

# **WHITTINGTON AND FISHERWICK NEIGHBOURHOOD PLAN 2016-2029**

Whittington and Fisherwick Neighbourhood Plan Examination,  
A Report to Lichfield District Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

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## Introduction

### The Neighbourhood Plan

- 1 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.
- 2 This Report provides the findings of the examination into the Whittington and Fisherwick Neighbourhood Plan (referred to as the Neighbourhood Plan).
- 3 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”* (Paragraph 183, National Planning Policy Framework)

- 4 The Neighbourhood Plan was prepared by a Steering Group established by Whittington and Fisherwick Parish Council. This was made up of local residents and Parish Councillors.
- 5 As set out in paragraph 2.1 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Whittington and Fisherwick Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).
- 6 This Examiner's Report provides a recommendation with regards whether the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Lichfield District Council. The Neighbourhood Plan would thus form part of the development plan and be used to determine planning applications and guide planning decisions in the Whittington and Fisherwick Neighbourhood Area.

Role of the Independent Examiner

- 7 I was appointed by Lichfield District Council, with the consent of the Qualifying Body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 8 I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.
- 9 As the Independent Examiner, I must make one of the following recommendations:
  - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 10 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Whittington and Fisherwick Neighbourhood Area to which the Plan relates.

Neighbourhood Plan Period

- 11 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan specifies that the document covers the period:

*"2016 to 2029."*

- 12 In addition, the Basic Conditions Statement submitted alongside the Neighbourhood Plan confirms, in paragraph 2.3, that:

*"...the period which it relates to is from 2016 to 2030. The period has been chosen to align with that of the adopted Lichfield Local Plan..."*

- 13 Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in respect of specifying the plan period.

- 14 The front cover of the Neighbourhood Plan places more emphasis on the Submission Version publication date than on the plan period. For clarity, I recommend:

- **Neighbourhood Plan front cover, delete "Submission Version – July 2017" and replace with "2016-2029"**
- **Delete "(2016-2029)" at the bottom of the front cover**

Public Hearing

- 15 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 16 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 17 Further to consideration of the information submitted, I confirmed to Lichfield District Council that I was satisfied that the Whittington and Fisherwick Neighbourhood Plan could be examined without the need for a Public Hearing.
- 18 In making the above decision I was mindful that the Neighbourhood Plan has emerged through robust consultation (see *Public Consultation*, later in this Report) and that people have been provided with significant and appropriate opportunities to have their say.

## **2. Basic Conditions and Development Plan Status**

### **Basic Conditions**

- 19 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>1</sup> following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - 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>2</sup>
  - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>3</sup>
- 20 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:
- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;

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<sup>1</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

<sup>2</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

<sup>3</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

- 21 Subject to the content of this Report, I am satisfied that these three points have been met.
- 22 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.



### European Convention on Human Rights (ECHR) Obligations

- 23 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 24 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and shows the outcome of comments.

### European Union (EU) Obligations

- 25 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>4</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 26 In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*  
(Planning Practice Guidance<sup>5</sup>)
- 27 National advice then goes on to state<sup>6</sup> that the draft plan:
- “...must be assessed (screened) at an early stage of the plan’s preparation...”*
- 28 This process is often referred to as a screening opinion, report determination or statement. If the screening report identifies likely significant effects, then an environmental report must be prepared.

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<sup>4</sup> Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance.

<sup>5</sup> Paragraph 027, *ibid*.

<sup>6</sup> Planning Practice Guidance Reference ID: 11-028-20150209.

- 29 A Strategic Environmental Assessment screening opinion produced by Lichfield District Council was submitted alongside the Neighbourhood Plan. The screening opinion concluded:

*“...that a Strategic Environmental Assessment will not be required for the Whittington and Fisherwick Neighbourhood Plan.”*

- 30 In reaching the above conclusion, Lichfield District Council noted that the Neighbourhood Plan accorded with the District's Local Plan Strategy.

- 31 The statutory bodies, Natural England, Historic England and the Environment Agency were consulted on the screening opinion. Each of the bodies wrote to Lichfield District Council to state that they concurred with the above conclusion.

- 32 A Habitats Regulations Assessment (HRA) screening opinion was also produced by Lichfield District Council. A HRA is required if the implementation of the Neighbourhood Plan may lead to likely significant effects on European sites.

