

TATENHILL AND RANGEMORE NEIGHBOURHOOD PLAN 2012-2031 PROPOSED MODIFICATIONS

Tatenhill and Rangemore
Neighbourhood Plan Modifications Examination
A Report to East Staffordshire Borough Council

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1. Summary

- 1 I have considered the proposed modifications to the Tatenhill and Rangemore Neighbourhood Plan and consider that they comprise material modifications which do not change the nature of the plan.
- 2 Subject to the recommendations within this Report, made in respect of enabling the proposed modifications to the Tatenhill and Rangemore Neighbourhood Plan to meet the basic conditions, I confirm that:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the modifications to the neighbourhood plan;
 - the modifications to the neighbourhood plan contribute to the achievement of sustainable development;
 - the modifications to the neighbourhood plan are in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the modifications to the neighbourhood plan do not breach, and are otherwise compatible with, European Union (EU) obligations; and
 - the modifications to the neighbourhood plan are not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.
- 3 Taking the above into account, I find that the Tatenhill and Rangemore Neighbourhood Plan, as modified, meets the basic conditions¹. Consequently, having regard to national planning guidance², East Staffordshire Borough Council is required to make the modified plan within five weeks following receipt of this Examiner's Report, or such later date as agreed in writing with the Qualifying Body (Tatenhill and Rangemore Parish Council).

¹ It is confirmed in Chapter 3 of this Report that the Tatenhill and Rangemore Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

² National Planning Guidance. Paragraph: 085a Reference ID: 41-085a-20180222.

2. Introduction

The Neighbourhood Plan

- 4 This Report provides the findings of the examination into proposed modifications to the Tatenhill and Rangemore Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Tatenhill and Rangemore Parish Council.
- 5 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”

(Paragraph 183, National Planning Policy Framework)

- 6 The Tatenhill and Rangemore Neighbourhood Plan was originally made in February 2016 and forms part of the development plan. As such, it is used to determine planning applications and guide planning decisions in the Tatenhill and Rangemore Neighbourhood Area.
- 7 Tatenhill and Rangemore Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. The Neighbourhood Plan relates only to the designated Tatenhill and Rangemore Neighbourhood Area and there is no other neighbourhood plan in place in the Tatenhill and Rangemore Neighbourhood Area.
- 8 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012³) and Planning Practice Guidance (2014, as amended).

³ A replacement National Planning Policy Framework was published in July 2018. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans, where those plans are submitted on or before the 24th January 2019. The proposed modifications to the Tatenhill and Rangemore Neighbourhood Plan were submitted to East Staffordshire Borough Council prior to this date and consequently, it is appropriate to examine the proposed modifications against the National Planning Policy Framework published in 2012.

- 9 The proposed modifications relate, in the main, to Policy HE1 (*Parish Housing Strategy*) of the made Neighbourhood Plan. It is proposed to delete this Policy and replace it with a new Policy, itself split into five distinct parts (HE1; HE1.1; HE1.2; HE1.3; and HE1.4). The only proposed modifications to any other part of the Neighbourhood Plan comprise two small paragraphs of supporting text, provided to add clarity, and several minor typographical amendments.
- 10 In line with requirements⁴, Tatenhill and Rangemore Parish Council and East Staffordshire Borough Council have both provided statements to the effect that they believe that the proposed modifications are not so significant or substantial as to change the nature of the Neighbourhood Plan.
- 11 As above, the proposed modifications relate to Policy HE1 of the Neighbourhood Plan only. The other nineteen Policies of the Neighbourhood Plan remain unaffected.
- 12 I consider the proposed modifications in further detail later in this Report. I note that, in general terms, the proposed modifications seek to add a level of clarity in respect of the approach to residential development in the Neighbourhood Area. They do not propose any allocations and they do not appear to alter the nature of the Neighbourhood Plan.
- 13 I have considered all of the representations made in respect of the proposed modifications. There have been no representations to the effect that the proposed modifications alter the nature of the Neighbourhood Plan.
- 14 Given the above, I concur with the stated views of Tatenhill and Rangemore Parish Council and East Staffordshire Borough Council and am satisfied that, subject to the recommendations set out in this Report, the proposed changes comprise material modifications that do not change the nature of the Neighbourhood Plan.

