecessary loss of valued facilities and services especially where this

⁴⁴ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20140306

would reduce the community's ability to meet its day-to-day needs. The Framework states careful attention should be given to viability. I have seen nothing to suggest a twelve-month marketing period is unreasonable. The policy has sufficient regard for national policy in these respects.

81. It is unnecessary and confusing for the policy to state "*in the town*" as all the policies of the Neighbourhood Plan apply throughout the Neighbourhood Plan area unless a smaller area is stated. The term "*in the town*" is in any case imprecise. It is unnecessary and confusing for one part of the policy to state "*to NEDDC*". I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
82. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
83. 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 promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 2:
In Policy C1**

- delete "*to NEDDC*"
- delete "*in the town*"

Policy C2 Supporting new and enhanced community facilities

84. This policy seeks to establish conditional support for development proposals involving the provision of new or enhanced community facilities.
85. The Framework states planning policies should plan positively for the provision, development, and modernisation of community facilities including places of worship, meeting places, and public houses to

enhance the sustainability of communities and residential environments. Policy C2 has sufficient regard for national policy in this respect.

86. The requirement of Policy C2 to demonstrate that a local need will be met is not sufficiently justified. Use of the term “*for example*” and inclusion in the policy of examples of types of facilities introduces uncertainty. It is unnecessary for a policy to state “*to North East Derbyshire District Council*” and the term “*including through discussions with the Town Council*” does not provide a basis for the determination of planning proposals. A requirement that the Town Council should discuss proposals is not a reasonable requirement to impose on an applicant proposing a development scheme. The term “*respects local transport, environmental, amenity and landscape considerations*” is imprecise. The Framework states “*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*” I have recommended a modification in these respects so that the policy has sufficient regard for national policy, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
87. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
88. 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 promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 3:

In Policy C2 replace the text after “supported” with “where there are no significant adverse residential or other environmental impacts, and no severe adverse transport impacts”

Policy C3 Assets of Community Value

89. This policy seeks to establish that development proposals that will result in the loss of, or have significant adverse effect on, a designated Asset of Community Value will not be permitted unless specified circumstances are met.
90. Chesterfield CAMRA states all assets in Appendix 3 should be listed *“as should all pubs as it is too easy to close them.”*
91. The Framework states planning policies should guard against the unnecessary loss of valued facilities and services especially where this would reduce the community’s ability to meet its day-to-day needs. The Framework states careful attention should be given to viability. Policy C3 has sufficient regard for these elements of national policy.
92. The policy includes the term *“not be permitted”*. It is not appropriate for a policy to indicate that proposals will be permitted or not permitted as all planning applications *“must be determined in accordance with the development plan, unless material considerations indicate otherwise”*.⁴⁵ All material considerations will not be known until the time of determination of a planning proposal. The term *“special circumstances”* is imprecise. The term *“such as”* introduces uncertainty. I have recommended a modification in these respects so that the policy has sufficient regard for national policy, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
93. The Community Right to Bid provisions give local groups a right to nominate a building or other land for listing by the local authority as an Asset of Community Value (ACV). It can be listed if a principal (“non-ancillary”) use of the asset furthers (or has recently furthered) their community’s social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future. When a listed asset is to be sold, local community groups will have an opportunity to make a bid to buy it on the open market. The Town and Country Planning (General Permitted Development) (England) (Amendment) (No 2) Order 2017, which came into force on 23 May 2017 removes permitted development rights so that planning permission is required to change a public house to specified uses or for it to be demolished. While this change negates the need for communities to list a public house as an ACV to prevent specified

⁴⁵ Paragraph 196 National Planning Policy Framework 2012

changes of use without planning permission, listing could still be pursued. Policy C3 applies to all Assets of Community Value not just public houses.

94. ACV status can be material to planning decisions during the period the asset remains on the ACV List. *“The fact that a site is listed (as an ACV) may affect planning decisions - it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted considering all the circumstances in a case.”*⁴⁶ A local planning authority can consider ACV status as a material consideration when determining a planning application, and so ACV listing could be an extra factor the local planning authority has to take into account when considering an application to change the use of an asset. This offers an extra layer of protection for communities wanting to prevent facilities being lost as a result of a change of use.
95. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
96. 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 promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy C3 delete “permitted unless in special circumstances, such as” and insert “supported unless”

Policy ENV1 Green Belt

97. This policy seeks to establish support for the continued designation of the countryside surrounding the town as Green Belt. The policy also seeks to establish that within the Green Belt there will be a strong presumption against development that would conflict with the purposes

⁴⁶ Community Right to Bid: Non-statutory Advice Note for Local Authorities. Department for Communities and Local Government October 2012

of the Green Belt, or adversely affect its open character in accordance with the Framework.

98. In a representation the District Council states *“No objection in principle, however, the Policy is worded as a statement of intent and would not operate as an effective policy in its own right, relying upon the National Policy in the NPPF.”*
99. Derbyshire County Council states *“Dronfield is heavily constrained by strategically important Green Belt which is very narrow, particularly to the north and south of the town, and has the primary purpose of preventing the coalescence of the urban area of Sheffield with Chesterfield and the settlements in between including Dronfield, Eckington and Killamarsh. Green Belt is the primary constraint that impacts on the future growth potential of the town of Dronfield. It is welcomed and supported, therefore, that Green Belt is given prominence in the DNP and that the Plan includes an appropriate Policy ENV1 which supports the continued designation of Green Belt surrounding the town and that there will be a strong presumption against inappropriate development that would conflict with the purposes of the Green Belt or adversely affect its open character. This policy and the supporting text is compliant with the requirements of the National Planning Policy Framework (NPPF). Appropriate reference is made to the fact that the North East Derbyshire Local Plan Submission proposed the de-allocation of three areas of Green Belt on the edge of Dronfield for allocation as proposed new housing sites, which may result in a significant change to the Green Belt boundary. Detailed consideration was given to these allocations at the Local Plan Examination hearings in November 2018, which were subject to considerable opposition from the local community in Dronfield. Although not reflected in the Green Belt Section supporting Policy ENV1, this opposition is set out in the Housing and Infrastructure Section on page 20.”*
100. Derbyshire County Council also states *“In the context of comments above on the Green Belt, it is noted that page 20 of the DNP indicates that the Plan does not allocate land for housing. This is despite the fact that the preceding paragraphs set out the Plan’s opposition to Green Belt release, primarily on the basis of the view that ‘there are alternative suitable and sustainable locations elsewhere in the District, which could accommodate this housing growth’. It is considered that the DNP might have missed an opportunity to be proactive and seek to identify sites within the Parish that may be suitable for housing.”*

101. Gladman Developments Ltd state *“Policy ENV1 supports the continued designation of the countryside surrounding Dronfield as Green Belt land and seeks to ensure a strong presumption against development that would conflict with the purposes of the Green Belt. As currently drafted the policy is a replication of both local and national policy, therefore its continued inclusion within the DNP is unnecessary. Notwithstanding this, Gladman are concerned that the policy in its current form does not accurately reflect the Local Authority’s position with regards to the Green Belt land surrounding Dronfield. The emerging NEDLP allocates three parcels of Green Belt land surrounding Dronfield to be released for residential development. If, as anticipated the NEDLP is adopted prior to the examination of the DNP, without reference to and support of these allocations it is highly likely that the DNP will be found to be contrary to basic condition (e). However, if the NEDLP examination encounters an unexpected delay and as a result the DNP is examined prior to the adoption of the NEDLP, in not including a reference of support to these allocations this policy would be superseded by S38(5) of the Planning and Compulsory Purchase Act 2004.”*