- 33 The Habitats Regulations Assessment (HRA) screening opinion identified four Natura 2000 sites as being located within 15km of the Neighbourhood Area. These comprise Cannock Chase Special Area of Conservation (SAC); Cannock Extension Canal; River Mease SAC; and Humber Estuary SAC.

- 34 Further to assessment, the screening opinion concluded:

*“...that none of the policies within the WFNP are likely to have significant impacts upon the European Sites identified within the assessment...there are no potential significant effects upon European Sites...”*

- 35 The HRA screening opinion was also consulted upon and each of the statutory bodies concurred with its conclusions.

- 36 Further to all of the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

*“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations” (Planning Practice Guidance<sup>7</sup>).*

- 37 In undertaking the work that it has, Lichfield District Council has considered the Neighbourhood Plan's compatibility with European obligations and concluded that neither a full Strategic Environmental Assessment, nor a full Habitats Regulations Assessment are required. Having regard to this and to all of the above, I am satisfied that the Neighbourhood Plan meets the basic conditions in respect of European obligations.

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<sup>7</sup> Planning Practice Guidance Reference ID: 11-031-20150209.

### **3. Background Documents and the Whittington and Fisherwick Neighbourhood Area**

#### Background Documents

38 In undertaking this examination, I have considered various information in addition to the Whittington and Fisherwick Neighbourhood Plan. This has included (but is not limited to) the following main documents and information:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- Lichfield District Local Plan Strategy 2008-2029 (2015)
- Basic Conditions Statement
- Consultation Statement
- Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment SEA Screening Version

Also:

- Representations received

39 In addition, I spent an unaccompanied day visiting the Whittington and Fisherwick Neighbourhood Area.

Whittington and Fisherwick Neighbourhood Area

- 40 The boundary of the Whittington and Fisherwick Neighbourhood Area corresponds with that of Whittington and Fisherwick Parish.
- 41 The Neighbourhood Plan includes a Map on page 6 (Map 1), which identifies the boundary of the Neighbourhood Area.
- 42 Lichfield District Council formally designated the Whittington and Fisherwick Neighbourhood Area on 8<sup>th</sup> April 2014. This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## **4. Public Consultation**

### Introduction

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

### Whittington and Fisherwick Neighbourhood Plan Consultation

- 45 A Consultation Statement was submitted to Lichfield District Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*<sup>8</sup>.
- 46 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Whittington and Fisherwick Neighbourhood Area, having regard to Paragraph 183 of the National Planning Policy Framework.
- 47 Whittington and Fisherwick Parish Council established a Steering Group and commenced work on the Neighbourhood Plan between April and July 2014. During the rest of 2014 and into 2015, questionnaires were distributed to all households in the parish, to local businesses and to youth groups. This followed consultation at the Countryside Fair in September 2014 and an Open Day held in the Village Hall in October 2014.
- 48 Five meetings were held with companies representing landowners during March 2015 and a Developers' Open Forum was held in May 2015. A significant number of responses were received to the Open Forum and each of the questionnaires.

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<sup>8</sup>Neighbourhood Planning (General) Regulations 2012.

- 49 A Housing Needs Survey was carried out in early 2016. This involved the distribution of questionnaires to every household in the Parish, 267 of which were returned. An Open Forum held in June 2016 provided an opportunity to comment on emerging policy headings and was attended by 72 people.
- 50 All of the above informed the first draft plan, which underwent a six week public consultation period between January and March 2017. Consultation was supported by two exhibitions, attended by a total of 78 people and 156 questionnaires were completed and returned. Comments were taken into account and informed the Submission Version of the Neighbourhood Plan.
- 51 Consultation was well-publicised. As well as via the delivery of leaflets and questionnaires, it was supported by the provision of information on a dedicated website. The website included the minutes of Steering Group meetings – of which more than 20 were held during the plan-making process; as well as other relevant matters relating to the emerging plan. Information was also published in the Parish Magazine.
- 52 The Consultation Report provides evidence to show that public consultation formed an important part of the plan-making process. Taking all of this into account, it is clear to me that the Parish Council was proactive in encouraging community involvement in neighbourhood planning. Matters raised were considered and the reporting process was transparent.
- 53 Consequently, I am satisfied that the consultation process was effective and robust.