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Role of the Independent Examiner

- 15 I was appointed by East Staffordshire Borough Council, with the consent of the Qualifying Body, to conduct the examination of the proposed modifications to the Tatenhill and Rangemore Neighbourhood Plan and to provide this Report.
- 16 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 17 I am a chartered town planner and have seven years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 18 As the Independent Examiner, my role is to determine whether or not the proposed modifications change the nature of the Neighbourhood Plan. In reaching my decision on this matter, I have considered the proposed modifications against the basic conditions and set out my findings and recommendations in this respect below.
- 19 Where changes to the proposed modifications are recommended by this Report, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 20 A neighbourhood plan must specify the period during which it is to have effect.
- 21 The Neighbourhood Plan period remains unchanged, at 2012-2031 and the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 22 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 23 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 24 Further to consideration of the information submitted, I determined not hold a public hearing as part of the examination of the proposed modifications to the Neighbourhood Plan.
- 25 However, in order to clarify a number of points in respect of the examination, I wrote to the Qualifying Body and to East Staffordshire Borough Council and this examination has taken the responses received into account.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 26 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*⁵ following the Localism Act 2011. Effectively, the basic conditions provide the foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 27 Regulations 23 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations.⁶

⁵ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

⁶ *ibid* (same as above).

- 28 In examining the modifications to the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the modifications to the neighbourhood plan:
- have been prepared and submitted for examination by a qualifying body;
 - have been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Localism Act);
 - meet the requirements to i) specify the period to which the neighbourhood plan has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that:
 - the (modified) policies of the neighbourhood plan relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 29 I must also consider whether the modifications to the neighbourhood plan are compatible with the Convention rights.⁷
- 30 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the proposed modifications to the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the modifications to the Neighbourhood Plan meet the basic conditions.

⁷ The Convention rights has the same meaning as in the Human Rights Act 1998.

European Obligations

- 31 Page 7 of the Basic Conditions Statement submitted alongside the proposed modifications to the Neighbourhood Plan establishes that, in the Qualifying Body's view, the Neighbourhood Plan:

"...has been positively prepared to ensure none of the policies infringe upon any human rights from the Human Rights Act 1998."

- 32 Taking the proposed modifications into account, I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 33 In the above regard, I also note that Information has been submitted to demonstrate that people were provided with opportunities to engage with the modifications process and to comment upon the proposed modifications to the Neighbourhood Plan. The Consultation Report submitted alongside the proposed modifications to the Neighbourhood Plan summarises the consultation responses received and highlights the resulting changes.
- 34 The Neighbourhood Plan does not allocate land for development. The Basic Conditions statement submitted alongside the proposed modifications establishes that the Neighbourhood Plan will not have any significant effect on any designated European site; and East Staffordshire Borough Council is satisfied, further to carrying out a screening assessment, that the Neighbourhood Plan, incorporating the proposed modifications, will not have any significant effects on the environment and that therefore, it does not need to be subject to a Strategic Environmental Assessment.
- 35 The statutory bodies, the Environment Agency, Natural England and Historic England have all been consulted and none has raised any issues in respect of European obligations.

- 36 National guidance establishes that the ultimate responsibility for determining whether a neighbourhood plan meets EU obligations lies with the local planning authority:

“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)” (Planning Practice Guidance⁸).

- 37 In carrying out the work that it has and in reaching the conclusions that it has with regards the proposed modifications, East Staffordshire Borough Council has no concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.
- 38 In addition to all of the above, I note that, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta (“People over Wind”)*, the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.
- 39 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.
- 40 The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.
- 41 These changes came into force on 28th December 2018. This pre-dated the submission of the proposed modifications to the Neighbourhood Plan and the subsequent consultation period.

