

Denstone Parish Council

Denstone Neighbourhood Development Plan

Independent Examiner's Report

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11 November 2016

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Summary

I was appointed by East Staffordshire Borough Council to carry out the independent examination of the Denstone Neighbourhood Development Plan.

The examination was undertaken by written representations. I visited the neighbourhood plan area on 5 November 2016.

The Plan proposes a range of policies for Denstone village and beyond including the major employer JCB and Denstone College. Of particular note is the Landscape Character and Built Environment Assessment carried out as part of the neighbourhood planning process which underpins many of the policies. There has also been a welcome emphasis on engaging young people in the making of the Plan.

Subject to a series of recommended and quite significant modifications set out in this report, I have been able to conclude that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. There is however significant modification to Policy SB1 and its supporting text. This policy relates to an extended settlement boundary for Denstone village and three site allocations. This in turn has had implications for other policies relevant for the supply of housing and making sure they do not prevent sustainable development from being achieved.

Therefore if all the suggested modifications are undertaken, I can recommend to East Staffordshire Borough Council that the Denstone Neighbourhood Development Plan can go forward to a referendum. I am however mindful that there is no obligation on behalf of ESBC to accept all my recommendations. Therefore if some, but not all, of the suggested modifications are accepted, ESBC will need to consider further whether the Plan as a whole still meets the basic conditions.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
11 November 2016



1.0 Introduction

This is the report of the independent examiner into the Denstone Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by East Staffordshire Borough Council (ESBC) with the agreement of Denstone Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The examiner is required to check¹ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

¹ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

The basic conditions² are:

- 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
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- 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.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two basic conditions in addition to those set out in primary legislation and referred to in the paragraph above. These are:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects, and
- Having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this is not applicable to this examination as it refers to orders).

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

² Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case East Staffordshire Borough Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

3.0 Neighbourhood plan preparation and the examination process

A Consultation Statement has been submitted which explains there have been four key stages of engagement. I found it quite difficult to follow and digest the Consultation Statement and there appear to be errors regarding appendix numbering etc., but more particularly in relation to the dates of the pre-submission stage. Page 16 of the Consultation Statement indicates this took place in July to September 2016 but ESBC confirms that this took place in April to June 2016.

An initial questionnaire was sent out in November 2014. Over 60 responses were received.

In September 2015 a three-week period of consultation on issues and options was undertaken. This was launched at the Denstone show and included a further questionnaire and a newsletter. A number of organisations also responded at this stage having been contacted in July 2015 about the preparation of the Plan.

In February/March 2016 landowners and developers were engaged on a sites assessment exercise and a public exhibition was held.

Pre-submission (Regulation 14) consultation took place between 22 April - 6 June 2016.

The Steering Group has been innovative in its approach to engage with young people both through the local schools and via Facebook.

Submission (Regulation 16) consultation was carried out between 23 August – 5 October 2016.

The Regulation 16 stage attracted six representations which I have considered and taken into account in preparing my report. It is important to record that Historic England commends the use of historic characterization to provide a context and evidence and considers the Plan takes an "exemplary approach" to the historic environment.⁶

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to

⁶ Representation from Historic England of 20 September 2016

the Town and Country Planning Act 1990 (as amended).⁷ PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁸ Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further additions or amendments are required.

PPG explains⁹ the general rule of thumb is that the examination will take the form of written representations,¹⁰ but there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. After careful consideration of all the documentation and representations, I decided that neither circumstance applied and therefore it was not necessary to hold a hearing.

I made an unaccompanied site visit to Denstone and the neighbourhood plan area on 5 November 2016.

Where I recommend modifications in this report they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in ***bold italics***.

4.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

Denstone Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

Plan area

The Plan area is coterminous with the Parish administrative boundary. East Staffordshire Borough Council approved the designation of the area on 5 February 2014. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Parish and Plan area is clearly shown on page four of the Plan. This information is also helpfully confirmed in the Basic Conditions Statement (BCS).

⁷ PPG para 055 ref id 41-055-20140306

⁸ *Ibid*

⁹ *Ibid* para 056 ref id 41-056-20140306

¹⁰ Schedule 4B (9) of the Town and Country Planning Act 1990

Plan period

The Plan covers the period up to 2031. This is confirmed within the Plan itself, but the BCS indicates the period is 2016 – 2031. As paragraph 1.6 of the Plan explains the end date has been set at 2031 to correspond with the Local Plan then I suggest the 2012 start date of the Local Plan is used. Whilst may seem odd when the Plan has not been produced until 2014, this will mean that the calculation for commitments and the housing target period is aligned with the Local Plan. If the housing calculation result remains the same if 2014 is used, then I consider this would also meet the basic conditions.

- **Change paragraph 1.6 to read: “The Neighbourhood Plan will cover the period from 2012 to 2031 which corresponds to the plan period for the adopted East Staffordshire Local Plan.”**

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also usefully confirmed in the BCS.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community’s priorities for the future of their local area, but are not related to the development and use of land. In this Plan these are included in clearly differentiated “Community Proposals”. Paragraph 6.3 of the Plan explains their status.

If I consider any other policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.¹¹ Subject to any such recommendations, this requirement can be satisfactorily met.

5.0 The basic conditions

A Basic Conditions Statement (BCS) has been submitted. As an aside, I felt the BCs could usefully have been more fulsome and in places I found it to be inaccurate; for example it states that the Plan does not allocate sites for development but it does seek to do this through Policies SB1 (A), (B) and (C).

¹¹ PPG para 004 ref id 41-004-20140306

Regard to national policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹²

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹³

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at planningguidance.communities.gov.uk. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to this in preparing this report.

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹⁴

PPG indicates that a policy should be clear and unambiguous¹⁵ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.¹⁶

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁷ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁸

The BCS sets out how the Plan has responded to national policy offering a commentary under selective section headings in the NPPF.

¹² NPPF paras 14, 16

¹³ *Ibid* para 184

¹⁴ *Ibid* para 17

¹⁵ PPG para 041 ref id 41-041-20140306

¹⁶ *Ibid*

¹⁷ *Ibid* para 040 ref id 41-040-20160211

¹⁸ *Ibid*

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole¹⁹ constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.²⁰

The BCS contains a section with a commentary that sets out how the Plan will contribute to the achievement of sustainable development.

General conformity with the strategic policies in the development plan

The development plan consists of the Local Plan (LP) which was adopted on 15 October 2015. This covers the period 2012 – 2031.

