

**Awsorth Parish Council**

# **Awsorth Neighbourhood Development Plan**

A report to Broxtowe Borough Council of the Independent  
Examination of the Awsorth Neighbourhood Development  
Plan

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## Summary of Main Findings

This is the report of the Independent Examination of the Awsworth Neighbourhood Development Plan. The plan area comprises the entire administrative area of Awsworth Parish Council within the Broxtowe Borough Council area. The plan period runs to 2030. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

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

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area*”.<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Awworth Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Awworth Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Awworth Neighbourhood Area (the Neighbourhood Area) which was formally designated by Broxtowe Borough Council (the Borough Council) in December 2015. The Neighbourhood Plan has been produced by a Steering Group made up of Parish Councillors and other volunteers from the local community.
4. The submission draft of the Neighbourhood Plan and accompanying documents were submitted to the Borough Council. The Borough Council arranged a period of publication between 10 February 2020 and 10 April 2020 and subsequently submitted the Neighbourhood Plan to me for independent examination.

## Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the Borough Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.

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<sup>1</sup> Paragraph 29 National Planning Policy Framework (2019)

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

6. The Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the application.<sup>3</sup>
7. Should the Neighbourhood Plan proceed to local referendum<sup>4</sup> and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>5</sup> unless the Borough Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan.<sup>6</sup> The Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.<sup>7</sup>
8. I have been appointed by the Borough Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of neighbourhood plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years

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<sup>3</sup> Paragraph 48 of the National Planning Policy Framework 2019 explains full weight is not given at this stage. Also see Planning Practice Guidance paragraph: 107 Reference ID: 41-107-20200407 Revision date: 07 04 2020 for changes in response to the coronavirus (COVID-19) pandemic

<sup>4</sup> The Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020 Regulation 13 states referendums that would have been held from 7 April 2020 up to 6 May 2021 will be held on 6 May 2021

<sup>5</sup> Section 3 Neighbourhood Planning Act 2017

<sup>6</sup> Section 156 Housing and Planning Act 2016

<sup>7</sup> Paragraph 12 National Planning Policy Framework 2019

professional planning experience and have held national positions and local authority Chief Planning Officer posts.

9. As independent examiner, I am required to produce this report and must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>8</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>9</sup>

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>10</sup> The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.*”

12. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had the opportunity to state their case. The Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. As I did not consider a hearing necessary, I proceeded on the basis of examination of the written representations and an unaccompanied visit to the Neighbourhood Plan area in December 2020.

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<sup>8</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>10</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

## Basic Conditions and other Statutory Requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>11</sup> A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>12</sup>

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

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>14</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 as amended (the

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<sup>11</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>12</sup> This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”.

<sup>13</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998

<sup>14</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was designated by the Borough Council as a neighbourhood area in December 2015. A map of the Neighbourhood Area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Awsworth Parish Council boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>15</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>16</sup> All requirements relating to the plan area have been met. Whilst a representation requests a re-alignment of the plan boundary that is not a matter for my consideration.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>17</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>18</sup> I am able to confirm that I am satisfied that each of these requirements has been met. A representation objects to the Neighbourhood Plan boundary passing through their employment site and buildings but that is not a matter for my consideration.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>19</sup> The front cover of the Submission Version Plan clearly states the Plan period is 2015–2030. Part 1.6 of the Neighbourhood Plan explains the end date of 2030 has been chosen to generally accord with the Local Plan which will run to 2028.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans.<sup>20</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I

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<sup>15</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>19</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

<sup>20</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

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

20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.<sup>21</sup> I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

## Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Awsworth Neighbourhood Plan (2015-2030) Submission Draft (including Appendices 1 to 3) October 2019
- Awsworth Neighbourhood Plan Policies Map
- Awsworth Neighbourhood Plan Background Document (including Background Reports 1 -3) October 2019
- Awsworth Neighbourhood Plan Consultation Statement (including Appendices 1 – 10) October 2019 [*In this report referred to as the Consultation Statement*]
- Awsworth Neighbourhood Plan Basic Conditions Statement October 2019 [*In this report referred to as the Basic Conditions Statement*]

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<sup>21</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Strategic Environmental Assessment (SEA) / Habitats Regulations assessment (HRA) Screening Opinion June 2019
- Great Northern Line Local Area of Special Character Supporting Evidence Report October 2019
- Historic Core Local Area of Special Character Supporting Evidence Report October 2019
- Information available on the Awworth Parish Council and Broxtowe Borough Council websites
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the Borough and Parish Councils including: the initial letter of the Independent Examiner dated 23 November 2020; the Parish Council comments on the Regulation 16 representations of other parties received under covering letter dated 16 December 2020; the letter of the Independent Examiner seeking clarification of various matters dated 17 December 2020; and the joint response of the Borough and Parish Councils dated 6 January 2021
- Broxtowe Aligned Core Strategy Part 1 Local Plan including Key Diagram adopted September 2014
- Broxtowe Part 2 Local Plan 2018–2028 Adopted October 2019 including Appendices and Policies Map
- National Planning Policy Framework (February 2019) and subsequently updated [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016

- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
- Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020

## Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.
25. Consultation began in early 2016 with a meeting with local sports organisations; a display at a local event; a drop-in session; and a meeting with developers. In July 2016 a questionnaire was delivered to all households in the parish and 122 homes in adjacent parishes. In September 2016 the opportunity was taken to link with exhibitions regarding the Bennerley Viaduct and parish walks were undertaken. A report of findings from the household questionnaire and a progress report were delivered to households in December 2016. A local business survey and a consultation with Awsworth Primary School were undertaken in March 2017. Owners of land were contacted regarding proposals for local green space designation and local listing and discussions were held with interested parties regarding development proposals at Newtons Lane.
26. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan between 23 February 2018 and 13 April 2018. Publicity included posting the draft plan on the Parish Council website; making copies available at the Parish Office; use of a Facebook page; exhibition boards advertising four consultation events in the Village Hall; and press releases. A comprehensive document was delivered to all households (including adjacent parts of adjoining parishes). The 103 representations received in response to the consultation are summarised in Appendix 7 of the Consultation Statement. Action taken by the Steering Group, including modification and correction of the emerging Neighbourhood Plan, is

also set out in Appendix 7. The approach adopted in documenting the Regulation 14 consultation is commendable in terms of the detail set out and the care taken to explain decisions made. Suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was finally approved by the Parish Council on 1 October 2019 and then submitted with supporting documents to the Borough Council.

27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 10 February 2020 and 10 April 2020. The extended time period and adjusted arrangements for publicity and accessibility adopted in response to the circumstances arising from the Covid 19 pandemic at that time were appropriate. The Borough Council has logged 46 representations submitted in total. The representations include those from statutory consultees; local community organisations; landowners and businesses; the Neighbourhood Plan Steering Group and a former and present Parish Councillors; and individual residents. I have noted approximately half of the representations received support the Neighbourhood Plan or express support subject to modifications.

28. I have been provided with copies of each of those representations. In preparing this report I have taken into consideration all of the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole, or in part in my report. Some representations, or parts of representations, are not relevant to my role which is to decide whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified.

29. Where the representations, suggest additional matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Where relevant representations relate to specific policies, I have taken them into consideration later in my report when considering the policy in question.

30. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan

preparation process. On 16 December 2020 the Parish Council responded to the opportunity to comment by setting out a statement in respect of the Regulation 16 representations. I have taken the Parish Council comments into account in preparing my report in so far as they have not presented new evidence.

31. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
  - b) explains how they were consulted;
  - c) summarises the main issues and concerns raised by the persons consulted; and
  - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>22</sup>
32. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

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

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<sup>22</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

34. The Basic Conditions Statement states the Neighbourhood Plan “*has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights.*” Having considered the European Convention on Human Rights and in particular Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property)<sup>23</sup> I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention.
35. The Basic Conditions Statement states “*The Plan has been prepared with extensive input from the community and stakeholders as set out in the accompanying Statement of Consultation. Considerable care has been taken throughout the preparation and drafting of this Plan to ensure that the views of the whole community were embraced to avoid any unintentional negative impacts on particular groups (as required by sub-paragraph 2(f)).*” Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst no Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan, from my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.
36. The objective of EU Directive 2001/42<sup>24</sup> is “*to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable*

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<sup>23</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

<sup>24</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

*development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>25</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>26</sup>

37. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Broxtowe Borough Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
38. The Strategic Environmental Assessment (SEA) / Habitats Regulations assessment (HRA) Screening Opinion June 2019 states “*Broxtowe Borough Council considers that the Submission Draft Awworth Neighbourhood Plan (June 2019) is unlikely to have significant environmental effects and thus does not require a Strategic Environmental Assessment (SEA). This decision has been made for the following key reasons:* • *The Awworth Neighbourhood Plan does not allocate any sites for development. Policy H1 refers to the Borough Council’s ‘Land West of Awworth’ allocation for housing within the Borough Council’s emerging Part 2 Local Plan. The likely significant effects on the environment were identified at an early stage of plan development during initial investigations for the Part 2 Local Plan, and were all subjected to SA, incorporating SEA. Mitigation measures for any negative effects have been developed and delivery is certain through policy requirements (Policy 4) in the Part 2 Local Plan. The Part 2 Local Plan has been tested at examination hearings and the Council is currently consulting on Main Modifications.* • *The other policies of the Plan will not lead to development which would be harmful to the environment.* • *The emphasis of policies within the Plan is towards the conservation, protection and enhancement of the environment and protection of the heritage of the village and parish”.* Consultation had been undertaken with the Environment Agency, Historic England and Natural England between 28 June and 2 August 2019, none of which indicated likely significant environmental effects. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

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<sup>25</sup> Defined in Article 2(a) of Directive 2001/42

<sup>26</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

39. With respect to Habitats Regulations Assessment the Strategic Environmental Assessment (SEA) / Habitats Regulations Assessment (HRA) Screening Opinion June 2019 concludes *“In consideration of the small geographical area of the Awsworth Neighbourhood Plan, and its significant distance from the one (unconfirmed) European site well outside the Neighbourhood Plan boundary, the HRA screening concludes that the Awsworth Neighbourhood Plan is not likely to have significant effects on EU designated sites, either alone or in combination with other plans and projects.”* I have earlier in my report, in Footnote 12, referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout much of the period of preparation of the Neighbourhood Plan. The Screening Determination is dated June 2019. The Basic Conditions Statement confirms the agreement of Natural England with the screening opinion. I am satisfied that the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.
40. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
41. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
42. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The Borough Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU obligations:
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
  - when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>27</sup>

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to

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<sup>27</sup> Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

43. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the tests of soundness provided for in respect of examinations of Local Plans<sup>28</sup> which requires plans to be “*consistent with national policy*”.
44. Lord Goldsmith has provided guidance<sup>29</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”
45. The most recent National Planning Policy Framework published on 19 February 2019 (subsequently updated) sets out the Government’s planning policies for England and how these are expected to be applied. In my initial letter published by the Borough Council I confirmed that I would undertake this Independent Examination of the Neighbourhood Plan in the context of the Framework published in February 2019 (as updated) and the most recent Planning Practice Guidance.
46. The Basic Conditions Statement includes Table 1 which sets out a summary of how each objective of the Neighbourhood Plan seeks to address identified components of the Framework. Table 2 of the Basic Conditions Statement provides a commentary how each policy of the Neighbourhood Plan conforms with identified paragraphs of the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.

