

# **Outwoods Neighbourhood Development Plan**

Submission Draft – January 2015

## **Report to East Staffordshire District Council on the Independent Examination of the draft Outwoods Neighbourhood Development Plan**

February - April 2015

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## Summary of main findings

0.1 It is a requirement of the Localism Act that this report should contain a summary of its main findings. The reasons for each of the recommendations are given in the following sections of the report.

0.2 The principal finding in this report are that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in the 1990 Act, does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights.

0.3 My main findings on the individual policies are:-

- The detailed parking standards included in policy TA3 have not been adequately justified and are overly prescriptive for inclusion in a development plan policy.
- There is inadequate justification for that part of policy CF1 which seeks to prevent the development of new schools outside the sites proposed to be allocated through the local plan process. Such a restriction is not in general conformity with the adopted local plan and is inconsistent with Government policy.
- There is inadequate justification for that part of policy CF2 which seeks to limit the development of sheltered housing and/or extra care facilities to sites within the proposed allocations.
- In the absence of a local housing needs assessment a blanket restriction on flatted development or 1 bedroomed properties other than bungalows in policy RD3 is inadequately justified and inconsistent with national policy to provide a wide range of quality homes. The threshold for affordable housing schemes will need to be raised to meet changed national policy.
- The requirement for contributions from all sites towards the creation of new green infrastructure in policy LR3 is too onerous and does not take the effect on viability into account. The appendix 3 'green infrastructure strategy' should be treated as a guideline.
- The creation of 20 m. deep buffers around all new development sites in excess of 100 dwellings as proposed in policy LR4 does not take sufficient

account of the possible effect on viability and would reduce the capacity of the sites contrary to national policy to maximise housing supply.

- With the exception of a small area of land off Fred Brewer Way/Dingle Drive none of the areas proposed to be Local Green Spaces in policy LR5 meet the criteria for the designation of such areas in the NPPF and will need to be deleted for that reason.

## **Introduction**

### Appointment

1.1 I have been appointed by East Staffordshire Borough Council, acting as the Local Planning Authority, under the provisions of the Localism Act 2011, to carry out an independent examination of the final draft Outwoods Neighbourhood Development Plan 2014-2031. The proposed plan was submitted to the Local Planning Authority in January 2015. East Staffordshire Borough Council carried out publicity for the proposed plan for 6 weeks between 7 January and 18 February 2015 giving details of how representations might be made, in accordance with Regulation 16 of the Neighbourhood Plans (General) Regulations 2012 ('the 2012 Regulations'). I was sent the documentation required under Regulation 17 immediately upon the close of the consultation including copies of all of the representations received under Regulation 16. I have taken that documentation into account in carrying out the examination.

1.2 I am a Chartered Town Planner (Member of the Royal Town Planning Institute) with over 40 years post-qualification professional experience in local and central Government. I am independent of the Outwoods Parish Council and of the Local Planning Authority. I have no land interests in any part of the plan area.

### My rôle as an examiner

1.3 The terms of reference for the independent examination of a Neighbourhood Development Plan are statutory. They are set out in the Localism Act and in the 2012 Regulations. As an examiner I must consider whether the plan meets what are called 'the basic conditions'. In summary, these require me to:-

- Have regard to national policies and to advice contained in guidance issued by the Secretary of State;
- Consider whether the making of the plan contributes to the achievement of sustainable development;
- Consider whether the plan is in general conformity with the strategic policies contained in the development plan for the area;
- Ensure that the plan does not breach, and is otherwise compatible with EU obligations relating to Strategic Environmental and Habitats Assessment and

that the plan is compatible with Convention rights, within the meaning of the Human Rights Act 1998.

1.4 The legislation states that the 'general rule' is that the examination of the issues by the examiner should take the form of the consideration of written representations. However, an examiner must hold a hearing 'for the purpose of receiving oral representations about an issue' where he or she considers a hearing 'is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case'. Although Alliance Planning asked for a hearing to put arguments against the designation of Local Green Spaces I considered that they had provided sufficient information to enable me to take a view on the issues which concerned them.

1.5 The qualifying body submitted an 'assessment of compliance' table with the Basic Conditions Statement and I have taken it into account in my examination. Nevertheless, my initial appraisal of the plan raised a significant number of questions as to the justification for detailed aspects of policy implementation, especially in terms of the consistency of the plan with the National Planning Policy Framework ('the NPPF') and Planning Policy Guidance (PPG). Therefore, before deciding whether a hearing might be required, I decided to put my questions and points for clarification in writing to the Neighbourhood Plan steering group. This was to give the plan makers an opportunity to provide further information on the issues I had identified which were derived in part from the representations made. East Staffordshire Borough Council forwarded my questions to the steering group by e-mail on 12 March and I have considered the responses from them dated 18 and 25 March 2015. I have requested that my questions and the steering group's responses be put on the Council's web site for all to see.

1.6 The written responses from the steering group have assisted me in reaching an understanding of some of the reasoning behind the policies in the plan. They certainly underline the strength of community feeling in Outwoods on certain issues. The responses have satisfied me that I have the necessary information to be able to proceed with the examination by the written procedure without the need for a hearing.

1.7 As part of my examination I visited Outwoods parish on Thursday 26 February 2015. I looked in particular at the sites proposed for development in the emerging local plan as well as those proposed in the ONDP as local green spaces. This involved walking the footpaths on the higher ground to the west as well as visiting some of the adjacent built-up areas within Burton and the hospital. The visit gave me a good appreciation of the nature and character of the existing development in Outwoods parish and its relationship with nearby Burton-upon-Trent.

1.8 Legislation requires that my report on the draft plan should contain one of the following recommendations:-

- a) that the draft plan is submitted to a referendum, or
- b) that modifications are made to the draft plan and the modified plan is submitted to a referendum, or
- c) that the proposal for the plan is refused.

I may make recommendations for modifications which I consider need to be made to secure that the plan meets the basic conditions or for compatibility with EU obligations and (Human Rights) Convention Rights. The only other modifications which I may recommend are those to correct errors.

## **Preparation of the plan and pre-submission consultation process**

2.1 East Staffordshire Borough Council formally designated the parish of Outwoods as a Neighbourhood Area in December 2012. The plan relates solely to the designated area and has been submitted by the Outwoods Parish Council as the 'qualifying body'. The plan period is specified as 2014-2031 to align with the emerging Local Plan for East Staffordshire. The plan does not relate to mineral extraction or waste development nor to nationally significant infrastructure. The statutory requirements in these respects have been met.

2.2. As required by legislation, the Parish Council have submitted a Consultation Statement. It sets out in considerable detail the process of public engagement from the initial 'project launch' on 30 January 2014 through to the formal 'Regulation 14' consultation on the first draft of the Neighbourhood Plan which took place between 21 June and 2 August 2014.

2.3 A range of consultation techniques was employed by the steering group working with the BPUD consultancy. There is a strong emphasis on focussed workshops including a very positive effort to involve the younger population by liaison with staff and students at de Ferrer's Academy as well as sessions at Outwoods Primary School. The feedback from those workshops is fully outlined in the Consultation Statement. Meetings were also held with landowners and developers and Staffordshire Education team with regard to school provision. The statement also sets out the formal responses of the steering group to the representations received at the Regulation 14 stage which then led to revisions to the plan in October 2014. An independent 'Health Check' was undertaken in late November 2014 before the final draft was produced for submission.

2.4 It is clear from the above that commendable efforts have been made to engage with a wide range of community interests providing an audit trail of the evolution of the plan. The requirements of the Regulations have been met and exceeded. There is little doubt that the submitted document represents the aspirations of the community.

## **The Plan**

3.1 In paragraph 1.3 above I have set out the terms of reference for my examination of the plan in accordance with the relevant Act and Regulations. In doing so I will first consider the consistency of the plan with the Human Rights Act and then whether EU Regulations have been complied with. I will then consider the extent to which the plan meets the basic conditions.

3.2 The requirement to consider whether the plan contributes to the achievement of sustainable development is fundamental to all planning assessments. Indeed, it is stated in paragraph 6 of the National Planning Policy Framework ('the NPPF') that the purpose of planning is to help achieve sustainable development and that paragraphs 18 to 219 in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice. Thus achieving sustainable development is closely allied with the regard which should be paid to national policies and guidance, the latter now found in Planning Practice Guidance ('PPG'). I will consider the policies of the plan in turn in the context of both the NPPF and the PPG.

## The Human Rights Act and EU Obligations

3.3 There is but a brief statement in the Basic Conditions Statement that the plan has been positively prepared to ensure that none of the policies infringe on any human rights. There are no representations to suggest that there would be such infringement and I find nothing to suggest that the approach taken in the plan is other than fully compatible with Convention Rights.

3.4 EU Regulations require plans and programmes to be subject to Strategic Environmental Assessment (SEA)<sup>1</sup>. A screening determination is required to be consulted upon as to whether the plan is likely to have significant environmental effects<sup>2</sup>. No allocations are made in this plan for the development or use of land although green space 'designations' are proposed under Policy LR5 which are discussed in later sections. A Sustainability Appraisal has been submitted which concludes that the majority of the policies, objectives and the vision comply with the sustainability objectives set out in the plan but with a potential conflict between objective 7 for town centres and policy CF4 which encourages the provision of local shopping centre(s) on larger housing development sites (either proposed for allocation in the emerging local plan or with permission). However, as the provision of local shopping facilities would reduce the need to travel I regard that as minor conflict.

3.5 A formal screening opinion was given by East Staffordshire Borough Council in July 2014 and consulted upon in accordance with the Regulations. It is to be noted that that opinion was based upon the first draft (Regulation 14) plan which differs in certain respects from that now submitted. However, the amendments do not go to the heart of the plan. The screening opinion includes an analysis of the plan proposals against the criteria for a SEA as set out in Schedule 1 of the 2004 Regulations and the guidance in Planning Practice Guidance (PPG) and concludes that the plan would not have any significant environmental effects and that an SEA is not required. The Sustainability Appraisal (September 2014) also advances a screening opinion that it is 'unlikely there will be any significant environmental effects'. The Environment Agency, Natural England and English Heritage all concur with the Borough Council's screening opinion.

