

**Independent Examiners Report of the**  
**Marchington Neighbourhood Plan**

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**SECTION 1**

**SECTION 1: contents**

*Table of Contents*

<b>SECTION 1</b> .....	2
<b>SECTION 1: contents</b> .....	2
<i>Table of Contents</i> .....	2
<b>SECTION 2</b> .....	3
<b>Summary</b> .....	3
<b>SECTION 3</b> .....	4
<b>Introduction</b> .....	4
<b>SECTION 4</b> .....	6
<b>The Report</b> .....	6
<b>1. Appointment of the Independent examiner</b> .....	7
<b>3. Neighbourhood Plan Area</b> .....	7
<b>4. Plan Period</b> .....	7
<b>5. East Staffordshire Borough Council initial assessment of the Plan.</b> .....	7
<b>6. Site Visit</b> .....	8
<b>7. The Consultation Process</b> .....	8
<b>8. Comment on Responses</b> .....	8
<b>9. Compliance with the Basic Conditions</b> .....	9
<b>10. Planning Policy</b> .....	10
<b>11. Other Relevant Policy Considerations</b> .....	11
<b>12. Marchington Neighbourhood Plan Policies</b> .....	12
<b>SECTION 5</b> .....	25
<b>Conclusion and Recommendations</b> .....	25

## **SECTION 2**

### **Summary**

*As the Independent Examiner appointed by East Staffordshire Borough Council to examine the Marchington Neighbourhood Plan, I can summarise my findings as follows:*

- 1. Having read the Marchington Consultation Report and the representations made in connection with this subject I am satisfied that the consultation process was robust and that the Neighbourhood Plan and its policies reflects the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.*
- 2. I find that the policies contained within the Marchington Neighbourhood Plan subject to minor modification meet the Basic Conditions.*
- 3. I find that the Marchington Neighbourhood Plan can, subject to minor modification proceed to Referendum.*
- 4. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Marchington Neighbourhood Plan go to Referendum.*
- 5. At the time of my examination the adopted local plan was the East Staffordshire Local Plan 2015 (adopted 15<sup>th</sup> October 2015).*

## **SECTION 3**

### **Introduction**

#### **1. Neighbourhood Plan Examination.**

*My name is Deborah McCann and I am the Independent Examiner appointed to examine the Marchington Neighbourhood Plan.*

*I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.*

*My role as Examiner when considering the content of the Marchington Neighbourhood Plan is limited to testing whether or the draft neighbourhood plan meets the basic conditions, and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended) and to recommend whether the Marchington Neighbourhood Plan should proceed to Referendum. I am not, as Examiner testing the soundness of the neighbourhood plan or examining other material considerations. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.*

*The Marchington Neighbourhood Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.*

*The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, 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. Having read the plan and considered the representations I did not find it necessary to hold a Hearing*

#### **2. The Role of Examiner including the examination process and legislative**

**background.**

*The examiner is required to check 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.*
- *Policies relate to the development and use of land for a designated neighbourhood area.*

*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).*

*As an independent Examiner, having examined the Plan and the supporting documents, I am required to make one of the following recommendations:*

- 1. The Plan can proceed to Referendum*
- 2. The Plan with recommended modifications can proceed to Referendum*
- 3. The Plan does not meet the legal requirements and cannot proceed to Referendum*

*I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Marchington Neighbourhood Plan go to Referendum.*

*In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether: - the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004:*

*- The Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect - the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.*

*I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:*

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;*
- Contributes to the achievement of sustainable development; and*
- Is in general conformity with the strategic policies contained in the Development Plan for the area.*

*The Plan must also not breach, and otherwise be compatible with EU obligations and Human Rights requirements.*

*East Staffordshire Borough Council will consider the Examiner's report and decide whether it is satisfied with the Examiner's recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications.*

*If the Neighbourhood Plan is submitted to a referendum, then 28 working days notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e. greater than 50%), voting in favour of the plan, then the District Council must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.*

## **SECTION 4**

### **The Report**

#### **1. Appointment of the Independent examiner**

*East Staffordshire Borough Council appointed me as the Independent Examiner for the Marchington Neighbourhood Plan with the agreement of Marchington Parish Council.*

#### **2. Qualifying body**

*I am satisfied that the Marchington Parish Council is the qualifying body.*

#### **3. Neighbourhood Plan Area**

*The designated Marchington Neighbourhood Area covers the whole of Marchington Parish.*

*The Basic Conditions Statement submitted with the Marchington Neighbourhood Plan confirms there are no other Neighbourhood Plans covering the Area of the Marchington Neighbourhood Plan.*

#### **4. Plan Period**

*There is a discrepancy within the Basic Conditions Statement with regard to the Marchington Neighbourhood Plan period, there is reference to the period 2015-2031 and 2016- 2031. This discrepancy should be corrected.*

#### **5. East Staffordshire Borough Council initial assessment of the Plan.**

*Marchington Parish Council, the qualifying body for preparing the Marchington Neighbourhood Plan, submitted it to East Staffordshire Borough Council for consideration. East Staffordshire Borough Council has made an initial assessment of the submitted Marchington Neighbourhood Plan and the supporting documents and is satisfied that these comply with the specified criteria.*