102. The Framework states *“local planning authorities with Green Belts in their area should establish Green Belt boundaries in their Local Plans which set the framework for Green Belt and settlement policy. Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan.”* It is inappropriate for a Neighbourhood Plan policy to either support the continued designation, or to propose a change. The statement of national policy relevant to this Independent Examination is very clear - that these are matters for the Local Plan. I have, earlier in my report, explained the relationship between the Neighbourhood Plan and the emerging Local Plan. It is inappropriate for the Neighbourhood Plan to seek to introduce policy relevant to the supply of housing without sufficient evidence to support the approach proposed, in particular in the context of the aspects of national policy that seek to boost significantly the supply of housing. The first sentence of the policy is a statement that does not provide a basis for the determination of planning proposals. I have recommended a modification of Policy ENV1 so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

103. Whilst the second sentence of Policy ENV1 is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan, it does not provide an additional level of detail or distinct local approach to that set out in the strategic policies. Nevertheless, I consider the Policy does serve a purpose of demonstrating the Neighbourhood Plan is consistent with national policy and adopted local policy with respect to an issue that has great significance for the local community. If the Neighbourhood Plan policies were silent with respect to such a fundamental issue this would undermine the relevance of the Plan within the community.
104. 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 protecting Green Belt land. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:
In Policy ENV1 delete the first sentence**

Policy ENV2 Landscape character

105. This policy seeks to establish that development proposals should contribute to the protection, maintenance and enhancement of the character of the local landscape and sets out three development principles.
106. The Framework states *“the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes”*. The policy has sufficient regard for this aspect of national policy.
107. The policy is without consequence, and the terms *“should”* and *“wherever possible”* do not provide a basis for the determination of planning applications. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
108. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved

policies) and relevant to the Neighbourhood Plan and provides 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 conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 6:

In Policy ENV2

- **replace “Development proposals should” with “To be supported development proposals must”**
- **replace “, wherever possible should” with “must”**
- **replace “incorporate landscaping and boundary treatments” with “ensure any proposed landscaping and boundary treatments are”**

Policy ENV3 The Lea Brook Valley green corridor

110. This policy seeks to define the Lea Brook Valley as shown on Map 7 as a Green Corridor where development proposals should seek to support its operation as a multifunctional corridor. The policy also seeks to enhance active transport connections.

111. Map 7 shows cross hatched areas to both the east and west of the A61, the latter showing the name Gosforth Valley. The town Council has confirmed the Lea Brook Valley includes both of these areas. I have recommended a modification so that Map 7 more clearly defines the Lea Brook Valley area to which Policy ENV3 applies. This could be achieved through insertion of a map legend. The terms “*where appropriate and practicable*” and “*for example*” introduce uncertainty. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

112. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an

additional level of detail or distinct local approach to that set out in the strategic policies.

113. 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 conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

In Policy ENV3 replace the final sentence with “Development proposals that assist active travel, or ecological, connections with the Lea Brook Valley Corridor will be supported.”

Map 7 should be adjusted to more clearly define the Lea Brook Valley area to which Policy ENV3 applies.

Policy ENV4 Ecology

114. This policy seeks to establish that development proposals will be expected to respect and enhance ecological corridors and landscape features for biodiversity. The policy also states enhancement and compensation measure will be targeted to priorities identified in the Lowland Derbyshire Biodiversity Action Plan.
115. The Environment Agency welcomes the proposals to protect and enhance the green and blue infrastructure and biodiversity and suggests reference could be made to the relevant biodiversity policy within the submitted North East Derbyshire Local Plan. I have earlier in my report explained the relationship of the Neighbourhood Plan and the emerging Local Plan.
116. The policy is without consequence. The terms “*will be expected to*” and “*will be*” do not provide a basis for the determination of planning proposals. The term “*wherever appropriate*” introduces uncertainty. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
117. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved

policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

118. 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 enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions

Recommended modification 8:

In Policy ENV4

- commence the policy with “To be supported”
- delete “will be expected to” and insert “must”
- delete “, wherever appropriate,”
- delete “will be targeted to” and insert “that”
- after “Plan” continue “will be supported”

Policy ENV5 Local Green Spaces

119. This policy seeks to designate 48 Local Green Spaces.
120. Derbyshire County Council states this policy “refers to ‘very special circumstances’ required to justify development on these local green spaces. There is no indication in the DNP as to what those circumstances are although in the National Planning Policy Framework (NPPF), February 2019 it is stated that ‘Policies for managing development within a Local Green Space should be consistent with those for Green Belts’ (paragraph 101). NPPF paragraph references (99 – 101) should be added to both the policy and the supporting text (The NPPF is referenced by title only in Appendix 7).” The County Council also states Map 6 is very difficult to read.
121. In a representation the District Council states “The Plan has identified 48 sites in total to be designated as Local Green Spaces (LGS) (Appendix 6). In general, these are not described or mapped clearly enough for them to be easily identified. This would make it difficult for them to be applied in decision making and could compromise the effectiveness of the Plan. In addition, the majority of these sites have designations in the adopted and/or draft Local Plans. For example, some sites fall under Policies R2 – Formal Recreation Facilities, R3 – Urban Green Space and R4 – Allotments of the

Adopted Local Plan and Policy ID10 – Open Space, Sports and Recreation in the draft Local Plan. Policies R2 and R4 (and ID10) allow for a more flexible approach to safeguarding formal recreational facilities and allotments than the proposed LGS designation in the Neighbourhood Plan (see detailed NEDDC comments on individual proposed Local Green Spaces at Appendix 1)). Whilst this does not in itself raise concern over conformity with the Local Plan, the individual LGS designations in the Neighbourhood Plan need to demonstrate their justification over and above the Local Plan designation, and this is not currently made clear. In some cases, sites are located outside the Settlement Development Limit, within the Green Belt. These sites cover mainly large areas and do not meet the first and/or third bullet point criteria as set out in para 77 of the NPPF. The National Planning Practice Guidance (NPPG) also states that “if land is already protected by Green Belt policy,” ..., “then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space (Paragraph: 010 Reference ID: 37-010-20140306)”. This however is not shown by the assessment. The LGS designation at Dronfield Nature Park (Ref no 13 of Appendix 6), lies within an area designated for employment use under policies E1 – New Employment Land Provision and E2 – Callywhite Lane Extension in the Adopted Local Plan (WC1 – Dronfield Regeneration Area in the draft Local Plan). Whilst it may be possible for the future development of this site to retain elements of the Nature Park, the LGS policy is highly restrictive in nature and incompatible with the employment designation. Retention of this LGS within the Neighbourhood Plan could significantly prejudice the implementation of strategic policies in both the Adopted and emerging the Local Plans and is therefore considered to be out of conformity with the Local Plan.”

122. Gladman Developments Ltd state “This policy seeks to designate forty-eight parcels of land as Local Green Space (LGS). In order to designate land as LGS the Parish Council must ensure that it is able to demonstrate robust evidence to meet national policy requirements as set out in the Framework. The Framework makes clear at §76 that the role of local communities seeking to designate land as LGS should be consistent with the local planning of sustainable development. §76 states that: ‘Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent

with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Space should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.” Further guidance is provided at §77 which sets out three tests that must be met for the designation of LGS and states that: ‘The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used: a) where the green space is in reasonably close proximity to the community it serves; b) where the green space is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) where the green area concerned is local in character and is not an extensive tract of land.’ The requirements of the Framework are supplemented by the advice and guidance contained in the PPG. Gladman note §007 of the PPG8 which states, ‘Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.’ Gladman further note §015 of the PPG (ID37-015) which states, ‘§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.’² Designation of LGS should not be used as a mechanism to designate new areas of Green Belt (or similar), as the designation of Green Belt is inherently different and must meet a set of stringent tests for its allocation (§135 to 139 of the Framework). Gladman do not believe the DNP supporting evidence is sufficiently robust to justify the proposed allocation of land to the rear of 33-47 Gosforth Drive (site 37: ‘Telly Tubby Hill’) as LGS. The issue of whether LGS meets the criteria for designation has been explored in a number of Examiner’s Reports across the country and we highlight the following decisions: - The Sedlescombe Neighbourhood Plan Examiner’s Report³ recommended the deletion of an LGS measuring approximately 4.5ha as it was found to be an extensive tract of land. - The Oakley and Deane Neighbourhood Plan Examiners Report⁴ recommended the deletion of an LGS measuring approximately 5ha