The BCS includes a table (which is the same as Table 1 on page 35 of the Plan) that plots the Plan's policies with the LP policies of relevance. It is a simple table that gives the number of the policy and cross-references this to the NPPF. It would have been helpful to include more information on this, but this has formed part of my own assessment in any case. I also recommend later in this report that Table 1 included in the Plan itself is deleted because of the errors in it.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.²¹

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the

¹⁹ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

²⁰ *Ibid* para 7

²¹ PPG para 031 ref id 11-031-20150209

Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

A screening assessment was undertaken by ESBC in accordance with Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004. The screening report dated March 2016 concluded it is unlikely significant environmental effects would occur and a SEA would not be needed. The statutory consultees all responded and all agreed with this conclusion.²²

The statement of reasons includes the screening assessment. I am therefore satisfied that the requirements in this respect have been satisfactorily met.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.²³ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in primary legislation as detailed in section 2.0 of this report. In my view, as there are no European sites within or near the Plan area, I consider the Plan is not likely to have a significant effect on any European site either alone or in combination with other plans or projects. Natural England also concur with this view.²⁴ The Plan therefore complies with this basic condition.

European Convention on Human Rights (ECHR)

The BCS contains a short statement about fundamental rights and freedoms guaranteed under the ECHR. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

6.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

²² Letters from Natural England of 16 March 2016, Historic England of 14 March 2016 and Environment Agency of 25 February 2016

²³ PPG para 047 ref id 11-047-20150209

²⁴ Letter from Natural England of 16 March 2016

The Plan is presented with a Proposals Map and a Proposals Map Inset of Denstone village. Later on in the report I recommend the addition of a further Inset Map in relation to Policy CFOS2. As far as the basic conditions are concerned, there is no need for me to make a recommendation regarding the presentation of the Maps, but I consider it helpful when they form part of the Plan rather than as separate entities; this is simply something to consider as the Plan moves towards its latter stages.

The Plan begins with an informative foreword which will of course need some natural updating as the Plan progresses to the latter stages of the process and a helpful contents page.

1. Introduction

This clearly worded section contains useful information about the Plan and how it has developed. Paragraph 1.8 will need some natural updating as the Plan progresses to the latter stages of the process.

2. National and Local Planning Context

This section contains useful information but should also recognise that the Plan has to meet other requirements as well before it can progress to referendum or at least acknowledge the section only refers to the basic conditions. These should be replicated in full to ensure accuracy. As paragraph 2.1 will need updating after this stage, I do not propose to suggest the specific wording, but it is important that a full and accurate picture is given.

Paragraph 2.4 reproduces LP Policy NP1 on the role of neighbourhood plans. There is a small discrepancy from the published LP and in the interests of accuracy a modification is recommended to correct this.

- **Update paragraph 2.1 to reflect the latest position and to include full information about the requirements and basic conditions the Plan must meet (the requirements are set out earlier in this report)**
- **Change SP1 in the quote of LP Policy NP1 in paragraph 2.4 to read: “*SP1 – East Staffordshire Approach to Sustainable Development*”**

3. The Neighbourhood Area/Parish Profile

A lot of information is presented in this section. It summarises the key characteristics of the Parish and outlines the work that informed the Plan. Just a few small modifications to assist with clarity for the reader are suggested.

- **Change “SCC” in paragraph 3.13 to “*Staffordshire County Council (SCC)*”**

- **Change “Character Report” in paragraphs 3.19 and 3.23 to “*Landscape Character and Built Environment Assessment*”**

4. Summary of Community Engagement

This short section gives a flavour of the engagement work undertaken and rightly points the reader in the direction of the Consultation Statement for further information.

5. Issues, Selected Options, the Vision and the Objectives

The vision for Denstone Parish is:

“By 2031 Denstone will continue to be a good place to live in, with a strong sense of community and viable local services. The Parish will have adapted to change and seen some new development and have a healthy rural economy, with the character of the village and the surrounding countryside protected and enhanced.”

The vision is underpinned by eight objectives. Both the vision and the objectives are worded acceptably and relate to development and use of land matters. Objective 7 causes me some concern because it is titled “Separation” and refers to keeping Denstone village physically separate from Rocester/JCB. I consider that this objective would be better realigned to refer to local distinctiveness. Care should also be exercised here and in other places in the Plan to avoid giving the impression that Rocester falls within the Plan area.

- **Reword objective 7 so that it reads: “*7 Local Distinctiveness The Neighbourhood Plan will recognise the need to protect the local character which local people have said that they value including ensuring that the distinctive and separate identities of Denstone village and other settlements within the Parish are respected.*”**

6. Policies and Proposals

Section 6 begins by explaining the structure of the Plan that follows. There is, I think, a missing word in paragraph 6.2.

Each policy has the Plan objective it relates to in brackets after the policy title. It is good to see that the objectives of the Plan have been kept in mind all the way through. However, it would provide more of a practical framework and greater clarity if the objectives did not appear in the policy itself. In any case this is unnecessary. Therefore it is recommended that these references be removed from each policy. If desired they can be inserted after each policy with a sentence to ensure it is clear. I do not repeat this recommendation after every policy but it should be taken that this applies

throughout the Plan. I also note that Table 1 on page 35 of the Plan also cross-references the policies with the objectives, but unfortunately the Table has a number of errors in it. Therefore if references to the objectives are to be retained, an accuracy check should be carried out.

- **Delete the reference to objectives in brackets after each policy title and move them, if desired, to after each policy with a new sentence that reads: “*This policy relates to objective(s) XX*” [insert relevant objective number(s)] having checked the correct objectives are referred to**
- **Insert the word “an” so that the start of paragraph 6.2 reads: “Reflecting the NPPF, there is *an* overall policy on...”**

Policy DP1 Sustainable Development Principles

Policy DP1 is an overarching policy in two parts. Part A sets out the criteria for supporting sustainable development within the Parish and Part B sets out principles.

Part A refers to development being in accordance with policies in the neighbourhood plan and in the interests of clarity this should refer to the development plan. It also caveats this by requiring development proposals to show that the development “would support the community”; this is an ambiguous phrase, open to interpretation and argument and it does not therefore provide the practical framework required. As a result it should be deleted.

The first criterion refers only to Denstone rather than the Parish. In view of subsequent modifications made to later policies of the Plan, it is important to ensure that it is the Parish as a whole which would support appropriate housing development and that the requirement for new homes takes account of the most up to date evidence base.

Criterion 4 in Part A of the policy requires the provision of superfast broadband and this might be an onerous requirement. This is however recognised by the policy and subject to some changes to help with the sense of this criterion, this part of the policy is, in my view, sufficiently flexible as it offers an alternative if that is not practical for any reason.

Criterion 2 in Part B refers to “views”. Later on in the Plan and indeed in Part A of this policy, reference is made to “key views” which have been identified as part of the Landscape Character and Built Environment Assessment which is summarised in Appendix 2. In order to provide more clarity, the policy should refer to these key views and appendix.

Subject to these concerns being addressed, the policy sets out a direction for development taking account of national policy and guidance and will help to achieve sustainable development.

- **Change the reference to the “Neighbourhood Plan” in Part A to the “*development plan*”**
- **Delete the words “...where it can be shown that the development would support the community, by providing:...” and replace them with the words “...where proposals would provide...”**
- **Add the following words to criterion 1 so it reads: “New homes, to meet the dwelling requirement for Denstone *Parish set by East Staffordshire over the Neighbourhood Plan period*, but also taking account of the setting and character of the villages and addressing local housing demand in terms of size, type and tenure.”**
- **Remove the full stop between “...connection. Unless...” in criterion 4**
- **In criterion 2 in Part B change the reference to “views” to “*key views which are described and shown in Appendix 2.*”**

Policy DP2 Infrastructure – Flooding and Drainage

Policy DP2 reflects the community’s concern about flooding and drainage and desire to seek more sustainable solutions.