⁸ *ibid*, Paragraph 031 Reference ID: 11-031-20150209.

- 42 In reaching my view below, I am mindful that East Staffordshire Borough Council has taken all of the above into account and that it considers the proposed modifications will not result in a Neighbourhood Plan that fails to be compatible with European obligations.
- 43 Taking this, the above, the recommendations in this Report and all of the evidence before me into consideration, I am satisfied that the proposed modifications to the Neighbourhood Plan are compatible with European obligations.

4. Background Documents and the Tatenhill and Rangemore Neighbourhood Area

Background Documents

- 44 In undertaking this examination, I have considered various information in addition to the proposed modifications to the Neighbourhood Plan.
- 45 I draw attention to the fact that a replacement version of the National Planning Policy Framework was published in July 2018. The previous National Planning Policy Framework was published in 2012 and the replacement version differs from it in a number of ways.
- 46 However, as noted earlier in this Report, Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining relevant plans submitted prior to the 25th January 2019.
- 47 Taking this into account, information considered as part of this examination has included (but has not been limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2012)
 - Planning Practice Guidance (2014, as updated)
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - East Staffordshire Local Plan (2015) (referred to in this Report as the "*Local Plan*")
 - Basic Conditions Statement
 - Housing Policy Consultation Report and Key Issues
 - Representations received
- 48 I also undertook an unaccompanied site visit to the Tatenhill and Rangemore Neighbourhood Area.

Tatenhill and Rangemore Neighbourhood Area

- 49 The boundary of the Tatenhill and Rangemore Neighbourhood Area is shown on a plan provided on page 45 of the Neighbourhood Plan.
- 50 East Staffordshire Borough Council formally designated the Tatenhill and Rangemore Neighbourhood Area in December 2012, thus satisfying a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

5. Public Consultation

Introduction

- 51 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 52 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Consultation on Proposed Modifications to the Neighbourhood Plan

- 53 A Consultation and Key Issues Report was submitted to East Staffordshire Borough Council alongside the proposed modifications to the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*⁹.
- 54 Further to a review of recent planning decisions within the Neighbourhood Area and following consultation with Tatenhill and Rangemore Community Group and East Staffordshire Borough Council, the pre-submission version of the proposed modifications to the Neighbourhood Plan were the subject of a six week public consultation period during July and August 2018.
- 55 The consultation period was publicised and a summary of the proposed modifications was delivered to every household in the Neighbourhood Area. The responses received were collated and considered and the Consultation and Key issues Report summarises these and the resultant changes to the proposed modifications.
- 56 Taking the above into account, I am satisfied that the consultation process was complied with the neighbourhood planning regulations.

⁹ Neighbourhood Planning (General) Regulations 2012.

6. Proposed Modifications to the Neighbourhood Plan

- 57 As noted earlier in this Report, it is proposed to delete Policy HE1 and to replace it with a new Policy HE1, split into five parts (Policy HE1; HE1.1; HE1.2; HE1.3; and HE1.4).
- 58 Consequently, this Report considers each of the constituent parts of the proposed new Policy against the basic conditions.

Policy HE1 – Parish Housing Strategy

- 59 Similarly to the policy which it is seeking to replace, the first part of proposed Policy HE1 is supportive of the development of “*approximately 25 dwellings*” and goes on to require an “*approximate*” approach to the distribution of dwellings around the Neighbourhood Area.
- 60 The National Planning Policy Framework (referred to in this Report as “*the Framework*”) sets out a presumption in favour of sustainable development, which for plan-makers, means positively:
- “...seeking opportunities to meet the development needs of their area...(to) meet objectively assessed needs, with sufficient flexibility to adapt to rapid change...”*
- (Paragraph 14, the Framework)
- 61 In maintaining a supportive policy framework for the delivery of new homes, the proposed Policy HE1 sets out a positive approach and the references to “*approximate*” provide for flexibility. The approach set out does not seek to unduly restrict or limit development, but generally provides for sustainable development in a flexible manner.
- 62 However, confusingly, the Policy seeks to use the Conservation Area boundaries of Tatenhill and Rangemore to define village boundaries, within which development may be acceptable. This is an odd approach, not least as the purpose of Conservation Areas is entirely different to the purpose of settlement boundaries and in this case, the Conservation Area boundaries for both villages extend well away from built-up areas into the open countryside around.