## **6. Site Visit**

*Due to the quality of the Neighbourhood Development Plan and the supporting information I did not consider that a site visit was necessary.*

## **7. The Consultation Process**

*The Marchington Neighbourhood Plan has been submitted for examination with a Consultation Report which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.*

*The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):*

*(a) It contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;*

*(b) It explains how they were consulted;*

*(c) It summarises the main issues and concerns raised by the persons consulted; and*

*(d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed neighbourhood development plan.*

*Examination of the documents and representations submitted in connection with this matter have lead me to conclude that the consultation process was thorough, well conducted and recorded.*

*A list of statutory bodies consulted is included in the Consultation Statement.*

## **8. Regulation 16 Consultation and comment on responses.**

*East Staffordshire District Council placed the Marchington Neighbourhood Plan out for*

*consultation. The consultation period lasts 6 weeks and ran from Thursday 7th April 2016 to Friday 20th May 2016. The representations received during the consultation period were supplied by the District Council as part of the supporting information supplied for the examination process. I have considered the representations, taken them into account in my examination of the plan and made reference to them where appropriate*

## **9. Compliance with the Basic Conditions**

*The Marchington Neighbourhood Plan working Group produced a Basic Conditions Statement on behalf of Marchington Parish Council in March 2016. The purpose of this statement is for the Neighbourhood Plan Working Group to set out in some detail why they believe the Neighbourhood Plan as submitted does meet the Basic Conditions. It is the Examiner's role to take this document into consideration but also make take an independent view as to whether or not the assessment as submitted is correct.*

*I have to determine whether the Marchington Neighbourhood Plan:*

- 1. Has regard to national policies and advice*
- 2. Contributes to sustainable development*
- 3. Is in general conformity with the strategic policies in the appropriate Development Plan*
- 4. Is not in breach and is otherwise compatible with EU obligations and Human Rights requirements.*

*Documents brought to my attention by the District Council for my examination include:*

*(a) The Marchington Neighbourhood Plan: This is the main document, which includes the policies developed by the community.*

*(b) The Consultation Report: This is a statement setting out how the community and other stakeholders have been involved in the preparation of the Marchington Neighbourhood Plan and is supported by an evidence base which arose from the consultation.*

*(c) Basic Conditions Statement: This document sets out how the Marchington Neighbourhood Plan Group consider the Neighbourhood Plan meets the Basic Conditions.*

*Comment on Documents submitted*

*I have reviewed the Basic Conditions Statement in detail and I am satisfied that subject the conclusion of the Basic Conditions Statement is correct.*

*I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Marchington Neighbourhood Plan, subject to minor modification does meet the Basic Conditions.*

**10.Planning Policy**

**10.1. National Planning Policy**

*National Policy guidance is in the National Planning Policy Framework (NPPF) 2012.*

*To meet the Basic Conditions, the Plan must have “regard to national policy and advice”.*

*In addition, the NPPF requires that a Neighbourhood Plan "must be in general conformity with the strategic policies of the local plan". Paragraph 16 states that neighbourhoods should “develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan”.*

*The Marchington Neighbourhood Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.*

*I have examined the Marchington Neighbourhood Plan Policies and consider that they do have “regard for National Policy and Advice” and therefore subject to minor modification the Plan does meet the Basic Conditions in this respect.*

**10.2. Local Planning Policy- The Development Plan**

*Marchington Parish is within the area covered by East Staffordshire Borough Council. The relevant development plan is East Staffordshire Borough Council Local Plan adopted 15<sup>th</sup> October 2015.*

*The Development Plan clearly sets out the strategic policies that communities undertaking a Neighbourhood Plan need to consider when undertaking the Neighbourhood Plan Policy.*

*I have considered the Strategic Policies of the Development Plan and the Policies of the Marchington Neighbourhood Plan and consider that subject to minor modification the Plan does meet the Basic Condition in this respect and is in general conformity with the Strategic Policies contained in the East Staffordshire Borough Council Local Plan adopted 15<sup>th</sup> October 2015.*

## **11. Other Relevant Policy Considerations**

### **11.1 European Convention on Human Rights (ECMR) and other European Union Obligations**

*As a 'local plan', the Neighbourhood Development Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC Office.*

*A screening of the Neighbourhood Plan has been undertaken by East Staffordshire Borough Council to determine whether a SEA is required. The Environment Agency, Natural England and Heritage England were consulted on the draft Plan and on the SEA screening. On the basis of this screening the Borough Council concluded that the Marchington Neighbourhood Plan does not require a SEA.*

#### *Habitats Directive*

*The East Staffordshire Local Plan was required under European Directive 92/43/EEC to be subject to a Habitats Regulations Assessment (HRA). A HRA screening of the Local Plan did not identify any significant effects arising within or adjoining the area of the Marchington Neighbourhood Plan. Natural England concur that no HRA is required.*

### **11.2 Sustainable development**

*One of the Basic Conditions requires the Plan to contribute to sustainable development but there is no legal requirement for a neighbourhood plan to have a sustainability appraisal. However, the Marchington Neighbourhood Plan has been drafted to be in conformity with the adopted East Staffordshire Local Plan, for which a full sustainability appraisal has been carried out to help deliver sustainable development in the Borough.*