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<sup>1</sup> The Strategic Environmental Assessment Directive, 2001/42/EC

<sup>2</sup> Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations, 2004

3.6 The screening opinion is challenged in a representation on the basis that the 'designation' of areas of land as 'Local Green Space' (LGS) would have significant environmental effects because it would constrain the delivery of land for housing in a sustainable location and thus restrict housing supply. However, as stated in paragraph 78 of the NPPF should an area of land be identified as an LGS it would be managed in terms of planning policy in a similar manner to Green Belt, in other words any built development would need to be 'appropriate' in the sense of not affecting the open-ness of the area. It might therefore be expected that such development would be very limited in scale much reducing the scope for any significant environmental effect. The identification of an LGS might have the effect of restricting, to a degree, the options available should there be a wider need to identify additional land for housing in the area through the on-going local plan process but there is nothing before me at this point in time to suggest that is a likely scenario. It is also not possible to say that an LGS designation would necessarily result in a less sustainable pattern of development and/or have a significant effect on environmental assets. I consider the argument advanced to be tenuous and it does not establish that the screening opinion is in any way at fault.

3.7 The plan-making body must also consider the provisions of the Habitats Regulations<sup>3</sup>. A Habitats Regulations Assessment (HRA) screening opinion by East Staffordshire Borough Council is included with that under the SEA Regulations. There are no designated habitats within the parish, the nearest being the Kingfisher Local Nature Reserve 1 km. east of the parish. It is distant from the Cannock Chase SAC and the conclusion of the HRA is that the plan does not include policies which would result in a level of development which would have a significant effect on that SAC or any other European site. The screening opinion is that an 'appropriate assessment' is not required.

3.8 On the above basis, I am satisfied that the submitted plan meets EU environmental obligations and does not breach Convention Rights.

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<sup>3</sup> The Conservation of Habitats and Species Regulations, 2010 ('the Habitats Regulations')

### General conformity with the strategic policies of the Development Plan for the Area

3.9 The statutory development plan which applies to Outwoods parish is the East Staffordshire Local Plan adopted in 2006. Appendix 2 to the Basic Conditions Statement is an assessment of compliance which lists the relevant saved local plan policies against each of the Neighbourhood Plan policies. Borough Council officers have stated that in their view all of the policies so listed are ‘strategic’ for the purpose of my consideration of the basic conditions. The list provides a helpful cross-check in my consideration of the general conformity of the plan with those strategic policies to which I refer in the sections which follow dealing with individual plan policies.

### Consistency with the emerging East Staffordshire Local Plan

3.10 Although it is not necessary for an assessment of the Neighbourhood Plan against the basic conditions, it is good practice to give consideration to the degree to which the Neighbourhood Plan is consistent with an emerging local plan, in this case the East Staffordshire Local Plan ‘Planning for Change’ 2012-2031. That is because the Neighbourhood plan needs to be as up-to-date as possible when adopted in order to minimise revisions which would be desirable to ensure that the Neighbourhood Plan might still be accorded full weight in decision-making once the new Borough-wide Local Plan has been adopted. It is stated in the paragraph 009 of the section of the PPG which deals with Neighbourhood Planning that a Neighbourhood Plan can be produced before or at the same time as a local planning authority is producing its local plan. A draft Neighbourhood Plan is not tested against the policies in an emerging Local Plan although the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.

### *Housing provision and prematurity*

3.11 It is suggested in a representation that it is impossible for the Neighbourhood Plan to satisfy the basic condition of general conformity with the adopted Local Plan because that plan contains no housing allocations in Outwoods parish. The whole parish is shown on the adopted polices map as lying outside the development boundary of Burton-upon-Trent although policy H7 is not ‘saved’.

3.12 In this context it is important to note that the Neighbourhood Plan does not seek to allocate any sites for housing development within the parish and is,

therefore, entirely in line with the statutory development plan in that regard. It is clearly recognised in the plan that the task of making such allocations is one for the Borough Council through the Local Plan process. By recognising the emerging allocations and permissions granted the plan policies provide the necessary flexibility to guard against it being out-of-date and is worded in such a way that they would apply to any new allocations or permissions. All that this plan seeks to do is to shape the nature and character of any development which does take place in accordance with the emerging Local Plan in order to meet community aspirations. As stated in paragraph 184 of the NPPF, neighbourhood planning provides 'a powerful set of tools for local people to ensure that they get the right types of development for their community'. That covers such factors as the provision of open space.

3.13 There is no reason to conclude that the preparation of this Neighbourhood Plan would seriously prejudice or disrupt the on-going procedures towards the adoption of new local plan for East Staffordshire Local Plan and there is no conflict with the basic conditions in this regard.

#### The achievement of sustainable development and consistency with national policy and guidance

##### GENERAL COMMENTS

3.14 Overall the plan is well presented with policies clearly distinguished from the rest of the text by use of a bold box. The basic conditions statement recognises the importance of the contribution to sustainable development and this is included within the vision at paragraph 3.2 as well by reference in several parts of the plan text. Appendix 2 of the Basic Conditions Statement provides an assessment of overall compliance with the NPPF. Also, as indicated above, a Sustainability Appraisal has been undertaken which shows little conflict with sustainability objectives.

3.15 Paragraph 17 of the NPPF applies to all levels of plan-making including Neighbourhood Development Plans. In the first bullet point of the paragraph it is stated that plans should be kept up-to-date. It is mainly in the introductory sections of the ONDP where there is text which is either already out of date or may be by the time the plan might be 'made'. Several of the policies apply to local plan allocations or sites with planning permission, which could change in a relatively short time although there is flexibility in the wording, In particular, paragraph 2.16 and the plan

on page 10 represents the position as at January 2015 and I deal with that in more detail below. Where appropriate I make recommendations for updating so that the plan is consistent with paragraph 17 and the basic condition is met in that regard. However, as East Staffordshire Borough Council have a degree of scope to agree the precise nature of modifications<sup>4</sup> following receipt of my report in certain instances I have not felt it appropriate to specify the exact wording of any updating text and recommend updating in general terms.

3.16 There are also some aspects of policy which require modification to ensure full consistency and for clarity. The definition of a Neighbourhood Plan in legislation is that is 'a plan which sets out policies in relation to the development and use of land'<sup>5</sup> National Practice Guidance, in paragraph 43 of the section on Neighbourhood Planning states that the policies in the plan should be clear and unambiguous. The plan 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. As far as possible the recommendations I make within this category are for precise wording.

3.17 A number of the policies include the wording that certain types of development 'will be resisted' and, in the converse, that some 'will be supported'. In this context it needs to be borne in mind that neighbourhood plan policies are for implementation by the local planning authority or the Secretary of State on appeal. The correct terms are to 'refuse' or to 'grant' or 'permit' planning permission. Even though the parish council, when commenting on a planning application on behalf of the community, may choose to 'resist' by objecting to a proposal or, conversely, to 'support' it that is not appropriate wording for a statutory plan policy. I have not formally recommended re-wording throughout the document but where a modification is otherwise required I recommend amendment to the wording. In a few instances an update to the plan text is required, which falls within the category of correcting errors. I recommend this is general terms leaving the precise wording to be agreed with the local planning authority.

3.18 A number of the representations raise issues relating to the principle of the scale of housing development proposed for Outwoods in the emerging East

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<sup>4</sup> Sections 12(5) and 12(6) of Schedule 4B to the Town and Country Planning Act 1990

<sup>5</sup> Section 38A(2) of the Town and Country Planning Act (as amended)

Staffordshire Local Plan or in the planning permissions granted. Those are not issues which I am able to consider as part of this examination, especially as the examination of the Local Plan is still under way. Nor am I able to consider detailed points relating to the implementation of the permissions, some of which may be relevant to the local planning authority's consideration of reserved matters applications in due course. However, I will consider those representations which properly relate to the application of the policies in the plan in so far as they relate to the basic conditions. I deal in the following paragraphs with each chapter of the plan and the policies within in the order set out.

## CHAPTER 1.0 - INTRODUCTION

3.19 Although the first chapter is, as stated, an introduction which simply sets out the background to plan making it should, nevertheless, represent the most up-to-date position at the time the plan is 'made'. In that context, paragraph 1.2 contains statements which are already out of date, the plan has been submitted and is subject to examination. For the plan to be made a referendum will have had to have been held and the plan supported by a majority. It is also factually incorrect, as ESBC point out, to refer to the Neighbourhood Plan as a 'new tier' because the word 'tier' suggests a hierarchy. The same wording appears in paragraph 1.5 which re-states the point. All that is required for factual correctness is to state is that once 'made' the ONDP becomes part of the statutory development plan and that its policies will be used in the determination of planning applications. With a re-wording of paragraph 1.5 to correct the errors, paragraph 1.2 becomes superfluous and I recommend accordingly. The reference to s38(6) of the Planning and Compulsory Purchase Act 2004 is correct and may remain. Also, paragraph 1.3 is largely historic and requires updating, especially with regard to the work of the steering group.

### **Recommendation 1**

**Modify the plan by the deletion of paragraph 1.2 and the re-wording of paragraph 1.5 to state the ONDP, once made by East Staffordshire Borough Council as local planning authority, will become part of the statutory development plan and will be used in the determination of planning applications within the parish.**

### **Update paragraph 1.3.**

3.20 There is also an error in paragraph 1.6 as the plan period from 2014 to 2031 is seventeen years, not nineteen as stated in the last line. The basic condition is that the ONDP must be in 'general conformity with the strategic policies' of the statutory local plan, not in 'broad compliance' with it.