and also found this area to be not local in character. Thereby failing to meet 2 of the 3 tests for LGS designation. - The Alrewas Neighbourhood Plan Examiner's Report⁵ identifies both proposed LGS sites 'in relation to the overall size of the Alrewas Village' to be extensive tracts of land. The Examiner in this instance recommended the deletion of the proposed LGSs which measured approximately 2.4ha and 3.7ha. Highlighted through a number of Examiner's Reports set out above and other 'made' neighbourhood plans, it is considered that land to the rear of Gosforth Drive has not been designated in accordance with national policy and guidance and subsequently is not in accordance with the basic conditions. 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 and therefore the proposed designation of 'Telly Tubby Hill'. In terms of meeting the second test there is no evidence base to support that this field is 'demonstrably special to a local community.' In relation to its beauty, it is not of any particular scenic quality. The designation of 'land to the rear of Gosforth Drive' has not been made in accordance with basic conditions (a) and (d). Gladman therefore recommend that Site 37 be deleted as an LGS in its entirety."

123. 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 are presented on Map 6 of the Neighbourhood Plan. Whilst an electronic version of Map 6 can be expanded to assist inspection this is not possible in respect of hard copies of the Neighbourhood Plan. Map 6 does not include any notation identifying each Local Green Space by name or reference number. Whilst my own identification of the areas proposed for designation has been assisted by site visits; the photographs included in the Dronfield Neighbourhood Plan Proposed Local Green Spaces - Supporting Evidence report; and use of the Adopted Local Plan interactive map, the Neighbourhood Plan should be self-contained in this respect. I have recommended Map 6 is replaced with a series of Maps presented at a scale that is sufficient to identify the precise boundaries of each designated Local Green Space. This will ensure that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

124. I have noted the policy seeks to introduce the term *“unless it is consistent with the function of the Local Green Space.”* 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 must rely on paragraph 78 of the Framework that states *“local policy for managing development within a Local Green Space will be consistent with policy for Green Belts”* and the part of the Framework that relates to ‘Protecting Green Belt land’, in particular paragraphs 87 to 91 inclusive. This part of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. The wording of the policy does not adequately reflect the terms of the designation of Local Green Spaces set out in paragraph 76 of the Framework where it is stated communities will be able to rule out new development other than in very special circumstances. The Neighbourhood Plan is not able to designate Local Green Spaces on terms that are different to those set out in the Framework. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
125. The Framework states *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them”* and *“Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed and be capable of enduring beyond the end of the plan period.”*
126. 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. Whilst the emerging Local Plan may be relevant to this consideration its final form is unknown. I have earlier in my report explained the relationship between the Neighbourhood Plan and the emerging Local Plan. The intended Local Green Space designations have regard to the local planning of sustainable development contributing to the promotion of healthy

communities, and conserving and enhancing the natural environment, as set out in the Framework.

127. The Framework states that Local Green Space designation *“should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.”⁴⁷*

128. I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land. In reaching this conclusion I have given particular consideration to the representation of Gladman Developments Ltd regarding the land to the rear of 33 to 47 Gosforth Drive known locally as Telly Tubby Hill (site reference No.37) which objects to designation on the basis of the scale of the land. In response to my request for clarification the Town Council has sent me a map that shows site reference 37 includes an area of approximately 0.5 hectares. 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.”⁴⁸* I consider the site to the rear of 33 to 47 Gosforth Drive does not constitute blanket designation of open countryside and is not an extensive tract of land. It is not within my role to consider the merits of proposals for designation of Local Green Space in other parts of the country.

⁴⁷ Paragraph 77 National Planning Policy Framework 2012

⁴⁸ Planning Practice Guidance Paragraph: 015 Reference ID: 37-015-20140306 Revision 06 03 2014

129. The Guidance states the Qualifying Body (Town Council) “*should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.*” The areas proposed for designation as Local Green Space have been subject to extensive consultation with the local community. The Dronfield Neighbourhood Plan Proposed Local Green Spaces - Supporting Evidence report prepared in January 2019 states “*through this process several sites were identified which were considered locally significant, valued by the community and met the tests set out in the NPPF to meet the test to be designated as a LGS.*” The supporting evidence report identifies the location of each site and includes a description of use. The report includes a photograph of each site; comment on quality of the facility; and indicates whether public access is available. A justification for each proposed designation is set out that describes why the areas proposed for designation as Local Green Space are “*demonstrably special*” to a local community and hold a particular local significance. The evidence presented includes relevant matters referred to in the Framework. The supporting evidence report provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance. I have considered the representation of Gladman Developments Ltd that there is no evidence base to support that the area known as ‘Telly Tubby Hill’ is demonstrably special to a local community and am satisfied the justification on page 40 of the Dronfield Neighbourhood Plan Local Green Spaces Report is sufficient to support the conclusion the land in question is demonstrably special to a local community and holds a particular local significance.

130. 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. The Framework states “*the Local Green Space designation will not be appropriate for most green areas or open space*”. Designating a green area as Local Green Space would give it protection consistent with that in respect of Green Belt. Decision makers must rely on paragraph 78 of the Framework that states “*local policy for managing development within a Local Green Space will be consistent with policy for Green Belts*” and the part of the Framework that relates to ‘Protecting Green Belt land’, in particular paragraphs 87 to 91 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.

131. Paragraph 79 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.”*⁴⁹

132. The Dronfield Neighbourhood Plan Local Green Spaces Report states the Steering Group *“were also mindful of the fact that several sites are already given some protection through the Green Belt and emerging (stet) designations in the existing and emerging Local Plan. National Planning Practice Guidance on Local Green Space designation suggests that where land is already protected by another designation consideration should be given as to whether any additional local benefit would be gained by designation as LGS”* and *“Through this process several sites were identified which were considered locally significant, valued by the community and met the tests set out in the NPPF to meet the test to be designated as a LGS”*. 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 however there is insufficient evidence to confirm the application of that awareness in substance. I am not satisfied designation of Local Green Space sites that are within Green Belt is appropriate under these circumstances. I have recommended a modification to delete sites 24 (School Wood, off Barlow Lees Road, Dronfield, Derbyshire); 25 (Hollins Spring Wood, off Barlow Lees Road, Dronfield, Derbyshire); 26 (Long Acre Wood, off Barlow Lees Road, Dronfield, Derbyshire); 31 (Open space behind Coal Aston Village Hall, Coal Aston Playing Fields, Eckington Road, Coal Aston, Dronfield); 37 (Land to the rear of 33-47 Gosforth Drive); 39 (The Ridding, north east of Frithwood and Meadowland (Derbyshire Wildlife Trust)); 42 (The woods and path along the Bridle path from Hill Top to the footbridge at side of golf course); and 46 (Coal Aston Allotments,

⁴⁹ Planning Practice Guidance Paragraph: 010 Reference ID:37-010-20140306

Birches Lane, Coal Aston S18) from the list of Proposed Local Green Spaces in Appendix 6 and from Map 6.