*I am satisfied that the Marchington Neighbourhood Plan addresses the sustainability issues adequately.*

### **11.3 European Convention of Human Rights and to comply with the Human Rights Act 1998.**

*The Neighbourhood Development Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.*

*I am satisfied that the Marchington Neighbourhood Plan has done so.*

*I am therefore satisfied that the Marchington Neighbourhood Plan meets the basic conditions on EU obligations.*

### **11.3 Excluded development**

*I am satisfied that the Marchington Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.*

### **11.4 Development and use of land**

*I am satisfied that the Marchington Neighbourhood Plan covers development and land use matters.*

### **11.5 The Neighbourhood Plan Strategic Aims and Policies**

*Based on the consultation undertaken and the evidence gathered, the Neighbourhood Plan Vision is:*

*By 2031 Marchington will be an even better place to live, with a continued strong sense of community and viable local services. The Parish will have adapted to change and accommodated reasonable new development and supported the rural economy, but with the character of the settlements and the surrounding countryside will have been protected and enhanced.*

### *Objectives*

*A series of Objectives, linked to the Vision, also derived from consultation and research, were defined for each of the Neighbourhood Plan themes and relate to its policies.*

*The overall sustainability, quality and appropriateness of new development (location, scale, design) - protecting and enhancing the character of Marchington and ensuring that new development does not increase existing flooding and drainage problems.*

*Housing; identify the scale, location and type of new development to enable choice, reflect local character and direct development to preferred locations.*

*Natural Environment; protecting the landscape and its wildlife, at the same time as enabling agricultural change and enabling good quality access to the countryside.*

*Built Environment; protecting the character of Marchington Village, including the Conservation Area and protect the setting of Sudbury Hall and other recognised heritage assets.*

*Transport; managing traffic at the same time as retaining rural character. Community Facilities; retaining the community spirit of the Parish and protecting local facilities.*

*Employment; enabling the successful operation of the industrial estate whilst minimising any adverse environmental or traffic impacts.*

*The Policies reflect the Issues, Vision and Objectives of the Neighbourhood Plan and they are*

*presented under the following themes.*

- *Development Principles and infrastructure requirements.*
- *Marchington Village Settlement boundary*
- *Area based policies*
- *Housing.*
- *Protecting and enhancing the historic rural character of Marchington*
- *Protecting and enhancing the natural environment of Marchington*
- *Transport*
- *Community facilities and open spaces*
- *Local employment*
- *Renewable energy and telecommunications*

*I consider that the policies follow from the stated objectives and are consistent with achieving those stated objectives.*

## **12. Marchington Neighbourhood Plan Policies**

### **Overall Policy –DP1 Sustainable Development Principles (all objectives)**

**A. Planning Permission will be granted for development in Marchington Parish at a scale and in locations that accord with the policies set out in the Neighbourhood Plan where it can be shown that the development would support the community by:**

- 1. New Homes, to meet the development requirements of approximately 20 new dwellings (17 net) in the adopted East Staffordshire Local Plan but also taking into account the setting and character of the village and addressing local housing demand needs in terms of size, type and tenure.**
- 2. A high standard of design and an appropriate location, ensuring that new**

*buildings especially housing, meet contemporary construction, energy efficiency and water management standards and reflect the character of the surroundings.*

- 3. Other forms of development which meet the economic, social and environmental needs of the area and are appropriate in terms of scale, location and design.*
  - 4. The potential for ground pollution should be taken into account and where necessary, measures taken to manage this through a pollution prevention plan.*
  - 5. New development should be served by a superfast broadband (fibre optic) connection. Unless it can be demonstrated through consultation with NGA Network providers that this would not be either possible, practical or economically viable. In such circumstances sufficient and suitable ducting should be provided within the site and to the property to facilitate ease of installation at a future date.*
- B. Development should have regard to the principles set out in the Neighbourhood Plan and be located to ensure that it does not adversely effect the following:*
- 1. The amenity of nearby residents*
  - 2. The character and appearance of the local area in which it is located.*
  - 3. Social, built, historic, cultural and natural heritage assets.*

#### **COMMENT**

*For clarity I suggest the following minor modification.*

*Overall Policy –DP1 Sustainable Development Principles (all objectives)*

*A. Planning Permission will be granted for development in Marchington Parish at a scale and in locations that accord with the policies set out in the Neighbourhood Plan where it can be shown that the development would support the community by:*

- 1. Providing new homes, to meet the development requirements of approximately 20 new dwellings as identified in the adopted East*

*Staffordshire Local Plan, also taking into account the setting and character of the village and addressing local housing demand needs in terms of size, type and tenure.*

- 2. Providing a high standard of design and an appropriate location, ensuring that new buildings especially housing, meet contemporary construction, energy efficiency and water management standards and reflect the character of the surroundings.*
- 3. Providing other forms of development which meet the economic, social and environmental needs of the area and are appropriate in terms of scale, location and design.*
- 4. Ensuring that potential for ground pollution is taken into account and where necessary, measures taken to manage this threat through a pollution prevention plan.*
- 5. Providing superfast broadband (fibre optic) connection, unless it can be demonstrated through consultation with NGA Network providers that this would not be either possible, practical or economically viable. In such circumstances sufficient and suitable ducting should be provided within the site and to the property to facilitate ease of installation at a future date.*