3.21 An error relating to the timescale is also made in paragraph 1.12. As it is already 2015 with only 16 years remaining of the plan period it may better to say 'for the whole plan period' rather than 'for the next X years'.

### **Recommendation 2.**

**Reword paragraph 1.6 to state that the ONDP must be in general conformity with the statutory local plan. Also amend 'nineteen' to 'seventeen' in the last line. In paragraph 1.12, fourth line, replace the words 'for the next 12 years' by 'for the whole plan period'.**

## CHAPTER 2.0 – BACKGROUND TO THE PARISH

3.22 Chapter 2 provides a very useful overview of the social, economic and environmental context of the parish which links to the three threads of sustainability identified in the NPPF.

3.23 The ESBC have drawn attention to paragraph 2.5. specifically to the reference to households in the penultimate line which should more correctly refer to 'homes'. The same error occurs in the third line which should refer to the percentage of dwellings with fewer rooms. However, it is stated in the penultimate line that there is a shortfall (my emphasis) in the provision of smaller households. A shortfall can only be gauged by an assessment of supply against need and there is no evidence in the plan to support such a statement. It does not 'sit' well with policy RD3 which includes a presumption against one-bedroom flats. Without such evidence the sentence is better omitted and I recommend its deletion in the sense of a correction of errors.

### **Recommendation 3.**

**In paragraph 2.5, third line, correct the grammar to read 'whilst the percentage of dwellings with fewer rooms is below ...'. Delete the penultimate sentence.**

3.24 The final paragraph in chapter 2 under the heading 'key developments' is an important one because it properly identifies that at least as far as the major housing developments are concerned the main scope for the plan is to influence the detail of the reserved matter applications, presumably through the approach to their consideration which will be taken by the local planning authority. The conditions attached to the outline permission for Upper Outwoods includes a requirement for a masterplan to be agreed which provides considerable scope although I note that condition 4 of the permission granted by the Secretary of State for Red House Farm ties it to the principles of the Design and Access Statement and a Masterplan, which may provide less scope.

3.25 Paragraph 2.15 links to the plan on page 10 which usefully identifies the large development sites 'proposed or approved at outline'. It is correct to distinguish the two sites with outline permission by a red boundary line from the Harehedge Lane site, with an orange boundary, which was subject to an application at the time of plan submission but which, I understand, has since been refused. It would be helpful if there was a key on the plan. As at the time of writing I understand that a further application is to be submitted. It is to be noted too that the site is an allocation in the emerging local plan, not in the 2006 statutory plan. So that the plan does not become out-of-date I recommend that the details of the earlier application be deleted and the site indicated as 'proposed'. The same applies to the proposals map on page 56.

#### **Recommendation 4.**

**Update the plan on page 10 and the Proposals Map on page 56 by the deletion of the details of the outline application for land at Harehedge Lane/Tutbury Road to state only 'site proposed for 500 houses' and include a key on the plan to the different coloured boundaries.**

## CHAPTER 3.0 – VISION AND OBJECTIVES

3.26 Although ESBC comment that the vision is not particularly locally distinctive it does relate the design of new development to the character of Outwoods. It is followed through in six objectives which relate to that vision. It has to be recognised that the policies set in the plan can only be brought into effect through decisions on planning applications for development. Traffic speeds on existing roads can only be controlled through highway measures which fall outside that province such that objective 1 can only be interpreted as relating to layout and highway design within new developments. With that caveat I am satisfied that this section of the plan is consistent with national policy and the statutory local plan and meets the basic conditions in that regard.

## CHAPTER 4.0 – ONDP POLICY OVERVIEW

3.27 The table showing the relationship between the objectives and individual policies in the plan is helpful.

## CHAPTER 5.0 – TRANSPORT AND ACCESS POLICIES

3.28 The first sentence in paragraph 5.1 refers to 1700 houses proposed for the parish on 'allocated sites' or committed development. The term 'committed' is not defined but clearly relates to the two large development sites with outline planning permission which total 1200 dwellings, which means that the 'allocated' site is that for 500 dwellings at Harehedge Lane/Tutbury Road. However, as indicated in paragraph 3.24 that site is an allocation in the emerging East Staffordshire Local Plan which is still under examination. It is not, therefore, strictly correct to refer to it as 'allocated' in the present tense. The term 'allocated sites' is given a generic definition in the glossary at Appendix 1 which is also not strictly correct because the Adopted Policies Map is not 'within' a Local Plan but a separate local development document which illustrates the geographical application of all policies in the adopted

development plan.<sup>6</sup> So it applies equally to Neighbourhood Plan policies once such plans are 'made'.

3.29 As the wording is in error I am able to recommend correction. I recommend revised wording for the first sentence in paragraph 5.1. and revised glossary definitions to match. It may well be that, in time, the draft local plan allocation(s) will be included in the adopted plan. When it is, this Neighbourhood Plan should be in general conformity with it. The plan can do more than reflect the current position.

#### **Recommendation 5.**

**In the first line of paragraph 5.1. replace 'allocated sites or committed development' by 'proposed allocations and committed sites' both underlined terms defined in the Glossary (Appendix 1) as below:-**

**Delete the definition of 'Allocated sites' in the Glossary and replace it by 'Proposed allocations': 'Sites which are proposed to be allocated for development in the draft East Staffordshire Local Plan'. Replace all references to 'allocated sites' in the plan by 'proposed allocations'.**

**Insert a new definition in the Glossary for 'committed sites' as 'sites with planning permission for development'. (The definition of 'development' remains)**

3.30 The ESBC draw attention to the fact that the Parking Standards document was produced as Supplementary Planning Guidance and not as a new-style (2004 Act) Supplementary Planning Document. I deal with this in more detail below in relation to ONDP policy TA3. In the circumstances I recommend deletion of the first two sentences of paragraph 5.3.

#### **Recommendation 6.**

**Delete the first two sentences of paragraph 5.3 to commence: 'There is a strong focus ...'**

#### **Policy TA1 – Public Realm**

3.31 This policy is stated to apply to all new development excluding householder applications. However, the definition of 'public realm' in the Glossary relates to

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<sup>6</sup> Regulation 9(c) of the Local Planning (England) Regulations 2012 (SI 767)

spaces which are generally outside buildings the large part of which would be part of the highway and/or dedicated highway land, such as on roadside grass verges and on footpaths. Most smaller development proposals, even non-household ones, do not include any land which is, or might become part of, the 'public realm'. It would seem, therefore, that this policy would only have any effect on larger developments for which the layout of street and open spaces would be part of the reserved matter submissions (or for full applications in the absence of an outline submission). Also, as ESBC have pointed out, there would be a practical difficulty in requiring a 'public realm strategy' document with applications and that many of the requirements would normally be covered in a submitted Design and Access Statement. A similar point is made in the representation by Alliance Planning.

3.32 The aim of this policy is a laudable which properly reflects the emphasis given in paragraphs 57 and 58 of the NPPF to the importance of high quality and inclusive design. However, it appears from the accompanying text, particularly paragraph 5.8, that the concept of a 'Public Realm Strategy' goes beyond the development site itself to encompass the design of improvements within the wider highway network. That would only be achievable if any such works were necessary as a direct result of the development taking place and without which permission would be refused. Any obligations would need to meet the requirements of paragraph 204 in the NPPF. Any negative impact on the existing highway network away from the site is most likely to be accommodated by amendments to junction design and capacity and would not necessitate improvements within the 'public realm' in the manner described except in so far as the site might abut the highway. Adopted local plan policy BE1 relates to the design of development within the application site itself with no suggestion that a wider strategy should be required. To do so might well impose an unreasonable burden on developers and raise viability issues contrary to paragraph 173 of the Framework.

3.33 Consequently, as framed policy TA1 is not fully consistent with the Framework and goes beyond the terms of Local Plan policy BE1. Nevertheless, a relatively minor modification is required to remedy this, as suggested by the ESBC, to replace the reference to a 'public realm strategy' with guidance that the Design and Access Statement should provide the design solutions listed. Policy interpretation would then be clear to the decision-taker.

3.34 I am informed that the ESBC have not yet taken decision on whether to move towards the adoption of a Community Infrastructure Levy (CIL) Charging Schedule. In the circumstances, and in the light of the conclusions above, the penultimate sentence in paragraph 5.8 relating to seeking developer contributions should be deleted.

#### **Recommendation 7.**

**Modify policy TA1 by the deletion of the second sentence to be replaced by the words ‘The Design and Access Statement submitted with the planning application should demonstrate how the design solution(s):’. Delete the penultimate sentence in paragraph 5.8.**

#### **Policy TA2 – Roads and Streets**

3.35 The purpose of Neighbourhood Plan policies is, as stated in paragraph 183 of the NPPF, ‘to determine planning applications’. Detailed matters of highway design, for example changes to road layout or the introduction of traffic calming measures such as speed humps within the carriageway do not require planning permission. The issue of vehicle speed should be one which is considered in the layout and design of streets within new development<sup>7</sup> but is otherwise not a planning issue.

3.36 The few representations on this policy deal only with detailed wording. It is not wholly inconsistent with the NPPF provided that the third and fifth bullet points are recognised as only applying when detailed highway matters come before the local planning authority in the context of applications for large developments which cover the provision of internal highway infrastructure including drainage. It is not necessary to include cross-references to other policies in either the ONDP or the Local Plan because the development plan should be read as a whole but. The policy does not contravene any basic conditions.

3.37 As pointed out by ESBC, there is a grammatical error in the second line where the word ‘with’ has been omitted.

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<sup>7</sup> See Planning Policy Guidance reference ID 26-042-20140306

## **Recommendation 8.**

**Insert the word ‘with’ in the second line of policy TA2 between ‘comply’ and ‘any’.**

### **Policy TA3 – Parking**

3.38 The ‘compliance’ table at Appendix 2 of the Basic Conditions Statement lists Local Plan policies H6, H16, T6 and T7 as bearing on this ONDP policy. In so far as there are references to car parking that is so, but the main policy dealing with parking standards is LP policy T7. That policy reflects national policy of the time in PPG13 and specifically provides for maximum rather than minimum provision. The SPG drawn up at that time provides the actual standards. PPG13 has now been replaced by the NPPF and although LP policy T7 has been saved it is clearly not up-to-date in that it is no longer consistent with national policy. In the circumstances, the latter carries greater weight in judging compliance with the basic conditions.