## 5. The Neighbourhood Plan – Introductory Section

- 54 Part of the Foreword appears confusing in respect of how the made Neighbourhood Plan will form part of the development plan and apply within the Neighbourhood Area. For clarity, I recommend:
- **Page 2, third Para, fourth line to end of Para, change to “...by providing policies that form part of the statutory development plan. These must be taken into consideration by Lichfield District Council when determining planning applications in the Neighbourhood Area. The Basic Conditions Statement submitted alongside the Neighbourhood Plan sets out how the policies have regard to national planning policy and advice and are in general conformity with the Lichfield Local Plan Strategy (2015).”**
- 55 There is a spelling error on page 3 and I recommend:
- **Page 3, end of first Para, change to “Councillors”**
- 56 The explanation underneath the “Introduction” on page 4 has been overtaken by events, as has the later reference to “Consultation” and I recommend:
- **Page 4, Contents, under “Introduction” delete “The purpose...next steps.”**
  - **Page 4, Contents, under that part which begins “4, Community...” delete “...to date” at the end**
- 57 The sub-title on page 5 has been overtaken by events. I recommend:
- **Page 5, sub-title, delete “...and Progress to Date”**
- 58 It is not clear how a recommendation “as to the view of the Parish Council” will “help to ensure” an outcome. The Neighbourhood Plan does not allocate land and as set out, Paragraph 1.04 on page 5 is unclear. I recommend:
- **Page 5, Para 1.04, delete last two sentences (“In addition...our village.”)**



- 59 The basic conditions are set out earlier in this Report and for clarity, I recommend:
- **Page 7, Para 1.07, change to “...each *Neighbourhood Plan* must have regard to national policy and be in general conformity with adopted strategic policies of the development plan.”**
- 60 For clarity, I also recommend:
- **Page 7, Para 1.09, change to “...The Steering Group *has formulated its policies* within these parameters. This Neighbourhood Plan does not allocate land for development.” (delete rest of Para)**
  - **Page 7, Para 1.10, change to “...same range of matters *as other statutory land use plans, namely...*”**
  - **Page 7, Para 1.10, change to “...cannot comprise *land use planning policies* in the Neighbourhood Plan.”**
  - **Page 7, Para 1.11, change to “...community engagement *has been a priority throughout...*”**
- 61 Paragraph 1.12 has been overtaken by events and I recommend:
- **Page 7, delete Para 1.12 (and sub-title), replace with new sub-title “*How was the Neighbourhood Plan Produced ?*” and text “*The process outlining the preparation of this Neighbourhood Plan is set out overleaf.*”**
- 62 Paragraph 1.14 repeats part of the content of pages 8 and 16. Paragraphs 1.15 and 1.16 (incorrectly shown as “1.18”) have been overtaken by events. I recommend:
- **Delete Paras 1.14, 1.15 and 1.16 (and sub-titles)**
- 63 There is a missing bracket at the end of Para 2.03, I recommend:
- **Page 10, Para 2.03, add missing bracket to reference**
- 64 Part of Para 2.11 reads as though it comprises a land use planning policy, which it does not and there are two further errors. I recommend:
- **Page 12, Par 2.11, fifth line, delete last two sentences (“Reference will be made...proposed development.”)**

- **Change second Para 2.14 to Para "2.15"**
- **Para 2.16, fourth line, change to "chimneys" and line eight, change "element" to "pane"**

65 Paragraphs 2.20 and 2.21 are confusing and unnecessary. The Neighbourhood Plan does not allocate any land for development. Paragraph 2.20 refers to various sites but goes on to state that the Neighbourhood Plan has no preference for, or commitment to, any of the sites mentioned. Paragraph 2.21 then repeats information provided elsewhere in the Neighbourhood Plan relating to the housing requirement and the allocations process and includes information that has been overtaken by events.

- **Page 13, delete Paras 2.20 and 2.21**

66 Paragraph 3.15 refers to "the issues" without stating what these are. For clarity, I recommend:

- **Page 15, Para 3.15, change to "*It is recognised that there are matters that cannot be addressed by policies in this Neighbourhood Plan. However, it may be possible for such issues to be addressed separately by the Parish Council. New...*"**

67 The heading on page 16 is not in bold and text is erroneously provided throughout this section in red print. I recommend:

- **Page 16, use bold print for heading at top of page and correct printing errors in respect of the colour of the text**

68 Whilst I note that Lichfield District Council has submitted comments in respect of the Strategic Aims, in Section 5.0 of the Neighbourhood Plan, not referring to the adopted Local Plan, I find that the absence of such a reference does not result in the Neighbourhood Plan failing to meet the basic conditions. There is no evidence to the contrary and in any case, I am mindful that it is a requirement that the Development Plan be considered as a whole.