There is little doubt that consideration of flood risk will proactively help to meet one of the challenges of climate change. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.²⁵ It advocates a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property.²⁶

The NPPF sets out the circumstances in which a site-specific flood risk assessment will be required.²⁷ PPG advises that the general approach and requirements for site-specific flood risk assessments should be applied to developments in areas at risk from flooding. The wording of the second paragraph of the policy could be interpreted that all development requires a site-specific flood risk assessment and this would result in the policy not taking sufficient account of national policy on this matter. A modification is therefore recommended to address this.

The third paragraph of the policy outlines specific local requirements which are justified in the supporting text. This includes the requirements for sustainable drainage systems (SuDs) and given the language used in the policy I consider it does accord with the Written Ministerial Statement (WMS)²⁸ which advises that from 6 April 2015, policy and

²⁵ National Planning Policy Framework (2012) para 100

²⁶ *Ibid*

²⁷ *Ibid* para 103

²⁸ Written Ministerial Statement 18 December 2014

decisions on major development should ensure that SuDs are put in place where appropriate.

The last sentence of the policy discounts larger scale development where this is promoted as an enabler to investment in flood measures. This sentiment is carried though to the justification for Community Proposal CPDP1. This is too inflexible and contains an assumption that any larger scale development might adversely affect the character of Denstone. It also seems to internally conflict with this Community Proposal. As a result it should be deleted from the policy.

- **Change the first sentence of the second paragraph of the policy to read: *“Proposals for new development must be accompanied by a site-specific flood risk assessment where this is required by national policy and guidance or by the Environment Agency or Staffordshire County Council or East Staffordshire Borough Council.”* For the avoidance of doubt the second and third sentences of this paragraph can be retained**
- **Delete the last sentence of the policy that reads: *“The Parish Council will not support larger scale development, beyond levels of growth set out in the Local Plan, where these are promoted to enable investment in flood measures.”***

Community Proposal CPDP1 Flood Prevention and water management reads as if it were a planning policy rather than a community aspiration and so to ensure it is clear that this is an aspiration and not a planning policy, a sentence should be added.

- **Add a sentence to Community Proposal CPDP1 that reads: *“This is a community aspiration and not a planning policy.”***

Denstone Village Settlement Boundary

Policy SB1 Development within the Village Settlement Boundary

In the LP Denstone is classified as a Tier 2 local service village which are described as meeting local needs by providing a more limited range of facilities and services that sustain village life. Stubwood is identified as a Tier 3 small village; described as very rural and small and having very limited facilities and services. The LP’s suggested split of development across the Borough is 6.3% to Tier 1 villages and 2.5% to Tier 2 and 3 villages.

LP Strategic Policy (SP) 2 sets out the settlement hierarchy. The supporting text of the LP amplifies this by explaining that limited development will be accommodated in line with the range of facilities in each Tier 2 village and their sensitivity to the erosion of their character. To this end a development allowance for each settlement is specified; Denstone is assigned 20 dwellings in LP SP4. The LP explains that for Tier 2 local service villages the delivery of the development allowance will be community led and can

either be achieved through windfall infill development within settlement boundaries or through the allocation of small sites.

In Tier 3 villages there is no settlement boundary and no allocations have been made by the LP. LP SP4 explains the overall development allowance will be achieved through the housing exceptions site policy and development in the countryside.

Policy SB1 is an extremely long policy which permits new housing development on three allocated small sites within an extended settlement boundary for Denstone village. It provides for around 20 dwellings over the Plan period which is in line with the development allowance in LP SP4.

The community has taken on the mantle of allocating sites and has done so with positive and good intentions.

This policy has been positively prepared with good intentions. However, the housing site assessment and selection process is lacking in many respects. A summary of the housing site assessment process is given on page 12 of the Plan and details are contained in a separate report.

Eight sites were considered; five in Denstone and one in Stubwood based on ESBC's Strategic Housing Land Availability Assessment (SHLAA) of 2014 and two other sites promoted by landowners through the neighbourhood planning process.

Contact was made with landowners and developers in October 2015. This letter invited comments on the proposed site assessment criteria, invited landowners/developers to complete the site assessment form and promised that the outcomes of the site assessment process would be subject to public consultation although land at The Croft, College Road was a late addition and was assessed but was not subject to public consultation.

The approach to site selection has been rudimentary. The individual site assessments are basic covering many issues, but without much commentary on those issues or how they might be overcome. It takes a 'traffic light' approach, but does not offer an explanation of the 'red/amber/green' scores. Some of the scores given seem to be without much foundation such as a limited site capacity or access and flooding "viability" is "assumed" whatever that might mean, and there is an emphasis on character, setting and views. In addition some of the 'green' scores such as a contribution to improved infrastructure or improvement to community facilities seem to rely on higher numbers being achieved on sites than is actually allocated in the Plan. One of the scores marks one site offering more than the amount of housing needed as 'red' and this does not make much sense to me. In addition, I feel that if the sites actually allocated in the Plan had been assessed the traffic light scoring may well have come out differently. In any case, the scores have not been weighted in any way.

In addition there is an anomaly in relation to Vinewood Farm which has not been explained. This site is separated into 'north' and 'south'. It was not considered as part

of the SHLAA process. The site assessment concludes that Vinewood Farm north is unsuitable for development whereas Vinewood Farm south is suitable. Both elements now appear in the Plan. Although the Consultation Statement (CS)²⁹ refers to further consideration of the Vinewood Farm north site and the logical extension of the settlement boundary to include this site following consultation in February 2016, the CS indicates that there was no need for change given the level of agreement with the sites deemed unsuitable (including Vinewood Farm north). In addition the Report on selection of locations for new housing concludes this site is not suitable and if the position changed, then this evidence document does not appear to have been updated. It is therefore not absolutely clear to me how this has come about.

In addition the representation from ESBC also expresses concern about Vinewood Farm and there is nothing in the assessment to allay these concerns.

Moreover Appendix 3 of the Report has not been submitted and my query on this confirmed this as an oversight.

I appreciate that out of the eight sites considered, four were not available due to a lack of interest from landowners/developers. However, the site assessment is lacking in so many ways, that I am not convinced it can be relied on. It does not offer appropriate evidence to support the choices made or to convince me of the sites' deliverability.

As a result, I consider that all three site allocations should be deleted from the Plan and its Proposals Map. Clearly, this has implications for the whole Plan and whether a conclusion can be reached that it remains to be in general conformity with the strategic policies of the LP.