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<sup>28</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>29</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

47. The local issues and opportunities identified as important through public consultation are set out in section 3.0 of Neighbourhood Plan. The issues include economic dimensions (*“vibrant community”*, *“economic aspirations”* relating to the Bennerley Coal Disposal Point, *“guide development”* and *“proximity to good employment centres”*); and social components (*“friendly village atmosphere and strong community spirit”*, *“community facilities”* and *“future housing will need to meet the changing needs of its population”*); whilst also referring to environmental considerations (*“access to the open countryside and the rural setting”*, heritage assets, and poor appearance of some aspects of the public realm). The issues and opportunities have informed the development of a positive vision for Awsworth in 2030 and a comprehensive set of objectives for the Neighbourhood Plan that are set out in Section 4.1 of the submission plan. The vision and objectives provide a framework for the policies that have been developed.
48. Appendix 1 of the Neighbourhood Plan sets out nine aims under the heading *“Awsworth Parish Projects”*. Appendix 1 represents a memorandum of aspirations for action by the Parish Council that includes issues raised in community consultations that are not capable of being dealt with by planning policies in the Neighbourhood Plan. The issues are presented as aims and these are, with the exception of Aim APB1, repeated in the relevant topic chapters. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through development and land use policy. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, *“Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan”*.<sup>30</sup> I am satisfied the approach adopted identifying non-planning aims within topic sections, and presenting issues for action by the Parish Council in Appendix 1, differentiates those community aims and projects from the policies of the Neighbourhood Plan and has sufficient regard for the Guidance.

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<sup>30</sup> Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

Paragraphs 1.8 and 5.1 of the Neighbourhood Plan explain the approach adopted in this respect. I have noted Cossall Parish Council and one individual resident of that Parish have stated opposition to any transfer of land from Cossall Parish to Awsworth Parish. This is not a matter for my consideration.

49. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to '*have regard to*' national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition "*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.*"
50. At the heart of the Framework is a presumption in favour of sustainable development<sup>31</sup> which should be applied in both plan-making and decision-taking.<sup>32</sup> The Guidance states, "*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*"<sup>33</sup>.
51. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some

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<sup>31</sup> Paragraph 10 National Planning Policy Framework 2019

<sup>32</sup> Paragraph 11 National Planning Policy Framework 2019

<sup>33</sup> Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

alternative plan would make a greater contribution to sustainable development.

52. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Section 3.10 of the Basic Conditions Statement presents a statement how the policies of the Neighbourhood Plan contribute to achieving sustainable development “*by seeking positive improvements to the quality of the natural, built and historic environment, as well as in people’s quality of life.*” I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality; and will protect important environmental features of the Neighbourhood Area. In particular, I consider the Neighbourhood Plan as recommended to be modified seeks to:

- Support the development of new homes in an identified part of the plan area and from windfall schemes that meet local needs;
- Protect and enhance heritage assets, including those parts of the Bennerley Viaduct and setting that are within the plan area, and areas of special character;
- Establish design principles for development;
- Protect local landscape character, woodlands, tree belts and hedgerows;
- Protect and enhance the green and blue infrastructure network and biodiversity;
- Designate Local Green Spaces;
- Protect existing community facilities including shops and support new provision;
- Retain employment sites and support small business growth;
- Manage traffic demand, limit growth of on-street parking, and support active travel;
- Establish support for proposals to use the former Bennerley Coal Disposal Point Land for recreational purposes such as a country park; and
- Identify priorities for use of developer contributions.

53. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in

guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

54. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.<sup>34</sup> Plans should make explicit which policies are strategic policies.<sup>35</sup> “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”<sup>36</sup>. “*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.<sup>37</sup>

55. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.*”<sup>38</sup>

56. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The Borough Council has informed me that the Development Plan applying in the Awsworth Neighbourhood Area and relevant to the Neighbourhood Plan comprises Part 1 of the Local Plan (the Aligned Core Strategy) and Part 2 of the Local Plan. The Borough Council state all of the Policies of the Aligned Core Strategy, and Policies 1-7 inclusive; 10; 11; 16; 22; and 32 of the Part 2 Local Plan are regarded as strategic policies.

57. Nottinghamshire County Council state “*The adopted Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy (adopted 10 December 2013) and the saved, non-replaced policies of the Waste Local Plan (adopted 2002), along with the saved*

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<sup>34</sup> Paragraph 13 National Planning Policy Framework 2019

<sup>35</sup> Paragraph 21 National Planning Policy Framework 2019

<sup>36</sup> Footnote 16 National Planning Policy Framework 2019

<sup>37</sup> Paragraph 29 National Planning Policy Framework 2019

<sup>38</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

*policies of the Nottinghamshire Minerals Local Plan (adopted 2005), form part of the development plan for the area. As such, relevant policies in these plans need to be considered. In addition, Minerals Safeguarding and Consultation Areas (MSA/MCA) have been identified in Nottinghamshire and in accordance with Policy SP7 of the emerging Minerals Local Plan (Publication Version, July 2019) these should be taken into account where proposals for nonminerals development fall within them. As the Minerals and Waste Planning Authority, it is the responsibility of Nottinghamshire County Council to formulate policies and determine applications relating to minerals and waste. The policies within the Awsworth Neighbourhood Plan do not appear to conflict with the Minerals or Waste Local Plans or any permitted facilities. However, it should be noted that the entire Neighbourhood Area lies within a Minerals Safeguarding and Consultation area for surface coal.” I have earlier in my report confirmed that I am satisfied the Neighbourhood Plan does not include provision about excluded development.<sup>39</sup>*

58. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*<sup>40</sup>. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

59. In considering a now-repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated *“the adjective ‘general’ is there to introduce a degree of flexibility.”*<sup>41</sup> The use of *‘general’* allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

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<sup>39</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>40</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

<sup>41</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

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

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”<sup>42</sup>*

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

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

## **The Neighbourhood Plan Policies**

62. The Neighbourhood Plan includes 26 policies as follows:

Policy H1 New Homes on ‘Land West of Awworth (inside the bypass)’

Policy H2 Housing Mix

Policy H3 Affordable Housing & Local Needs

Policy H4 New Homes from Unallocated (or Windfall) Development

Policy BED1 Awworth Character Buildings & Structures of Local Heritage Interest

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<sup>42</sup> Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

Policy BED2 Local Areas of Special Character

Policy BED3 Design Principles

Policy GI1 Green & Blue Infrastructure Network

Policy GI2 Local Landscape Character Areas

Policy GI3 Biodiversity

Policy GI4 Designated Local Green Spaces

Policy GI5 Local Woodlands, Tree Belts & Hedgerows

Policy CFS1 Protection of Community Facilities

Policy CFS2 New or Enhanced Community Facilities

Policy CFS3 Protection & Enhancement of Local Shops

Policy CFS4 Support for Additional Shops

Policy E1 Existing Employment Use

Policy E2 Encouraging Small Businesses

Policy TT1 Traffic Management

Policy TT2 Car Parking

Policy TT3 Sustainable Transport

Policy BV1 Bennerley Viaduct

Policy BV2 Bennerley Viaduct Visual Setting

Policy NC1 Nottingham Canal

Policy BCDP1 Former Bennerley Coal Disposal Point Land

Policy DC1 Developer Contributions from New Development in  
Awsorth

63. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*. Footnote 16 of the Framework

states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”

64. Paragraph 15 of the Framework states “The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”
65. Paragraph 16 of the Framework states “Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”
66. The Guidance states “A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”<sup>43</sup>
67. “While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.<sup>44</sup>

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<sup>43</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

<sup>44</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

68. A neighbourhood plan should contain policies for the development and use of land. *“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”*<sup>45</sup>
69. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.”*<sup>46</sup> *“A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”*<sup>47</sup>
70. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

### **Policy H1 New Homes on ‘Land West of Awworth (inside the bypass)’**

71. This policy seeks to establish conditional support for the residential development of land identified on the Policies Map and Figure 8 that is allocated for residential development in the Broxtowe Part 2 Local Plan. The Policy includes criteria for support of a development proposal relating to: a masterplan approach; new homes; traffic and transport; and community facilities and assets.
72. In a representation the Parish Council has set out a statement supporting the approach adopted in Policy H1.

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<sup>45</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

<sup>46</sup> Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

<sup>47</sup> Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

73. In a representation Nottinghamshire County Council state “*The proposed policy H1 (f) i supports a primary access to the A6096 Shilo Way and a secondary vehicular access to Newtons Lane with no direct vehicular access via Park Hill or Barlow Drive North. A further access onto the A6096 Awsworth Bypass will inevitably adversely impact on the safe and efficient operation of the major road network and this proliferation of access junctions onto the bypass could be avoided if the development were served directly from a combination of Newtons Lane, Park Hill and Barlow Drive North. Policy H1 f) vii relates to linking the new development to Awsworth village with high quality walking and cycling routes. It would be useful if this policy could specify a requirement for the development to be suitably connected into both Park Hill and Barlow Drive North such that the permeability on foot and by bicycle is maintained, particularly as no vehicular connection is proposed in H1 f) (i)*”. Whilst the Parish Council state agreement with the point made by Nottinghamshire County Council, I am unable to recommend a modification of the Policy as suggested as this is not necessary to meet the Basic Conditions.

74. A representation by Derbyshire County Council states development supported by Policy H1 is unlikely to have any significant impact on the openness of the Green Belt, nor impact adversely in terms of coalescence of settlements. Derbyshire County Council suggests additional requirements should be included relating to vehicle charging points and broadband. These suggestions, and that of an individual stating opportunity should be taken to improve access for Glebe Farm Estate, are not necessary to meet the Basic Conditions.

75. Severn Trent Water supports part c) of the policy relating to Building for Life 12. Severn Trent Water also support part j) of the policy and recommend additional wording to the policy and supporting text to highlight good SuDS design. The representation suggests part k) should include watercourses and ditches, and that part l) should include blue corridors also, stating there are a number of watercourses suitable for surface water drainage in the land west of Awsworth inside the bypass area. Severn Trent Water would not anticipate any surface water being discharged into the sewerage system in this area. None of these comments necessitate modification of the policy to meet the Basic Conditions.

76. A party with an interest in the land subject to Policy H1 supports residential development, but states part p) of the policy relating to

provision of a neighbourhood shop sets an overly prescriptive requirement and is not justified as the scale of the development would not support the provision of a neighbourhood shop. Part p) seeks to establish support for, not a requirement for, a neighbourhood shop. This is also stated to be subject to viability. No modification is necessary to meet the Basic Conditions.