3.39 National policy as expressed in paragraph 29 of the NPPF does indeed, as stated in paragraph 5.14 of the plan, recognise that different policies and measures ‘to optimise sustainable transport solutions will vary from urban to rural areas’. Paragraph 39 also lists the factors to be taken into account when setting local standards but, very recently, a Ministerial Statement<sup>8</sup> has added a sentence to that paragraph which states ‘local planning authorities should only impose local parking standards for residential and non-residential development where there is clear and compelling justification that it is necessary to manage their local road network.’ I recognise that parking and traffic issues have featured very strongly in community thinking and have been a major theme in the consultation processes. Indeed, the recent statement echoes the community concern about the effect that the previous policy of setting maximum standards had on the residential environment. Maximum parking standards may have been abolished but minimum standards have not been re-introduced. To do so without such clear and compelling justification would run counter to the achievement of truly sustainable development, an element of which is to reduce reliance on the private car. Furthermore, it is made clear in the statement that the Government regards car parking provision as primarily a matter for the

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<sup>8</sup> Delivered on 25 March 2015

market to decide. This represents a change since the Horninglow Neighbourhood Plan examination.

3.40 Part of the reasoning behind the previous policy to set maximum standards was to reduce the dominance of car parking space within the design and layout of residential developments. It remains an issue in that the greater the area provided for car parking the less opportunity there is for soft landscaping. It is difficult to reconcile this approach with the requirements of ONDP policy RD1 in this regard or, for that matter, the emphasis given in emerging local plan detailed policy 1 to minimising the visual impact of parking. This is mentioned in paragraph 5.15 of the plan text but not in the policy.

3.41 Paragraphs 3.47 to 3.55 in the emerging local plan detail the planned approach to Sustainable Urban Extensions which includes requirements for sustainable transport provision including new or extended bus services. ONDP policy TA5 makes similar provision. It is clear from this that the development of the SUE and Upper Outwoods, together with the approved development at Red House Farm and the allocation at Harebride Lane/Tutbury Road will individually and together provide the opportunity, which as a matter of policy is to be secured through planning obligations, to significantly improve the public transport network serving Outwoods parish. For this reason, existing car ownership levels in Outwoods cannot be taken as a reliable or appropriate indicator of future ownership such as to provide the evidence necessary to justify the inclusion of such standards in the plan, especially taking account of the latest ministerial statement.

3.42 Similar considerations apply to that aspect of the policy which seeks to specify minimum garage sizes with a requirement for all parking spaces and garages to be subject to conditions requiring them to be retained for parking use. I consider that the whole policy approach is overly-prescriptive and the particular requirements are not supported by clear evidence. The justification for requiring large garages on the basis that cars have become larger is not compelling. It may be derived from measurements of the cars owned by existing residents but that is not a reliable indicator for new developments catering for a wider housing market. It takes no account of factors such as carbon emissions linked to the climate change agenda nor the likely increased use of electric cars in the future which might well be smaller.

3.43 Furthermore, as stated in a representation the stated size standards would have significant implications for the provision of housing and the viability of development. There is no analysis of such implications. A representation is made by the ESBC to the effect that the requirements are excessive for affordable housing and there is also no reference to special needs housing which comes within the residential use class (C3). I consider that the policy might be amended to provide additional flexibility for these categories but see my conclusions on this issue in paragraphs 3.46 and 3.47 below.

3.44 Not only would the effect of a restrictive condition be to take away permitted development rights which should only be done in exceptional circumstances but it is likely to be held to be unreasonable. It would put greater weight on accommodating the motorcar than the needs of people for living space. I find it to be inconsistent with Government policy in these respects and it is not consistent with Local Plan policy T7.

3.45 It is reasonable that a policy in the development plan should ensure, in general terms, that adequate off-street parking should be provided within new development to accommodate the reasonable needs of the residents but the details of the policy require modification to meet the basic conditions, for the reasons set out above.

3.46 I note that the existing (maximum) standards which apply in East Staffordshire are set out as supplementary guidance. Indeed, it is common practice for detailed parking requirements to be set out in a separate document which is a material consideration in planning decisions but is not part of the statutory development plan, as a Neighbourhood Plan policy would be. In the circumstances I have considered whether parking and garage standards might be set out in a separate guidance document. That would also need to be supported by robust evidence to justify the particular requirements related to different house sizes. Furthermore, unless there was clear evidence of the effect on the local road network should a particular level of off-road parking not be provided, the setting of such standards would run counter to the latest Government policy statement and, consequently, fail to meet that basic condition. However, should the local planning authority consider that the requirements of the amended paragraph 39 of the NPPF can be met the option

would remain open for further work to be carried out to produce a separate document and to modify policy TA3 at Regulation 18 stage to refer to it.

3.47 Finally on this policy, the ESBC have properly raised issue with the last part of the final bullet point in the policy. Any requirement for financial contributions (obligations) from developers to solve existing parking problems which are not directly related to the development proposed would not meet the tests of paragraph 204 of the NPPF. The reference to tackling existing problem areas should be removed.

3.48 I therefore recommend that for policy TA3 to meet the basic conditions it should be modified to set out the principle of the need for adequate and safe parking.

3.49 The supporting text in paragraphs 5.14 to 5.19 will need to be re-written to reflect the change in the detailed emphasis of the policy.

#### **Recommendation 9.**

**Delete policy TA3. Replace it by a new policy as follows:-**

**Adequate and suitable off-street parking space should be provided on all new developments in order to minimise obstruction of the highway in the interests of the safety of all road users, including cyclists and pedestrians. Parking areas should be designed to minimise the visual impact of the private car on the street scene and on the amenity of residents. Development proposals will be expected to accord with the following principles:-**

- **Where parking is proposed for residential development it should be provided on-plot or in courts. The extent of any hardstanding set aside for parking on-plot should be minimised by the use of alternative surfaces such a grasscrete;**
- **Where parking is provided in the form of garaging, carports or any other type of enclosed area it should be capable of accommodating a range of modern vehicles;**
- **Visitor parking may be provided on-street reasonably related to the associated residential development;**

- **All new parking provision is to include an appropriate amount of disabled and bicycle parking located in close proximity to the buildings that these users will access;**
- **New residential development should ensure that it does not negatively impact on parking provision for existing residents.**

**Re-write the supporting text in paragraphs 5.14 to 5.19 to reflect the modified policy.**

### **Policy TA4 – Footpath and Cycle Routes**

3.50 This policy is fully consistent with national policy to encourage walking and cycling and is integral to the concept of the development of sustainable urban extensions. However, the policy can only have effect in terms of improvements to the existing network where this comes within an area of development for which planning permission is required. North-south links may not be deliverable with the pattern of development currently proposed. With that caveat the policy meets the basic conditions and no modification is required.

### **Policy TA5 – Public Transport**

3.51 The aims of this policy are fully consistent with national policy to encourage the use of public transport but there are difficulties with the implementation of certain detailed provisions which have resulted in representation.

3.52 The first issue arises from the requirement for any development of 5 or more dwellings and all non-residential development to be located within 300 meters of a bus stop and where that cannot be achieved for the developer to 'subsidise' the new or extended transport link, unless the development were to be rendered unviable as a result.

3.53 I accept that such a policy could not reasonably be applied to single or small-scale developments but there is no clear justification for the choice of a threshold of 5 dwellings, nor would there be any evidential basis to substitute a threshold of 10. There is also no analysis as to how feasible it might be to locate such smaller developments within walking distance of a bus stop or bus route. If it is not, any

financial contribution as a subsidy towards the provision of a new or extended public transport facility would need to be by way of s106 obligation which must meet the tests in paragraph 204 of the Framework. A development as small as 5 dwellings would be most unlikely to warrant the introduction of a new bus route in its own right and, therefore, could only be achieved by a pooling of contributions which will be limited to 5 schemes from April 2015. There might be scope within a CIL regime but, as indicated above, the ESBC have not yet decided to introduce one. In the circumstances I consider that the policy would be impossible to implement as currently framed and would otherwise result in an undue constraint on smaller developments within the parish. On the other hand, as it is stated in the introductory section of the plan that its aim is primarily to influence decisions on reserved matters applications for the larger development sites. The enhancement of public transport provision in the manner envisaged is entirely feasible for such developments and, as identified in the emerging local plan, is integral to the concept of a SUE. The provisions of the second paragraph of the policy are feasible in that context. The policy intention is, in itself a laudable one and would assist in the delivery of sustainable development but to be deliverable and thus fully consistent with the NPPF its application has to be restricted to the proposed allocations and committed sites.

3.54 It is stated in paragraph 5.25 that the 300 m. distance requirement is in line with the emerging strategic East Staffordshire Local Plan Strategic Policy 7. However, I have not been provided with any evidence to support such a figure. It is also contradicted by the statement in paragraph 5.4 of the ONDP that the aim of the policy is to ensure that a bus route is within 'walking distance of all homes (400 m. walk). It is quoted again in policy CF2. A 400 m. walking distance is commonly accepted as reasonable which, as Alliance Planning state in their representation derives from the Department of Transport Inclusive Mobility Guide (2002).

3.55 I note that the plan steering group would be content to substitute a figure of 400 m. but it is important that the ONDP should not become out-of-date in this regard when the local plan is adopted. Bearing in mind Strategic Policy 7, ODNP policy TA5 need only refer to a 'reasonable walking distance' from a bus stop, to provide flexibility and to avoid placing an undue burden on developers contrary to the NPPF.