Given that the LP offers a choice for communities to rely on windfall development or allocate sites, the principle of extending the settlement boundary is sound. Whilst I feel the policy has rather muddled the two elements of boundary extension and site allocation, the two are severable. I also saw at my site visit that the three areas for extending the settlement boundary make sense 'on the ground'. Together this means that the settlement boundary delineation in line with the community's preferred extensions to it can remain as a mechanism for helping to secure growth, but that the site specific policies and criteria should be dealt with through the planning application process. If matters such as highway and drainage issues cannot satisfactorily be resolved, monitoring will reveal this. The LP has a default in Neighbourhood Policy 1 which indicates that if development is not coming forward as envisaged in the Plan, ESBC will take action to bring sites forward through a Development Plan Document in line with LP SP6.

Whilst this would then mean that development would be windfalls rather than sites allocated, it also means that development could potentially take place on the community's preferred locations should the conditions for that be favourable.

²⁹ Consultation Statement page 14

Although this perhaps does not give some of the certainty the Plan sought to achieve, it means that the Plan as a whole can remain intact provided that other policies for the supply of housing do not prevent sustainable development from taking place. I have therefore kept this in mind to ensure that other such relevant policies will accord with the relevant basic conditions.

I have therefore been able to conclude that with significant modification, the Plan can be said to be in general conformity with the strategic policies of the LP. It should however be noted that given my comments above, if some of the modifications I recommend throughout this report are accepted, but others are not implemented, ESBC will need to ensure that the making of the Plan will still meet all the basic conditions and can still go forward to referendum. In other words, I am satisfied that if all my recommended modifications in relation to the entire Plan are accepted, the modified Plan can proceed. If only some of the recommendations are carried forward, and I appreciate my recommendations are not binding, then ESBC should consider whether the Plan as a whole still meets the basic conditions.

Having then recommended the three site allocations be deleted, I now turn to the elements of Policy SB1 which remain. There are a number of elements which require modification to help with clarity and to provide a practical framework for decision-making and to ensure that sustainable development is achieved.

It is not necessary, and potentially confusing, to refer to the extended boundary in the policy or to notate it as such on the Proposals Map Inset. After this stage of the process, the Map should simply show the new boundary although this notation was helpful at earlier stages.

The third element is that the policy also requires compliance with other policies in the Plan, but this should be extended to any development plan policies i.e. the relevant policies of the LP as well. This is because considerations are not limited to the neighbourhood plan.

The fourth element is the reference to “about 20” dwellings being provided over the Plan period and this needs to be changed to a minimum figure to ensure the Plan does not inadvertently cap development and to be in general conformity with LP SP4.

Rather than undertaking numerous modifications that may be complicated to follow, I have written the new policy.

I appreciate that some of the site specific requirements outlined in SB1(A), SB1(B) and SB1(C) which set out the way in which the sites should be developed within the context of its allocation will be lost. However, the desire for smaller dwellings, highways and flooding and drainage matters, boundary and landscaping treatments, impact on heritage assets, design related issues and contamination concerns can all be dealt with through the development management process as can support for self build units. In addition many of these issues are also covered by other policies of the Plan.

Furthermore, it might be possible for the Parish Council to set out its aspirations for the different areas within the extended settlement boundary in a separate annex of the Plan provided that they are clearly identified as such. However, given that I have recommended deletion of the site allocations, the site-specific criteria should not be retained in the Plan.

The justification will need significant revision. This includes a bullet point about the separation between Denstone village and Rocester/JCB. Whilst I recognise this was identified in the Landscape Character and Built Environment Assessment, it is difficult to see how any development that does not reduce the physical separation between Denstone village and Rocester/JCB does not, in effect, introduce a gap type of policy. This in any case is not justified and the introduction of policy requirements through the supporting text is not acceptable. Nevertheless I recognise the community's concerns in this respect and suggest a replacement bullet point that I consider will achieve the community's aims whilst addressing my concerns.

Other elements of the supporting text do cover some of the points lost from the deleted policies.

A paragraph on phasing towards the bottom of page 21 also needs deleting. Given that the sites are now within a settlement boundary the timing of such proposals will largely be in the hands of the landowners and developers.

- **Delete SB1(A), SB1(B) and SB1(C) from Policy SB1**
- **Reword Policy SB1 to read: *“New housing development will be permitted within the Denstone settlement boundary as shown on the Proposals Map Inset provided it complies with other development plan policies. The number of dwellings to be provided over the Plan period is a minimum of 20.”***
- **Change the Proposals Map Inset to simply show the new settlement boundary notating this as “Settlement Boundary” and remove the notations that show SB1(A), SB1(B) and SB1(C) and the green hatched notations and change the key**
- **Consequential amendments to the justification will be needed and these are i) the deletion of “The criteria set for each location reflect the nature of the sites...stages.”, ii) changing “This form of development...” to “*The form of development...*” both on page 20 of the Plan, iii) deleting the bullet point that reads: “-reduce the physical separation between Denstone village and Rocester/JCB” and replacing it with “*-reduce the distinctive and separate identities of Denstone village and Rocester/JCB*”, iv) deleting the words “...are and this will be especially important at Vinewood Farm and Oak Road. In each case...” in the first paragraph under the bullet points on page 21 of the Plan**
- **Change “Character Report” in the first paragraph to “*Landscape Character and Built Environment Assessment*”**

- Delete the paragraph on phasing on page 21 of the Plan

Policy SB2 Residential Development outside the Settlement Boundary

LP SP8 deals with all development, not just residential, outside settlement boundaries. It allows much more than Policy SB2 and is more detailed. For this reason and because of the reference to LP SP18 which deals with rural exception sites, I have interpreted this policy as supporting rural exception housing subject to three criteria although its title goes far beyond that.

The third criterion refers to bringing back redundant or vacant historic buildings into use. I cannot understand why this is relevant in the way it is presented and no justification or mention of this has been put forward in the supporting text. For this reason it should be deleted.

There are some minor clarifications which need to be made in the interests of providing a practical framework and to ensure accuracy.

I found the justification difficult to follow and confusing; it also seems to relate more to other policies of the Plan. I have therefore suggested replacement text for this in the interests of clarity.

Subject to these modifications the policy will meet the basic conditions.

- **Change the title of the policy to *“Rural Exception Housing”***
- **Delete criterion c) from the policy**
- **Change *“...the Settlement Boundaries...”* in the first sentence of the policy to *“...the defined Settlement Boundary of Denstone and the settlements of Stubwood, Quixhill and Prestwood”***
- **Change the word *“accord”* in criterion a) to *“accordance”***
- **Change the title of Local Plan Policy SP18 referred to in the policy to *“Residential Development on Exception Sites”***
- **Rewrite the justification to Policy SB2 replacing the text on page 22 of the Plan with: *“Rural exception housing will be permitted outside of the Denstone Village Settlement Boundary and the settlements of Stubwood, Quixhill and Prestwood in accordance with Local Plan Policy SP18 and subject to satisfactory impact on the character and appearance of the area. This will help to ensure that local needs can be accommodated. A small proportion of market housing will be supported where this would facilitate the provision of significant additional affordable housing that meets local needs.”***

Area Based Policies

Policy AB1 Denstone College

Denstone College is acknowledged as having an important educational and employment role. It is located to the south west of Denstone village. The policy has been designed to support further education-related development of the College provided the impact of any such development is satisfactory. The policy will help to achieve sustainable development. It meets the basic conditions. The only modifications necessary are those to ensure clarity and to provide a practical framework. These include linking the policy to the Proposals Map so that the area covered by the policy is clear and to ensure that the word “linked” in the policy is not interpreted as a need to be physically linked rather than uses in association with the College.