77. The representation of a resident states a need to address issues associated with the parking of cars along Newtons Lane and the inadequacy of the junction of Newtons Lane with The Lane/Awsorth Lane. Another representation refers to likely traffic congestion on Newtons Lane and states the link to the By-Pass will cause unsuitable through traffic volumes, and propose alternative access arrangements. It is inappropriate for the Policy to include provision relating to Newtons Lane as that road is outside the Neighbourhood Area. I refer to this matter when considering part f) of the policy later in my report and have recommended a modification in this respect.

78. Four individuals have expressed support for the policy, but in three cases only subject to the safeguards set out in the Policy. A representation states a need for accommodation suitable for elderly people. Other representations express concerns including: that the scale of development will result in traffic and access problems; safety issues regarding pedestrian and cycle crossing the by-pass and the need for traffic lights at the access; effect on crime and policing and other services; unsuitable tenure of housing; waste disposal; loss of view and privacy; noise and air pollution; a community centre is preferable to affordable housing; loss of green space; and devaluation of existing property. None of these matters necessitate a modification of the Policy to meet the Basic Conditions. A number of the issues raised are able to be addressed in the preparation and determination of development proposals.

79. The Guidance states *“The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies. In setting requirements for housing in designated neighbourhood areas, plan-making authorities should consider the areas or assets of particular importance (as set out in paragraph 11, footnote 6), which may restrict the scale, type or distribution of development in a neighbourhood plan area.”*<sup>48</sup>

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<sup>48</sup>Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

80. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”*<sup>49</sup>
81. *“Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it.”*<sup>50</sup>
82. *“The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing. However, there is an expectation that housing requirement figures will be set in strategic policies, or an indicative figure provided on request. Where the figure is set in strategic policies, this figure will not need retesting at examination of the neighbourhood plan. Where it is set as an indicative figure, it will need to be tested at examination.”*<sup>51</sup>
83. *“Neighbourhood plans should not re-allocate sites that are already allocated through these strategic plans. National planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy. Should there be a*

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<sup>49</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

<sup>50</sup> Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

<sup>51</sup> Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision date: 09 05 2019

*conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”<sup>52</sup>*

84. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance.
85. The text supporting Policy H1 in the Neighbourhood Plan (paragraphs 6.1 to 6.25) adequately explains the strategic planning policy context; the apportionment relating to the parts of the key settlement that lie within adjoining parishes; and the known completions and commitments, that lead to the residual housing requirement of approximately 200 dwellings included in Policy H1. In addition to the quantum of development of new homes supported in Policy H1 the Neighbourhood Plan, through Policy H4, supports, subject to stated criteria being met, further provision of new homes arising through small-scale windfall developments. Policy H3 also supports affordable housing provision. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided in total. I am satisfied the approach adopted to address housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for Awsworth parish and provides the necessary justification that those policies (after recommended modification or deletion) that are relevant to housing supply will result in local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, and will not undermine those strategic policies.
86. Paragraph 127 of the Framework states *“Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting,*

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<sup>52</sup> Planning Practice Guidance Paragraph: 044 Reference ID: 41-044-20190509 Revision date: 09 05 2019

*while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”* Policy H1 has sufficient regard for national policy in these respects, and does not undermine the strategic planning policies but seeks to establish an additional level of detail to that set out in the strategic policies. I am satisfied the approach adopted in the Neighbourhood Plan in these respects, in Policy H1 and in the other policies that seek to shape the nature of development, meets the Basic Conditions.

87. The Policy includes matters that are dealt with in other policies of the Neighbourhood Plan. Housing mix is dealt with in Policy H2, but in some respects, is expressed in different terms from how it is expressed in Policy H1. This is confusing and results in the Neighbourhood Plan failing to provide clear guidance for decision makers. Duplication of policy content is unnecessary as the Neighbourhood Plan should be read as a whole. Paragraph 16 of the Framework states plans should avoid unnecessary duplication of policies that apply to a particular area. I appreciate the desire to ensure Policy H1 is comprehensive in drawing together key elements of policy to apply within the site concerned, and I have therefore recommended, as an exception, that reference is made to satisfying the other policies of the Neighbourhood Plan. Policy H1 also duplicates Policy BED3 with respect to the issue of the number of storeys in houses. When considering Policy BED3 later in my report I have found this aspect of policy has not been sufficiently justified and recommended it is deleted. I have recommended part e) of Policy H1 is also deleted in part for this reason and also because it includes the imprecise term “*appropriate*”.

88. The Policy includes reference to Building for Life 12. The Guidance states assessment frameworks of that nature “*are effective when the issues within them are considered in relation to the particular context*”

and character of a local area.”<sup>53</sup> In July 2020 Homes England has announced support for Building for a Healthy Life guidance, commissioned by NHS England, to replace Building for Life 12. I have recommended a modification to future proof the policy in this respect.

89. Part f) of the policy requires a Transport Plan addressing specified matters. The Framework seeks to promote sustainable transport and includes at paragraph 102 “*Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: a) the potential impacts of development on transport networks can be addressed; ...e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places*”. Paragraph 103 of the Framework includes “*the planning system should actively manage patterns of growth in support of these objectives.*” Paragraph 127 of the Framework states planning policies should ensure developments function well and add to the overall quality of the area and create places that are safe. Paragraph 109 of the Framework states “*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*” Paragraph 111 of the Framework requires that “*All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or assessment so that likely impacts of the proposal can be assessed.*” The Guidance states “*Transport Assessments and Transport Statements primarily focus on evaluating the potential transport impacts of a development proposal. (They may consider those impacts net of any reductions likely to arise from the implementation of a Travel Plan, though producing a Travel Plan is not always required.) The Transport Assessment or Transport Statement may propose mitigation measures where these are necessary to avoid unacceptable or “severe” impacts. Travel Plans can play an effective role in taking forward those mitigation measures which relate to on-going occupation and operation of the development. Transport Assessments and Statements can be used to establish whether the residual transport impacts of a proposed development are likely to be “severe”, which may be a reason for refusal, in accordance with the National Planning Policy Framework.*”<sup>54</sup> I am satisfied the requirements set out in part f) of the policy have sufficient regard for

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<sup>53</sup> Planning Practice Guidance Paragraph:018 Reference ID: 26-018-20191001 Revision date: 01 10 2019

<sup>54</sup> Planning Policy Guidance Paragraph: 005 Reference ID: 42-005-20140306 Revision date: 06 03 2014

national policy. The policy does however seek to establish requirements beyond the Neighbourhood Area boundary which it may not. The terms “*unacceptably*” and “*future needs*” do not provide a basis for the determination of development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

90. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

91. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering sufficient supply of homes, promoting healthy and safe communities, achieving well-designed places, and promoting sustainable transport, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 1:**

##### **In Policy H1**

- **in the second paragraph after “Figure 8)” insert “where proposals satisfy the other policies of the Neighbourhood Plan and”**
- **delete parts b) and e)**
- **in c) after “criteria” insert “or replacement updated guidance”**
- **in d) replace “unacceptably” with “significantly adversely”**
- **in f) (i) replace “via Newtons Lane, Cossall” with “leading to the secondary vehicular access point”, and in f) (vii) after “enhance links that” insert “ultimately”**
- **in g) delete “and future”**

## Policy H2 Housing Mix

92. This policy seeks to establish that housing development proposals should meet local need as identified in Background Report 1, or more up to date published evidence of housing need.
93. The representation of an individual supports the policy.
94. The Guidance states *“Any neighbourhood plan policies on the size or type of housing required will need to be informed by the evidence prepared to support relevant strategic policies, supplemented where necessary by locally-produced information.”*<sup>55</sup> The requirement in the first sentence, to meet future housing needs, has not been sufficiently justified and is in conflict with the acknowledgement in part b) of the policy that more up to date evidence of housing need may become available. The Framework states *“...the type and tenure of housing needed for different groups of the community should be assessed and reflected in planning policies”* and *“Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required.”* Price is not a direct matter for planning policy relating to housing mix, although size and type of property will influence price indirectly. The term *“where possible”* introduces uncertainty. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework. I am satisfied the term *“reflects”* allows sufficient flexibility in implementation to accommodate matters of practicality and viability such that the policy is deliverable as required by paragraph 16 b) of the Framework.
95. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
96. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the

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<sup>55</sup> Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

Framework, and the components of the Framework concerned with delivering sufficient supply of homes, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 2:  
In Policy H2**

- **delete the first sentence**
- **in the second sentence replace “They should” with “To be supported housing development proposals must”, and delete “price”**
- **in the third sentence replace “, where possible, will be required to” with “must”**

**Policy H3 Affordable Housing & Local Needs**

97. This policy seeks to establish support for provision of affordable housing that clearly meets a local housing need and which is in line with local and national affordable housing policies. The policy also refers to nomination rights.

98. Paragraph 77 to 79 of the Framework state *“In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.”* Policy 8 of the Aligned Core Strategy states *“Affordable housing will be required in new residential developments on appropriate sites. The following percentage targets will be sought through negotiation: Broxtowe Borough: 30%... Any locational variation in affordable housing requirements, and the mix and threshold for affordable housing will be set out in part 2 Local Plans by each Council, determined by: a) evidence of housing need, including where appropriate housing tenure, property type and size; b) the existing tenure mix in the local area; c) the ability to deliver affordable housing alongside other requirements, taking into account*

*broad assessments of viability. Where the findings of local assessments are disputed on a particular site, a financial appraisal of the proposal will be expected in order to determine an appropriate level of affordable housing; and d) the availability of subsidy on a development to deliver affordable housing within weaker housing submarkets. In the case of larger developments, the level of affordable housing will be considered on a site-by-site basis taking into account localised information and set out in part 2 Local Plans. The type of affordable housing provision will be assessed throughout the lifetime of that development to ensure the development is responsive to updated evidence of need. Approach to Rural Affordable Housing. Where there is robust evidence of local need, rural exception sites or sites allocated purely for affordable housing may be permitted within or adjacent to rural settlements.”* Part 2 Local Plan Policy 15 requires 30% or more affordable housing in respect of proposals for 10 or more homes on the strategic housing allocation site on land west of Awworth inside the bypass. Elsewhere in the Neighbourhood Area proposals for 10 or more dwellings will be subject to a 20% or more affordable housing requirement. By referring to “*local and national affordable housing policies*” Policy H3 avoids the need for future adjustment in response to strategic policy changes.

99. Allocation of affordable housing is an administrative process that normally falls outside land use planning, however, I have noted Aligned Core Strategy Policy 8 states “*In allocating rural affordable housing, priority will be given to people that have a connection to that settlement who are unable to afford market housing.*” Policy H3 includes the phrase “*In legal and other agreements connected to planning consents*” which will be the mechanism to control allocation. On this basis the policy will be providing a practical framework within which decisions on planning applications (which can include a Section 106 Agreement) can be made where it is evident how a decision maker should react to development proposals as required by paragraph 16 of the Framework.