## **6. The Neighbourhood Plan – Neighbourhood Plan Policies**

- 69 A Consultation Statement was submitted alongside the Neighbourhood Plan and this provides details in respect of community issues and feedback. Consequently, there is no requirement for the “*You told us*” section after each Policy. Furthermore, I find that the inclusion of this section simply provides subjective extracts from consultation and the inclusion of these takes attention away from and detracts from the clarity of, the Policies themselves.
- 70 The “*Evidence Base/Local Plan Policy*” section after each Policy comprises subjective references to some Local Plan policies and various other documents. It is not comprehensive and adds little if anything to the clarity of each Policy. Rather, to some considerable degree, this section detracts attention away from each Policy, to the harm of the precision and clarity of the Neighbourhood Plan. Notwithstanding this, I also note that it is the role of the Independent Examiner to determine whether or not a neighbourhood plan meets the basic conditions.
- 71 There is no need to cross reference each policy with “*Strategic Aims.*” This appears as a cumbersome process that detracts from the clarity of each Policy. Furthermore, the Strategic Aims carry no material weight as land use planning policies and consequently, the cross reference adds little other than unnecessary additional text and confusion.
- 72 Taking all of the above into account, I recommend:
- **Delete “*You told us,*” “*Evidence Base/Local Plan Policy*” and “*Strategic Aims*” sections after each Policy**
  - **Delete Para 6.02**
- 73 Further to the above, the Policy section includes an “*Application of Policy*” section after each Policy. This is in addition to the supporting text provided in the “*Explanation*” Section. This results in some considerable confusion. Ultimately, once the Neighbourhood Plan is made, the Parish Council does not control the “*application*” of each planning policy, but rather, the application of adopted planning policies fall within the responsibilities of the Local Planning Authority, which uses the development plan to determine planning applications.

- 74 Further to the above, much of the content of the "*Application of Policy*" sections read as though it comprises land use planning policy, which it does not. This detracts from the precision and clarity of the Neighbourhood Plan.
- 75 Taking the above into account, I recommend:
- **Delete the "*Application of Policy*" section after each Policy. (NB, some of the recommendations later in this Report seek to retain some of the text within these sections by moving it to the "*Explanation*." Where applicable, this is made clear as each Policy is considered.)**
- 76 The inclusion of "*Community Proposals*" in shaded blue boxes leads to their being confused with the Neighbourhood Plan's Policies. The effect of this is exacerbated by the inclusion of numbering, eg "CPDP1," which infers that the Community Proposals have some sort of Policy status, which they do not. The inclusion of "*You told us*," "*Evidence Base/Local Plan Policy*" and "*Strategic Aims*" sections for each of the Community Proposals adds to the confusion. I recommend:
- **Remove blue shading from "*Community Proposals*"**
  - **Delete all numbering from Community Proposals, eg "CPDP1, CFOS1" etc, and retain the title, thus the first Community Proposal would read "*Community Proposal: Local considerations for...*"**
  - **Delete the sections "*You told us*," "*Evidence Base/Local Plan Policy*" and "*Strategic Aims*" under Community Proposals**
  - **Para 6.03 delete "...in italics and boxed in shaded blue" and change last sentence to "...emphasised that these Community Proposals do not comprise land use planning policies. Furthermore, they do not suggest agreement on behalf of Lichfield..."**
- 77 The text at the end of page 20 makes little sense. There are not three overarching policies on the six stated principles. The inclusion of this text detracts from the clarity of the Neighbourhood Plan. I recommend:
- **Delete Paragraphs 6.04 and 6.05**

Development Principles

**Policy DP1: Sustainable Development Principles**

- 78 Policy DP1 is generally a positive Policy which seeks to support sustainable development.
- 79 However, the second bullet point of the Policy requires development to meet various “contemporary” technical standards. It does not indicate what these might be and does not have regard to Ministerial Guidance<sup>9</sup> which states:
- “Neighbourhood plans should not be used to apply the new technical standards.”*
- 80 It also refers to “a high standard of design and an appropriate location” without further detail and as such, appears imprecise. This fails to have regard to Planning Practice Guidance<sup>10</sup> which states that:
- 81 *“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.”*
- 82 Also, the requirement for development to be “carbon neutral,” whilst commendable, appears onerous. It may be “practicable” for development to be carbon neutral, but not necessarily viable. In the absence of any evidence to the contrary, this part of the Policy does not have regard to Paragraph 173 of the Framework, which states that:
- 83 *“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable.”*

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<sup>9</sup> Ref: Secretary of State for Communities and Local Government, Written Statement HCWS488 made on 25 March 2015.