- **Insert “*shown on the Proposals Map*” after “...existing college campus...” in the first line of the policy**
- **Change the word “linked” to “connected”**
- **Add the word “*generation*” at the end of the bullet point “Increased traffic”**
- **Change the last bullet point to read: “*Landscape setting and loss of key views identified in Appendix 2.*”**

Policy AB2 JCB Proving Grounds at Prestwood and land between Denstone and Rocester

JCB is a major employer in the Borough. Whilst the policy and supporting text is in principle supportive of development within the proving grounds, the criteria is such that there is a danger that no development could take place. Therefore a balance is needed between supporting this important employer and the concerns of the community to ensure that sustainable development is achieved. As a result a modification is recommended.

The modification will also address the point that the policy’s title and one of its criterion refers to the separation between Denstone village and Rocester and the JCB plant, but the policy and the supporting text is not written in a way that deals with any development to the south of the village as a glance at the Proposals Map, which shows the area subject to this policy, confirms. In addition Rocester and the JCB complex close to Rocester do not fall within the Plan area. Consequential amendments to the justification will be needed.

- **Reword Policy AB2 to read: “Proposals for development within the JCB vehicle proving grounds identified on the Proposals Map will be permitted provided that no significant harm is caused:**
 - *By increased traffic generated by the proposal or*
 - *By noise and disturbance or*
 - *From light pollution or*
 - *From the loss of key views identified in Appendix 2 or*
 - *On groundwater source protection zones as advised by the Environment Agency or*
 - *To recognised landscape features or habitats.”*

- **Delete “...& land between Denstone and Rocester” from the policy’s title**

- **Delete “...and to maintain the separate physical identity of the village.” from the justification on page 23 of the Plan**

Housing Policies

Policy H1 Smaller Infill Sites – General Criteria

This policy seeks to support previously developed infill sites in Denstone village, Stubwood, Quixhill, Prestwood and Doveleys subject to a number of criteria and in addition to the development permitted by LP SP8 and SP18 which refer to development outside settlement boundaries and rural exception sites respectively.

The policy refers to the settlement boundary but Stubwood, Quixhill, Prestwood and Doveleys do not have defined settlement boundaries. This then needs modification in the interests of providing a practical framework. In addition the title of the policy can be made simpler and clearer.

It is not clear to me why infill development is to be restricted to previously developed land. There is no explanation for this in the justification. I do not consider that this aspect of the policy takes account of national policy and guidance or will help to achieve sustainable development; as a result to enable the policy to meet the basic conditions this element should be deleted.

In addition there are three criteria that give me some concern. The first is the requirement that vegetation cannot be removed; this is too inflexible and so I suggest a modification to address this. Another modification is made in the interests of clarity.

My second concern is the reference to tandem development and that tandem development must have direct highway frontage access. Tandem development is generally considered to be the placing of one dwelling behind another on a single plot and so the use of this phrase is contradictory as tandem development would be unlikely to achieve direct frontage access. This then requires deletion.

The third criterion is v; there seems to be missing words and I address this in my recommended modification below.

- **Change the title of the policy to “Infill Sites”**
- **Change the phrase “settlement boundary” in the first sentence of the policy to read “*the defined Settlement Boundary of Denstone and the settlements of Stubwood, Quixhill, Prestwood and Doveleys*”**
- **Delete the words “...on previously developed land...” from the first sentence of the policy**
- **Add the words “*the occupiers of*” before “...neighbouring properties...in the first criterion**
- **Add the words “*...of value and which cannot satisfactorily be replaced if so required...*” after “...mature vegetation and landscaping...” in criterion i**
- **Delete criterion ii in its entirety**
- **Add the end of criterion v “...will be encouraged wherever possible.”**
- **Consequent renumbering of the criteria will be required**

Policy H2 Meeting the needs of all sectors of the population

Understandably there is a desire to provide for the needs of the population. The NPPF seeks to boost the supply of housing and seeks to deliver a wide choice of homes.³⁰ PPG³¹ reiterates that “the NPPF is clear that local planning authorities should plan to plan to create safe, accessible environments and promote inclusion and community cohesion. This includes buildings and their surrounding spaces. Local planning authorities should take account of evidence that demonstrates a clear need for housing for people with specific housing needs and plan to meet this need.”

LP SP16 seeks to meet housing needs by providing an appropriate mix and this policy is in tune with this LP strategic policy.

The Plan explains that the Parish has a higher than national and County average percentages of people aged 65 and over and a higher than the national average of pensioner households. The need to provide housing for older people is critical given that the projected increase in the number of households aged 65 and over accounts for over half of new households.³²

³⁰ NPPF Section 6

³¹ PPG para 005 ref id 56-005-20150327

³² *Ibid* para 021 ref id 2a-021-20160401

Policy H2 seeks to ensure that new housing development includes a range of house types and sizes and specifically seeks to meet the needs of older people. It also refers to meeting the needs of people with disabilities and compliance with Part M4(2) of the Building Regulations. This is a laudable aim. However, the Government has created a new approach to the setting of technical standards for housing. As I understand the Written Ministerial Statement (WMS) of March 2015 limits the setting of optional technical housing standards to local planning authorities and Part M4(2) and M4(3) are optional standards. The WMS indicates these can only be set through Local Plans and not neighbourhood plans. Therefore, assuming the policy means Part M4(2) as it actually says M(2) I cannot recommend this reference is retained as this would not take account of the WMS.

As the policy is worded clumsily, it refers unnecessarily to other policies, again limiting these to the neighbourhood plan rather than the development plan and refers to the optional technical standards which is not acceptable according to the WMS, the policy needs to be reworded to ensure it meets the basic conditions.

- **Reword Policy H2 as follows: “New housing development should include a range of house types and sizes to meet the locally identified needs of the population. The provision of smaller (one, two and three bedroomed) homes, homes suitable for older people and homes which meet the needs of people with disabilities are particularly encouraged and would be welcomed by the local community.”**

Policy H3 The design of residential conversions and extensions

The supporting text explains that the conversion of buildings into houses and extensions are the most common form of development in the Parish. Taking LP principles as a first reference point (which are expressed in LP SP24 and the LP’s references to a Design Supplementary Planning Document), the policy seeks to ensure that this type of development is appropriate in relation to character. The policy uses the word “reflect” in this respect. This may inadvertently stifle innovation and a better word is “respect” so that new or innovative design and materials can be encouraged but only if appropriate.