100. The policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

101. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering sufficient supply of homes, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

#### **Policy H4 New Homes from Unallocated (or Windfall) Development**

102. This policy seeks to establish conditional support for small-scale residential windfall development.

103. Paragraph 77 to 79 of the Framework state *"In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; c) the development would re-use redundant or disused buildings and enhance its immediate setting; d) the development would involve the subdivision of an existing residential dwelling; or e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would*

*significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”*

104. As a point of clarification, I asked how Policy H4 relates to paragraph 79 of the Framework and to national policy protecting Green Belt Land. In a joint response the Borough and Parish Councils state *“The Borough Council is of the view that Policy H4 should only apply within the ‘Key Settlement Boundary’ and should not apply to land outside of this, designated as Green Belt. The Borough Council would be happy for the wording of the Policy to be amended to state: ‘Small-scale residential windfall development proposals (for one or two dwellings) on land within the Key Settlement Boundary will be supported subject to the following:’. The Borough Council further suggests that the Policies Map should be amended to include the ‘Key Settlement Boundary’ and the Policy should be referenced appropriately. The Borough Council is of the view that the current reference to the policy on the Policies Map as a ‘Plan-Wide Policy’ should be deleted. The Borough Council would be very happy to make these amendments to the Policies Map on the Parish Council’s behalf. The Borough Council’s key concern is that any policy should not give the impression that development in the Green Belt would be supported, other than that which would fall within ‘Very Special Circumstances’, as defined by the NPPF. The Parish Council acknowledge that were Policy H4 to be amended as suggested by the Borough Council (to apply only within the ‘Key Settlement Boundary’ and the policy wording amended, either as they suggest, or using similar wording) this would helpfully be clear and precise for any proposals within Awsworth’s main built area. We also note the Borough Council’s kind offer to make any consequent amendments to the Policies Map. Should this be required, the Parish Council would ask that the whole of the ‘Awsworth Key Settlement’ be shown on the Policies Map, if possible, as this would be more helpful to the reader (even acknowledging that Figure 5 currently includes this information). It is recognised that boundaries in neighbouring areas of Cossall and Kimberley would have to be distinguished in some way from those inside the plan area. It is suggested that they could perhaps be shown in ‘ghost’ outline and it made clear they are ‘shown for information only’. The Parish Council would, however, point out that Policy H4 is intended to have plan-wide application as referenced on the legend to the Policies Map. The absence of a policy to consider new homes from unallocated (or windfall) development was considered to be an important omission. Considering the relatively small areal extent of the Neighbourhood Plan Area and the significant amount of growth that*

*has been required and provided for over recent years (including the major new allocation on land west of Awworth inside the bypass), it was considered important that any speculative proposals within the plan area should be considered against local (Neighbourhood Plan) policy. In practice this would potentially be most likely to apply to sites outside but adjacent to the defined Key Settlement Boundary. However, it is acknowledged that in the Awworth context this would involve land designated as Green Belt where more stringent policy requirements already apply. To confirm that there is no policy intention either to conflict with the protection of Green Belt land or to allow isolated dwellings in the countryside. This could be made clear in supporting text if it was felt necessary. Were it decided that Policy H4 should apply only within the Key Settlement Boundary, the Parish Council would ask that consideration be given to ensuring that the local policy requirements set out at (a) – (e) would still apply to any development proposals involving land outside the Key Settlement Boundary, in addition to Green Belt policy considerations set out elsewhere. Whether Policy H4 was to apply plan-wide or only within the Key Settlement Boundary, the Parish Council view is that, should a specific permissible number be deemed necessary, 1 or 2 dwellings (as the Borough Council suggest at Question 1 above) would seem to be reasonable, especially if Policy 4 was only to apply within the Key Settlement Boundary. Such a definition could either be included within Policy H4 itself or in the supporting text.”*

105. Policy H4 does not have sufficient regard for national policy with respect to avoidance of isolated homes in the countryside nor with respect to Green Belt policy. The policy itself should provide a basis for decision making in respect to development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework. I have given consideration to the request of the Parish Council that the criteria of Policy H4 should apply outside the Key Settlement Boundary but have not recommended this should be the case as this has not been sufficiently justified having regard to national policy and in respect of the issue of general conformity with the strategic policies.

106. It is unnecessary and confusing to refer to other policies of the Neighbourhood Plan as the Neighbourhood Plan should be read as a whole. Paragraph 16 of the Framework states unnecessary duplication

of policies should be avoided. Criterion e) is imprecise and does not provide a basis for the determination of development proposals. In response to my request for clarification regarding the meaning of the term “small scale” the Borough and Parish Councils responded as follows *“The Borough Council suggests that the term ‘small-scale’ within this policy could refer to developments of one or two dwellings. The Borough Council is of the view that the Policy would not necessarily require that larger windfall developments would automatically be refused, however, the Borough Council is of the view that it would be more appropriate for the policy to be targeted towards a lower level of development. The Parish Council acknowledges that the term ‘small-scale’ used in Policy H4 is not explicitly explained either in the plan policy or supporting text. Supporting text refers to a range of factors including ‘scale’. Policy H4 also cross-refers to Policy BED3: ‘Design Principles’ which intends that development proposals should respect the local character of Awsworth, having regard to a number of matters that would need to be taken into consideration such as scale, density, massing etc. Its application in policy terms (to any residential windfall development proposals on unallocated sites) would rely on the details of the particular proposal. The meaning of the term ‘small-scale’ would therefore be the normally accepted meaning of the term i.e. ‘of limited size, scope or extent’. In practice, it is likely that this would be a combination of the size or extent of the site, the proposed number of dwellings and the individual and cumulative scale and impact of the development. It is considered that this could be helpfully clarified in supporting text. The Parish Council is aware that not all Local Plans choose or are required to define the number of dwellings that would constitute ‘small-scale’ residential windfall development. Certainly, our expectation would be that this should only be a very small number. Should a specific number be deemed necessary, 1 or 2 dwellings as the Borough Council suggest would seem to be reasonable, especially if Policy 4 was only to apply within the Key Settlement Boundary (see Question 2 below). Such a definition could either be included within Policy H4 itself or in the supporting text. The Borough Council would be happy for such a definition to either be included within Policy H4 itself or the supporting text.”* I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

107. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

108. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, promoting sustainable transport, protecting Green Belt Land, and conserving and enhancing the natural environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 3:**

##### **In Policy H4**

- **after “windfall development proposals” insert “(for one or two dwellings) on land within the Key Settlement Boundary identified on the Policies Map”**
- **delete criterion a)**
- **in c) after “systems” insert “, and “**
- **in d) replace “, and;” with a full stop**
- **delete criterion e)**

**On the Policies Map add the Key Settlement Boundary, and delete Policy H4 from the list of Plan wide policies in the Policies Map legend.**

#### **Policy BED1 Awsworth Character Buildings & Structures of Local Heritage Interest**

109. This policy seeks to identify buildings and structures listed in Table 1, and identified on the Policies Map and on Figure 9, as Awsworth Character Buildings and Structures of Local Heritage Interest and seeks to establish that development proposals that harm the historic significance and setting of those buildings and structures will not be supported.

110. The Guidance refers to advice on local lists published on Historic England's website.<sup>56</sup> Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018) states *"Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their suitability for addition to the local planning authority's heritage list assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them."*

111. The linking of harm to historic significance, and harm to setting, has not been sufficiently justified. The use of a shorter title for the group of identified buildings and structures in the second paragraph of the policy is confusing. The third paragraph of the policy is without consequence. The second sentence of the third paragraph introduces a level of prescription that has not been sufficiently justified. The subject of the final sentence of the policy is an administrative process and not a matter of planning policy. Paragraph 197 of the Framework states *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."* Whilst the text of the final sentence of the policy clarifies the buildings identified in Table 1 are not locally listed by the Local Planning Authority, I have recommended a modification so that the approach to the identified buildings and structures should have regard to national policy regarding non-designated heritage assets, rather than as currently worded which is based on the approach relevant to designated heritage assets. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.

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<sup>56</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019

112. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

113. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 4:  
In Policy BED1**

- **in the second paragraph**
  - **after “significance” replace “and” with “and/or”**
  - **after “Structures” insert “of Local Heritage Interest”**
  - **replace “will not be supported” with “will be assessed having regard to the scale of harm and the significance of the heritage asset”**
- **commence the third paragraph with “To be supported”**
- **delete the second sentence of the third paragraph**
- **delete the final sentence which should be re-worded and presented as an Aim of the Neighbourhood Plan**

**Policy BED2 Local Areas of Special Character**

114. This policy seeks to identify two local areas of special character and establish criteria for the determination of development proposals within those areas. The policy also seeks to establish support for the enhancement of active travel infrastructure along the Great Northern Line corridor.

115. The term “*encouraged*”, and the support of opportunities, do not provide a basis for the determination of development proposals. Maintenance is not a matter for planning policy. I have recommended a modification in these respects so that the policy has sufficient regard

for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

116. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

117. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places, conserving and enhancing the historic environment, and promoting sustainable transport, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:**

**In Policy BED2 replace the second paragraph with “The creation or enhancement of high-quality walking and cycling routes, and installation of associated directional signage, along the Great Northern Line corridor will be supported.”**

**Policy BED3 Design Principles**

118. This policy seeks to establish development design principles.

119. In a representation Severn Trent Water suggest reference is made in the policy to SuDS; the drainage hierarchy; and water efficiency. Modification of the policy in these respects is not necessary to meet the Basic Conditions.

120. Paragraph 126 of the Framework states “*To provide maximum clarity about design expectations at an early stage, plans or supplementary planning documents should use visual tools such as design guides and codes. These provide a framework for creating distinctive places, with a consistent and high-quality standard of*

*design. However, their level of detail and degree of prescription should be tailored to the circumstances in each place, and should allow a suitable degree of variety where this would be justified". Policy BED3 seeks to establish design expectations that development proposals must respect. The terms "as appropriate", "have regard to", "normally", "where appropriate" and "where applicable" do not provide a basis for the determination of development proposals. The Guidance states "Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan".<sup>57</sup> The references to number of storeys have not been sufficiently justified. It is confusing and unnecessary to state the policy applies to proposals in a particular area as all the policies of the Neighbourhood Plan apply throughout the whole neighbourhood area unless a smaller area is specified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and "is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.*

121. In response to my request for clarification regarding the term "where applicable" the Borough and Parish Councils jointly responded *"The Parish Council acknowledge that the term 'where applicable' is not explained. The intention of policy would therefore rely on the normally accepted meaning of the term i.e. where it applies – 'something that is applicable to a particular situation, is relevant to it or can be applied to it'. The policy was originally intended to apply to all new housing development proposals. However, it was decided that it should also apply to non-residential development proposals, although it was recognised that not all of the policy requirements would necessarily be applicable to non-residential proposals, hence the inclusion of the term 'where applicable'. This could be explained in supporting text. However, were it decided that 'where applicable' should be deleted, the Parish Council suggests that the term 'where appropriate' might be used instead (consistent with the use of the term 'where appropriate' in the third part of the policy i.e. which does not require that all of the policy requirements listed should be provided, an acknowledgement that in some instances this would not be appropriate). The Borough Council would be happy for the term 'where applicable' to either be retained and explained within the supporting text or be deleted from this part of the wording of the Policy. The*