<sup>10</sup> Paragraph: 042 Reference ID: 41-042-20140306.

- 84 The Policy does not identify what the “*economic, social and environmental needs*” of the Neighbourhood Area that need to be met actually comprise and consequently, the third bullet point sets out an imprecise and ambiguous requirement.
- 85 Similarly, no detail is provided in respect of how a proposal might ensure that “*potential for ground pollution*” can be taken into account, or why this would be necessary for every kind of development proposal in the Neighbourhood Area. Further, no indication is provided in respect of what a “*pollution prevention plan*” comprises, who will be responsible for assessing it and on what basis.
- 86 The final requirement of Policy DP1 is onerous and no evidence is presented to demonstrate that it would be relevant, necessary and material to all development proposals to provide superfast broadband. This part of the Policy fails to have regard to Paragraph 193 of the Framework which requires information supporting a planning application to be:
- “...relevant, necessary and material to the application in question.”*
- 87 Taking the above into account, I recommend:
- **Policy DP1, delete bullet points 2, 3, 4 and 5**

**Policy DP2: Flood prevention and management**

- 88 It is not clear why “(objective 1)” is added to the end of the title of Policy DP2 at the top of page 23 and I address this in the recommendations below.
- 89 Whilst the opening sentence of Policy DP2 has regard to national planning policy, as established in Chapter 10 of the Framework, “*Meeting the challenge of climate change, flooding and coastal change,*” much of Policy DP2 simply repeats existing planning policy, but in a less comprehensive manner. It is not the role of Neighbourhood Plans to simply replicate parts of existing policy.
- 90 The second part of the Policy seeks to impose a requirement for the imposition of rural sustainable drainage systems, without any evidence to demonstrate that such an imposition would be viable or deliverable in all circumstances. This part of the Policy fails to have regard to Paragraph 173 of the Framework, which states that:

*“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable.”*

- 91 Taking the above into account, I recommend:
- **Delete all wording of Policy DP2 after first sentence**
  - **Remove “(objective 1)” from the end of the Policy title**

**Community Proposal: Local considerations for proposed locations for new housing development**

92 This Community Proposal simply sets out local aspirations and has no land use planning policy status. To ensure that this is clear, further to the earlier recommendations, I recommend:

- **Delete first Para of Proposal and replace with “*The Parish Council will seek to promote the following considerations:*”**
- **Explanation. As the Proposal is not binding on Lichfield District Council and serves no function in terms of “*recognising primacy,*” I recommend: delete everything after “...small scale development” (second line).**



Housing

**Policy HOU1: Development inside the Whittington village settlement boundary**

93 The Neighbourhood Plan does not allocate land for housing and there is no requirement for it to do so. Generally, Policy HOU1 is a positive land use planning policy, which supports residential development within Whittington's village settlement boundary.

94 As set out, the Policy does not define "*Appropriate*" and consequently, this part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework, which states that:

*"Only policies that provide a clear indication of how a policy maker should react to a development proposal should be included in the plan."*

95 As the development plan must be considered as a whole, it is not necessary for the Policy to cross reference other Policies in the Neighbourhood Plan or adopted planning documents. This appears cumbersome and detracts from clarity. Also, the final sentence of the Policy does not make grammatical sense and it would be clearer if the first part of the Policy referred to where the settlement boundary is defined.

96 Use of the phrase "*will be permitted*" runs the risk of pre-determining a planning application without taking relevant matters into account and providing for balanced consideration of a proposal. This is a matter addressed in the recommendation below.