## **Recommendation 10.**

**In the first line of policy TA5, delete the words ‘proposing 5 or more dwellings, those including’ and substitute ‘on proposed allocations and committed sites, the provision of’.**

**In the thirdline of policy TA5, delete the words ‘300 m. of’ and substitute ‘reasonable walking distance’**

## CHAPTER 6.0 – COMMUNITY FACILITIES

### **Policy CF1 – Schools and Education**

3.56 Paragraph 72 of the NPPF states that the Government attaches great importance to ensuring that a sufficient choice of schools sites is available to meet the needs of existing and new communities. The ESBC have identified Local Plan policy L16 as relevant to ONDP policy CF1. It states that planning permission will be granted for development required by public authorities, including Staffordshire County Council to meet needs identified in the plan. Although the Local Plan does not identify such needs for Outwoods, the County Council have made strong representation that additional schools sites remain under investigation in order to meet existing and future needs arising from approved developments and, possibly, others which are currently under consideration.

3.57 The critical sentence in this policy is that which states ‘Outside of allocated sites new schools will be resisted’. The justification for this is given in paragraph 6.4. The community is right to suggest that new schools should be planned as part of the large developments. A primary school is to be provided as part of the Beamhill/Upper Outwoods development and that is provided for in emerging Local Plan Strategic Policy 10. The Local Education Authority has to respond to needs as they arise and have commissioned a consultant’s report which identifies that opportunities for the siting of a secondary school to serve developments in Outwoods is limited. Should there be a need for a secondary school, given its size, it is unlikely that a site could be found within the existing allocations or permitted sites in accordance with the terms of those permissions, however desirable that may be to reduce further incursion into the countryside.

3.58 Whilst the desire of the community not to see more urban fringe land taken for a school is understandable, a blanket restriction of the kind suggested in the policy not only conflicts with the thrust of Government policy but might well result in a school site having to be found which is further away than necessary from the community it serves, increasing the length of trips to school contrary to the principles of sustainable development. It is also not in general conformity with adopted Local Plan policy L16. For the policy to meet the basic conditions the said sentence must, therefore, be deleted. The aspirational statements in paragraph 6.1 and 6.4 may remain as expressing an intended action of the parish council representing a community view.

3.59 Sport England express concern that the preference for the expansion of existing school sites might put pressure on playing field provision, but that is protected under policy LR3.

#### **Recommendation 11.**

**Delete the last sentence in the first paragraph of policy CF1: ‘Outside of allocated sites new schools will be resisted.’**

**In the first line of text at the top of page 27 (paragraph 6.4) insert the words ‘by the parish council’ after ‘strongly resisted’.**

#### **Policy CF2 – Health Hubs**

3.60 The concept of providing ‘health hubs’ at accessible locations within major developments is entirely consistent with paragraphs 69 and 70 of the Framework. However, representations by both the ESBC Housing Strategy manager and Staffordshire County Council raise concerns about the restrictions placed on the location of sheltered and/or extra care facilities. A requirement for these to be within 400 m. of an existing or proposed health centre (presumably a ‘hub’) is stated to be inappropriate because extra care housing includes on-site health provision for residents and/or visits by GPs etc are arranged as required. The County Council also refer to their flexicare strategy in which the need for extra care facilities has been assessed and that locations outside the strategic (allocated) sites are likely to be required to meet demand.

3.61 Whereas it might reasonably be expected that sheltered and extra care facilities would be located within the larger development sites there appears to have been no assessment as to whether that would meet the needs of the area. A location within a 400 m. (walking distance) of a health care facility is desirable but, evidently, resident's health care needs can be met in other ways. The thinking behind the policy, as explained in the steering group's written response, in seeking to promote the fullest use of public transport, walking and cycling is commendable but I consider that such considerations are outweighed by the risk that the policy might result in a failure to meet a specialised housing need and thus be inconsistent with national policy. I consider that the more flexible wording suggested by the County Council is necessary for the policy to meet the basic conditions and I recommend it with minor amendment.

3.62 In the light of my recommendation 9, the final sentence referring to parking standards is no longer appropriate, nor is it necessary to cross-reference policies in this way.

#### **Recommendation 12.**

**In the third paragraph of policy CF2, delete the words 'must be provided within the allocated sites and', replace 'must by 'should' before 'be located' and add the words 'unless it can be demonstrated alternative sustainable provision can be provided.' at the end. Delete the final sentence on parking standards.**

#### **Policy CF3 - Community Facilities**

3.63 The ESBC have questioned the achievability of the arrangements for continuing management proposed in the final paragraph of this policy. Planning policy cannot require the transfer of land ownership in this way nor is it appropriate in statutory plan policies to require negotiations between individuals or bodies. Those are not land use planning matters but legal/administrative ones which are not appropriate for inclusion in a statutory plan, even in the text. However, developers can be required to obtain the approval or agreement of the local planning authority to aspects of development or other related actions through s106 obligations. This may be 'in consultation' with the parish council. I recommend modifications to the wording of the second and fourth paragraphs in the policy by way of correcting errors.

### **Recommendation 13.**

**In the second paragraph of policy CF3 delete the words ‘they will be required to negotiate with East Staffordshire Borough Council and Outwoods Parish Council’. After the words ‘the type and scale of facilities’ insert the words ‘should be agreed by the East Staffordshire Borough Council in consultation with the Outwoods Parish Council’**

**Delete the fourth paragraph of policy CF3 and replace by the following:-**

**Where community buildings/pitches are to be delivered in a development an agreement or obligation will be required to secure the long-term management and maintenance of the sites and facilities.**

### **Policy CF4 – Local Shops**

3.64 Although I note that the Sustainability Appraisal identifies a conflict between this policy and Sustainability Objective 7 to maintain the vitality and viability of Burton Town Centre, ONDP policy CF4 is limited to seeking local convenience shopping serving the population of the new residential areas. In minimising travel distances it accords with all other sustainability objectives.

3.65 The ESBC question the feasibility of implementing this policy on a cumulative basis. The steering group have given further explanation that smaller parcels within developments of 500 dwellings or more should make a contribution to the provision of a retail centre in a fair and balanced way to ensure deliverability. It is envisaged that this would be through s106 agreements.

3.66 Apart from the limitations on the pooling of s106 contributions soon to take effect, there is no clear basis for any reference in the policy to a ‘cumulative’ total. It might be expected that the requirement for a local shopping facility within larger developments would be secured by condition on an outline planning permission. Any provision would also need to take account of any local retail facilities to be provided on other sites in the general area. As required by paragraph 154 of the NPPF the meaning of a policy should be clear to the decision-taker and ESBC’s suggested revised wording for the policy would overcome the difficulty of interpretation. It is recommended as a modification to meet the basic conditions. The reference to

‘allocated sites’ is unnecessary in this policy because it applies only to sites for over 500 dwellings. In line with recommendation 9, the reference to parking standards should be removed.

**Recommendation 14.**

**In the first line of policy CF4 delete the words ‘On all residential sites cumulatively proposing’ and replace by ‘On all sites for’.**

**Delete the third bullet point in the first part of the policy.**

**In the second paragraph, delete the words ‘which do not’ and substitute ‘will need to show that they’ and delete the words ‘will not be supported’.**

**Policy CF5 – Places to Meet**

3.67. This is an interesting policy which clearly puts into effect the principles outlined in paragraphs 58, 69 and 73 of the NPPF. As an integral part of the design of larger new developments it is in general conformity with policy BE1 of the adopted local plan. The steering group have explained that the threshold of 100 dwellings has been chosen as it was considered to be a large enough a development for it to be reasonable to require such space to be provided. The reference to 50 dwellings in paragraph 6.17 is an error. There is no apparent evidence to support the threshold figure chosen but to comply with the thrust of Government policy there needs to be a caveat relating to the effect on the viability of a development. As the concept of ‘attractive forecourt spaces’ is linked to retail and commercial uses, as stated in paragraph 6.17, that needs to be clear in the policy. The meaning of the term ‘semi-public landscape’ is unclear and the steering group agree to its deletion. The words in the third line ‘should be required to provide’ are an instruction to the decision-maker which is not appropriate in a land use policy.

3.68 The means to secure ongoing maintenance of green space after the completion of a development is through a s106 agreement or obligation, which may require a commuted sum for the purpose. I recognise that the longer term maintenance arrangements for open space have been a particular concern of the parish council but it is overly prescriptive to pre-determine any particular arrangement and it may not be reasonable to require a developer to have a responsibility ‘in

perpetuity'. It is not necessary or appropriate to prescribe such matters in a policy. To be consistent with paragraph 204 of the Framework the precise nature of any maintenance arrangements should be subject to negotiation in the context of an individual proposal or planning application. A more general wording would provide the necessary flexibility whilst meeting the community's concerns.

3.69 Recommendation 7 is to remove the term 'public realm strategy'. For consistency the last few words including the cross-reference to policy TA1 would be better omitted.

#### **Recommendation 15.**

**In the first line of policy CF5 after the word 'provide' insert ',subject to viability considerations,'. In the third line, after 'residential development' insert the words 'and associated commercial/retail uses' and delete the words 'be required to'.**

**Delete all of the second sentence after the words 'attractive forecourt spaces.' Insert a new sentence at the end of the first paragraph to read 'Arrangements for the long-term maintenance of the spaces shall be secured by agreement or obligation.'**

**In the last line of the policy, delete all after public realm.**

## CHAPTER 7.0 – RESIDENTIAL DEVELOPMENT POLICIES

### **Policy RD1 - Design**

3.70 This policy is entirely consistent with the emphasis given in section 7 of the NPPF to the importance of good design, especially paragraphs 58 and 59 which provide for neighbourhood plans to recognise the character of the local area. It is not overly prescriptive. It is also in general conformity with adopted local plan policy BE1. I am satisfied that it meets the basic conditions. No modification is required.