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<sup>57</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

potential exclusion of non-residential development proposals through inclusion of the term “*where applicable*” in the policy has not been sufficiently justified. I have recommended the reference to non-residential development is deleted so that it is clear the policy applies to all development. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

122. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

123. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places and conserving and enhancing the historic environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 6:**

##### **In Policy BED3**

- **in the first sentence delete “landscaping” and replace “access, as appropriate” with “any access and landscaping components”**
- **replace the second paragraph after “design” with “of proposals must not significantly adversely affect the visual or residential amenity of any existing dwelling”**
- **replace the third paragraph with “All proposed public and private spaces must be attractive, safe and accessible for all users.”**
- **delete the fourth paragraph**

## Policy GI1 Green & Blue Infrastructure Network

124. This policy seeks to establish that development proposals must protect and enhance the green and blue infrastructure network.
125. In a representation Severn Trent Water suggest the first line of the policy should refer to blue infrastructure. This is not necessary to meet the Basic Conditions. The representation also suggests Figure 14 should indicate all watercourses and ditches within the area. There is no requirement for full coverage as indicated.
126. In a representation Whitehead (Concrete) Ltd and Foulds Investments Ltd state *“it is wholly inappropriate for the designation of Policy GI-1 on the Policies Map to apply to its business premises in the manner proposed. This is due to the impositions flowing from the policy and more particularly given that the site does not functionally operate as a Green Infrastructure Network, nor never has, since it commenced industrial operations in the 1940’s.”* The representation requests land owned by the representors should be removed from the Green Infrastructure corridor identified on the Policies Map on the basis of the existing employment use. I have noted the Proposals Map shows part of the site in question is included within a Green Infrastructure Corridor which is described as “indicative” in the Policies Map legend. The Parish Council state that Figure 11 and the Policies Map could both be amended so as re-draw the indicative line further south to run outside the Whitehead and Foulds site without detracting from the intention of the policy. I agree this re-alignment to pass through the tree covered area to the south would mean that the policy will be more clearly understood, both in itself, and in relation to Policy E1 of the Neighbourhood Plan which applies to the Whitehead and Foulds site. I have recommended a modification of Policy GI1, the Policies Map, and Figure 11 in this respect. The use of the term *“indicatively”* in the policy introduces uncertainty. The Parish Council and the Borough Council have confirmed agreement to deletion of the word *indicatively*. I am satisfied the term *“or adjacent to”* provides any necessary flexibility in implementation. I have recommended modification in these respects so that it will be *“evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
127. The general reference to the *“aims of the Greenwood Community Forest”* does not provide a basis for the determination of planning proposals. I have recommended a modification in this respect

so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

128. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

129. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 7:**

**In Policy GI1**

- delete the second sentence
- delete “indicatively” from the final paragraph

**On the Policies Map re-align the indicative green infrastructure corridor, and on Figure 11 re-align the Kimberley Cutting Secondary Corridor, in both cases to pass south of the Whitehead & Foulds site through the adjacent tree-covered area. Remove the word “Indicative” from the Policies Map legend and remove the Note in the title to Figure 11**

**Policy GI2 Local Landscape Character Areas**

130. This policy seeks to establish that development proposals within or affecting two identified local landscape character areas should make a positive contribution to the quality and local distinctiveness of the landscape.

131. In a representation Whitehead (Concrete) Ltd & Foulds Investments Ltd object to inclusion of their land in the Babbington

Rolling Farmlands area referred to in Policy GI2 and identified on the Policies Map and Figure 12. In response to my request for clarification the Borough Council has confirmed the Landscape Character Areas, as shown on the Awworth Neighbourhood Plan Policies Map, are identical to those referred to in Appendix 7 of the Broxtowe Part 2 Local Plan, and shown on the Borough Council's interactive Part 2 Local Plan Policies Map. It is appropriate for the Neighbourhood Plan to refer to landscape character area boundaries that have been identified in Local Plan preparation and which are supported by an evidence base that has been tested at examination.

132. Paragraph 170 of the Framework includes *“Planning policies ... should contribute to and enhance the natural and local environment by: ... b) recognising the intrinsic character and beauty of the countryside...”*. I am satisfied the approach adopted in Policy GI2 has sufficient regard for national policy in this respect.
133. Whilst general reference to other documents is usually inappropriate as it means the Neighbourhood Plan does not provide a basis for the determination of planning proposals, in this instance, such reference to the Greater Nottingham Landscape Character Assessment and an Appendix of the Part 2 Local Plan is precise and a convenient means to avoid lengthy policy content in the Neighbourhood Plan. It is, however, confusing and unnecessary to state *“to accord with Broxtowe Part 2 Local Plan – Policy 30: Landscape”* as the Development Plan should be read as a whole.
134. Local Plan Policy 30 states *“All developments within, or affecting the setting of, the local landscape character areas listed below should make a positive contribution to the quality and local distinctiveness of the landscape. They should therefore be consistent with the ‘landscape actions’ for the area concerned, as set out in the Greater Nottingham Landscape Character Assessment and in Appendix 7 of this Plan”*. I asked the Borough and Parish Councils to clarify how Policy GI2 provides an additional level of detail or distinct local approach to that set out in Local Plan Policy 30. The joint response of the Borough and Parish Councils states *“The Borough Council is of the view that a greater amount of local detail could be provided within Policy GI2 to add to the justification for including such a policy within the Neighbourhood Plan, as set out within the Borough Council’s response to Question 7 below. The Parish Council particularly welcomes the Borough Council’s comments at Question 7 (below), which is that it would be very reasonable for the Neighbourhood Plan*

*Policy to include additional, more local-specific detail within Policy GI2. Also, that such additional, more local detail might also help to justify the inclusion of the policy within the Neighbourhood Plan, as it would provide additional detail to that currently included within Policy 30 of the Broxtowe Part 2 Local Plan. The Parish Council considered it important that the Neighbourhood Plan should seek to ensure that the acknowledged need to protect and enhance all of Broxtowe's landscapes is recognised and expressed at local Parish (i.e., Plan) level. Policy GI 2 is intended to give local expression to the relevant Local Landscape Character Areas, in terms of their specific relationship to Awsworth Parish and particularly the main built area. It was considered more helpful to residents and plan users to include relevant policy in the plan in relation to the local landscape areas found west and east of the village, which are important in their own right and to the local community. We are pleased the Borough Council does not suggest that the policy should be deleted but that Neighbourhood Policy might reasonably include additional local-specific detail. The Parish Council would therefore request that careful consideration be given to how Policy GI 2 might be more appropriately and distinctly worded if this is deemed to be required. The Parish Council is happy to look at this aspect further in collaboration with the Borough Council. However, were it to be concluded that the policy should be removed, the Parish Council would still wish to see the whole section on the Local Landscape Character Areas retained, including the current policy wording, even if this has to be expressed in the form of an essentially 'supportive statement' rather than in strict land-use policy terms. Clearly, from the Parish Council's point of view, this would be a least-worst outcome."*

135. In commenting on the representations of other parties the Parish Council suggest the supporting text *"might usefully be expanded to cross-refer to Policy E1 and explain the practical implications of Policy GI2"*. In that supporting text must not introduce elements of policy I asked the Borough and Parish Councils to comment on the possibility that Policy GI2 could itself include a provision that recognises that development proposals on existing employment use sites identified on the Policies Map may only offer limited potential to contribute to the quality and local distinctiveness of the landscape.

136. In a joint response the Borough and Parish Councils state *"The Borough Council would like to note that the entirety of the wider area covered by the employment uses referred to within these representations, both within and outside of the Parish Council*

boundary, is covered by the 'Babbington Rolling Farmlands' Landscape Character Area (NC02) and is therefore protected by Policy 30 of the Broxtowe Part 2 Local Plan. Notwithstanding this, and in light of the fact that only a small part of this particular site is within the Awsworth Parish Council boundary, the Borough Council would not object to the wording of the Policy being slightly amended to acknowledge that there may be slightly less potential for development proposals on sites allocated for existing employment use within Awsworth Parish, as identified on the Policies Map, to be able to so fully contribute to the quality and local distinctiveness of the landscape. The Borough Council is of the view that it remains important that the Local Character Area designation should still be considered by any potential developers and during the determination of any planning applications, and that any proposals should still seek to make a positive contribution to the quality and local distinctiveness of the landscape, whilst at the same time recognising that this may not always be possible due to potentially-conflicting planning policies. The Borough Council's view is that it would be very reasonable for the Neighbourhood Plan Policy to include additional, more local-specific detail. Such additional, more local detail might also help to justify the inclusion of the policy within the Neighbourhood Plan, as it would provide additional detail to that currently included within Policy 30 of the Broxtowe Part 2 Local Plan. The Parish Council agree with the Borough Council's view about the importance of considering the Local [Landscape] Character Area designation in connection with all development proposals. That is why Policy GI 2 starts with 'All development proposals within or affecting the setting of the Parish's local landscape character areas', which would include development on an existing employment use site but would also apply to any proposal outside these defined employment areas should they arise. The Parish Council particularly welcome the Borough Council's view that it would be very reasonable for Neighbourhood Plan Policy to include additional, more local-specific detail. This was the intention of Policy GI 2 and the reason for including local reference to 'the Parish's local landscape character areas' and for more locally-specific references when describing the two types of Local Landscape Character Area found within the plan area (1. 'Erewash River Corridor' - reference to 'the floodplain and fringe areas in the western part of the Parish along the east side of the River Erewash and south of the Gilt Brook', and; 2. 'Babbington Rolling Farmlands' - reference to '2 areas (a) mostly comprising open farmland in the eastern part of the Parish but also (b) land west of A6096 Shilo Way, including Nottingham Canal, Naptha Wood and land northwards towards the A610'). However, it is

*acknowledged that in striving to generally accord with the Part 2 Local Plan, the Neighbourhood Plan policy could perhaps have been expressed in an even more evidently locally-specific way. The Parish Council would much prefer to see the policy retained, even if this requires some further modification as regards how local specificity might best be reflected to make policy more clearly Awsworth-specific. To confirm, it is not the Parish Council's intention that supporting text should look to introduce elements of policy but rather can help to clarify (both in relation to Policy E1 and perhaps more helpfully the practical implications of Policy GI 2). It would be helpful were the policy to recognise that development proposals on existing employment use sites identified on the Policies Map may only offer limited potential to contribute to the quality and local distinctiveness of the landscape. In our view, supporting text might reasonably explain that such contributions are more likely to be possible and effective at or near the site's boundaries, for example by way of associated landscaping proposals, which can help mitigate new development on the site and also make a valuable contribution to reinforce the local landscape outside it."*

137. Policy GI2 does not serve a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies. Paragraph 16 of the Framework states unnecessary duplication of policies should be avoided. The policy does not have sufficient regard for national policy and does not meet the Basic Conditions. The representation in respect of the Whitehead (Concrete) Ltd & Foulds Investments Ltd site has raised an important local consideration regarding the characteristics and operational use of the site in question which are at variance to the general characteristics of the wider landscape area in which it is located. The issue raised is relevant to other employment sites. It is appropriate for the issue raised to be addressed in the Neighbourhood Plan in its own right, but also to achieve greater compatibility between the provisions of Policies GI2 and EMP1. I have recommended a modification that recognises development proposals on existing employment use sites, identified on the Policies Map, may only offer limited potential to contribute to the quality and local distinctiveness of the landscape.

138. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The

policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

139. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 8:**

**Continue Policy GI2 with “Development proposals on existing employment use sites identified on the Policies Map may only offer limited potential to contribute to the quality and local distinctiveness of the landscape.”**

**Policy GI3 Biodiversity**

140. This policy seeks to establish that development proposals shall protect and enhance biodiversity.
141. Paragraphs 174 to 177 of the Framework state *“To protect and enhance biodiversity and geodiversity, plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity<sup>58</sup>; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation<sup>59</sup>; and b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be*

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<sup>58</sup> (Footnote 56 in the Framework) Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system.

<sup>59</sup> (Footnote 57 in the Framework) Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.

*avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>60</sup> and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. The following should be given the same protection as habitats sites: a) potential Special Protection Areas and possible Special Areas of Conservation; b) listed or proposed Ramsar sites<sup>61</sup>; and c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”*

142. Paragraph 174 of the Framework states “*To protect and enhance biodiversity and geodiversity, plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity<sup>62</sup>; wildlife*

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<sup>60</sup> (Footnote 58 in the Framework) For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

<sup>61</sup> (Footnote 59 in the Framework) Potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites are sites on which Government has initiated public consultation on the scientific case for designation as a Special Protection Area, candidate Special Area of Conservation or Ramsar site

<sup>62</sup> (Footnote 56 in the Framework) Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system.

*corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation<sup>63</sup>; and b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.* I am satisfied Policy G13 has sufficient regard for national policy in this respect.

143. The first sentence of the policy has not been sufficiently justified and is not linked to development proposals. The reference to Bennerley Coal Disposal Point Site in particular has not been sufficiently justified. The term “*in particular*” does not provide a basis for the determination of development proposals. The term “*should not be permitted*” is inappropriate as the Framework states applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations will not be known until the time of determination. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) sets out what is required from applicants when submitting planning applications. The ‘Guidance on Information Requirements and Validation’ document published by the Department for Communities and Local Government Department (DCLG) in 2010 provides more information on the mandatory national information requirements and states that a valid planning application should include ‘*information to accompany the application as specified by the local planning authority on their local list of information requirements*’. The use of local lists of information was again promoted in the Framework requiring that local lists be reviewed on a frequent basis to ensure that they remain ‘*relevant, necessary and material*’. The DMPO states that validation requirements imposed by local planning authorities should only be those set out on a local list which has been published within 2 years before the planning application is made to ensure information requirements are robust and justified on recent research. The Growth and Infrastructure Act 2013 makes clear that local planning authority information requirements must be reasonable having regard to the nature and scale of the proposed development and the information required must be a material consideration in the determination of the application. The second sentence of the policy is seeking to establish information requirements that are outside the statutory framework relating to local

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<sup>63</sup> (Footnote 57 in the Framework) Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.

lists of information to be submitted in support of planning applications. The first sentence of the fourth paragraph is a statement of intent and includes a general reference to another document that does not provide a basis for the determination of planning proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

144. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

145. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 9:**

##### **In Policy GI3**

- **delete the first paragraph**
- **in the third paragraph replace “should not be permitted” with “will not be supported”**
- **delete the first sentence of the fourth paragraph**
- **delete “including Bennerley Coal Disposal Point Site in particular” from the fourth paragraph**

#### **Policy GI4 Designated Local Green Spaces**

146. This policy seeks to designate 16 Local Green Spaces.

147. In a representation a resident expresses a concern that designation of land east of The Lane from Westby Lane to the Old

Chapel should not affect existing access arrangements. Another individual objects to the land “*on their property*” at Barlows Cottage Lane being designated as a green space expressing the view that the land should be used for residential purposes, and mentions low-cost housing. I have assessed the proposals for Local Green Space designation in terms of criteria set out in the Framework and the Guidance. These do not include consideration of access arrangements or development potential.

148. In a representation Severn Trent Water state “*local green spaces can provide suitable locations for schemes like flood alleviation to be delivered without adversely impacting on the primary function of the open space. If the correct scheme is chosen, the flood alleviation can result in additional benefits to the local green space in the form of Biodiversity or Amenity improvements. We would therefore recommend that the following point is added to Policy GI 4 - Development of flood resilience schemes within local green spaces will be supported provided the schemes do not adversely impact the primary function of the green space.*” Modification as suggested in the representation is not necessary to meet the Basic Conditions.

149. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on Figure 15 and on the separate Policies Map of the Neighbourhood Plan. Even with the information included in the Background Report 2 - Local Green Space Report which includes grid references and photographs, the precise boundaries are uncertain. I have recommended Figure 15 is supplemented with a series of Maps within the Neighbourhood Plan document presented at a scale that is sufficient to identify the precise boundaries of each designated Local Green Space. I have recommended a modification in this respect so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

150. Decision makers must rely on paragraph 101 of the Framework that states “*Policies for managing development within a Local Green Space should be consistent with those for Green Belts*” and the part of the Framework that relates to ‘Protecting Green Belt land’, in particular paragraphs 143 to 147. That part of the Framework sets out statements regarding the types of development that are not

inappropriate in Green Belt areas. The second sentence of the policy seeks to introduce a policy regime that is more restrictive than that established by the Framework. Whilst it is possible for a Neighbourhood Plan to adopt such an approach this must be on the basis of sufficient justification being given. The departure from national policy must be reasoned.<sup>64</sup> The policy is not supported by reasons in this respect. I have recommended a modification so that the policy has sufficient regard for national policy and does not seek to introduce more restrictive policies than apply in Green Belt.

151. Paragraph 99 of the Framework states *“The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should 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 updated, and be capable of enduring beyond the end of the plan period.”*

152. In respect of all of the areas proposed for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended Local Green Space designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.

153. Paragraph 100 of the Framework states *“The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.”*

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<sup>64</sup> R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number: C1/2020/0812

154. I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land. In reaching the latter conclusion I have taken into account the fact that some of the areas of land proposed for designation as Local Green Space are adjacent to, or in close proximity to, one another.
155. The Guidance states the Qualifying Body (Parish Council) “*should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.*”<sup>65</sup> The Local Green Space Report states “*Landowners of the respective sites were contacted where possible prior to draft consultation to advise that their land had been put forward as Local Green Space in the Draft Neighbourhood Plan because of its special importance to the local community.*” In addition, the areas proposed for designation as Local Green Space have been subject to extensive consultation with the local community.
156. The submission Neighbourhood Plan includes in the Local Green Spaces Report statements that seek to justify the proposed designations as Local Green Space. The report sets out a justification for each proposed designation including relevant matters referred to in the Framework. The Green Spaces Report provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance. Whilst the Green Space Report includes photographs these do not necessarily show the whole area concerned, however they are helpful in illustrating the type of area proposed for designation in each case.
157. Those areas proposed for designation as Local Green Space that are outside the key settlement boundary are designated Green Belt. Paragraph 133 of the Framework states “*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence*”. Planning Practice Guidance states “*If land is already protected by Green Belt policy...then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space. One potential benefit in areas where protection from development is the norm (eg*

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<sup>65</sup> Planning Practice Guidance Paragraph: 019 Reference ID:37-019-20140306 Revision date 06 03 2014

*villages included in the green belt) but where there could be exceptions is that the Local Green Space designation could help to identify areas that are of particular importance to the local community.”<sup>66</sup>*

158. There are several paragraphs of the Neighbourhood Plan that consider the Green Belt context of the plan area (including paragraphs 2.49; 2.50; 6.9; 6.17; 6.18; 6.22; 8.4; 8.5; 8.6; 8.7; 8.13). These statements confirm a depth of analysis of the significance of the fact that a large part of the neighbourhood area is designated Green Belt, and indicate awareness of the need to question the additional local benefit when proposing Local Green Space designations in Green Belt. The Green Spaces Report highlights the Green Belt location of several sites. Their designation is appropriate given the nature and number of those areas and their spatial context in relation to the built form of Awsworth. The proposed areas for designation are clearly a resource of particular importance to the local community. I am satisfied that Policy GI4 has been prepared on the basis that there is additional local benefit from the designation of the identified sites that are situated in the Green Belt in terms of the desire of the local community to identify areas that are of particular importance to them.
159. I find that the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 99 to 101 of the Framework concerned with the identification and designation of Local Green Space.
160. The Term “*Opportunities will be sought*” does not provide a basis for the determination of planning proposals. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
161. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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<sup>66</sup> Planning Practice Guidance Paragraph: 010 Reference ID:37-010-20140306 Revision date 06 03 2014

162. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 10:**

**In Policy GI4**

- delete the second sentence
- replace the final sentence with “Proposals to improve walking and cycling access routes to a designated Local Green Space will be supported.”

**Supplement Figure 15 with a series of Maps within the Neighbourhood Plan document presented at a scale that is sufficient to identify the precise boundaries of each designated Local Green Space.**

**Policy GI5 Local Woodlands, Tree Belts & Hedgerows**

163. This policy seeks to establish that loss, damage or deterioration of identified areas of woodland, tree belts and hedgerows will not be supported unless the harm is outweighed by the benefits of development and appropriate mitigation can be provided. The policy also supports buffer zones to protect ancient woodland or veteran trees where development is occurring, and supports creation or improvement of hedgerows and field margins and specifies plant selection.

164. In a representation Severn Trent Water recommend the policy should also cover watercourses including ditches. A modification of this nature is not necessary to meet the Basic Conditions.

165. Support of “*opportunities*” does not provide a basis for the determination of development proposals. The term “*normally*” introduces uncertainty. Species are either found in the locality or they are not. The acceptability of a minimum buffer will be a matter for the discretion of decision makers. I have recommended a modification in

these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

166. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

167. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 11:**

**In Policy GI5**

- **after the list W1-W11 delete “Opportunities for”**
- **in the final two paragraphs after “species that are”, and after “15 metres will”, delete “normally”**

**Policy CFS1 Protection of Community Facilities**

168. This policy seeks to establish that loss or detriment to identified community facilities will not be supported unless stated criteria are met.

169. In a representation on behalf of the pharmacy some detail is provided about NHS decision-making concluding “*we will use our best endeavours to stay open in Awsworth but that we cannot give a 100% guarantee*”.

170. Paragraph 92 of the Framework states planning policies should guard against the unnecessary loss of valued facilities and services

particularly where this would reduce the community's ability to meet its day-to-day needs.