- 63 Consequently, the Conservation Area boundaries do not simply relate to built-up area boundaries, or the area immediately adjacent. As set out, Policy HE1 runs the risk of establishing a supportive framework for new residential development in the open countryside, well away from the built-up areas of either Tatenhill or Rangemore.
- 64 Such an approach is unsupported by substantive evidence to demonstrate an absence of conflict with national heritage policy, as set out in Chapter 16 of the Framework, "*Conserving and enhancing the historic environment*," which requires heritage assets to be conserved in a manner appropriate to their significance. Neither is the approach justified by substantive evidence to demonstrate that new housing in the open countryside could be developed without harm to local character, or would "*enhance or maintain the vitality of rural communities*" having regard to Paragraph 78 of the Framework. I am also mindful that Paragraph 78 of the Framework refers, explicitly, to "*development in*" (my emphasis) villages and not in the open countryside around them.
- 65 I also note that Local Plan Strategic Policy 18 ("*Residential Development on Exception Sites*") restricts even rural exceptions housing to sites within or at the edge of a settlement.
- 66 Whilst I note that the proposed modification is an attempt to address how the phrase "*focused on*" in the previous version of the Policy was interpreted, the result is a far more vague description and results in a Policy approach suggestive of support for forms of development that would fail to contribute to the achievement of sustainable development.
- 67 Notwithstanding that the approach set out in proposed Policy HE1 fails to meet the basic conditions, I note that representations have been made to the effect that the phrase "*focused on*" has resulted in some uncertainty and address this in the recommendations below.
- 68 The Policy also includes the phrase "*as defined by the cluster of new homes*" at Tatenhill Common. The physical presence of a cluster of new homes is different to a "*definition*." There is no boundary plan to provide any certainty in respect of this definition and consequently, the phrase appears ambiguous and fails to provide for precision. This is contrary to national planning guidance¹⁰, which states that:

¹⁰ Planning Policy Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

- 69 Taking the above into account, the phrase *“development will be located”* subsequently appears unduly prescriptive. It runs the risk of pre-determining the planning application process and failing to provide for the achievement of sustainable development, which allows for the balanced consideration of a development proposal.
- 70 All development plan policies should be taken together and it is therefore unnecessary for the Policy to refer to other Policies in the Neighbourhood Plan. Furthermore, use of the phrase *“will only be considered acceptable”* in reference to planning applications runs the risks of both pre-determining the planning application process and of apparently usurping the powers of the decision maker, which is the Local Planning Authority rather than the Neighbourhood Plan.
- 71 As set out, the supporting text in Paragraph 6.7 could be read as suggesting that the Neighbourhood Plan establishes a maximum amount of residential development (*“...target...set by...retained”*). Any such approach would conflict with the national planning policy presumption in favour of sustainable development. The last sentence of this paragraph does not make grammatical sense and in any case, adds little, if anything of any substance to the Neighbourhood Plan.
- 72 Part of paragraph 6.8 reads as a policy requirement, which it is not and the final sentence of this paragraph appears vague.
- 73 I recommend:
- **Policy HE1, second sentence, change to “Development *should* be located in accordance with the following spatial strategy:”**
 - **Policy HE1, first two bullet points, delete “(as defined by the conservation area).”**
 - **Policy HE1, first bullet point, change to “Approximately 10 in Tatenhill village”**