133. Although proposed Local Green Space 27 (Frith Wood, off Stonelow Road, Dronfield, Derbyshire) also lies within the designated Green Belt I consider this area can be treated as a special case and exception. Frith Wood is clearly a resource of particular importance to large numbers of people from within the local community. The Local Green Spaces Report goes some way to indicate the significance of Frith Wood referring to a picnic area; car park; nature trail; interpretive boards; ancient woodland; and some nature conservation value. I have additionally observed intensive visiting of the area, and noted signage and wider promotional material, that confirm this area is a cherished resource that should be identified as of particular importance to the local community.
134. The District Council states some of the areas proposed for designation as Local Green Space are subject to other policies of the Adopted Local Plan and the emerging Local Plan. I have earlier in my report referred to the relationship of the Neighbourhood Plan and the emerging Local Plan. With respect to the Adopted Local Plan particular reference is made by the District Council to Policies R2, R3 and R4. Reference is also made to other designations, in particular to areas of Primary Sensitivity, and designation as Local Wildlife Sites. These policies and designations serve different purposes, and include different limitations, to that of designation as Local Green Space and their existence does not preclude a designation as Local Green Space where the criteria for designation are met.
135. The designation of Site 13 as a Local Green Space would however significantly prejudice the implementation of strategic Policies C1 and C2 of the Adopted Local Plan and would therefore not be in general conformity with the strategic policies of the Development Plan. I have recommended site 13 is deleted from the list of proposed Local Green Space designations. In answer to a request for clarification the Town Council stated *“We understand that the area does lie within an area designated for employment use in the District Local Plan, that has not yet been adopted. However, residents and the Dronfield Neighbourhood Plan Steering Group would like to retain the Nature Park as a local green space.”* The reason for my recommendation of the deletion of Site 13 from Policy ENV5 relates to the Adopted Local Plan. I have earlier in my report explained the relationship between the Neighbourhood Plan and the emerging Local Plan.

136. I find that with the exception of sites 13, 24, 25, 26, 31, 37, 39, 42 and 46 the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 76 and 77 of the Framework concerned with the identification and designation of Local Green Space.
137. As recommended to be modified the policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
138. 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 promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy ENV5 delete “unless it is consistent with the function of the Local Green Space”

Delete sites 13 (Dronfield Nature Park); 24 (School Wood, off Barlow Lees Road, Dronfield, Derbyshire); 25 (Hollins Spring Wood, off Barlow Lees Road, Dronfield, Derbyshire); 26 (Long Acre Wood, off Barlow Lees Road, Dronfield, Derbyshire); 31 (Open space behind Coal Aston Village Hall, Coal Aston Playing Fields, Eckington Road, Coal Aston, Dronfield); 37 (Land to the rear of 33-47 Gosforth Drive); 39 (The Ridding, north east of Frithwood and Meadowland (Derbyshire Wildlife Trust)); 42 (The woods and path along the Bridle path from Hill Top to the footbridge at side of golf course); and 46 (Coal Aston Allotments, Birches Lane, Coal Aston S18) from the list of Proposed Local Green Spaces in Appendix 6 and from Map 6.

Replace Map 6 with a series of Maps at sufficient scale to clearly identify the boundaries of each Local Green Space

Policy ENV6 Trees and woodlands

139. This policy seeks to establish that development proposals will be encouraged to increase tree coverage and retain existing trees and hedges. The policy also seeks to establish criteria for loss of trees, hedges and woodlands of ecological and/or amenity value, and requires specified evidence to accompany proposals that significantly adversely affect trees and hedgerows of good value.
140. The policy has sufficient regard for paragraph 118 of the Framework which states development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland should be refused unless the need for, and benefits of, the development in that location clearly outweigh the loss. The policy includes provisions relating to hedgerows. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a domestic garden. It is appropriate for the Neighbourhood Plan to seek to introduce an additional regime of protection to apply in the context of development proposals.
141. Encouragement does not provide a basis for the determination of planning proposals. The policy includes the term “*not be permitted*”. It is not appropriate for a policy to indicate that proposals will be permitted or not permitted as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁵⁰ All material considerations will not be known until the time of determination of a planning proposal. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
142. 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

⁵⁰ Paragraph 196 National Planning Policy Framework 2012

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 final paragraph of the policy is seeking to establish information requirements in support of planning applications. This is a function that must be achieved through inclusion in the District Council Local Area Planning Applications Requirements List that is subject to modification during the Plan period. I have made a recommendation of modification in this respect so that the policy has sufficient regard for national policy.

143. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

144. 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 natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 10:

In Policy ENV6

- **delete “will be encouraged “and insert “that”**
- **continue the first sentence with “will be supported”**
- **delete “permitted” and insert “supported”**
- **delete the final paragraph**

Policy HOU1 Windfall housing development

145. This policy seeks to establish conditional support for development proposals for infill development within the urban area as defined.
146. The Environment Agency suggests *“some mention of flood risk is added into the NHP document given there is a policy for future windfall sites”*. It is beyond my remit to recommend modification to include additional policy matters. Duplication of national policy or Local Plan policy is unnecessary and undesirable in the context of providing a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
147. I have earlier in my report referred to a representation of Derbyshire County Council that states *“In the context of comments above on the Green Belt, it is noted that page 20 of the DNP indicates that the Plan does not allocate land for housing. This is despite the fact that the preceding paragraphs set out the Plan’s opposition to Green Belt release, primarily on the basis of the view that ‘there are alternative suitable and sustainable locations elsewhere in the District, which could accommodate this housing growth’. It is considered that the DNP might have missed an opportunity to be proactive and seek to identify sites within the Parish that may be suitable for housing.”*
148. It is unnecessary and confusing for one policy to state support *“where in accordance with relevant policies in the Plan”* as the Neighbourhood Plan should be read as a whole. This is similarly the case with respect to other policies of the Development Plan. The term *“especially”* cannot be reflected in decision making on development proposals. There is no requirement for proposals to be *“in accordance”* with national policy. The terms *“relevant”* and *“unacceptable”* are imprecise. The Framework states *“development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”*. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
149. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved

policies) and relevant to the Neighbourhood Plan and provides 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. As recommended to be modified the policy has regard to the components of the Framework concerned with delivering a wide choice of high-quality homes, and requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 11:

In Policy HOU1

- **delete “where in accordance with relevant policies in the Plan (especially D3) and relevant District and national policies, and”**
- **delete “an unacceptable” and insert “a severe adverse”**

Policy HOU2 Housing mix

151. This policy seeks to establish that new housing development should provide a mix of housing in terms of type, size, and tenure taking account of evidenced need. The policy also seeks to encourage small and specialised housing.
152. Derbyshire County Council states *“The policy refers to the provision of smaller (2 bedrooms or less) dwellings suitable for young families, the disabled... should be encouraged. A ‘Building for Life’ (BfL) approach would be preferable, resulting in a mix of housing types and tenures to cater for a wide range of circumstances, but all accessible or capable of adaptation without the need for structural alteration. It should be noted that people with disabilities may also have large families and small dwellings may therefore be inappropriate.”* I have recommended a modification in this respect so that the policy has sufficient regard for paragraph 50 of the Framework.
153. The policy is without consequence. The terms “e.g.” and “town” introduce uncertainty. Encouragement does not provide a basis for the determination of planning proposals. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

154. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

155. 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 delivering a wide choice of high-quality homes. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 12:

In Policy HOU2

- **commence the policy with “To be supported”**
- **delete “e.g.”**
- **delete “and specialised” and insert “or specialised”**
- **delete “are encouraged” and insert “will be supported”**
- **delete “town” and insert “local”**

Policy HOU3 Affordable housing

156. This policy seeks to establish that where affordable housing is provided it should be indistinguishable from market housing and be distributed evenly throughout the development. The policy also seeks to establish principles for nomination rights in legal agreements connected to planning consents.