171. The term "*equally accessible location*" is imprecise. In C9 "*School House Schoolhouse*" requires correction. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

172. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

173. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 12:**

**In Policy CFS1**

- in part b) after "location" insert "for users"
- in C9 delete "Schoolhouse"

**Policy CFS2 New or Enhanced Community Facilities**

174. This policy seeks to establish conditional support for provision of community facilities.

175. In a representation Nottinghamshire County Council state, the policy could be enhanced to also refer to public transport. Whilst the Parish Council accept reference to public transport more generally rather than limited to the final sentence of the policy, I am unable to

recommend a modification of this nature as is not necessary to meet the Basic Conditions.

176. Paragraph 92 of the Framework states planning policies should plan positively for the provision of community facilities. Paragraph 109 of the Framework states *“Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* The term *“adequate”* is imprecise. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

177. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

178. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, and promoting sustainable transport, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 13:**

#### **In Policy CFS2**

- **in a) replace the text after “adverse” with “highway safety impact;”**
- **replace b) with “car and cycle parking requirements can be met off-road;”**

## Policy CFS3 Protection & Enhancement of Local Shops

179. This policy seeks to establish criteria for the loss of retail uses, and support for proposals to improve retail areas. The policy also includes shop front design principles.
180. Encouragement, and the terms “ensure”, “normally”, “especially”, “appropriately” and “appropriate” do not provide a basis for the determination of development proposals. The Guidance states “*Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*”.<sup>67</sup>The level of detail and degree of prescription in seeking to influence paint colour and grille thickness through planning policy has not been sufficiently justified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
181. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
182. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places and promoting healthy and safe communities, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 14: In Policy CFS3**

- **in the second sentence replace “ensure” with “strengthen”, and replace “encouraged” with “supported”**

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<sup>67</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

- delete “normally” from the last two sentences
- in the final paragraph delete “especially those appropriately painted to match the colour of the shopfront”, and delete “subject to the grille thickness and colour being appropriate”

### **Policy CFS4 Support for Additional Shops**

183. This policy seeks to establish criteria for support for development proposals for new shops and services outside the current identified retail areas.
184. Paragraph 91 and 92 of the Framework state planning policies should enable and support healthy lifestyles, especially where this would address identified local health and well-being needs; and should plan positively for the provision of community facilities such as local shops.
185. The policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
186. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. This policy meets the Basic Conditions.

### **Policy E1 Existing Employment Use**

187. This policy seeks to establish that employment land and buildings should be retained for employment use unless stated conditions are met.

188. Whilst paragraph 121 of the Framework states Local Planning Authorities should support proposals to use retail and employment land for homes in areas of high housing demand no guidance is given to those parties preparing Neighbourhood Plans. The Neighbourhood Plan has identified the fact that the majority of residents' travel outside the parish for work and that employment land and buildings in the Neighbourhood Area are limited. It has also been established that many of the premises in employment use are providing essential retail and other services. I am satisfied the approach adopted of ensuring that there is either no need or no demand, before supporting proposals that would lead to a loss of employment potential has been sufficiently justified.
189. The Parish Council has advised me that the Policy Map legend requires correction to state "Existing Employment Use (Policy E1)" and not Local Business Areas (Policy E1). I am able to recommend modifications to correct errors. I have recommended a modification in this respect.
190. The policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
191. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy, promoting healthy and safe communities, and making effective use of land, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

**Recommended modification 15:**

**On the Policies Map legend replace "Local Business Areas (Policy E1)" with "Existing Employment Use (Policy E1)"**

## Policy E2 Encouraging Small Businesses

192. This policy seeks to establish conditional support for proposals that combine living and small-scale employment space and/or new small-scale business premises.
193. Paragraph 80 of the Framework states planning policies should help create the conditions in which businesses can invest, expand and adapt. Paragraph 81 of the Framework states planning policies should allow for new and flexible working practices (such as live-work accommodation).
194. Paragraph 109 of the Framework states “*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*” I have recommended a modification in this respect so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
195. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
196. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 16:**

**In Policy E2 part b) after “adverse” insert “highway safety” and after “including” insert “through on-road”**

## **Policy TT1 Traffic Management**

197. This policy seeks to establish encouragement for traffic management measures and names areas where road safety issues have been identified.
198. Encouragement does not provide a basis for the determination of development proposals. It is unnecessary and confusing to state “*along roads within the Parish*” as all the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is specified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
199. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
200. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 17:**

**In Policy TT1 replace “along roads within the Parish will be encouraged” with “will be supported”**

## **Policy TT2 Car Parking**

201. This policy seeks to establish that development proposals should include car parking provision that meets local standards, generally those established by Nottinghamshire County Council.

202. Policy TT2 includes references to “*in Awsworth village*” and “*in the village*”. In response to my request for clarification in this respect the Borough and Parish Councils jointly responded “*The Parish Council intends Policy TT2 to be of plan-wide application, in so far as the first part of policy is concerned with new provision in the plan area. The second part of the policy refers more specifically to development proposals that would result in a reduction in (existing) car parking provision ‘in Awsworth village’ / ‘in the village’ i.e. within the main built up area. The term ‘Key Settlement Boundary’ might usefully be applied to the second part of policy, which would allow the above terms to be deleted (and this boundary could also helpfully be shown on the Policies Map). The Parish Council therefore considers that the distinct two-part application of the policy should be recognised and retained. For example, suggestions have been made that a small visitor car park could be provided in connection with proposals to restore Bennerley Viaduct. Such new provision would be located outside the Key Settlement Boundary. As regards the Borough Council’s response to Question 2 and their kind offer to make any consequent amendments to the Policies Map, should this be required, the Parish Council would ask that the whole of the ‘Awsworth Key Settlement’ be shown on the Policies Map, if possible, as this would be more helpful to the reader. It is recognised that boundaries in neighbouring areas of Cossall and Kimberley would have to be distinguished in some way from those inside the plan area. It is suggested that they could perhaps be shown in ‘ghost’ outline and it made clear they are ‘shown for information only’. The Borough Council supports the Parish Council’s suggestions that the first paragraph of the policy should apply to the area of the entire Parish and the second paragraph should apply solely to the ‘Awsworth Key Settlement’. The Borough Council would be happy to make the necessary amendments to the Policies Map on behalf of the Parish Council.*” It is not appropriate for the Neighbourhood Plan to include any indicators, “*ghost*” or otherwise, relating to land outside the Neighbourhood area. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

203. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The

policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

204. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 18:**

**In Policy TT2**

- **in the second paragraph replace “in Awsworth village” with “within the Key Settlement Boundary (identified on the Policies Map)”**
- **in both parts a) and b) delete “in the village”**

**On the Policies Map identify the Key Settlement Boundary that lies within the Neighbourhood Area, and in the list of Plan wide policies in the legend to the Policies Map after “TT2” insert “(part of policy only)”**

**Policy TT3 Sustainable Transport**

205. This policy seeks to establish that development proposals will be supported where they enhance the active travel network and demonstrate stated requirements.

206. Paragraphs 96 and 98 of the Framework stress the importance of opportunities for physical activity and enhancement of public rights of way and access, including adding links to public rights of way networks. Paragraph 104 of the Framework states planning policies should “*provide for high quality walking and cycling networks*”. I am satisfied the policy has sufficient regard for national policy in these respects.

207. The policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant

to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

208. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy BV1 Bennerley Viaduct**

209. This policy seeks to establish support for development proposals that protect, and particularly those which enhance the structure and setting of the Bennerley Viaduct. The policy also supports development proposals to provide explanation and education facilities. The policy also includes a requirement relating to wildlife.

210. An individual has expressed support for the policy. In a representation the Parish Council has set out a statement in support of the approach adopted in respect of the Bennerley Viaduct. The Friends of Bennerley Viaduct, a registered charity, has expressed support for the Neighbourhood plan.

211. Paragraphs 193 to 196 of the Framework (which I set out later in my report when considering Policy BV2) establish the national policy approach to the determination of development proposals that will harm the significance of a designated heritage asset. Policy BV1 has sufficient regard for national policy in this respect. The term "*and particularly*" does not provide a basis for the determination of development proposals. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and "*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

212. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local

Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

213. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment, and conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 19:**

**In Policy BV1 replace “and particularly those which” with “or”**

**Policy BV2 Bennerley Viaduct Visual Setting**

214. This policy seeks to establish that in an identified area referred to as the visual setting of Bennerley Viaduct any development proposals must protect the open setting of the Grade II\* Listed Building in relation to specified matters.
215. An individual has expressed support for the policy.
216. The Bennerley Viaduct visual setting identified in the policy lies entirely within Green Belt. Part 13 of the Framework sets out the national policy approach to protecting Green Belt Land where inappropriate development harmful to the Green Belt should not be approved except in exceptional circumstances. Policy BV2 seeks to protect the open setting of the Grade II\* Bennerley Viaduct heritage asset.
217. The Framework establishes the policy approach to be adopted when considering development proposals that would harm the significance of a designated heritage asset through development within its setting. Paragraphs 193 to 196 state “*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's*

*conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. 194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: 56 a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional<sup>63</sup>. 195. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use. 196. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

218. Whilst the assessment of harm to the setting of a designated heritage asset is not restricted to visual considerations it is appropriate for the Neighbourhood Plan to identify a visual setting that is considered to be of particular significance to the local community. Policy BV2 would not remove the requirement or ability to consider visual setting in a wider spatial context than that identified in the policy when assessing a development proposal, nor would it remove the requirement or ability to consider setting in terms other than visual. The term “*must protect*” does not have sufficient regard for the balanced approach set out in the Framework. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

219. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

220. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment, and conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 20:**

**In Policy BV2 replace “protect” with “demonstrate how they seek to respect”**

**Policy NC1 Nottingham Canal**

221. This policy seeks to establish that development proposals that protect, and particularly those which enhance the setting of the Nottingham Canal, as identified, will be supported subject to stated criteria.

222. In a representation Derbyshire County Council supports the idea that fragments of otherwise derelict canals should be preserved and their value as wildlife habitat and quiet recreation space enhanced as this in turn uplifts the wider area.

223. The term “*and particularly*” does not provide a basis for the determination of development proposals. It is unnecessary and confusing to refer to Policy GI4 as the Neighbourhood Plan should be read as a whole. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should*”

*react to development proposals*” as required by paragraph 16d) of the Framework.

224. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

225. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment, and conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 21:**

**In Policy NC1**

- **in the first sentence replace “and particularly those which” with “or”**
- **continue part c) with “and”**
- **delete part d), and redesignate part e) as part d)**

**Policy BCDP1 Former Bennerley Coal Disposal Point Land**

226. This policy seeks to establish land at the former Bennerley Coal Disposal Point site and access road should remain open in use and character, and that development proposals that harm the openness will be resisted. The policy also seeks to establish that use for recreational purposes such as a Country Park or informal public open space will be supported providing proposals do not detract from its open character and Green Belt designation.

227. In a representation the Parish Council has set out a statement supporting the approach adopted in Policy BCDP1. A former Parish Councillor has commented on the suitability of the area for informal recreation and a possible tram terminus. Four individuals have

expressed support for the policy, one being subject to unstated modifications.