- **Policy HE1, second bullet point, change to “Approximately 9 in Rangemore village”**
- **Policy HE1, delete last para containing a sentence and three bullet points (“Applications for new...Policy 8”)**
- **Delete paragraph 6.7 of the supporting text**
- **End paragraph 6.8 at line six “...(total of 12 committed).” Delete rest of paragraph**

Policy HE1.1 – Infill Residential Development

- 74 The Neighbourhood Plan includes a definition of infill development and Policy HE1.1 seeks to provide a supportive policy framework for appropriate infill development in the Neighbourhood Area. As such, it seeks to add precision to the Neighbourhood Plan and in doing so, it has regard to planning guidance.
- 75 However, the policy again refers to Conservation Area boundaries. The purpose of a Conservation Area boundary is entirely different to that of a settlement boundary. In a similar vein to earlier comments, I note that there is no substantive evidence to demonstrate why it is appropriate to include a large area of open countryside, protected for its national significance in respect of heritage, as well as for its intrinsic qualities, or why its inclusion results in an appropriate settlement boundary.
- 76 Contrary to the suggestion made by the Qualifying Body in response to my clarification letter (referred to earlier in this Report), there is no substantive evidence to support the contention that the fact that the Conservation Area boundary exists is a “*starting point*” for a settlement boundary. Rather, as noted above, the purpose of a Conservation Area is entirely different to that of a settlement boundary – and there is nothing before me that would suggest that this is not the case in respect of Tatenhill and Rangemore.
- 77 The proposed Policy itself includes a criterion requiring proposals not to encroach into the countryside. Given this, it seems odd, as well as unjustified, to propose a village boundary that includes large areas of open countryside.
- 78 The Policy seeks to place a limit on infill development of two dwellings. As set out, the wording of Policy HE1.1 is very prescriptive and would prevent an infill site coming forward for three dwellings, regardless of whether or not such a development could be demonstrated to be sustainable. There is no detailed evidence to demonstrate that there is no scope for infill sites to provide for say, three dwellings in an appropriate manner. Consequently, the Policy runs the risk of failing to contribute to the achievement of sustainable development.
- 79 In response to the clarification letter, plan-makers have suggested a more flexible approach in respect of the above, taking into account other examples of development plan infill policies, and this is a factor I take into account in the recommendations below.

- 80 Criteria 4 and 7 appear to overlap, in referring to both plot size and gardens; and parts of the Policy refer unnecessarily to other development plan policies.
- 81 The penultimate paragraph of Policy HE1.1 is highly prescriptive. It effectively requires every infill development to comprise "*entry level homeownership*" bungalows suitable for downsizing and which meet an identified need.
- 82 "*Entry level homeownership*" is entirely different to housing for downsizers. Essentially, such a dwelling is usually referred to as a "*starter home*." People requiring a starter home, or a home that provides an entry level to owning a home, do not tend to be downsizers, but rather, people just embarking on the housing ladder – usually younger people, including young families. Bungalows for downsizers are clearly aimed at older people.
- 83 Consequently, this part of Policy HE1.1 appears contradictory and confusing. Further confusion arises from the requirement for bungalows when other parts of the Policy require all infill development to be "*commensurate with the scale, mass, plot size and density of neighbouring dwellings*." Whilst plan-makers suggest that this is something that could be achieved through "*design*" there is no substantive evidence before me to demonstrate that a small entry level bungalow on an infill plot can, or will, in all cases be commensurate with the scale, mass, plot size and density of neighbouring dwellings.
- 84 This part of Policy HE1.1 appears imprecise and contradictory. It is not evident from the Policy how a decision maker should react to development proposals, having regard to Paragraph 16 of the Framework and this part of Policy HE1.1 does not contribute to the achievement of sustainable development.
- 85 The final part of the Policy seeks to provide a supportive framework for the development of small housing plots which might not comprise infill sites. However, it includes the vague reference "*may be supported*" which fails to provide any degree of precision or clarity.
- 86 Further, were this phrase to be changed to "*will be supported*," this would introduce an approach which, in the absence of a sensible, justified settlement boundary, could lend support to inappropriate forms of development and to a lesser degree, detract from the purpose of including an infill policy in the Neighbourhood Plan.