157. In a representation the District Council states *“This Policy is not considered to be necessary as it duplicates policies in the Local Plan. Local people already receive some priority if they have a community connection, as is noted in the supporting text, through the District’s Local Plan, Supplementary Planning Guidance and Housing policies. This covers applicants from Dronfield and adjoining parishes within North East Derbyshire. The restrictions given in the Neighbourhood Plan would be in conflict with those applied by the Council’s Housing department. They are not considered to be easily workable in reality and would give rise to potential discriminatory concerns, as there would be other groups of people with a legitimate need to live in Dronfield. A Local Lettings Plan developed between the Parish and the Council’s housing team could be one solution to delivering affordable*

housing. This could contain clauses relating to applicants being local as long as there are grounds to do so and it is not discriminatory. This is not a matter for a planning policy however.”

158. Derbyshire County Council states *“It is welcomed and supported that the DNP has included a comprehensive section and a policy on affordable housing, which has been a long-standing issue for the town and for which there has been an acute shortage of affordable housing, caused not least by the shortage of available housing land and historic low delivery rates. There is a general requirement in the submission Local Plan for 40% of new housing sites on sites of 0.5ha to be provided as affordable units and it is pleasing to see that the DNP (page 23) supports this approach, which will be key to addressing the affordability issue in Dronfield. The policy states that “nomination rights will normally be expected to give priority to applicants with strong local connections to Dronfield town i.e. ...”. DCC would suggest that the policy should identify the criteria clearly rather than give an indicative elaboration of the meaning of ‘strong local connection’, and be written as a policy not as a suggested approach.”*

159. The first part of the policy relates to the delivery of affordable housing and introduces a local approach to the nature of that provision. The first part of the policy relates to the development of land. The second part of the policy however relates to the allocation of homes to particular groups of people which is an administrative matter related to the District Council’s powers under the Housing Acts (currently set out in the District Council Choice Based Lettings and Allocations Policy 1 April 2018) and is not a land use matter. The term *“normally be expected to”* in any case introduces uncertainty and does not provide a basis for the determination of planning proposals. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

160. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

161. The first part of 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 delivering a wide choice of high-quality homes. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 13:

In Policy HOU3 delete the text after “as a whole.”

Policy HOU4 Infrastructure for new housing and other forms of development

162. This policy seeks to establish that stated infrastructure provision needed as a result of new development should be provided in a timely phased way.
163. In a representation the District Council states *“This Policy partly duplicates strategic policies in the adopted Local Plan. It also includes elements that cannot be considered in planning decisions: The meaning of the phrase ‘must be addressed’ is unclear. The criteria are generally already dealt with in the emerging Local Plan, including through Policies ID1 to ID10. Where there is any contradiction, once the Local Plan is adopted, that will take precedence.”*
164. Derbyshire County Council states *“The policy states that infrastructure required for new development must be in place before the granting of planning consent for that development; this includes road capacity, cycle routes, health and education services, recreational open space and utilities service infrastructure. However, these issues are dealt with as a result of planning consent and can be conditioned to be implemented prior to the development. They cannot be required as a precursor to planning consent. The policy should be omitted or the first paragraph re-worded to state that: “Additional infrastructure needs arising as a result of planning consent may be addressed through the use of planning conditions, where necessary...”*
165. Paragraph 173 of the Framework requires careful attention to viability and costs in plan making and states sites should not be subject to such a scale of obligations that their ability to be delivered viably is threatened. The requirement of Policy HOU4 that infrastructure needs must be met before planning approval is granted has not been sufficiently justified. I have recommended a modification so that the policy has sufficient regard for national policy in this

respect, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

166. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides 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. As recommended to be modified the policy has regard to the components of the Framework concerned with ensuring the vitality of town centres; promoting sustainable transport; delivering a wide choice of high-quality homes; requiring good design; and promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 14:

In Policy HOU4

- **replace the text before “a)” with “To be supported development proposals must, through Section 106 agreements or other mechanisms, provide for timely delivery of essential infrastructure needs arising from the scheme which may include:”**
- **in parts a) and c) delete “the need for”**
- **in part b) delete “that” and “are made”**
- **in part d) delete “any” and replace “provision required in the proposed development should be” with “which is”**
- **in part e) delete “where relevant, proposals should include measures for”**
- **in part f) delete “the inclusion of”**

Policy HOU5 Developer contributions

168. This policy seeks to establish priorities for use of financial contributions arising from development and refers to liaison with the Town Council

169. In a representation the District Council states *“Developer contributions are negotiated as part of the planning application process and Councils’ can only seek S106 contributions for reasons that are*

directly related to the impacts of the proposed development. As it stands this policy does not meet the basic conditions but the words 'Where appropriate' to replace 'The Town Council will seek to prioritise' and 'will be supported' after 'above' may make it acceptable. In the absence of this policy the stated encouragement to engage with the Town Council is appropriate for the Plan text."

170. Derbyshire County Council states "*The NPPF (2019) states that 'Plans should set out the contributions expected from development'. Section 106 contributions are governed by the Community Infrastructure Levy Regulations 2010 (as amended) and require that any request for funding meets the three tests as outlined in Section 122 (2) of the Regulations, namely that: A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is— (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. A number of the priority areas identified within the text supporting this policy are outside the remit of the Town Council and as such any pre-application engagement should only be for elements over which the Town Council has jurisdiction. For the other priority areas identified, contributions would be highlighted by the relevant infrastructure providers either at the pre-application stage or through the formal consultation process."*

171. Whilst most developer contributions are subject to strict limitations on use and are tied to specific purposes, for example through Section 106 agreements, some funds may become available during the plan period the use of which can be locally determined, for example the neighbourhood portion of Community Infrastructure Levy. I have recommended a modification so that this point is clarified. It is appropriate for the Town Council to use the Neighbourhood Plan preparation process to engage with the community to identify how any neighbourhood determined element of development generated finance should be utilised. In order to assist Plan users and achieve greater clarity the priority areas should be set out in the policy itself. The final sentence of the policy encouraging developers to engage with the Town Council is procedural in nature. Encouragement does not in any case provide a basis for the determination of planning proposals. I have recommended a modification to transfer that sentence to the supporting text so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high

degree of predictability and efficiency as required by paragraph 17 of the Framework.

172. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

173. 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 promoting sustainable transport, and promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 15:

In Policy HOU5

- **replace the first sentence with “Use of developer contributions able to be locally determined will be directed to any of the following priorities:
Parks and recreational facilities;
Footpaths;
Infrastructure;
Public Transport; and
Community facilities”**
- **transfer the second sentence to the supporting text**

Policy T&A1 Highways

174. This policy seeks to establish design criteria in respect of new highways.

175. The District Council states *“No objection in principle, although the policy is generally unnecessary in that it repeats Local Plan policies although contains more detail.”*

176. In a representation Derbyshire County Council states *“DCC would suggest that the issues raised in the preamble to the policy and the policy itself are covered by the paragraph 111 of the NPPF and Policy ID1: Infrastructure Delivery and Developer Contributions, of the North East Derbyshire Local Plan Publication Draft (February 2018). Paragraph 111 of the NPPF states that: ‘All developments that will*

generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed'. Policy ID1 of the North East Derbyshire Local Plan states that: '1. Proposals for development will only be permitted provided they can be made accessible through: a. the provision of necessary physical, social and green infrastructure in accordance with Policies ID 2 to 9 b suitable measures to mitigate the impacts of development2. Where new development will necessitate the provision of new or improved infrastructure, and / or when suitable mitigation is required the developer will be required to make direct provision of such infrastructure on site within the development, or make a financial contribution to its funding through the use of Planning Obligations' The transport assessment would identify the need for infrastructure and interventions, and their implementation would be determined by planning obligations (see the response under Policy HOU5 above) and guidance in paragraphs 108/109 of the NPPF. On that basis, DCC would therefore suggest that the policy should be removed."