*B Demonstrating that new development has regard to the principles set out in the Neighbourhood Plan and is located to ensure that it does not adversely effect the following:*

- The amenity of nearby residents*
- The character and appearance of the local area in which it is located.*
- Social, built, historic, cultural and natural heritage assets.*

**Policy DP2 Infrastructure - Flood prevention & management (objective 1)**

**Development should not increase the risk of flooding and/or exacerbate existing**

*drainage problems.*

*Proposals for new build development must be accompanied by a site- specific flood risk assessment in line with the requirements of national policy and advice from the Environment Agency and/or Staffordshire County Council.*

*All proposals must demonstrate that flood risk will not be increased elsewhere and that the proposed development is appropriately flood resilient and resistant.*

*Information accompanying the application should demonstrate how any mitigation measures will be satisfactorily integrated into the design and layout of the development.*

*The flows from new development in the Marchington Brook catchment should not exceed the flow expected from a mean annual flood on the existing undeveloped site. Wherever feasible development proposals will be expected to incorporate rural sustainable drainage systems (RSuDS) which should be integrated with hard and soft landscaping, access and parking provided to serve developments.*

#### **COMMENT**

*The second paragraph lacks clarity, National Policy does not require Flood Risk assessments for all developments, to seek to exceed the requirements would not have regard to national policies and advice contained in guidance issued by the Secretary of State and therefore not meet the Basic Conditions. Whilst I do not think it is the intention of this policy to exceed National Policy requirements it is unclear. It should also be noted that it is not necessary for Neighbourhood Plans to repeat National Policy. The second paragraph should be reworded as follows:*

*in line with the requirements of national policy and advice from the Environment Agency and/or Staffordshire County Council proposals for new build development must be accompanied by a site- specific flood risk assessment.*

**Policy SB1 Development in the Village Settlement Boundary (objective 1&2)**

***Appropriate new housing development will be permitted on sites inside the extended settlement boundary (see Proposals Map) provided that it complies with the other policies of this Plan. The total number of dwellings provided on committed and new sites within the Marchington Village Settlement Boundary is approximately 20. The proposed new sites for development are set out below;***

***SB1(A) The Bagshaws (10 dwellings), subject to the following criteria.***

***The development is wholly contained within the settlement boundary extension shown in the adopted Local Plan and Neighbourhood Plan Proposals Maps.***

***There is no adverse impact on the Listed Buildings and their setting and that in terms of detailed design, the proposals will preserve and enhance the character and appearance of the building or structures.***

***Satisfactory vehicular access can be provided without detriment to the rural character of High Street and The Square.***

***A mix of house types and sizes is built, with a majority of small units.***

***There is no adverse impact on flooding and drainage problems.***

***There is no adverse impact on the functionality of the adjacent outdoor sports facilities***

***SB1 (B) Jacks Lane frontage (5 dwellings), subject to the following criteria.***

***The development is wholly contained within the settlement boundary extension shown in the adopted Local Plan and Neighbourhood Plan Proposals Maps.***

***The scale and design of the dwellings minimises overlooking and overbearing impact on houses on Jacks Lane and Woodland Views.***

***If practicable in terms of the depth of the proposed site, access is taken from a single point and the existing hedgerow is retained.***

*Maintenance access only is provided to retained farmland to the rear*

*which should remain open and undeveloped.*

*SB1(C) Thorn Tree Farm (2 to 3 dwellings), subject to the following criteria.*

*The development is wholly contained within the settlement boundary extension shown on the Neighbourhood Plan Proposals Map.*

*There is no adverse impact on the Conservation Area and Listed Building*

*The design of conversions and new buildings will preserve and enhance the character of the area.*

*The character and functionality of the footpath in the wooded setting of The Dingle (adjoining Thorn Tree Farm) is not adversely affected.*

*A mix of house types and sizes is provided.*

*There is no adverse impact on flooding and drainage problems.*

*Access arrangement, based on the improvement of the existing drive do not lead to the substantial loss of the existing hedgerow and bank*

*In each case the flooding and drainage management requirements set out in Policy DP2 will need to be met before any houses are sold and occupied.*

#### **COMMENT**

*I have no comment on this policy.*

*Policy SB2 New Residential Development outside the Marchington Village Settlement Boundary (Objectives 1, 2 & 3)*

*Proposals for small scale new housing development outside the Settlement Boundaries will only be permitted if it is demonstrated that:*

*a) the development is on a small site and would provide affordable housing for*

*evidenced local need in accordance with Local Plan Policy SP18 on Rural Exception Sites. Small numbers of market homes may be permitted where this is essential to enable the delivery of affordable units,*

*b) development preserves or enhances the character & appearance of the area,*

*c) where relevant, the development brings redundant or vacant historic buildings back into beneficial re-use.*

**Comment**

*I have no comment on this policy*

**Policy AB1 HMP Dovegate (Objective 1)**

*Proposals for development within the existing prison buildings complex will be permitted provided that there is no adverse impact to nearby houses and businesses and the wider community arising from:*