3.71 It is important that new development not only makes the most effective use of land but good design relies upon making use of opportunities to provide variety in built form, also to achieve a mix of housing types. The concept of reducing scale and softening the built edge is a good one. To require no more than two-storey development throughout, as suggested in a representation, would not only be unduly restrictive and somewhat stultifying in design terms but also would not assist in achieving the above aims.

### **Policy RD2 – Public and Private Space**

3.72 Although it is an important aspect of good planning practice that new housing, especially for families, should have adequate amenity space to meet basic requirements for day to day living, and that is recognised in paragraph 17 of the NPPF, this has to be balanced with the need to optimise the potential of a site to accommodate development<sup>9</sup> even though minimum densities are no longer prescribed in national policy.

3.73 The ESBC Housing Strategy manager has requested an exemption from the garden requirement for 1-bedroom affordable homes on the basis that their design 'does not fit with such provision'. This also bears upon policy RD3. There are no nationally prescribed garden size standards but it might be expected that the occupants of one bedroomed dwellings, whether or not affordable, would not require as much amenity space as larger dwellings. My main concern in this regard is that there is no clear evidential basis for the garden sizes specified with the figure having been increased only on the basis of an expressed opinion.

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<sup>9</sup> Third bullet point in paragraph 58 of the NPPF

3.74 The guidance in the PPG<sup>10</sup> is that proportionate, robust evidence should support the choices made and the approach taken. In the absence of such evidence the degree of prescription is not justified. Furthermore, there has to be flexibility in policy to take account of the needs of different kinds of households. Garden sizes are more commonly given as guidance rather than in policy but a more flexible form of wording, as recommended, would avoid undue prescription and still enable the general character of the area to be respected in new development.

3.75 ESBC have also raised issue with the reference to Garden City principles in paragraph 7.10 of the plan text. Garden Cities are mentioned in paragraph 52 of the NPPF but in the context that local planning authorities should work with communities to establish whether that might be the best way to achieve sustainable development. It would need to be stated as a matter of policy, which it is not, and all alternatives fully evaluated. There is also no indication that the outline planning permission already granted for Upper Outwoods is compatible with such principles. Paragraph 7.10 also goes beyond the terms of policy RD2 in stating that the existing character of large houses with large gardens set along wide streets with verges 'is sought to be retained and delivered in new developments'. That reads as policy and conflicts with the statement in the previous paragraph that 'to apply the same standards would be disproportionate'. Not only that but it is inconsistent with the national policy of optimising the potential of the site and would be contrary to paragraph 60 of the NPPF which warns against 'unsubstantiated requirements to conform to certain development forms or styles'. For these reasons I recommend the deletion of the whole of paragraph 7.10.

3.76 ESBC are also correct to draw attention to the last sentence in paragraph 7.11. It is not a matter for the plan as to how such sums are paid or spent. The parish cannot be planned in total isolation. It is to be noted, for example, that the application for the Harehedge Lane/Tutbury Road site, as shown on the proposals map goes straddles the parish boundary. The sentence should be deleted.

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<sup>10</sup> Reference ID: 41-040-2040306

## **Recommendation 16.**

**Add to the first sentence in policy RD2 the words ‘to meet the functional domestic needs of the occupants’. Delete the second and third sentences and replace by ‘Whenever possible and compatible with the principles of good design, dwellings suitable for family occupation should have access to private garden space of at least 70 sq. m. and those with 3 or more bedrooms should have in excess of 100 sq.m. of private garden space.’ Delete the whole of paragraph 7.10 and the last sentence in paragraph 7.11.**

## **Policy RD3 – Type and Tenure**

3.77 ESBC state that the first part of this policy which simply states that there should be an ‘appropriate mix’ of different types of open market housing is ‘unusable’. No evidence in the form of a housing needs assessment for the parish was referenced to support the plan although the steering group have now confirmed that there is no individual survey for Outwoods. Instead they rely on the Strategic Housing Market Area (SHMA) study which identifies a need for small retirement dwellings and for 3 and 4 bed roomed, rather than larger dwellings. Nevertheless, Borough-wide considerations are directly relevant to the mix of housing provided on the large strategic sites because they will make a contribution towards satisfying those wider needs and assist the Borough Council, through the Local Plan, to meet their full objectively assessed housing needs as required by paragraph 47 of the NPPF.

3.78 Community views on housing mix are important but they are not sufficient in their own right. Paragraph 50 of the NPPF requires local planning authorities to provide a wide choice of homes to meet the needs of different groups in the community and to reflect local demand in different locations.

3.79 For the first part of the policy to be ‘usable’ as ESBC put it, the question of what is ‘appropriate’ will need to be assessed in some way at the time of any application. To achieve that I recommend the insertion of the additional wording words ‘to meet locally assessed needs’ after ‘mix’ in the first line of the policy.

3.80 In the absence of an individual local needs assessment and the recognition in paragraph 2.5 of the plan that there may be a shortage of smaller homes it is difficult to see how a proportion of 1 bedroomed dwellings within a mixed housing development could reasonably be refused permission by the local planning authority.

3.81 It is represented that 5 bedroomed dwellings or bigger may also be justified in some circumstances. There would need to be clear evidence that such a need exists derived from the SHMA and they would be part of any balanced mix of house types. The policy cover two-storey maisonette or 'duplex' accommodation which need not be out of character if properly designed. To provide flexibility the policy should simply refer to the mix without specifying particular house types.

3.82 The second paragraph of the policy then states that development incorporating flats 'will be resisted' and the reason given in paragraph 7.14 of the plan text. The parish council, may choose to 'resist' flatted development if it is considered to be in the wrong place or otherwise not comply with plan policies, for example, on design. However, the justification in paragraph 7.14 for this aspect of policy RD3 appears not to take account of the fact that the plan also provides for local shops on the larger developments (policy CF4) and flats might appropriately be located close to those and other community facilities. The reference to 'higher density living' in paragraph 7.14 suggests that it is flatted apartment blocks which would be out of character with Outwoods and I agree. But that does not apply to all flats, especially in small numbers within the overall mix. To avoid the blanket restriction, which is not consistent with NPPF guidance, I recommend the insertion of the words 'with a significant element of' rather than 'incorporating'.

3.83 As for the third paragraph dealing with affordable housing provision, the Government has recently announced limitations on any requirement for affordable housing in development schemes of fewer than 10 dwellings although there is a lower threshold of 5 in rural areas. As the policy largely defers to the Local Plan on this matter there appears to be no justification for the application of a threshold of 4 which would not now be achievable. The threshold is best omitted altogether so that national policy will apply unless varied through the new local plan when adopted.

3.84 I am informed that paragraph 7.16 referring to the Branston Locks development is factually incorrect. The question of off-site contributions should rest with the Local Plan in the absence of any local justification for a variation.

**Recommendation 17.**

**Modify the first paragraph of policy RD3 to read:-**

**Planning permission will be granted for residential development which delivers an appropriate mix to meet locally assessed needs for open market dwellings in addition to warden controlled sheltered housing.**

**Modify the second paragraph to read:-**

**Proposals for new residential development should not include a significant element of flatted accommodation except for elderly person's accommodation and warden-controlled sheltered housing with encouragement given to 'living over the shop'.**

**In the third paragraph, delete the words 'providing 4 or more dwellings,' and delete the last sentence.**

**Policy RD4 – Working from home**

3.85 This policy clearly reflects the last bullet point in paragraph 21 of the NPPF and is consistent with it. There are no representations on the policy. However, as stated in the NPPF neighbourhood plan policies can only relate to the development and use of land and cover matters which require planning permission. The internal layout of dwellings is not a matter which is subject to development management, even less so in view of the recent Government announcement on housing standards. Internet connections are not, generally, a matter for local planning authorities except in terms of wider infrastructure provision for major developments. The last bullet point certainly goes beyond anything which would concern the local planning authority, indeed such details are not generally included in planning applications. It does not meet the basic conditions.

**Recommendation 18.**

**Delete the last bullet point in policy RD4.**

## CHAPTER 8.0 – LANDSCAPE AND RECREATION POLICIES

### **Policy LR1 – Sports Pitches**

3.86 This policy is broadly consistent with the NPPF in seeking to ensure that sports pitches are provided to meet the needs of the growing population in accordance with standards set in the Local Plan and, as explained in paragraph 8.4 with Sport England’s calculations on requirements. This is especially so given the statement in paragraph 8.4 that there is evidence of existing shortages of provision. However, Sport England themselves draw attention to the possible conflict between the last part of the first paragraph in the policy and ESBC’s Outdoor Sports Delivery Plan which suggests that an element of new provision should be focussed in new ‘Sports Hubs’.

3.87 From the emerging East Staffordshire Local Plan Strategic Policy 32 it appears that the Outdoor Sports Delivery Plan, although part of the evidence base, is not a planning document in its own right. Indeed there is mention of an Open Space, Sport and Recreation SPD. It is not, therefore, appropriate to reference the delivery plan in policy. The steering group have stated that local sports groups rely very heavily on ‘everyday’ facilities and the desire to see the necessary sports provision for the new development within the parish is understandable but that should not weaken the feasibility of providing for a higher order sports facility in an accessible more centralised ‘hub’ serving wide needs. It is not, therefore, simply a matter of there not being land ‘suitable’ for use within the parish but also that it should be capable of meeting the full range of sports requirements and of adequate quality. An example would be all-weather multi-use pitches rather than just grass pitches. The wording of the last sentence requires modification to be fully consistent with paragraph 73 of the NPPF.

3.88 The use of the future tense and the reference to the ONDP in the second paragraph reads as an intention rather than as a policy itself. For clarity of interpretation, in line with paragraph 154, the paragraph requires modification to avoid the use of ‘resist’ and ‘support’.