- 87 In addition to the above, this part of the Policy requires pre-application community engagement. Whilst early engagement is to be encouraged and has significant potential to improve the efficiency and effectiveness of the planning application system for all parties, pre-application engagement is not a statutory requirement and cannot be enforced.
- 88 Paragraph 6.11 states that the Policy limits house sizes “*up to 2 bedroomed.*” This is not the case.
- 89 Taking all of the above into account, I recommend:
- **Policy HE1.1, change first sentence to “*Infill development in the built-up area of Tatenhill and Rangemore villages will be supported where it meets all of the following criteria:*”**
 - **Policy HE1.1, change criterion 3. to “*The proposed scheme should not normally be for more than two dwellings;*”**
 - **Change criterion 4. to “*The proposed units are in keeping with local character, having regard to, for example, the scale, mass, plot size, gardens and amenity space and density of neighbouring dwellings;*” (delete reference to other policies)**
 - **Delete criteria 7 and 8**
 - **Delete the last two paragraphs of Policy HE1.1**
 - **Paragraph 6.10, last line, delete “...a...”**
 - **Delete paragraph 6.11**

Policy HE1.2 – Re-use of non-agricultural buildings

- 90 Local Plan Strategic Policy 8 (“*Development Outside Settlement Boundaries*”) supports the appropriate re-use of rural buildings. This is in keeping with national policy, which supports the re-use of redundant or disused buildings in the countryside for residential use, so long as such redevelopment enhances its immediate setting.
- 91 Further to the above, national policy encourages the effective use of land by re-using land that has been previously developed (brownfield land) (Paragraph 17, the Framework).
- 92 To some small degree, in seeking to provide for the redevelopment of disused non-agricultural buildings for housing across the whole of the Neighbourhood Area, Policy HE1.2 has regard to part of the Framework and is in general conformity with Local Plan Strategic Policy 8.
- 93 However, as set out, the Policy serves to place a significant obstacle on the redevelopment of disused non-agricultural buildings in built-up areas. It requires demonstration of “*substantial construction*” and seeks to set an age restriction more suited to agricultural buildings in the countryside. Further, it seeks to limit any such change of use to small homes for entry level homeownership and bungalows for downsizers.
- 94 Such an approach is not supported by any evidence in respect of deliverability. Disused buildings, by their very nature, tend to be more costly to develop than greenfield sites. Whilst the Tatenhill and Rangemore Neighbourhood Plan is examined against the 2012 Framework, I note that the most recent version of national policy, in referring to the requirement to promote the reuse of brownfield land, requires policies to make “*as much use as possible*” (Paragraph 117) of brownfield land for homes and goes on to state:

“To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution should be reduced by a proportionate amount (equivalent to the existing gross floorspace of the existing buildings).” (Paragraph 63, National Planning Policy Framework 2018, as revised)

- 95 By way of contrast, Policy HE1.2 seeks to place a burden upon the re-use of all non-agricultural buildings, without any evidence to demonstrate that such an approach is realistic. This runs counter to national planning policy, which, in Paragraph 16 of the Framework, requires plans to be:

"...prepared positively, in a way that is aspirational but deliverable."

- 96 There is a local aspiration for the provision of small houses, especially bungalows and this can be appropriately set out in the supporting text to the Policy.