*Increased traffic*

*Reduction in security*

*Noise and disturbance*

*Light pollution*

**COMMENT**

*I have no comment on this policy*

**Policy AB2 Development principles on site of the former Marchington Barracks**

*Proposals for the re-use and/or redevelopment of the former barracks site and buildings, will be supported subject to meeting the following criteria, (where they are relevant to the use proposed).*

*- Achieving a satisfactory relationship with the Industrial Estate & Forestside.*

- *Existing open space, wildlife habitats and woodland are taken into account.*
- *The scale of development takes account of longer views of the site from public footpaths and the higher ground of Marchington Cliff.*
- *If practicable, measures to improve connectivity (pedestrian/cycle links) between Forestside and the Industrial Estate and (if possible) onto the village.*
- *A S.106 agreement to provide works so that the that run off and drainage requirements of the development are adequately dealt with, and do not add further to flooding and foul drainage problems.*
- *A S.106 agreement to provide works so that any ground condition and/or pollution issues on the site can be dealt with satisfactorily.*
- *Acknowledgment of the past military use and local heritage value of the site.*

**COMMENT**

*This policy seeks to require the use of S106 agreements to deal with issues which are most appropriately dealt with as part of the application process or by condition and therefore fails to have regard to national policies and advice contained in guidance issued by the Secretary of State and does not meet the Basic Conditions. I suggest the following minor modification:*

*Policy AB2 Development principles on site of the former Marchington Barracks*

*Proposals for the re-use and/or redevelopment of the former barracks site and buildings, will be supported subject to meeting the following criteria, (where they are relevant to the proposed use):*

- *Achieving a satisfactory relationship with the Industrial Estate & Forestside.*
- *Demonstrating that the impact on existing open space, wildlife habitats and woodland has been considered and mitigation measures are included where necessary.*

- *The scale of development takes account of longer views of the site from public footpaths and the higher ground of Marchington Cliff.*
- *If practicable, measures to improve connectivity (pedestrian/cycle links) between Forestside and the Industrial Estate and (if possible) onto the village.*
- *Proposals should include a drainage strategy to include details of how surface water run off and drainage requirements of the development are adequately dealt with, and do not add further to flooding and foul drainage problems.*
- *Proposals should be accompanied by any necessary contaminated land and/or ground conditions report to ensure that any on site problems identified can be adequately identified and where necessary mitigation measures be put in place.*
- *Proposals should include acknowledgment of the past military use and local heritage value of the site.*

***Policy H1 Smaller infill sites – general criteria (objective 2)***

***In principle development will be supported on small sites on previously developed land and in large gardens, within the settlement boundaries subject to the following criteria:***

- i - There is no adverse impact on the amenity of neighbouring properties through: loss of privacy; daylight; visual intrusion by a building or structure; car parking; removal of mature vegetation or landscaping and additional traffic resulting from the development.***
- ii - Tandem development must have direct highway frontage access.***
- iii –Conservation Area and Listed Building requirements are met.***
- iv –The requirements for to reflect local character (Policy BE1) are met***
- v - The provision of natural landscaping, including native trees, hedgerows, wetland areas and the retention or incorporation of habitats for small mammals, birds and***

*insects.*

**COMMENT**

*This policy does not clearly set out the material planning considerations usually taken into account when assessing the impact of proposals on residential amenity. I suggest the following minor modification.*

***Policy H1 Smaller infill sites – general criteria (objective 2)***

*In principle development will be supported on small sites on previously developed land and in large gardens, within the settlement boundaries subject to the following criteria:*

*i - There is no adverse impact on the residential amenity of neighbouring properties through: loss of privacy; overshadowing; overbearing by a building or structure; car parking; removal of mature vegetation or landscaping and additional traffic resulting from the development.*

*ii - Tandem development must have direct highway frontage access.*

*iii –Conservation Area and Listed Building requirements are met.*

*iv –The requirements to reflect local character (Policy BE1) are met.*

*v - The provision of natural landscaping, including native trees, hedgerows, wetland areas and the retention or incorporation of habitats for small mammals, birds and insects.*

***Policy H2 Meeting the needs of all sectors of the population (objective 2)***

***Subject to other Neighbourhood Plan policies, proposals for new housing development in Marchington will be supported in accordance with the development requirement set in the adopted Local Plan and where they include a range of house types, including one, two and three bedroom dwellings.***

***Subject to the design principles in Policies DP1, H3 and BE1, housing developments will also be expected to include an element of single level dwellings and to meet the needs of the elderly and people with disabilities.***

**COMMENT**

***I have no comment on this policy***

***Policy H3 The design of residential conversions and extensions (objective 2)***

***In addition to the design principles set out in the Local Plan, residential conversions or extensions should be designed to reflect the character of nearby buildings and their setting. This will require particular attention to:***

***The choice of materials.***

***The scale of development including roof heights.***

***Layout within the plot.***

***Parking provision, which as a minimum, should be in accordance with the standards adopted by the Borough Council.***

***The relationship with adjoining and nearby properties in terms of the amenity enjoyed by occupiers and the character of the area.***