## **Recommendation 19.**

**Modify the last sentence in the first paragraph of policy LR1 to read:-**

**Where land for use as sports pitches within the parish is not suitable to provide the range and quality of facilities required to meet local needs consideration may be given to an element of that need being met elsewhere in accordance with policies in the local plan.**

**Modify the first sentence in the second paragraph to read ‘Existing sports pitches and facilities will be safeguarded.’ In the second sentence, second line, delete ‘supported’ and replace it by ‘permitted’.**

## **Policy LR2 – Play for All**

3.89 Policy LR2 is consistent with NPPF paragraph 73 and there are no representations against it. No modifications are required although I draw attention to the use of the word ‘supported’ in the last sentence.

## **Policy LR3 – Green and Blue Infrastructure**

3.90 As the whole of Outwoods parish is ‘washed over’ by the National Forest designation on the adopted policies map and Local Plan policies CSP6 and NE14 look towards undertaking landscape enhancement and planting wherever possible, this policy is in general conformity with such an approach. It is also consistent with NPPF policies for the environment and climate change, including paragraphs 113 and 114 on promoting biodiversity.

3.91 However, the details of policy application and implementation are not entirely clear. The policy sets a very low threshold of 3 or more dwellings or 300 sq.m. of commercial and retail space above which schemes should show how they have ‘incorporated’ the network of green and blue infrastructure. Other than a statement that anything smaller than this threshold was considered “too small” there is no justification for this threshold nor any analysis as to whether it would be feasible or viable to require the creation of green space in association with schemes of that size or larger. It is unduly prescriptive.

3.92 The plan at Appendix 3 is headed 'Green Space Strategy' and yet it is described in paragraph 8.12 as a 'guide or strategy to assess the acceptability of interventions'. The steering group state that it is a 'strategic diagram', to be used as such. Indeed there is no robust evidence to support the precise lines of the green corridors shown. The policy cannot, therefore, require the 'incorporation' of any part of it although the principles should be taken into account in any decision.

3.93 The second part of the policy sets criteria for 'any scheme, regardless of size or location' which ESBC describe as too onerous. I agree. The nature of the enhancements suggested are only ever likely to be feasible or viable for larger developments and account has to be taken of location. To place an undue burden on development is contrary to the national policy framework.

3.94 For the policy to meet the basic conditions it has to be less prescriptive, proportionate to size and allow for a consideration of the effect on viability and delivery. I recommend revised wording to achieve that.

#### **Recommendation 20.**

**Modify the first paragraph of policy LR3 and the introductory section of the second paragraph to read as follows:-**

**All new development proposals should show, by way of design and access statements, what account has been taken of the network of green and blue infrastructure shown in Appendix 3, including the areas to protect and enhance, and how their landscape proposals will contribute to this Green Space Strategy.**

**Proposals will be expected to demonstrate, in proportion to the size of the development and subject to viability considerations, how they are:-**

#### **Policy LR4 – Landscape and Drainage**

3.95 ESBC have commented that buffer zones of 20 m. depth are unlikely to be achievable without seriously damaging housing capacity and development viability. Although it may be the case that similar buffer zones are shown on the indicative masterplans for Red House Farm and Upper Outwoods Farm the specification of a specific depth for the buffers without the robust evidence necessary to justify it is overly-prescriptive and might well have the effect identified by the ESBC. It is national policy to optimise the potential for new housing development and this policy would run counter

to that. Furthermore, paragraph 50 of the NPPF looks towards planning to create 'sustainable, inclusive and mixed communities'. That aim is most unlikely to be furthered if the new housing areas are effectively cut off and isolated from the existing residential areas by landscape planting zones around them even if they are, as stated in paragraph 8.17, similar to parkland to 'filter' views rather than to screen.

3.96 Nevertheless, I accept the strongly held community views with regard to the need for new development to take place sensitively with landscaping to provide an enhancement to its context. However, it is not generally necessary to achieve a satisfactory standard of 'residential amenity' by landscape planting. It may form part of any overall landscaping scheme as appropriate but should not be imposed. It would place an undue constraint on design opportunities to properly integrate the new residential areas with the existing ones, through the operation of ONDP policy RD1.

3.97 There is little doubt that wide planting zones would assist in providing wildlife corridors and would be compatible with policy objectives for the National Forest but these might also be achieved through policy LR3. It may well be that the best way to achieve the objectives for the zones is for them to be kept outside residential curtilages with restricted access, but that is a matter for detailed consideration by the local planning authority when considering the merits of a landscaping proposal. It cannot be assumed that the parish council would have any say in the use of land which might well remain in private ownership.

3.98 Although it may be an indicator of the significance of a scheme, there is no clear justification for a threshold of 100 dwellings in this policy nor for the separate mention of the proposed allocations which are, in any event, much larger than for 100 dwellings. As with policy CF5 a reference to viability must be inserted to ensure consistency with national policy. However, any 'buffer' zone of whatever width should only be considered as part of an overall landscaping scheme in accordance with the principles of good design. 'Residential amenity', amongst other things, is protected under Local Plan policy H6 with which there should be general conformity to meet the basic conditions.

3.99 The last part of the policy requiring the introduction of SUDs drainage schemes includes the important caveat of 'where possible' thus allowing for unsuitable ground conditions. It is consistent with paragraph 103 of the NPPF. Although the Environment

Agency seek additional references they are not necessary for that part of the policy to meet the basic conditions.

#### **Recommendation 21.**

**Modify the first paragraph of policy LR4 to read:-**

**All proposals for development in excess of 100 dwellings should include a landscaping scheme which, as part of the overall layout and design, should ensure a satisfactory relationship between new and existing development. Any landscape buffer zones should provide the dual function of foiling views and providing a wildlife corridor in support of the strategy set out in policy LR3 and should include opportunities to improve biodiversity and introduce native planting.**

#### **Policy LR5 – Local Green Spaces and Views**

3.100 The reference in first sentence of this policy to the prevention of urban sprawl and the retention of openness could be taken from paragraph 79 of the NPPF but that relates to the purposes of statutory green belts not to local green spaces. Even though in paragraph 78 of the NPPF it says that a local policy for ‘managing’ development within a Local Green Space (LGS) should be ‘consistent’ with green belt policy it is clear from paragraph 76 and the criteria in paragraph 77 that the justification for the designation of local green spaces is quite different from that of green belt. In particular, it relates to areas which are ‘local in character’. In that context there is reference in paragraph 77 to ‘beauty’ but not to landscape character more generally nor to ‘visual amenity’.

3.101 The NPPF sets a number of very specific requirements for the identification of areas of LGS in local and neighbourhood plans. It is stated at the start of paragraph 77 that LGS designation will ‘not be appropriate for most green areas or open space’. The colon after ‘used’ in the second sentence and the use of the word ‘only’ means that unless the proposal satisfies each of the three bulleted criteria thereunder it does not meet the requirements for designation.

3.102 The policy distinguishes between those areas which have been suggested through community consultation (first paragraph of policy, dark green on proposals map) and those proposed as green spaces as part of approved outline planning

permissions (second paragraph of policy, light green on proposals map). I will deal with the second category first.

3.103 As stated elsewhere, the status of the land (for 500 dwellings) to the north-west of the junction of Harehedge Lane and Rolleston Road is that of an allocation in the emerging East Staffordshire Local Plan. It does not have planning permission. It may well be that the site has been shown on a masterplan and in a planning application for open space but it is clear from what is said in Appendix 4 to the plan that there is no existing (my emphasis) community value. Nor does it meet any of the other NPPF criteria for an LGS. It is to be noted that paragraph 77 of the NPPF is written in the present tense. It cannot reasonably be claimed that the area is of special local significance in its existing state.

3.104 A similar consideration applies to the other two areas listed in the second part of policy LR5. The sites may have been identified in masterplans put in with planning applications but those are in outline with all matters reserved, so the area of land to be set aside for open space has not yet been firmly decided. Boundaries might change as part of a consideration of the most sustainable pattern of development in accordance with paragraph 76 of the NPPF. Furthermore, as stated in the PPG<sup>11</sup>, Local Green Space designation is rarely appropriate where the land has planning permission for development, as is the case here.

3.105 Although I accept that the area of land on the north side of Field Lane provides open views across the countryside at present, the value of that would be radically altered once the large development on the land to the north has taken place. The evidence in Appendix 4 of the plan does not establish that the site is 'demonstrably special' rather, as stated, that its value will be as the open space provision associated with the development.

3.106 For the above reasons I conclude that none of the three areas identified in the second part of the policy meets the criteria for designation as Local Green Space. Their use and their contribution to the green infrastructure network is a matter which can properly be considered in planning applications through ONDP policy LR3.

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<sup>11</sup> Reference ID: 37-008-20140306

3.107 The first part of the policy lists four areas of land as Local Green Space. I will deal with each in turn in the light of the NPPF criteria, referring as appropriate to Appendix 4 in the plan.

3.108 Fields behind Burton hospital. This is a prominent field largely because of the 'dome' type contours of the northern section with sides which fall towards the main car parking area for Burton hospital. That section is also clearly viewed from Lower Outwoods Road through the gap on rising ground to the south-west of the Breast Clinic building and from a gated field access further up the hill. The upper part of the field is also seen in longer distance views across the town from high level public footpaths to the north-west and it forms a prominent open space between the housing on St. George's Road and looking south from the upper parts of Denton Road, above the Foston Avenue junction.

3.109 Although the site is in close proximity to the housing on Lower Outwoods Road and St. George's Road it does not 'serve' that community in any sense other than being seen in private views from the rear of those houses. The hospital cannot be regarded as being part of the same 'community'; indeed it lies outside the Outwoods parish boundary. Although, as recognised in the table at Appendix 4 of the plan, the site abuts housing on its north-western side, there is open ground to the south-west, south and south-east.