97 I recommend:

- ***Change Policy HOU1 to "New housing development on infill or redevelopment sites inside the village settlement boundary, as defined by the Lichfield District Local Plan Policies Maps, will be supported."***

**Policy HOU2: Smaller infill sites – general criteria**

- 98 Policy HOU1 supports development on infill sites within the settlement boundary. Given this, it is not entirely clear why the first part of Policy HOU2 refers only to brownfield sites and large gardens, as opposed to infill sites as a whole, and no relevant detail is provided in this regard.
- 99 Further to the above, no clarity is provided in respect of what “*smaller infill sites*” comprise. The supporting text is imprecise in that it suggests that these might “*usually*” – and therefore, not always - be on sites of less than 10 dwellings. The Policy is ambiguous in this regard.
- 100 Policy HOU2 requires “*no adverse impact*” to amenity. This fails to provide for the balanced consideration of a planning proposal whereby some small degree of harm might be outweighed by significant material planning benefits. Consequently, as worded, the Policy may not contribute to the achievement of sustainable development, contrary to the basic conditions. Further to this, I note that the “*removal of mature vegetation*” may not require planning permission.
- 101 No indication of what “*Conservation Area and Listed Building requirements*” might be is provided and consequently, this part of the Policy is imprecise. In a similarly ambiguous way, part iv. of the Policy simply refers to “*other policy requirements*” without any explanation or definition.
- 102 It is not clear how, or whether, each residential development might provide, amongst other things, wetland areas or hedgerows and there is nothing to demonstrate that this final Policy requirement would be viable or deliverable in all cases, or in any case. Consequently, this part of the proposal does not have regard to Paragraph 173 of the Framework, referenced earlier in this Report.
- 103 Taking the above into account, I recommend:
- **Policy HOU2, change title to “*Infill Sites – general criteria*”**
  - **Delete first sentence of Policy and replace with: “*Development of infill sites within the settlement boundary will be supported, subject to the following criteria:*”**

- Change part i. to *“There is no significant adverse impact...”* and delete *“...removal of mature vegetation or...”*
- Delete parts iii, iv and v

**Policy HOU3: Housing mix and affordability**

104 Planning Practice Guidance establishes that planning obligations, including the provision of affordable housing, should not be sought on developments of 10 dwellings or less<sup>11</sup>. Policy HOU3 fails to have regard to national advice in this regard and does not provide substantive evidence to support a departure from national advice by requiring developments of 10 dwellings to include affordable housing.

105 Notwithstanding the above, much of Policy HOU3 repeats and relies upon the existing adopted Local Plan Strategy Policy H1 ("*A Balanced Housing Market*"), but provides less detail.

106 Taking the above into account, I recommend:

- **Delete Policy HOU3**

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<sup>11</sup> Planning Practice Guidance Reference ID: 23b-031-20161116.

Design Policies

**Policy D1: The Design of New Development**

107 Good design is recognised by the Framework as comprising:

*“a key aspect of sustainable development...indivisible from good planning.”*  
(Paragraph 56)

108 National policy also requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Paragraph 58 of the Framework goes on to require development to:

*“...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation...”*

109 In addition to the above, Local Plan Strategy Policy BE1, *“High Quality Development,”* requires all development to help achieve a high quality sustainable built environment.

110 Policy D1 promotes good design by supporting development that achieves good design. It has regard to national policy and is in general conformity with the Local Plan Strategy.

111 No changes recommended.

**Policy D2: Reflecting Local Character and Design in New Development**

- 112 Like Policy D1, Policy D2 promotes good design and in general terms, meets the basic conditions.
- 113 However, part of Policy D2, at the end of the first paragraph, relies on general information which does not form part of the Policy. This part of the Policy is confusing and fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 114 I recommend:
- **Policy D2, first Para, delete the last sentence (“In terms of...Policy.”)**

**Policy D3: The design of residential conversions and extensions**

- 115 It is not clear why, or how, an extension should reflect the character of *“nearby buildings and their setting”* as opposed to say, the character of the host dwelling and its setting. No substantive evidence is provided to demonstrate what aspects of all nearby buildings and their settings will be relevant in this regard and consequently, the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 116 It is unclear why the Policy refers to *“red brick and Staffordshire roof tiles.”* An application considered under Policy D3 might, for example, be for a conservatory and reference to such materials would not be relevant.
- 117 Much of the rest of the Policy comprises a somewhat vague and ambiguous list of general factors that may not be relevant in respect of many household applications and the Policy does not set out any land use planning policy requirements in respect of these. Policy D3 is imprecise and does not meet the basic conditions. I recommend:
- **Delete Policy D3 and Explanation**