- 97 Taking the above into account, I recommend:

- **Policy HE1.2, change to *"Where planning permission is required, the re-use of disused non-agricultural buildings for residential use will be supported subject to development respecting local character, including providing gardens and/or outdoor amenity space that is in keeping with its surroundings. Development must also provide for bin storage and parking in line with standards set by East Staffordshire Borough Council. "***
- **Add new paragraph 6.15 to supporting text *"The Parish Council is especially keen to see the provision of new, small, one and two bedroom dwellings, particularly bungalows. Development proposals for the re-use of disused buildings for the provision of such dwellings will be welcomed."***

Policy HE1.3 – Previously developed land

- 98 Policy HE1.2 provides for the redevelopment of brownfield land (*“disused buildings throughout the Parish”*). It is not clear, in the absence of any information, why brownfield land is effectively addressed by two separate policies in the neighbourhood plan.
- 99 Notwithstanding this, as above, national policy promotes the re-use of brownfield land. However, Policy HE1.3 seeks to place various restrictions on the re-use of brownfield land without any evidence to demonstrate that such an approach would still enable brownfield land to come forward for redevelopment.
- 100 The Policy seeks to limit the redevelopment of brownfield land to within Tatenhill or Rangemore villages, unless it is redeveloped for starter homes or homes for the elderly, amongst other, more vague criteria. Notwithstanding that such an approach is unsupported by any information in respect of deliverability, it conflicts directly with the national policy aim of making effective use of brownfield land, as required by Paragraph 17 of the Framework.
- 101 It is not clear, in the absence of any information, how the re-use of brownfield land might result in sprawl or encroachment; nor why the re-use of brownfield land should in all instances seek to retain *“historical”* walls, buildings and surfacing. Heritage assets should, in any case, in accordance with national policy, be conserved in accordance with their significance.
- 102 The Policy's requirements for significant improvements to the environmental quality of the Conservation Area and public realm improvements are not supported by any information in respect of viability or deliverability. Such requirements have no regard to national heritage policy, as set out in Chapter 16 of the Framework, *“Conserving and enhancing the historic environment,”* which makes no such demands, but rather, sets out an appropriate, carefully nuanced approach to conserving the nation's heritage.
- 103 Such an approach conflicts with Paragraph 16 of the Framework, referenced above, and results in a Policy approach that runs the risk of failing to contribute to the achievement of sustainable development.

104 The Policy goes on to state that *“a mix of homes will be required on these sites”* and that *“more than four units are unlikely to be acceptable”* without providing any indication of where *“these sites”* are, what they comprise, how large they are, or any other detail directly relevant to matters of mix and scale.

105 Policy HE1.3 has not been properly thought out and does not meet the basic conditions. It is not a Policy that can be modified to meet the basic conditions. However, as noted above, Policy 1.2 already addresses brownfield land and as modified, together with national policy, provides an appropriate planning policy framework.

106 I recommend:

- **Delete Policy H1.3**
- **Delete Paragraphs 6.15 to 6.17**

Policy HE1.4 - Former Agricultural Buildings

107 National planning policy promotes the creation of a prosperous rural economy. To achieve this, it requires planning policies to enable:

"...the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings." (Paragraph 28, the Framework)

108 Paragraph 28 of the Framework then goes on to support:

"...the development and diversification of agricultural and other land-based rural businesses;"

109 Policy HE1.4 presents a far more restricted approach to the conversion of buildings and agricultural diversification. Firstly, it seeks to limit any such development to the settlements of Tatenhill and Rangemore. Such an approach is in direct conflict with national policy, which is explicit in seeking to create a prosperous rural economy and does not seek to limit appropriate rural development to settlements, but purposefully refers to agricultural diversification, the conversion of buildings in rural areas and rural development which respects the countryside.

110 The Policy seeks to require the conversion of buildings to be restricted to buildings that are *"traditional."* Again, this is not something required by national policy. In response to my letter of clarification, plan-makers referred to a desire not to provide for the conversion of large scale portal framed buildings. Whilst this is noted, there is no substantive evidence to demonstrate that, in every case across the Neighbourhood Area, the conversion of any building that is not *"traditional"* would necessarily result in harm. Consequently, the approach set out runs the risk of placing an obstacle in the way of achieving sustainable development. The restrictive approach set out is not supported by substantive evidence.