***Sustainable design features (e.g. sustainable drainage, porous/permeable surfacing for drives and domestic scale renewable energy) are encouraged where feasible, provided that it is incorporated into an overall design that complements the character of the area.***

**COMMENT**

***I have no comment on this policy.***

***Policy H4- Development within existing Forestside Residential Area***

***New development within the existing Forestside housing area, should not adversely***

*affect the residential amenity of existing houses and if possible, should provide benefits in terms of additional parking, improved traffic circulation and access to the industrial estate and open space for pedestrians and cyclists.*

*Proposed residential extensions and infill development should meet the criteria set out in Policies H1 and H3, with particular attention to be paid to;*

*Scale.*

*Design and materials to reflect the character of the existing houses.*

*On plot parking.*

*Landscaping*

#### **COMMENT**

*I have no comment on this policy*

**Policy BE1 Protecting and enhancing local character (objective 3)**

***A – Built development in and around Marchington village must protect, complement or enhance the historic rural character of the settlement and its hinterland, which is identified the Marchington Character Study and the Marchington Conservation Area Appraisal.***

***Applicants must explain, in a Design and Access Statement and/or Heritage Statement, as appropriate, how the proposed development will protect, complement or enhance the historic and rural setting of the Parish with regard to:***

***a) the scale and form of the development,***

***b) the density of the development,***

***c) the materials used in the development, and***

***d) elevated views of Marchington village and its landscape setting.***

*All new development involving Historic Farmsteads and their setting will be required to demonstrate that there will be no adverse impact in the built and landscape character of the location.*

*All new development affecting the setting of Sudbury Conservation Area (see Proposals Map) will be required to demonstrate that its setting including longer views will not be adversely affected.*

**COMMENT**

*I have no comment on this policy*

*Policy BE2 Protecting and enhancing local built heritage assets (objective 3)*

*All development proposals will be required to take into account the character, context and setting of the local built heritage assets (see Appendix 1) including important views towards and from the assets. Development will be required to be designed appropriately, taking account of local styles, materials and detail. The loss of, or substantial harm to a locally important asset will be resisted, unless exceptional circumstance can be demonstrated.*

**COMMENT**

*The wording of this policy is a little confusing. It is assumed that this policy refers to non-designated heritage assets – a term used within the National Planning Policy Framework. For clarity I suggest the following minor modification:*

*Policy BE2 Protecting and enhancing local non-designated heritage assets (objective 3)*

*All development proposals will be required to take into account the character, context and setting of local non-designated heritage assets (see Appendix 1) including important views towards and from the assets. Development will be required to be designed appropriately, taking account of local styles, materials and detail. The loss of, or substantial harm to a locally important asset will be resisted, unless exceptional*

*circumstance can be demonstrated.*

***Policy BE3 Protecting and enhancing archaeological sites (objectives 3 & 4)***

***Development proposals should demonstrate that they have taken into account the potential impact on above and below ground archaeological deposits and identify mitigation strategies to ensure that evidence which could contribute to the understanding of human activity and past environments is not lost.***

***In addition, measures should be taken to minimise impacts of development upon the historic landscape character of the Neighbourhood Plan area***

**COMMENT**

*I have no comment on this policy*

***Policy NE1 Protecting the Countryside and Landscape (objective 3)***

***Any proposals for development in the rural areas should recognise and seek to protect and enhance the historic landscape and local character of the Parish. Field patterns and elements of the landscape heritage of the area, including ridge and furrow, field ponds, mature trees and historic hedgerows should be protected and incorporated into any landscape design schemes and their long term maintenance ensured.***

***Proposals for development should include consideration of the above factors through an appropriate landscape analysis either as a freestanding report or as part of a design and access statement.***

**COMMENT**

*I have no comment on this policy*

***Policy NE2 Nature Conservation (objective 3)***

***Any proposals for new development will be required to demonstrate how the design has taken into account its potential impact on local habitats and species.***

*Developers will be required to ensure that appropriate measures are put in place to protect wildlife and enhance biodiversity and important habitats. This will include sites and features that are locally important in Marchington, including; trees, hedges and woodland, parkland ponds & watercourses and unimproved grassland. Appropriate species related measures may include, for example, the use of swift bricks, bat and owl boxes and the incorporation of native species into landscaping schemes.*

*Opportunities should also be taken by developers and landowners to link sustainable drainage solutions connected with new development to complement nature conservation objectives*

#### **COMMENT**

*I have no comment on this policy*

#### **Policy T1 Development related traffic requirements (Objective 1)**

*Development proposals in and around Marchington village that would generate a significant amount of movement or would create a traffic hazard on narrow twisting lanes must be supported by a Transport Statement or Assessment as appropriate which sets out details of the transport issues relating to the development including;*

*- the measures to be taken to deal with the traffic impacts of the scheme - opportunities for improving the pedestrian and cycle connectivity.*

*Where road improvements are proposed as part of any development they must be designed to be sympathetic to the rural character of Marchington*

#### **COMMENT**

*I have no comment on this policy*

#### **Policy CFOS1 Community buildings, shops and public houses (Objective 1)**

*Community facilities in Marchington will be protected. Where planning consent is required the loss of such facilities will be resisted unless:*