Historic Environment Policies

**Policy HE1: Designated heritage assets**

- 118 The first part of Policy HE1 runs the risk of supporting inappropriate development. As set out, the Policy supports any development anywhere, so long as it includes the retention of buildings that contribute to local character. This could result in a failure to contribute to the achievement of sustainable development and is something that is addressed in the recommendations below.
- 119 Further to the above, the opening sentence of the Policy fails to have regard to the national policy requirement for development to conserve and/or enhance heritage assets and their settings in a manner appropriate to their significance, as set out in Paragraph 126 of the Framework.
- 120 No definition of the “*hinterland*” is provided in the second sentence of the Policy. Whilst it may, or may not be a similar thing, I note that national and local planning policy refers to the “*setting*” of heritage assets.
- 121 The remainder of the Policy is confusing. No information is provided in respect of precisely when prospective applicants should or should not explain in a Design and Access Statement or Heritage Statement how a proposal will protect, complement or enhance rural character or heritage assets. The provision of such information may not be relevant in all circumstances. Furthermore, it is neither a national nor local planning policy requirement for all development to protect, complement or enhance historic rural character and no justification is provided for the approach set out in this respect.
- 122 Taking the above into account, I recommend:
- **Policy HE1, delete first sentence. Change second sentence to “*Development in Whittington village and its setting should conserve or enhance heritage assets, including the settings of Listed Buildings and the Conservation Area, in a manner appropriate to their significance.*”**
  - **Delete rest of Policy**



**Policy HE2: Local (Non-Designated Heritage Assets)**

123 The first part of Policy HE2 fails to have regard to national planning policy, as set out in Chapter 12 of the Framework. Paragraph 136 of the Framework states that:

*“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.”*

124 By way of contrast, the first seven lines of Policy HE2 adopt an entirely different approach, without substantive evidence to support a departure from national policy and conflict with the Explanation above it.

125 Similarly, the final paragraph of the Policy fails to reflect Paragraph 136 by introducing a requirement related to *“continued beneficial use.”* No evidence is provided to demonstrate that such an approach, which may result in unforeseen support for demolition of heritage assets – and therefore fail to contribute to the achievement of sustainable development - meets the basic conditions.

126 Taking the above into account, I recommend:

- **Policy HE2, delete first seven lines and final paragraph**
- **Do not delete the first ten and a half lines of “Application of Policy HE2” (excluding the sub-title), up to “...of the NPPF.” Move this text to the end of the Explanation.**

**Policy HE3: Historic Farmsteads**

127 The first part of Policy HE3 is in general conformity with Local Plan Strategy Core Policy 14 (*"Our Built and Historic Environment"*), which requires development to make a positive contribution to the historic environment's local distinctiveness.

128 However, it is not clear what making *"due reference"* to a document that does not form part of the Neighbourhood Plan comprises, or why this is a relevant land use planning policy requirement. No substantive detail is provided in this regard.

129 I recommend:

- **Policy HE3, delete second sentence**
- **Add to end of Explanation, *"The Staffordshire Farmstead Assessment Framework provides useful background information in respect of historic farmsteads."***

**Policy HE4: Archaeology**

130 Policy HE4 seeks to protect heritage assets of archaeological significance and in generally, in so doing, the Policy has regard to Paragraph 128 of the Framework.

131 However, as set out, Policy HE4 applies to all development proposals, regardless of relevance. In this regard, the Neighbourhood Plan does not provide any substantive evidence to demonstrate that it would be relevant, necessary and material, for example, for all household applications to meet Policy HE4's requirements. In the absence of such evidence, I find that Policy HE4 fails to have regard to Paragraph 193 of the Framework, referred to earlier in this Report.

132 I recommend:

- **Policy HE4, change first sentence to “Development proposals *that affect archaeological heritage assets should demonstrate that they have...*”**