3.110 Significantly, in terms of the approach taken in the NPPF, the second column in the Appendix 4 assessment table headed 'Local or Community Value' states 'none known'. Furthermore there is stated to be no known historical value and no public access, therefore no recreational value. There is no evidence that the site has any special ecological value ('richness of wildlife') in its existing state. If there is any 'opportunity' to establish an east-west green infrastructure link then that is something which might be addressed through the operation of ONDP policy LR3 in conjunction with any development which might be permitted on the site in future. Designation as a Local Green Space would not result in there being any such 'opportunity' being realised because, as recognised in the PPG<sup>12</sup>, designation as an LGS does not

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<sup>12</sup> Reference ID: 37-017-20140306

confer any public right of access. Indeed, there would be no change in land ownership or management<sup>13</sup>.

3.111 The area of land (3.1 hectares) is not especially extensive and I am in little doubt that the site may be regarded as local in character, thus satisfying the third criterion of NPPF paragraph 77, but it would appear from the appraisal in appendix 4 that the main justification is under the heading 'landscape value' in the sense that it affords 'views of the countryside'. However, as indicated above, the visual contribution an open piece of land makes to landscape character or townscape is not the same as 'beauty' in terms of the second criterion in paragraph 77. The plan assessment does not identify any particular characteristics which might be described as 'beauty'. Indeed, other than the mounded contours it is a somewhat featureless and open green field.

3.112 For all of the reasons given above I conclude that that the area fails to satisfy the criteria for designation given in paragraph 77 of the NPPF and, as it is stated in the plan as having no known local or community value, cannot be regarded as being of particular importance to the local community or 'demonstrably special' to them. Having said that, I am aware that a planning application for housing development on part of the site has yet to be determined by the local planning authority and is described by the developers as 'Phase 2' of the Redhouse Farm development. Factors such as the effect on the local landscape or townscape are commonly considered and weighed in the balance of any decision and might determine the exact layout of any development which might be permitted, if it were to be so.

3.113 Land to the north-west of Tutbury Road and Beamhill Road. The land included in the draft plan as an LGS in this location is 8.4 hectares in extent. It is an open tract of farmland and although it is enclosed by hedgerows there is no obviously physical divide between it and other agricultural land to the north and west. The assessment table in Appendix 4 indicates that it has local or community value in the sense that it is an 'opportunity to preserve the character of the Beamhill area of the parish through retaining a landscape edge'. However, there is nothing of particularly special or local importance about the land, no special features which might be described as 'beauty'. It is a relatively extensive area of land stretching into the open

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<sup>13</sup> See PPG ref. ID 37-021-20140306

countryside which has no known historical value, no public access or existing ecological value of note. It is in close proximity only to the rows of houses fronting Tutbury Road and Beamhill Road which back on to it and those on Beam Close.

3.114 For these reasons the proposed LGS does not satisfy the requirements for designation set by paragraph 77 of the NPPF. Moreover, bearing in mind the large area involved, the justification for it appears to run counter to the PPG<sup>14</sup> which indicates that it is not appropriate to so designate areas of open countryside adjacent to settlements, particularly as a 'back door' way to introduce green belt policy control by another name.

3.115 Land between Field Lane and Denton Road. It is correct to describe this area of land as a 'green wedge' which separates the housing along the south side of Field Lane and that lower down to the east, between Denton Road and the parish boundary). In part it is woodland to the rear of part of the hospital, otherwise it is farmland with pony paddocks close to Bungalow Farm at the western end. There are few views of the site from within the public domain except from Field Lane near the farm and a few glimpses along the culs-de-sac off Denton Road. Its value as an open area is primarily in private views to the rear of the Field Lane houses. There is no public access.

3.116 As with other areas, the assessment at Appendix 4 in the plan does not clearly demonstrate that the land is special or of particular local significance against the requirements of the second bullet point of paragraph 77. As a green wedge there might well be an opportunity to enhance its ecological value under policy LR3 but no evidence that it is of special value in its existing state as farmland or as woodland in part. Nor is it evident that the area has any special or intrinsic beauty except as an open wedge.

3.117 Land north of Forest Road. This area of land was not identified for designation as an LGS in the draft version of the plan consulted upon under Regulation 14 but was added in the submission version in response to a representation. There is nothing in the consultation report which gives particular reasons for accepting merely stating 'noted'.

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<sup>14</sup> Reference ID: 37-015-20140306

3.118 With the exception of the small area of land to the south-west of a small valley, off Fred Brewer Way and Dingle Drive, as with other areas included in the plan as LGS, most of this site is agricultural land. It is a sloping field, under grass, which rises to the rear of terraced housing along the northern side of Forest Road. It is not an especially noticeable site within the public domain although it may be seen from the end of short culs-de-sac.

3.119 In Appendix 4 of the plan it is stated that the land is 'publicly accessible' well related to properties in the south of the parish and in use as playing fields and 'open land enjoyed by local residents'. It is also stated that the watercourse is part of a green infrastructure link. I accept that these factors apply to the smaller area of land south-west of the small river valley. There is an area signed as public open space with goal posts and a small playing field on it. To the east there is a small area of allotments. Thus the smaller site is of recreational value and allotments are mentioned in the PPG<sup>15</sup> as an example of the kind of green space which would be appropriate as an LGS.

3.120 Other than the statement in Appendix 4 there is no evidence to support the contention that there is public access to the larger field. Indeed, site inspection revealed a notice pinned to one of the field gates 'bull roaming' which suggests to me that the landowner is seeking to discourage unauthorised access. There are no rights of way across the land. It is not claimed that the field has any special qualities with landscape value stated to be 'visual amenity only'. There is no evidence of historical value or any particular ecological value. It is not sufficiently demonstrated that the larger area is so special or of such particular local significance as to justify LGS designation.

3.121 My conclusion on the policy LR5 with regard to the identification within the plan of areas of Local Green Space is that, for the most part, there is an inadequately robust justification in the plan for their formal designation because they fail to meet the strict criteria for such designation given in the NPPF supported by the PPG. It has not been adequately demonstrated that the sites are sufficiently special to the local community in their existing state in that most do not have public access. Even though that is not a pre-requisite for designation there must otherwise be a

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<sup>15</sup> Reference ID; 37-013-20140306

special local significance in terms of beauty, historical significance, wildlife or tranquillity, which has not been established. As the plan is not consistent with national policy in this regard it fails to meet the basic condition and policy LR5 requires significant modification to ensure that it does meet the relevant. The proposals map on page 56 and the Green Space Strategy plan on page 58 will also need to be re-drawn to reflect this. Paragraph 8.20 will require re-writing accordingly. Appendix 4 is part of the evidence base which may not be necessary to include in the final plan.

3.122 The exception is the small area of public open space and allotments off Fred Brewer Way/Dingle Drive together with the adjacent wooded river valley. The first part of policy LR5 will need to be modified to refer only to that area with a significant re-wording. It is not necessary, or appropriate in the circumstances to retain the reference to the wider purposes of green belt policy at the start of policy LR5.

3.123 The last part of policy LR5 deals with the protection of key views from public vantage points which are shown on the proposals map. These are factually correct and the policy is not prescriptive in that it requires only that these views should be 'carefully considered' as part of any development. I am satisfied that that part of the policy is consistent with national and local development plan policy and thus meets the basic conditions.

#### **Recommendation 22.**

**Delete the first part of policy LR5 relating to Local Green Spaces. Replace it by the following:-**

**An area of land to the north of Fred Brewer Way and Dingle Drive, including the wooded stream course on the east is designated in the plan as a Local Green Space within development will be managed consistently with national green belt policy.**

**Modify the Proposals Map on page 56 and the Green Space Strategy Plan on page 58 of the plan by the deletion of all areas shown as Local Green Space except the above named area.**

**Re-write paragraph 8.20 of the plan text to reflect the above modification to policy LR5.**

## **FORMAL CONCLUSION, RECOMMENDATIONS AND CONSIDERATION OF REFERENDUM AREA**

### **Conclusion**

4.1 I conclude that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in Schedule 4B to the Town and Country Act 1990 (as amended), does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights.

### **Overall Recommendation 1.**

**I recommend that the modifications specified in section 3 of this report be made to the draft Outwoods Neighbourhood Development Plan and that the draft plan as modified be submitted to a referendum.**

4.02 As I have recommended that the draft plan as modified be submitted to a referendum I am also required under s10(5)(a) of Schedule 4B to the Town and Country Planning Act 1990 to recommend as to whether the area for the referendum should extend beyond the neighbourhood area.

4.03 There have been no representations seeking an extension of the referendum area. Although the parish is situated right on the edge of the Burton-upon-Trent urban area the policies within the plan as modified would have no direct impact on the residents of the adjoining residential areas to the east within Burton especially as the plan does not, in itself, make major land use allocations but leaves that task to the East Staffordshire Local Plan. I do not, therefore, consider it necessary to extend the referendum area beyond the designated neighbourhood area of the parish of Outwoods.

### **Overall Recommendation 2.**

**The area for the referendum should not extend beyond the neighbourhood area to which the plan relates.**

Signed:

*John R Mattocks*

JOHN R MATTOCKS BSc DipTP MRTPI FRGS

11 April 2015

## **APPENDIX 1.**

### **Abbreviations used in this report.**

Adopted Local Plan	The East Staffordshire Local Plan, July 2006
CIL	Community Infrastructure Levy
Emerging Local Plan	The submitted East Staffordshire Local Plan (2012)
ESBC	East Staffordshire Borough Council
EU	European Union
HRA	Habitats Regulations Assessment
LGS	Local Green Space
LP	Local Plan
NP	Neighbourhood Plan (generic term)
NPPF (the Framework)	The National Planning Policy Framework
Obligation	An obligation under section 106 of the Town and Country Planning Act 1990
ONDP	Outwoods Neighbourhood Development Plan
PPG	Planning Policy Guidance
PPG13	Former Planning Policy Guidance No. 13 'Transport'
SA	Sustainability Appraisal
SAC	Special Area of Conservation (Site of European Significance)
SEA	Strategic Environmental Assessment
SHMA	Strategic Housing Market Area Assessment
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance (pre 2004 Act)
SUE	Sustainable Urban Extension