The remainder of the policy is clear and achieves a balance between the requirements and flexibility.

- **Change the word “reflect” in the first sentence of the policy to “respect”**

Heritage, Landscape and Rural Character Policies

Policy BE1 Protecting and enhancing local character

This policy seeks to ensure that development respects the character of the area. In Part A, it requires applicants to submit a Design and Access or Heritage Statement. Given that the policy applies to all development, this may be an onerous requirement for smaller development and as the policy is currently worded this would catch extensions and other householder proposals. The modification suggested gives a little more flexibility to ensure the policy provides a practical framework for decision-making.

Part C refers to the key views highlighted in Appendix 2. Considerable work has gone into the Landscape Character and Built Environment Assessment and this policy relies on that evidence together with community consultation. They are indeed important views to the unique character and topography of the village and its setting as I saw for myself on my site visit.

Part C indicates they must be respected and not compromised by the location or scale of new development. It is worded rather ambiguously. Given that Appendix 2 reveals views essentially around the village of Denstone this might be interpreted to mean that no development would ever be permissible. This clearly would not be acceptable and so a modification is suggested to provide a balance between sustainable development that would be appropriate and the protection of local distinctiveness so that a practical framework is provided. Additionally, Appendix 2 (as does the Landscape Character and Built Environment Assessment) refers to two Maps; only one is included in both the Assessment and the Appendix and so I recommend later that references to Map 2 which is not included are deleted from the Appendix to avoid any confusion.

Part D refers to the open countryside between Denstone village Stubwood and Rocester/JCB. It states that this open countryside should be maintained and that built development will not be permitted if there is an adverse impact on openness unless there are exceptional circumstances. Whilst earlier on in the Plan (objective 7, Policies SB1 and AB2) have referred to the separation between these areas and I have turned this into a more positively worded local distinctiveness angle, this reads as and could be construed as if it introduces a 'green gap'. The justification only refers to the open area between Denstone village and Stubwood.

A key facet of the NPPF is to reinforce local distinctiveness. The area concerned is a relatively large tract of land and this element of the policy may restrict the development of JCB to an unreasonable extent; the complex is in any case outside the Plan area as previously mentioned. However, I recognise the community's concerns and the validity of ensuring that Denstone village and Stubwood retain their respective separate and distinctive identities and it may be that JCB own land south of the village within the Plan area. For that reason I suggest modifications to provide a balance between these two potentially conflicting demands and which addresses these concerns.

Other modifications are minor relating to the sense of the policy so that it provides clarity and ensuring the supporting text ties up with modifications to this policy and others in the Plan.

- **Add the word “in” between “...identified...” and “...the Denstone Parish Character Study.” in Part A**
- **Change “Denstone Parish Character Study” to “Landscape Character and Built Environment Assessment” in Part A**
- **Add “Where appropriate...” to the start of the second sentence in Part A**
- **Add “...or otherwise in writing...” after “...Heritage Statement...” in the second sentence of the policy**
- **Reword Part C to read: “Any development in an area within the key views detailed in Appendix 2 and shown on the Key Views Village Map within Appendix 2 must ensure that key features of the view can continue to be enjoyed including distant buildings, areas of landscape and the juxtaposition of the village edge and surrounding countryside.”**
- **Reword Part D to read: “Development proposals should ensure that the distinctive and separate identities of Denstone village and Stubwood are not adversely affected by any development in the south and southwest of the Parish.”**
- **Delete “These are subject to specific protection under this policy and they helped to inform the choice of preferred locations for new housing.” from the first paragraph of justification on page 26 of the Plan**
- **Change “Character study” to “Landscape Character and Built Environment Assessment” in the second paragraph of the justification**
- **Add the words “where appropriate” after the first mention of “Heritage Statement” in the second paragraph of the justification**

Policy BE2 Protecting and enhancing local built heritage assets

Appendix 3 of the Plan identifies a list of local heritage assets. The policy refers to Appendix 1, but this is an easily rectifiable typo. It seeks to ensure that local heritage assets are considered in new development proposals. The policy is clearly worded and has sufficient flexibility. It meets the basic conditions subject to some minor modifications in the interests of clarity and accuracy.

The justification includes an action to seek funding. This should become a Community Proposal as it does not relate to development and use of land matters.

- **Insert “*Where appropriate*” at the start of the policy**
- **Replace “(see Appendix 1)” with “(listed in Appendix 3),” in the policy**
- **Remove the sentence “Enhancements to the local features will be sought through funding bids to support their management.” in the justification for Policy BE2 to a new Community Proposal**

Policy BE3 Protecting and enhancing archaeological features

This policy seeks to protect and record features of archaeological importance. National policy and guidance advocates a proportionate approach to the conservation and enhancement of the historic environment. The policy needs to ensure that it reflects this approach. There is also repetition in this policy and others in the Plan. Subject to modifications to address these matters, the policy will help to achieve sustainable development.

- **Insert “*Where appropriate*” at the start of the policy**
- **Delete the sentence “In addition, measures should be taken to minimise impacts of development upon the historic landscape character of the area.” from the policy**
- **Add “*or similar*” after “Heritage Statement” in the last sentence of the policy**

Natural Environment and Landscape Policies

Policy NE1 Protecting the countryside and landscape

This policy seeks to ensure that development in the rural areas respects the character of the area. It is clearly worded and meets the basic conditions. As a result no modifications are suggested to the policy, but some minor consistency issues with the justification should be addressed.

- **Change the references to “Character Assessment” and “Character Report” to “*Landscape Character and Built Environment Assessment*” in the first paragraph of the justification**

Policy NE2 Nature Conservation

This policy concerns biodiversity and the need for schemes to minimise impacts and seek net gains wherever possible. Subject to some modification to ensure the policy reflects national policy and guidance and for clarity reasons, the policy will meet the basic conditions.

- **Change the word “Any” at the start of the policy to “All”**
- **Add “...take every available opportunity to...” in the first sentence of the second paragraph of the policy between “...to protect wildlife and...” and “...enhance biodiversity...”**

Community Proposal CPNE1 reads well.

Transport

Policy T1 Development related traffic requirements

This policy seeks to ensure that the traffic effects of new development in and around Denstone village and Stubwood are considered.

It requires a traffic assessment or statement to be submitted. The NPPF indicates all developments that generate significant amounts of movement should be supported by either a transport statement or a transport assessment.³³ Both of these terms are defined in the NPPF’s glossary. The policy also refers to the creation of hazards, but until a transport assessment or statement is submitted, this would be unknown. Therefore whilst it is clear that there is community concern over this issue, the policy’s wording should be revised to provide the practical framework sought by national policy.

- **Delete “...or would create a traffic hazard on narrow twisting lanes...” from the policy**
- **Insert the words “...and take any...” before “-opportunities for improving the pedestrian...”**

Community Proposal CPT1 reads well.