177. I have, earlier in my report, explained the relationship between the Neighbourhood Plan and the emerging Local Plan. Paragraph 35 of the Framework refers to the needs of people with disabilities. Paragraph 32 of the Framework states *"All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:*

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure*
- safe and suitable access to the site can be achieved for all people*
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."*

178. Policy T&A 1 does not provide an additional level of detail or distinct local approach to that set out in national policy. Policy T&A 1 is without consequence and includes the imprecise terms *"suitable"*, *"appropriate"*, and *"a high level of"*. The term *"for example"* introduces uncertainty. The policy does not provide a practical framework within

which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. The policy does not meet the Basic Conditions. I have recommended the policy is deleted.

179. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on matters considered important in the local community. It is important that those matters that will not be the subject of a planning proposal, but raised as important by the local community or other stakeholders, should not be lost sight of. The Guidance states, *“Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements.”* The 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.”* The acknowledgement in the Neighbourhood Plan of issues raised in consultation that do not have a direct relevance to land use planning processes would be consistent with this guidance and represent good practice. I recommend an approach should be adopted in the Neighbourhood Plan presenting the matters raised in Policy T&A 1 as *“community aspirations”* in an additional Appendix to the Neighbourhood Plan that adequately differentiates the community aspirations from the policies of the Plan and has sufficient regard for the Guidance.

Recommended modification 16:

Delete Policy T&A 1 and set out the community aspirations regarding Highway related matters in an Appendix to the Neighbourhood Plan

Policy T&A2 Traffic management

180. This policy seeks to establish that traffic management measures that improve vehicular and road pedestrian safety will conditionally be encouraged.

181. In a representation the District Council states *“Planning obligations can only be claimed when it is demonstrated that a specific development will have an impact on highway safety in a specific area*

and mitigation is necessary to make the development acceptable. The policy should not identify specific areas, it is however acceptable for these areas to be highlighted in the supporting text as areas in need of improvement. The policy, in order to be acceptable, should be reworded to seek measures 'where appropriate'. Alternatively, it could be merged with HOU5: Developer Contributions."

182. The Framework states "*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*". The Framework also states "*Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in other respects.*" A requirement to demonstrate safety improvements does not have sufficient regard for national policy in this respect. The terms "*particularly*" and "*especially*" introduce uncertainty. The term "*speeding across the town*" is imprecise. Encouragement does not provide a basis for the determination of planning proposals. Traffic management measures will invariably be within the highway and not require planning permission. The policy does not have sufficient regard for national policy, and does not provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended the policy is deleted.

183. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on matters considered important in the local community. It is important that those matters that will not be the subject of a planning proposal, but raised as important by the local community or other stakeholders, should not be lost sight of. The Guidance states, "*Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements.*" The 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.*" The acknowledgement in the Neighbourhood Plan of issues raised in consultation that do not have a direct relevance to land use planning processes would be consistent with this guidance and represent good practice. I recommend an approach should be adopted in the Neighbourhood Plan presenting the matters

raised in Policy T&A 2 as “*community aspirations*” in an additional Appendix to the Neighbourhood Plan that adequately differentiates the community aspirations from the policies of the Plan and has sufficient regard for the Guidance.

Recommended modification 17:

Delete Policy T&A2 and set out the community aspirations regarding Traffic Management matters in an Appendix to the Neighbourhood Plan

Policy T&A3 Cycling and walking

184. This policy seeks to establish that development proposals will be required to take opportunities to improve the network of footpaths and cycleways; and that proposals that will result in loss of, or have adverse effect on, footpaths, cycleways and bridleways will not be supported.
185. The Framework states “*Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people.*” The third paragraph of the policy has sufficient regard for national policy. The terms “*where appropriate*” and “*may be required*” introduce uncertainty. The term “*will be required to*” does not provide a basis for the determination of planning proposals. The second paragraph of the policy is without consequence. Policy HOU5 establishes an approach to developer obligations. It is confusing for another policy to seek to introduce alternative obligations which are in any case made without reference to viability considerations as required by paragraph 173 of the Framework. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
186. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
187. 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 promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 18:

In Policy T&A3 replace the first two paragraphs with “To be supported development proposals must demonstrate they take advantage of opportunities to enhance the existing network of footpaths and cycleways.”

Policy T&A4 Car parking

188. This policy seeks to establish that loss of car parking provision will only be supported subject to stated criteria.

189. The term “*adequate and convenient*” is imprecise. The term “*can be provided*” does not establish a basis for the determination of planning proposals. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

190. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

191. 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 building a strong, competitive economy; ensuring the vitality of town centres; and promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 19:

In Policy T&A4 replace part b) with “equal provision is made in no less convenient location for users.”

Policy E1 Maintaining and enhancing the role and attractiveness of Dronfield town centre

192. This policy seeks define Dronfield Town Centre within which development proposals that protect and enhance its role of providing services will be supported. Specific land uses that will be conditionally supported are identified.
193. In a representation the District Council states *“The reference to how there should be ‘in consultation with the town council’ implies a decision-making role beyond that of consultee already established in planning legislation, it should be changed to ‘including through discussion with the town council’. There are errors in the reference to different use classes in the policy. A3 is cafes and A4 is public houses and should be amended. There is no reference to A5 (hot food takeaways) which is conspicuous by its omission. Also, the title of this policy is misspelled and needs to be corrected”*.
194. It is confusing and unnecessary for on part of one policy to state *“to North East Derbyshire District Council in consultation with the town council”*. The term *“generally”* introduces uncertainty. References to the Use Classes Order are inaccurate and Use Classes may be revised during the Plan period. There is no requirement for the policy to refer to hot food takeaways. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
195. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
196. 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 ensuring the vitality of town centres. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 20:

In Policy E1

- delete “(Use classes A1, A2, A3)” and “(Use Class A4)” and “(Use Class D2)”
- delete “to North East Derbyshire District Council in consultation with the town council”.
- delete “generally”

Policy E2 Shop frontages in the town centre

197. This policy seeks to establish design requirements for shop frontage proposals.

198. The policy is without consequence. The term “*will be required to be*” does not provide a basis for the determination of planning proposals. The term “*and appropriate*” is imprecise. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

199. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

200. 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 ensuring the vitality of town centres; and requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 21:

In Policy E2

- commence the policy with “**To be supported**”
- delete “*will be required to*” and insert “**must**”
- delete “*and appropriate*”

Policy E3 Shopping hubs and other local shops outside Dronfield town centre

201. This policy seeks to establish support for development of local shops. The policy also seeks to establish that loss of shops outside Dronfield town centre will not be supported unless specified criteria are met.
202. In a representation the District Council states *“No Objections in principle, although the policy duplicates matters that will be covered by emerging Local Plan policies WC5: Retail Hierarchy and Town Centre Uses, and policy SP1: Dronfield.”*
203. I have earlier in my report explained the relationship of the Neighbourhood Plan with the emerging Local Plan. It is confusing and unnecessary for on part of one policy to state *“to NEDDC, including through discussions with the Town Council”*. The Framework states planning policies should plan positively for the provision of local shops and guard against unnecessary loss of valued facilities and services particularly where this would reduce the community’s ability to meet its day-to-day needs. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
204. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
205. 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 promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 22:

In Policy E3

- **delete “to NEDDC, including through discussions with the Town Council,”.**

Policy E4 Hot food takeaways

206. This policy seeks to establish criteria for support of development proposals for hot food takeaways. The policy also includes requirements relating to litter bins.
207. In a representation the District Council states *“This Policy is not clearly justified or supported by specific evidence. However, because it is a supportive policy and does not restrict proposals for A5 uses the Council has no objections in principle. In respect of litter bins the policy is likely to be difficult to enforce and should be included in the supporting text only. It could only reasonably be applied where it is linked to a use ordinarily associated with litter. There does not appear to be any evidence presented that this is the case for a use such as a hot food take away”*.
208. It is confusing and unnecessary for one part of one policy to state *“to NEDDC in consultation with the Town Council”*. The requirements relating to provision of litter bins has not been adequately justified. Emptying and maintenance of litter bins are not land use matters. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
209. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
210. 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 building a strong, competitive economy; ensuring the vitality of town centres; and requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 23: In Policy E4