228. The landowners of the former Bennerley Coal Disposal Point have submitted an objection as follows *“The former Bennerley Coal disposal point to the west of Shilo Way, Awsworth, is owned by the Harworth Group and extends to approximately 20 hectares. The site represents a brownfield site within the Green Belt. The site consists of large areas of hardstanding associated with the coal distribution depot dismantled in the mid-1990’s. There is an existing high standard vehicular access from the A610 and an existing rail spur from the Midland Mainline runs in to the site. The site has the benefit of a lawful use for the reception, storage and dispatch of coal. With its existing rail connection, the site offers a unique opportunity for the development of a range of rail related employment activities and is an attractive option for rail related business operators. The key points being: □ Ideal rail adjacent position to connect onto the Erewash Valley Railway which contains spare capacity and has excellent access to the broader rail network. □ Sufficient land size and shape for stabling and shunting of locomotives including space for potential expansion of activities in the long term. □ Close proximity to a large and highly skilled rail engineering workforce. Given the current strategic allocation at Toton for HS2, Bennerley provides a unique opportunity to provide a potential relocation site for any rail related businesses displaced from Toton by the activities associated with HS2. We have engaged with Broxtowe Borough Council and Awsworth Parish Council in the preparation of their Plans and have been clear about our economic aspirations for the Bennerley site. We are disappointed to see that the Broxtowe Local Plan has not supported our aspirations for the site, however, we will continue to promote the site for rail related employment uses through the future Plan reviews so that this unique opportunity is not lost. We do not support the Neighbourhood Plan’s aspirations for the development of a Country Park in this location. Without our support this aspiration is not deliverable and the plan is considered unsound. We appreciate that there are existing public rights of way that cross the site which provide valuable opportunities for walking and cycling. The connections can be retained and enhanced as part of our proposals for employment development. As landowner, we do not support the Neighbourhood Plan’s desire to promote Bennerley as a Country Park. On this basis, we cannot envisage how this aspiration is deliverable and therefore should be removed from the Policy.”*

229. The Parish Council have commented on what may be the lawful use of the site but this is not a matter for my determination. The Parish Council also state *“As regards deliverability, which we recognise to be a key consideration, clearly without the co-operation of the landowner the plan’s aims for this site cannot be immediately realised. Nonetheless, we believe it is of fundamental importance that our community’s long-term land-use goal for the land should be properly recognised through the development plan process and made clear so far as possible within the development plan once it is made.”* Paragraph 16 of the Framework states *“Plans should be prepared positively, in a way that is aspirational but deliverable.”* It is acceptable for the policy to establish conditional support for proposals of the specified nature should they be put forward during the plan period to 2030. I have recommended a modification in this respect.

230. As recommended to be modified the policy will remain silent regarding alternative uses of the site other than recreation including a country park or informal public open space. There is no requirement for the policy to address alternative development proposals. Whilst the Parish Council state they would welcome my view on the suggestion the site could be suitable for a tram terminus/park and ride site, that is beyond my role. The representation of the landowners of the former Bennerley Coal Disposal Point includes the term *“the plan is considered unsound”*. I have earlier in my report explained I am not examining the tests of soundness provided for in respect of examination of Local Plans.<sup>68</sup>

231. It is unnecessary and confusing for Policy BCDP1 to refer to other policies of the Neighbourhood Plan, as the Neighbourhood Plan should be read as a whole. The Guidance states *“Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”*.<sup>69</sup> In an area designated as Green Belt where openness is a significant consideration, and where inappropriate development harmful to the Green Belt should not be approved except in exceptional circumstances, paragraph 145 of the Framework recognises that new buildings may not be inappropriate, and paragraph 146 of the Framework provides that certain other forms of development are also not inappropriate. The first paragraph of the

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<sup>68</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>69</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

Policy seeks to introduce a policy regime that is more restrictive than national Green Belt policy without sufficient justification. I have recommended a modification in this respect. The second paragraph is a statement of intent to work in partnership, which is not a matter of planning policy. I have recommended the second paragraph should be deleted and re-presented as an aim of the Neighbourhood Plan. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework. In formulating a recommendation, I have been mindful of the interrelationship of Policy BCDP1 and Policy BV2.

232. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

233. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, protecting Green Belt land, conserving and enhancing the natural environment, and conserving and enhancing the historic environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 22:**

##### **In Policy BCDP1**

- **replace the first paragraph with “Development proposals for the use of the former Bennerley Coal Disposal Point site and access road (shown on the Policies Map and Figure 22) for recreational purposes including a country park or informal public open space will be supported.”**
- **delete the second paragraph, including parts a) to d), and re-present it as an aim of the Neighbourhood Plan in supporting text and in Appendix 1**

## **Policy DC1 Developer Contributions from New Development in Awsworth**

234. This policy seeks to establish the purposes to which developer contributions will be directed.
235. In a representation on behalf of Awsworth Primary and Nursery School relating to part f) of the Policy it is stated *“The school was originally designed with a Pupil Admission Number (PAN) of 40. Over recent years, due to an increased demand for places, Governors temporarily increased this to 50 in 2014. However, it becomes increasingly evident that the building cannot sustain this increased capacity and so Governors consulted to reduce this to 45, which is still over the capacity for the building and results in pupils being in overcrowded classrooms. If, and when, the planned development for additional housing in the area takes place, the potential for a further increase for school places will require financial support from the Local Authority in providing sufficient capacity in the school’s infrastructure to be able to accommodate these extra pupils. This will require the building of additional classrooms. Of additional concern, is the issue of exacerbated parking problems for parents / carers which will increase with a rising school population as the current situation already causes significant issues. The school car park is already very congested with staff vehicles having to double and sometimes triple park, blocking each other in. Visitors to the school during the school day are unable to park on the school site as a consequence.”* I have not recommended a modification in this respect as it is not necessary for Policy DC1 to include specific detail in respect of utilisation of any developer contributions in order to meet the Basic Conditions.
236. It is appropriate for the Neighbourhood Plan preparation process to be used to establish community priorities for the use of any developer contributions that become available for locally determined spending that may arise throughout the plan period. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
237. As recommended to be modified the policy is in general conformity with the strategic policies included in Part 1 of the Local Plan (the Aligned Core Strategy) and the Part 2 Local Plan applying in

the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

238. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 23:**

**In Policy DC1 after “1 hectare or more)” replace “for” with a full stop and “Any element of developer contributions that become available for locally determined expenditure will be directed to the”**

## Conclusion and Referendum

239. I have recommended 23 modifications to the Submission Version Plan.

240. I am satisfied that the Neighbourhood Plan<sup>70</sup>:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the Basic Conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;

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<sup>70</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>71</sup>

**I recommend to Broxtowe Borough Council that the Awsworth Neighbourhood Development Plan for the plan period up to 2030 should, subject to the modifications I have put forward, be submitted to referendum.**

241. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>72</sup>

242. Awsworth Parish Council has stated “*A pertinent and potentially controversial matter concerns the important question of who should be allowed to vote in the Awsworth Neighbourhood Plan Local Referendum. The matter is complicated by the fact that the ‘Awsworth Key Settlement’, as defined for planning purposes, comprises the whole of the built area of Awsworth village and adjacent built areas of Cossall, Greasley and Kimberley Parishes. In recognition of which, while preparing the Awsworth Neighbourhood Plan, at all stages we have included and sought to involve those residents and businesses within the adjacent parts of these neighbouring parishes. This particularly includes some 120 or so households in Cossall (Newtons Lane /Awsworth Lane / [part of] The Glebe) all immediately south of Awsworth village. The issue arose as to whether the Examiner might consider that residents in Cossall (Newtons Lane area) who are likely to be affected to some extent by the new homes proposed for the main allocation site, should therefore be allowed to take part in the Awsworth referendum. At the outset of the plan process we considered whether we should support these Cossall residents having a vote*

<sup>71</sup> This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

<sup>72</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

*(accepting that this is ultimately a matter for the Examiner to consider and decide). However, more recently this was considered by the Steering Group at some length and after careful consideration the view was that Cossall residents should not be allowed to vote in the Awwsworth Neighbourhood Plan Local Referendum. In part because Cossall are now preparing their own Cossall Neighbourhood Plan which will involve a separate referendum. Also, their plan process is running considerably later than our own. Although we are not anticipating that any Awwsworth residents will be invited to vote in Cossall's referendum, if Cossall residents had already been allowed to vote in the Awwsworth referendum, a counter argument could be made from a natural justice perspective, that those Awwsworth residents adjacent to Cossall Parish (in the Newtons Lane area) should be allowed to vote in the Cossall referendum. The main and real concern is that residents in the Newtons Lane area of Cossall could choose or be persuaded to vote 'no' in the Awwsworth Neighbourhood Plan Local Referendum, essentially on a single issue to try to thwart the new homes to prevent any new traffic using Newtons Lane (where a secondary vehicular access is proposed). Although such a tactic would not stop the proposed development it might conceivably damage and could even prove fatal to our plan. Our concern is underlined by the fact that someone has recently been anonymously inciting residents in the Newtons Lane area of Cossall to object to the outline planning application (for which consultation ended 24th February 2020). Despite our best efforts to explain (using the APC website, APC Facebook page and flyers delivered to all local households and businesses), some people seem unable to make the distinction between the narrow planning application and the wider Awwsworth Neighbourhood Plan. We anticipate that some people, including some of those who live in adjacent areas of Cossall, are likely to object to the submission plan when their real intention is to object to the outline planning application. Moreover, from anecdotal evidence, except for the main housing allocation and/or concerns about traffic implications, the same people seemingly support the neighbourhood plan and the other policies contained within it. Moving forward we intend to hold a pre-Referendum public information event, which will provide a useful opportunity to explain the Referendum process and encourage members of the local Awwsworth community to use their vote. This will not be used as a lobbying opportunity or attempt to influence which way people choose to vote. We feel it is important to encourage as many people as possible to vote."*

243. I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”<sup>73</sup>. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Broxtowe Borough Council as a Neighbourhood Area in December 2015**

### **Annex: Minor Corrections to the Neighbourhood Plan**

244. A number of consequential modifications to the general text, and in particular the reasoned justification and other general text of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies. Reasoned justification and other supporting text must not introduce any element of policy that is not contained within the Neighbourhood Plan policies. Figures, images and the Policies Map may also require consequential modification as a result of recommended modifications relating to policies.

245. I am also able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>74</sup> I recommend minor change only in so far as it is necessary to correct an error, or where it is necessary so that the Neighbourhood Plan provides a practical framework which makes it evident how a decision maker should react to development proposals as required by paragraph 16 of the Framework.

**Recommended modification 24:  
Modify general text, figures or images including the Policies Map, to achieve consistency with the modified policies, and to correct identified errors**

Chris Collison  
Planning and Management Ltd

19 January 2021  
REPORT ENDS

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<sup>73</sup> Planning Practice Guidance Paragraph 059 Reference ID: 41-059-20140306 Revision 06 03 2014

<sup>74</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990