³³ NPPF para 32

Community Facilities, Local Shops and Open Spaces

Policy CFOS1 Community buildings, shops and public houses

Four community buildings, including two places of worship are covered by this policy. It seeks to resist the loss of these facilities unless there is suitable alternative provision or there is no longer a need for the facility or the premises are unsuitable or unviable.

The NPPF³⁴ promotes the retention and development of local services and facilities recognising they are needed to support a strong rural economy and to provide services for local residents as well as be a source of employment. The policy is articulated clearly, it takes account of national policy and guidance and will help to achieve sustainable development. No modifications are therefore recommended.

Whilst the justification appears to talk more generally about community facilities, the policy is quite clear that it only applies to the four specified facilities A – D.

Policy CFOS2 Existing Open Spaces

In line with the thrust of the NPPF,³⁵ this policy protects open spaces and recreational facilities from development. In so doing it would also prevent any development associated with such uses like changing rooms or pavilions which may well be acceptable and in fact be welcomed and potentially be regarded as sustainable development.

The policy accepts replacement provision where that is better either in terms of quality or quantity. It also requires any enhanced provision to be in a location agreed by the Parish Council. This latter requirement may be difficult to achieve given that the Parish Council is currently not the determining body. As per the previous policy the last element of the policy specifies some, but not all, of the areas to which the policy applies. As a result it probably adds confusion to the policy and its title. To meet the basic conditions, including general conformity with LP SP32, a number of modifications are therefore needed.

Area B is the playing fields at All Saints School, but from my site visit the notation on the Proposals Map appears to include the school building as well. It would be useful to have larger scale maps of Areas A, B and C so it is clear what areas are covered by the policy.

Area D is the playing fields and open spaces at Denstone College. The College is subject to a separate Policy AB1. If reference was to remain in this policy there would be an

³⁴ NPPF para 28

³⁵ *Ibid* para 74

internal conflict given the thrust of Policy AB1. It should therefore be removed from this policy.

The former railway line footpath identified in the policy as “E” is also identified as a Local Green Space in the next policy. There is no need to identify this area twice as this is confusing and unnecessary.

These deletions should be addressed in the Proposals Map too.

The justification for this policy does not read well; it makes little sense and so it will need amendment for this reason and to reflect the modifications below.

- **Delete the word “Existing” from the policy’s title**
- **Reword the policy as follows: “Open spaces and recreation facilities will be protected from development that detracts from the use of these areas as open spaces and recreation facilities. Proposals which would reduce the quality or quantity of these facilities will only be permitted if the open space, building or land is surplus to requirements or replacement facilities of an equivalent or better standard are provided in a suitable location or the development is for alternative sports and recreation provision, the needs for which clearly outweigh the loss.”**
- **Move the last part of the (existing) policy that begins: “In addition to those areas proposed as Local Green Spaces...” to the end to the justification if desired but delete the reference to area E**
- **Include Areas A, B and C on a larger scale inset map(s) and make reference to this map within the supporting text**
- **Remove any reference to the notations “CFOS2 (D)” (but retaining the area covered by AB1) and “CFOS2 (E)” from the Proposals Map**
- **Consequential amendments to the supporting text will be needed**

Policy CFOS3 Designation of Local Green Spaces

The NPPF explains that LGSs are green areas of particular importance to local communities.³⁶ The effect of such a designation is that new development will be ruled out other than in very special circumstances. Identifying such areas should be consistent with local planning of sustainable development and complement investment. The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about LGSs is given in PPG.

³⁶ NPPF paras 76, 77 and 78

Two LGSs are proposed to be designated in the policy and are shown on the Proposals Map. It is however necessary for larger scale maps of each area to be produced and included with the Plan in the interests of clarity and providing a practical framework. I visited both areas on my site visit.

The first area, the former Churnet Valley Railway Line, is now a linear walkway. I am mindful that PPG³⁷ indicates that there is no need to designate linear corridors to simply protect rights of way as these are already protected under other legislation. In this case there is much more to the linear corridor; it is part of the heritage of the area and includes an adventure playground.

The second area is Oliver's Green off College Road. This area is important historically.

In my view both proposed LGS meet the criteria in the NPPF satisfactorily. Both are in close proximity to the community they serve, both are of historic significance in terms of their use. Both are local in character. Neither are extensive tracts of land. LP SP32 supports LGS designation where the space has a special character and significance to the local community by virtue of its beauty, historic significance, recreational value or wildlife value.

As the Plan will become made, the language used in both the policy and the justification needs to change so that there is clarity. The modifications I make below address this.

Turning now to the details of the policy, it specifies the type of development that may be permitted. The justification explains that the list has come from paragraph 89 of the NPPF. I understand how this has come about; the NPPF is clear that the policy for managing development in LGSs should be consistent with policy for Green Belts. Policy CFOS3 then imports the list of the types of development that are considered to be not inappropriate in Green Belts. This is however, in my view, too simplistic an approach to take. The application of Green Belt policy is complex and the policy requires more flexibility as otherwise it would be more restrictive than Green Belt policy which allows for inappropriate development to be permitted in very special circumstances.

Therefore the modifications below seek to address this concern and to ensure there is sufficient flexibility within the policy.

- **Delete "Designation of" from the policy's title**
- **Reword the policy as follows: *"The following areas shown on the Proposals Map and Maps XX and XX [insert Map numbers] are designated as Local Green Spaces:*
[insert A and B from existing policy]**

Development will only be permitted in the Local Green Spaces where it is compatible with the aims and objectives of the designation."

³⁷ PPG para 018 ref id 37-018-20140306

- Produce an inset map(s) at a larger scale of each LGS naming them Map XX and Map XX [insert Map numbers] to tie in with the modified policy above
- Consequential amendments will need to be made to the justification including the deletion of the sentences which begins “The indication of the forms of development...” and end “...legal requirements.”

Local Employment

Policy LE1 Local Employment

Policy BE1 seeks to support small business and tourism related development and the diversification of existing units subject to a number of criteria. The criteria cover a range of issues including impact on amenity, landscape and character considerations and encourage the reuse of historic buildings.

The second element of the policy seeks to ensure that sustainable construction is encouraged and that broadband, pedestrian and cyclist access and SuDs are put in place. However, it seeks to require proposals to meet or exceed national standards and this may be regarded as onerous and outside the scope of the Plan.

Subject to a little more flexibility with the latter element of the policy, it will meet the basic conditions as the NPPF supports economic growth in rural areas and offers support for all types of business and enterprise including tourism.

The justification for this policy is clear and reads well.

- Change the second paragraph of the policy to read: *“Where appropriate, development proposals are encouraged to meet and, where possible, exceed national standards for sustainable construction. Wherever possible, provision should be made for a) improved telecommunications, b) pedestrian and cyclist access and c) the use of sustainable drainage systems.”*

Renewable Energy & Telecommunications

Policy RE1 Renewable Energy

This policy supports renewable energy proposals provided there is an acceptable effect on character and appearance, amenity, highway matters and natural and built conservation matters. The policy will help to support the delivery of such schemes which is central to the achievement of sustainable development and in line with national policy and guidance whilst achieving an appropriate balance between protection of the environment. It therefore meets the basic conditions and as a result

the only modification to the policy is one in the interests of clarity.