*a) The proposal includes alternative provision, on a nearby site, of equivalent or enhanced facilities. Any sites should be accessible by walking and cycling and have adequate car parking; or*

*b) It can be demonstrated to the satisfaction of the Local Planning Authority that there is no longer a need for the facility or the premises are unsuitable or not viable for the continued provision of the service.*

*This policy covers the following facilities:*

*The village hall in Marchington*

*The village hall in Marchington woodlands*

*The community shop in Marchington Public houses*

*Churches and church meeting rooms*

#### **COMMENT**

*I have no comment on this policy*

*Policy CFOS2 Existing Open Spaces (Objectives 3 & 6)*

*Existing open spaces and recreation facilities will be protected from development.*

*Proposals which would reduce the quality or quantity of these facilities may only be permitted where the existing facilities are re provided to a better quality or quantity in a location agreed by the Parish Council.*

*In addition to those areas proposed to be designated as Local Green Spaces under Policy CFOS3, the areas of land covered by this policy include:*

*the Bowling Green and Tennis courts in Marchington Village*

*the school playing fields at St Peters First (Primary) school*

*the Denstone College Preparatory School playing fields (Smallwood Manor) and other small open spaces throughout the Parish*

**COMMENT**

*The intention of this policy is protect existing open spaces from unsuitable development. Policy designations seeking to control or preclude development must be supported by appropriate evidence. This policy requires modification in order to meet the Basic Conditions because of the use of the phrase*

*“and other small open spaces throughout the Parish”*

*These areas have not been identified or any evidence provided to support the inclusion of this “catch all” element of the policy.*

*In order to meet the Basic Conditions, I therefore suggest the following minor modification.*

***Policy CFOS2 Existing Open Spaces (Objectives 3 & 6)***

*Existing open spaces and recreation facilities will be protected from development. Proposals which would reduce the quality or quantity of these facilities may only be permitted where the existing facilities are re provided to a better quality or quantity in a location agreed by the Parish Council.*

*In addition to those areas proposed to be designated as Local Green Spaces under Policy CFOS3, the areas of land covered by this policy include:*

*the Bowling Green and Tennis courts in Marchington Village*

*the school playing fields at St Peters First (Primary) school*

*the Denstone College Preparatory School playing fields (Smallwood Manor).*

***Policy CFOS3 Designation of Local Green Spaces (Objectives 3 & 6)***

*The following open spaces (as shown on Proposals map inset) are*

**proposed to be designated as Local Green Spaces:**

**A. The recreation ground (including the cricket ground, football pitch and associated open space) in the valley of Marchington Brook, between Silver Lane & High Street.**

**B. The community orchard off Green Lane.**

**C. The playing fields and woodland on/adjoining the former barracks site**

**Development will be permitted in the designated areas where it is solely for the purpose of:**

***The provision of appropriate facilities for outdoor sport and recreation or to enhance the nature conservation and landscape value of the site.***

***For the extension or alteration of an existing building provided that it does not result in disproportionate additions over and above the size of the original building;***

***For the replacement of a building, provided the new building is for the same use and not materially larger than the one it replaces;***

***Development proposals should not involve the loss of any of the existing open space or recreation area comprising the designated Local Green Space***

#### **COMMENT**

***This policy seeks to designate various areas of Marchington Parish as Local Green Spaces (as illustrated on the inset plan forming part of the Neighbourhood Plan). In considering the appropriateness of these proposed designations and whether or not these designations would meet the Basic Conditions it is necessary to have reference to the National Planning Policy Framework and in particular paragraphs 76 and 77 as set out below.***

***Paragraph 76 of the National Planning Policy Framework***

***“Local communities through local and neighbourhood plans should be able to identify***

*for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.*

*Paragraph 77 of the NPPF*

*“The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

*where the green space is in reasonably close proximity to the community it serves;*

*where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife; and*

*where the green area concerned is local in character and is not an extensive tract of land.”*

*In my consideration of this policy I have also had regard to representations made. I conclude that the areas referred to as A- the recreation ground and B- the community orchard off Green Lane meet the requirements of paragraph 77 and therefore the Basic Conditions. I am however not convinced that the area identified as C. The playing fields and woodland on/adjoining the former barracks site does meet the tests of Paragraph 77 having reviewed the evidence for the inclusion of this area within the policy. I have reviewed the “Marchington Neighbourhood Plan Landscape Character & Built Environment Assessment Area” document and the references to the area are as follows:*

*“1a Forestside is mainly two storey terraced post war housing in a rural setting. A lack*

of parking creates untidiness. This could be improved by using areas of adjacent land for parking. There is a lack of community buildings and facilities in Forestside.