111 Paragraph 55 of the Framework specifically provides for the development of housing through the re-use of redundant or disused buildings in the countryside, where development would enhance its immediate setting. It does not require such development to be limited to meeting specific housing needs. Nor does it seek to place a limit on the number of dwellings that might result from conversion. Such matters are likely to relate to the specific circumstances of the buildings to be redeveloped.

112 Policy HE1.4 does not have regard to Paragraph 55 of the Framework. It is not supported by detailed information, such as the type, scale, location or number of former agricultural buildings in the Neighbourhood Area. Rather, it sets out a prescriptive and restrictive policy approach that fails to have regard to national policy. Policy HE1.4 does not meet the basic conditions.

113 Policy HE1.4 is concerned with former agricultural buildings. This would suggest that the agricultural use is redundant. Notwithstanding this and all of the above, I am mindful that, to some extent, Policy HE1.4 seeks to ensure that the redevelopment of substantial, traditional agricultural buildings preserves local character. Whilst the Policy, as set out, appears confused and confusing, its underlying thrust appears aimed at rural prosperity and I recommend:

- **Policy HE1.4, change to: *“Where planning permission is required, the redevelopment of redundant or disused traditional agricultural buildings of substantial construction for employment, tourism or leisure use will be supported where such use respects local character and provides for parking in accordance with East Staffordshire Borough Council standards. Where planning permission is required, the redevelopment of redundant or disused traditional agricultural buildings of substantial construction for residential use will be supported, subject to development enhancing its immediate setting. The loss of traditional agricultural buildings will be resisted in order to maintain the character and appearance of the rural landscape.”***
- **Paragraph 6.19, change last sentence to *“Policy HE1.4 does not seek to support the redevelopment of large, modern, non-traditional buildings, such as large-scale portal-framed buildings, as these are considered to appear incongruous in the landscape.”***
- **Delete paragraph 6.20. National planning policy specifically provides for the re-use of such buildings, even though they may, by their very nature, be isolated (Paragraph 79, the Framework)**

Other Proposed Modifications

114 New paragraphs 5.9 and 8.6 are proposed. Proposed paragraphs 5.9 and 8.6 add a level of detail and provide further clarity in respect of the text supporting Policies SP2 and LC1, respectively.

115 Five minor typographical amendments are proposed. These simply address minor typographical errors.

116 I recommend:

- **Amend the Neighbourhood Plan to include new paragraphs 5.9 and 8.6**
- **Amend the Neighbourhood Plan to take into account each of the five minor typographical amendments proposed**

117 The recommendations contained in this Report will have a resultant requirement for the re-numbering of paragraphs and pages, as well as minor changes to the Contents page of the Neighbourhood Plan.

118 I recommend:

- **Amend the Neighbourhood Plan to ensure that paragraph and page numbers, and the Contents page are updated, taking into account the effect of the recommendations of this Report**

119 For clarity, I also recommend that a new Paragraph of text is added to the Neighbourhood Plan, in recognition of the proposed modifications:

- **Add a new Paragraph 1.12 to page 4, *"The Neighbourhood Plan was modified in 2019. The original Policy HE1 (Parish Housing Strategy) was replaced with the more detailed Policy HE1 (and sub-policies) contained in this Neighbourhood Plan. The modification process was subject to examination to ensure that the Neighbourhood Plan meets the basic conditions."***

7. Conclusion

- 120 Subject to the recommendations above, I find that the Tatenhill and Rangemore Neighbourhood Plan, as modified, meets the basic conditions¹¹.
- 121 Consequently, having regard to national planning guidance¹², East Staffordshire Borough Council is required to make the modified plan, taking into account the recommendations within this Examiner's Report, within five weeks following its receipt, or such later date as agreed in writing between Tatenhill and Rangemore Parish Council and East Staffordshire Borough Council.

Nigel McGurk, August 2019
Erimax – Land, Planning and Communities



¹¹ It is confirmed in Chapter 3 of this Report that the Tatenhill and Rangemore Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

¹² National Planning Guidance. Paragraph: 085a Reference ID: 41-085a-20180222.