The justification offers opinion on the visual impact of solar and wind farms and this could be misconstrued as a policy statement. To avoid this, deletion is recommended as this is an expression of an opinion that is not evidenced further.

- **Add “*the occupiers of*” after “...The amenity of...” in bullet point two**
- **Delete the sentence which reads; “It is considered that there is a need to prevent the urbanisation of the area which could result from solar farms and wind farms.” from the justification on page 34 of the Plan**

Policy RE2 Telecommunications

This is a simply worded policy that supports telecommunications development subject to its effect on the landscape and heritage assets. The NPPF supports the provision of communications infrastructure and this policy provides a balance between the drive for such infrastructure and the impact on this distinct local area. It therefore meets the basic conditions and no modifications are recommended.

Table 1 Policy Summary

The principle of this table/grid is useful although might be better located after section 7. However, it is inaccurate both in terms of the policies, see for example the inclusion of Policy BE4 when there is now no longer a policy of that number, and in its references to the Plan’s objectives. Therefore it should be deleted in the interests of clarity and because it is misleading.

- **Delete Table 1 in its entirety**

7. Implementation

LP NP1 sets out that ESBC expects all neighbourhood plans to include proposals for monitoring policies. This section covers the implementation of the Plan including partnership working with key organisations and employers, priority projects and monitoring. It is proposed that an annual monitoring report is produced.

Paragraph 7.4 refers to financial contributions indicating they will be sought from developers to ensure that any impacts from development are satisfactorily mitigated. It is important that any contributions sought from development meet the statutory tests. To ensure this is the case they should only be sought where it is appropriate to do so and a modification is recommended to ensure that this is the case in line with the

statutory tests set out in the Community Infrastructure Levy Regulations 2010 and the policy tests set out in the NPPF.

Paragraph 7.12 refers to the Plan period as being 2016- 2031. I have recommended the Plan period aligns with the Local Plan and so a modification to ensure consistency is made. This will also require the number of years to be updated as a result.

This paragraph outlines the engagement with young people which is set to continue as a result of the neighbourhood planning process and this is to be commended.

- **Change the wording of paragraph 7.4 to read: “Financial contributions will be sought from developers through Section 106 agreements or Community Infrastructure Levy if this is introduced in the Borough. Contributions will be sought when it is appropriate to do so and in line with the tests set out in the Community Infrastructure Levy Regulations 2010 and the NPPF. Contributions will assist in the delivery of the priority projects detailed below.”**
- **Change “2016” in paragraph 7.12 to “2012” and replace “15 years” with “19 years”**

Appendices

Appendix 1 contains local information. As Ryecroft Middle School falls outside the Plan area this reference to it should be deleted or it should be made clear it is outside the Plan area so that there is clarity and the Plan is not misleading.

Appendix 2 is a summary of the Landscape Character and Built Environment Assessment. It refers to Maps 1 and 2, but only Map 1 is included. Therefore references to Map 2 should be deleted.

It also refers to potential locations for new housing. Whilst I appreciate this section is from the Landscape Character and Built Environment Assessment and can form part of the evidence base, this section should be deleted from the Plan’s appendix. This is because it is the development plan which sets out the strategy and in view of previous modifications to various policies in the Plan.

Appendix 3 is a list of non-designated local heritage assets. Again in the interests of consistency, “Character Report” should be given its full title.

Appendix 4 is a schedule of listed buildings. It would be useful if a note was added to the effect that the list may be updated from time to time and therefore users of the Plan be directed to look at the most up to date list on Historic England’s website or to contact ESBC. Before the Plan is finalised it would be useful to make sure that the list is complete as it can be at this point in time so a useful check could be made just to ensure nothing is missed out.

- **Delete the reference to Ryecroft Middle School from Appendix 1 or make it clear that it falls outside the Plan area**
- **Delete references to Map 2 from Appendix 2**
- **Delete the first four paragraphs from page 43 of the Plan which deal with potential locations for new housing**
- **Change “Character Survey” in Appendix 3 to “*Landscape Character and Built Environment Assessment*”**
- **Add a date to Appendix 4 i.e. “listed buildings as at XXXX” and a note to remind readers to obtain the most up to date information from ESBC and/or Historic England**

Glossary

As the planning system is often criticised for its use of jargon and technical language, the idea of the inclusion of a glossary can be, in principle, regarded as a welcome addition to the Plan.

However, it is important that if there is a glossary it is useful and accurate. In this case, there are some definitions that also appear in the NPPF and if this is the case they should be replicated in full. I do not regard this as an unnecessary duplication given the different spatial scale and use of the Plan. The glossary also includes many definitions of words or phrases such as tandem development or statutory weight. Overall many are at best inaccurate and at worst misleading. Therefore the glossary should be deleted in its entirety.

- **Delete the glossary in its entirety**

7.0 Conclusions and recommendations

Subject to a series of recommended and quite significant modifications set out in this report, I have been able to conclude that the Plan does meet the basic conditions and all the other statutory requirements outlined earlier in this report that I am obliged to examine. There is however significant modification to Policy SB1 and its supporting text. This policy relates to an extended settlement boundary for Denstone village and three site allocations. This in turn has had implications for other policies relevant for the supply of housing and making sure they do not prevent sustainable development from being achieved.

Therefore if all the suggested modifications are undertaken, I can recommend to East Staffordshire Borough Council that the Denstone Neighbourhood Development Plan can

proceed to a referendum. I am however mindful that there is no obligation on behalf of ESBC to accept all my recommendations. Therefore if some, but not all, of the suggested modifications are accepted, ESBC will need to consider further whether the Plan as a whole still meets the basic conditions.

Given my overall conclusion, I am required to consider whether the referendum area should be extended beyond the Denstone Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the referendum area should be based on the Denstone Neighbourhood Plan area as approved by East Staffordshire Borough Council on 5 February 2014.

Ann Skippers MRTPI

Ann Skippers Planning
11 November 2016

Appendix 1

List of key documents specific to this examination

Denstone Neighbourhood Development Plan Submission Version August 2016

Denstone Proposal Map

Denstone Proposal Map Inset

Basic Conditions Statement August 2016

Consultation Statement August 2016

Determination Statement August 2016 (incorporating Strategic Environmental Assessment and Habitats Regulation Assessment Screening Opinion March 2016)

Rural Community Profile for Denstone (ACRE) November 2013

The Issues and Options Report

Housing Needs Survey August 2010

Report on selection of locations for new housing in the Denstone Neighbourhood Plan

Denstone Neighbourhood Plan Landscape Character and Built Environment Assessment Final Report August 2016

East Staffordshire Borough Council Local Plan 2012 – 2031 adopted 15 October 2015

List ends