*Area 1b This is derelict barrack blocks surrounded by scrubland and mature trees. It is a neglected brownfield site which could be greatly improved by re-development without a negative impact on Forestside or the main part of the village. Re-development could be enhanced by a footpath/cycle way to the village shop, school, church and public houses. Overall, it is considered that new housing could be built in area 1b, with no adverse impact on the village character, but limited in scale, with improvements to Forestside and located so that it does not conflict with 1c (the Industrial Estate)."*

*There is nothing in this document to suggest that this area is:*

*"demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife;"*

*In addition, the owner of the land states that there is no public access to most of the land. Although the area of land in question is large I do not consider it to be "extensive".*

*I recognise the community support for the inclusion of area C within the policy but cannot agree that the area as currently included within the policy meets the requirements of paragraph 77 of the NPPF and therefore does not meet the Basic Conditions in this respect.*

*In conclusion, given that the Framework is not ambiguous in stating that a Local Green Space designation is not appropriate for most green areas or open space, it is reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements I am of the opinion that no substantive or compelling evidence has been presented for the inclusion of site C.*

*In order for this policy to meet the basic conditions under paragraph 8(2) of Schedule*

*4B and that national the designation of site C must be deleted.*

*I have however given consideration as to whether or not the more limited area – known as the Forestside Recreation Area (forming part of area C) would be more appropriately located within Policy CFOS2 Existing Open Spaces (subject to the suggested modification) to include only the area currently leased for recreational use as illustrated in the letter from Barton Willmore dated 19<sup>th</sup> of May 2016. I find that this reduced area can be added to policy CFOS2 and would then meet the Basic Conditions.*

***Policy LE1 Local Employment (Objective 7)***

***Proposals for the development of new small business units and for the expansion or diversification of existing small scale units will be permitted, providing that:***

- a) it can be demonstrated that there will be no significant adverse impact resulting from increased traffic, noise, smell, lighting, vibration or other emissions or activities generated by the proposed development;***
- b) it would not have an unacceptable impact on the character and scale of the site and/or buildings, by virtue of its scale or design, or on the setting in the local landscape;***
- c) where relevant, opportunities are taken to secure the re-use of vacant or redundant historic buildings (designated and non-designated).***

***Development proposals for new employment should demonstrate that they are meeting or exceeding national standards for sustainable construction to ensure that provision has been made for:***

- a) Improve broadband connections.***
- b) Access by pedestrians and cyclists***
- c) Sustainable drainage management systems***

## **COMMENT**

*This policy seeks to impose higher standards of sustainable construction than national standards. Whilst it is possible to encourage the use of higher standards a Neighbourhood planning policy cannot insist upon them and I suggest that the following minor modification:*

### ***Policy LE1 Local Employment (Objective 7)***

*Proposals for the development of new small business units and for the expansion or diversification of existing small scale units will be permitted, providing that:*

*a) it can be demonstrated that there will be no significant adverse impact resulting from increased traffic, noise, smell, lighting, vibration or other emissions or activities generated by the proposed development;*

*b) it would not have an unacceptable impact on the character and scale of the site and/or buildings, by virtue of its scale or design, or on the setting in the local landscape;*

*c) where relevant, opportunities are taken to secure the re-use of vacant or redundant historic buildings (designated and non-designated).*

*Development proposals for the provision of new employment space should demonstrate how they meet national standards for sustainable construction to ensure that provision has been made for:*

*a) Improve broadband connections.*

*b) Access by pedestrians and cyclists*

*c) Sustainable drainage management system*

### ***Policy LE2 Marchington Industrial Estate (Objective 7)***

***Development for employment uses will be permitted within Marchington Industrial***

*estate where it is related to the continued successful operation of the estate and will not lead to problems in terms of;*

- Increased traffic beyond the capacity of local roads*
- Adverse impact on nearby housing*
- Increase risks in terms of flooding from surface water run-off.*

*Where necessary, operating hours and other planning conditions will be applied to limit the adverse impact of otherwise acceptable development.*

**COMMENT**

*I have no comment on this policy.*

**Policy RE1 Renewable Energy (Objective 1)**

*Renewable and low carbon energy generation applications will be approved if their impacts are (or can be made) acceptable. The following considerations will be taken into account in assessing proposals:*

- Visual impact in the immediate locality and the wider area, including longer views across the Parish from Marchington Woodlands.*
- The amenity of nearby houses.*
- The setting of Sudbury Hall and Marchington Conservation Areas*
- Highway safety and traffic generation.*
- Sites of local nature conservation and heritage assets.*

*Proposals for installations will need to include specific assessments related to these criteria and to consider the cumulative impacts.*

**Comment**

*I have no comment on this policy*

**Policy RE2 Telecommunications Installations (Objective 1)**

***The Parish Council recognises the need for improved telecommunication and broadband services and supports sensitively designed and located installations where the proposal is designed to minimise any adverse effect on the landscape or on designated and non-designated heritage features.***

**COMMENT**

*I have no comment on this policy.*

## **SECTION 5**

### **Conclusion and Recommendations**

1. *I find that the Marchington Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.*
2. *The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.*
3. *The Marchington Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Development Plans in place within the Neighbourhood Area.*
4. *I am satisfied as a result of the SEA screening that no SEA is required and that no HRA assessment s required. I find that the Marchington Neighbourhood Plan meets the EU Obligation in this respect.*
5. *The policies and plans in the Marchington Neighbourhood Plan, subject to minor modification would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the East Staffordshire Borough Council.*
6. *I therefore consider that the Marchington Neighbourhood Plan subject to minor modification can proceed to Referendum.*

*Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD*

*Planning Consultant*

*NPIERS Examiner*

*CEDR accredited mediator*

*27<sup>th</sup> June 2016*