- **delete “to NEDDC, in consultation with the Town Council”.**

- transfer the final paragraph to the supporting text

Policy E5 Existing employment uses

211. This policy seeks to establish that development proposals that would lead to the loss, or have a significant adverse effect on, an employment use will not be supported unless stated circumstances apply.
212. In a representation the District Council states *“No Objection, although this policy duplicates policies in the emerging Local Plan.”*
213. It is unnecessary and confusing for on part of the policy to state *“to North East Derbyshire County Council”*. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
214. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
215. 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 building a strong, competitive economy. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 24:

In Policy E5 delete “to North East Derbyshire District Council”

Policy E6 New small-scale employment uses

216. This policy seeks to establish conditional support for development proposals for new or expanded small scale businesses.
217. The Framework states *“development should only be prevented or refused on transport grounds where the residual cumulative impacts*

of development are severe". I have recommended a modification so that the policy has sufficient regard for national policy in this respect.

218. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

219. 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 building a strong, competitive economy and promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 25:
In Policy E6 after "safety or" insert "severely impede"**

Policy D1 Listed Buildings

220. This policy seeks to establish that development proposals which support, conserve or enhance the value or appreciation of Listed Buildings will be encouraged.

221. In a representation the District Council states "*General policies for Listed Buildings are set out in the Local Plan and NPPF. This policy comes across as a statement of intent rather than a clear policy which limits its effectiveness. The Policy would carry greater weight in decision making if it included a clear aim and is locally specific, without presenting specific cases.*"

222. Encouragement does not provide a basis for the determination of planning proposals. The first sentence of the policy is a statement. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

223. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an

additional level of detail or distinct local approach to that set out in the strategic policies.

224. 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 26:
In Policy D1**

- delete the first sentence
- delete “their value and appreciation” and insert “the value and appreciation of Listed Buildings”
- delete “encouraged” and insert “supported”

Policy D2 Dronfield character buildings and structures of local heritage interest

225. This policy seeks to identify and protect Dronfield character buildings and structures of local heritage interest. The policy seeks to establish proposals that lead to loss of, or substantial harm to, these assets will not be supported unless exceptional circumstances can be demonstrated.

226. In a representation the District Council states *“The preceding paragraph to Policy D2 indicates that the Dronfield list of Character Buildings and Structures of Local Heritage interest is an iterative list subject to continuous revision as new assets are identified. Consequently, any changes could only be subject to the Policy as part of a formal revision to the Plan. To avoid this, it would be advisable to remove direct reference to the Appendix and maps from within the Policy and instead refer to the most up to date list. (See also comment on page 38 below). The opening paragraph of Policy could therefore be removed and instead incorporated into the supporting text.”*

227. Gladman Developments Ltd state *“D2 effectively creates new, artificial historic ‘settings’ surrounding the ‘character buildings and structures of local heritage interest’ in Dronfield Parish, where development will be allowed under more onerous conditions than otherwise. It should be noted that the list of heritage assets contained at Appendix 5 are not all listed buildings, nor are all recorded*

ostensible assets within a conservation area. The setting of heritage assets is discussed at NPPF paragraphs 190 and 194, whilst definitions are provided in the NPPF Glossary. Here, the NPPF states that the Setting of a Heritage Asset ‘is not fixed and may change as the asset and its surroundings evolve’. In order to understand the historic importance of these new locally listed assets and their respective settings, one would expect a heritage assessment to have been prepared to justify their inclusion. The evidence base contains no justification for the imposition of such designations. Policy D2 is therefore clearly contrary to the NPPF in attempting to define buildings which are not considered to be a heritage asset and therefore in conflict with basic condition (a).”

228. Paragraph 135 of the Framework states *“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”* I have recommended a modification in this respect so that the policy has sufficient regard for national policy and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

229. 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. Where it is relevant, designated heritage assets within the plan area should be clearly identified at the start of the plan-making process so they can be appropriately taken into account. In addition, and where relevant, neighbourhood plans need to include enough information about local non-designated heritage assets including sites of archaeological interest to guide decisions. The local planning authority heritage advisers should be able to advise on local heritage issues that should be considered when preparing a neighbourhood plan. The local historic environment record and any local list will be important sources of information on non-designated heritage assets.”*⁵¹

230. *“Local planning authorities may identify non-designated heritage assets. These are buildings, monuments, sites, places, areas or*

⁵¹ Planning Practice Guidance Paragraph: 007 Reference ID: 18a-007-20140306

landscapes identified as having a degree of significance meriting consideration in planning decisions but which are not formally designated heritage assets. In some areas, local authorities identify some non-designated heritage assets as 'locally listed'.⁵² Local lists incorporated into Local Plans can be a positive way for the local planning authority to identify non-designated heritage assets against consistent criteria so as to improve the predictability of the potential for sustainable development."⁵³

231. It is appropriate for a community to use the neighbourhood plan preparation process to identify buildings and structures of local interest, and to include policies to require particular consideration of identified assets in the determination of planning applications. The emerging Local Plan states with respect to non-designated heritage assets the District Council "*will aim to identify and establish a list of locally important buildings and structures*". Work in connection with the preparation of such a list would usually include an invitation for nominations in line with published criteria and a scoring system which may include weighted criteria relating to, for example: authenticity; architectural interest; historic interest; visual importance; and community value. The status of the locally identified non-designated heritage assets should be clarified in supporting text, and the action required to achieve their formal recognition should be included in Section 5 of the Neighbourhood Plan. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

232. The second and third sentences of the policy are without consequence. The terms "*designed appropriately*" and "*exceptional circumstances*" are imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

233. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an

⁵² Planning Practice Guidance Paragraph: 039 Reference ID: 18a-039-20140306

⁵³ Planning Practice Guidance Paragraph: 041 Reference ID: 18a-041-20140306

additional level of detail or distinct local approach to that set out in the strategic policies.

234. 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 requiring good design; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 27:

In Policy D2

- **commence the second and third sentences with “To be supported” and in those sentences replace “will be required to” with “must”**
- **delete “appropriately taking” and insert “to take”**
- **delete “exceptional circumstances can be demonstrated” and insert “it is demonstrated that any loss or harm cannot be avoided or mitigated and would be clearly outweighed by the benefits of the development.**

The status of the locally identified non-designated heritage assets in relation to any list of non-designated heritage assets that may in the future be maintained by the District Council should be clarified in supporting text.

Policy D3 Good design

235. This policy seeks to establish that development proposals must respond positively to local character and seeks to establish design principles.

236. In a representation the District Council states *“The criteria should be labelled a) – k) to aid clarity in referencing for decision making. The 8th criterion relating to flooding should be revised to remove reference to the requirement for the design of development to mitigate existing flooding problems not related to the site. Development proposals can only be required to mitigate the impacts arising from the development itself. If existing flooding is a particular concern in Dronfield this could be added to the list of priority funding areas at p.24 (Developer Contributions) should the District Council adopt CIL in the future”*.

237. Derbyshire County Council states *“This policy is very long and covers a number of issues relating to design, materials, designing out crime, renewable and low carbon energy, drainage/flooding, light pollution, and access to the countryside. DCC would suggest that it might be better drafted as several policies giving greater consideration to some of these issues, particularly renewables and low carbon energy, external lighting, and one issue which is missing, the provision of Low Emission Vehicle Infrastructure.”*
238. Gladman Developments Ltd *“are concerned that some of the criterion in the policy are overly prescriptive and could limit suitable sustainable development coming forwards. Gladman would expect more flexibility to have been provided in the policy wording to ensure high quality residential developments are not compromised by overly restrictive criteria. We suggest regard should be had to paragraph 60 of the previous Framework which states that; “Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles”*
239. The policy is without consequence. The Framework states planning policies should seek to promote or reinforce local distinctiveness and avoid unnecessary prescription. The term *“where appropriate”* does not provide a basis for the determination of planning proposals and introduces uncertainty. The terms *“generally meet the requirements of ‘secure by design”*; *“to ensure a well-maintained landscape”*; *“minimise”*; *“adequate”*; and *“minimised wherever possible”* are imprecise. I have recommended a modification so that the policy has sufficient regard for national policy in these respects, and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
240. 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.⁵⁴ 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*

⁵⁴ <https://www.gov.uk/guidance/housing-optional-technical-standards>

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 a modification in this respect.

241. The Framework states *"planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development."* It is inappropriate for the policy to refer to *"where possible reduce, existing flooding problems elsewhere in the town."* I have recommended a modification so that the policy has sufficient regard for national policy in this respect.

242. The policy is in general conformity with the strategic policies included in the North-East Derbyshire Local Plan 2001-2011 (saved policies) and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

243. 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 requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 28:

In Policy D3

- **commence the policy with "To be supported"**
- **delete "The plan requires that they have regard to the following design principles, where appropriate" and insert "Proposals must reflect the following design principles"**
- **in the first bullet point delete "should"**
- **delete "wherever possible and appropriate"**
- **delete "and generally meet the requirements of "secure by design""**
- **delete "to ensure a well-maintained landscape"**
- **in the seventh bullet point delete the text after "techniques"**
- **in the eighth bullet point replace the text after "not to" with "increase flows from the site"**
- **in the ninth bullet point replace "minimise the" with "not adversely "**

- **replace the tenth bullet point with “only include external lighting that is essential and include measures to avoid light spillage beyond the application site; and”**

Summary and Referendum

244. I have recommended 28 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

245. I am satisfied that the Neighbourhood Plan⁵⁵:

- 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 Town and Country Planning Act 1990 and meets the Basic Conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
 - the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.⁵⁶

⁵⁵ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

I recommend to North East Derbyshire District Council that the Dronfield Neighbourhood Development Plan for the plan period up to 2034 should, subject to the modifications I have put forward, be submitted to referendum.

246. 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.⁵⁷ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁵⁸. 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 North East Derbyshire District Council as a Neighbourhood Area on 23 September 2016.

Annex: Minor Corrections to the Neighbourhood Plan

247. A number of consequential modifications to the general text, and in particular the ‘reasoned justification’ of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies. Reasoned justification text must not introduce any element of policy that is not contained within the Neighbourhood Plan Policies.

248. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁵⁹ The following should be corrected:

Reference in Appendix 3 should be to Coal Aston Village Hall and not Coal Aston Community Hall

Front cover of the SEA and HRA Screening Report delete 2017 and insert 2016

Paragraph 2.6.1 of the SEA and HRA Screening Report December 2018 delete “four” and insert “two”

⁵⁶ 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

⁵⁷ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁵⁸ Planning Practice Guidance Reference ID: 41-059-20140306

⁵⁹ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

Page 15: The Council's Settlement Role and Function Study 2013, has been superseded by the Settlement Hierarchy Study Update December 2017. The 2017 study is the most up to date, carries the greatest weight and should be referenced to support the effectiveness of the Plan. This applies throughout the Plan.

Page 19 & Page 20: The second paragraph references the emerging Local Plan, this should be clarified as being the 'Publication Draft Local Plan as submitted', within which the figure of proposed housing during the period 2014 – 2034 is 475. The Publication Draft Local Plan (Feb 2018) also allocated only 475 homes, both paragraphs two and three on this page could be seen as misleading. This applies similarly to several paragraphs on Page 20. It should be noted that the Publication Draft Local Plan is at Examination and may also be subject to possible changes through the formal Modifications process. The most up to date position should be referenced in the referendum version of the Plan.

Page 23: The second paragraph of the 'Infrastructure needs of housing and other forms of development' section is not clear in its meaning.

Page 24: It is acknowledged that the Plan reflects the latest NEDDC position in regards to the CIL. The Plan also goes on to identify priority areas to inform the spending of any funds for infrastructure, or raised through CIL should the Council decide to adopt CIL in the future.

Page 26: The Dronfield Regeneration Framework was produced in 2016, not 2013, by Opun, the design charity for the East Midlands on behalf of North East Derbyshire District Council. References to the Regeneration Framework should be consistent throughout the document.

Page 27: The first paragraph of the sustainable transport section is misleading. The paragraph references an outdated study and implies that the only reason for Dronfield's status is due to its railway station, which simplifies how the settlement hierarchy was established.

Page 30: correct the spelling of "Maintaining" in the Policy E1 title

Page 33: The second paragraph, second sentence, of the 'Business and Employment' section could be read as suggesting that the Neighbourhood Plan itself will be providing infrastructure and services, rather than the Town, which is potentially misleading.

The statement: “the current infrastructure is under strain and needs improvement and regeneration money before any significant new housing is built in the town” would benefit from reference to the evidence arising from community engagement and public perception over the capacity of infrastructure.

Page 37: The supporting text for Policy D1: Listed Buildings contains detail on infrastructure, pedestrian crossings and the road network through the town. Some of this information, although pertinent may be more usefully located in the Infrastructure section of the Plan.

Page 38: The second paragraph states that “Assets on the list are required to meet certain criteria in terms of their significance.” The document **Dronfield Proposed Character Buildings and Structures of Local Heritage Interest- Supporting Evidence** appears to be incomplete in regards to the methodology of how heritage assets were identified, and how they were assessed, and what special features of historic importance they might have and the importance of this/these features. It appears that some evidence is omitted from the document by the inclusion of phrases such as “The following report identifies assets in the Parish...” (p. 1, par 7) and “The proposed assets were then assessed ... using the process and criterion ... set out below. ...” (p 2, par 4). This should be clarified and/or addressed to ensure that the supporting evidence is clear and fully justified to improve the effectiveness of the Neighbourhood Plan.

Page 44-48: Dronfield has been misspelt in the title for appendix 5.

249. I recommend minor change only in so far as it is necessary to correct an error, including those arising from updates, or where it is necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

Recommended modification 28:
Modify general text to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.

250. Derbyshire County Council has commented on inclusion of images of people, including children, who are identifiable and question whether a privacy impact assessment has been undertaken. It is beyond my remit to consider this matter.

251. The District Council has made the following suggestions for changes to the Neighbourhood Plan that are not necessary to meet the Basic Conditions or Convention Rights nor necessary to correct errors. I would have no objection to changes being made however, I cannot recommend modifications as this would be beyond my remit.

Plans of the Area. The Green Belt map (**Map 2**) illustrates the Green Belt boundaries in the Adopted Local Plan. This should be explained by way of a footnote in the Draft Plan. It should be recorded that the Map will be superseded if the current proposals in the emerging Local Plan are carried through to adoption; an illustrative map may be helpful.

Page 23: The Plan appears to reference the Affordable Housing Policy of the Adopted Local Plan (Policy H6) which requires 40% affordable housing from developments of 15 or more dwellings. However, the amount of affordable housing required in the emerging Local Plan Policy LC2, (Publication Draft as submitted), requires 30%, for developments of 10 or more dwellings within 'high value areas' (which includes Dronfield). This reflects the most up to date evidence on housing needs and development viability

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8 August 2019
REPORT ENDS