Natural Environment and Landscape Policies

**Policy NE&L1: Landscape Character**

- 133 National policy requires planning to recognise the *“intrinsic character and beauty of the countryside”* (Paragraph 17, the Framework). However, it does not – without reference to how land use planning policy treats National Parks and Areas of Outstanding Natural Beauty, designations which do not apply in the Neighbourhood Area - impose a blanket requirement for all development to *“enhance”* local character.
- 134 Local Plan Strategy Core Policy 14 (*“Our Built and Historic Environment”*) requires development to take account of Lichfield's historic landscape, but does not impose a sweeping requirement for all development to *“enhance”* it. In this respect and in the absence of any evidence to demonstrate that it would be deliverable and viable for all development in the (undefined) *“rural areas”* to enhance the historic landscape and local character, the first sentence of Policy NE&L1 could prevent sustainable development from coming forward and does not meet the basic conditions.
- 135 Similarly, Policy NE&L's requirement for development to protect all of the wide-ranging things mentioned in the first paragraph of the Policy is not supported by any evidence in respect of deliverability and viability, having regard to Paragraph 173 of the Framework. Also, there is nothing to demonstrate that it would be appropriate, for example, to *“incorporate”* important historic elements of the landscape, or important areas of biodiversity into *“any landscape design schemes.”* This could result in support for inappropriate forms of development and fail to contribute to the achievement of sustainable development.
- 136 Further to the above, no indication is provided of how the *“long term maintenance”* of all of the things mentioned in this part of the Policy can be *“ensured,”* again leading the Policy to fail to demonstrate viability and deliverability, having regard to Paragraph 173 of the Framework. It is also noted that the Policy is not within the Heritage Chapter and consequently, the Policy's reference to a Heritage Statement appears incongruous and confusing. In any case, the requirements relating to planning applications affecting heritage are already clearly established in Chapter 12 of the Framework, *“Conserving and enhancing the historic environment.”*

137 Taking all of the above into account, I recommend:

- **Policy NE&L1, delete first Para and change second Para to *“Proposals for development must respect the local character and historic landscape of the Neighbourhood Area. Proposals for wind turbines...large scale agricultural buildings requiring planning permission should take into account the following: field patterns, landscape heritage including ridge and furrow, field ponds, mature trees, historic hedgerows, river valley meadows and areas of lowland heath.”***
- **Explanation, page 40, last line, delete “...in a systematic way.”**
- **Move the Para of text from the (which would otherwise be deleted further to the earlier recommendation in this Report) Application of Policy NE&L1 section to form a second Para of Explanation text**

**Policy NE&L2: Biodiversity and Habitats**

138 Chapter 11 of the Framework, *“Conserving and enhancing the natural environment,”* requires the planning system to contribute to and enhance the natural and local environment. In addition, Local Plan Strategy Policy NR3 (*“Biodiversity, Protected Species and their Habitats”*) aims to deliver net gains in biodiversity through a requirement for development to protect, enhance and restore the biodiversity and geodiversity value of land and buildings.

139 The first sentence of Policy NE&L1 would require every development proposal, including for example, household developments, to demonstrate potential impacts on a wide range of things. These include things that, without clear evidence and information, appear ambiguous, such as *“species networks”* and *“landscape features”* (which themselves don't necessarily comprise biodiversity or habitats). The approach set out at the start of the Policy fails to have regard to Paragraph 193 of the Framework, which states that:

*“Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.”*

140 In a similar vein, it is not clear why all developers must protect the Coventry Canal. It may not be relevant for all developers to do so. Also, the phrase *“creation or enhancement of new habitats”* is confusing. Whilst creation relates to new habitats, enhancement can only relate to something that already exists. Also, no indication is provided of the difference between *“mitigated”* and *“fully mitigated,”* resulting in a lack of Policy clarity.

141 That part of Policy NE&L2 that supports any form of development anywhere so long as it expands the *“River of Flowers”* scheme could result in support for inappropriate forms of development. The wording of this part of the Policy is therefore addressed in the recommendations below.

142 It is not clear when, where or why developers and landowners should link sustainable drainage solutions. Consequently, this final part of the Policy is ambiguous and fails to provide a decision maker with a clear indication of how to react to a development proposal. Furthermore, there is no substantive evidence to demonstrate that the linking of individual sustainable drainage solutions would, in any case, necessarily be appropriate in all circumstances.

143 Taking the above into account, I recommend:

- **Policy NE&L2, change first sentence to “Development proposals *impacting on biodiversity* will be required to demonstrate...habitats and species *networks* has been taken into account.”**
- **Change second sentence to “*This will require appropriate measures being put into place to protect wildlife and habitats, and enhance biodiversity.*”**
- **End of second Para, change to “...minimised and mitigated by the creation of *new habitats or the enhancement of existing habitats.*”**
- **Change penultimate sentence to “*The expansion of the local River of Flowers scheme, aimed at providing a network of wildlife corridors across the Parish will be supported.*”**
- **Delete final sentence (“Opportunities...objectives.”)**
- **Replace last sentence of Explanation on page 41 with “*It is noted that the Coventry Canal is an important wildlife habitat which supports a wide range of ecology.*”**

**Policy NE&L3: Requirements for new development and approaches to Green Infrastructure**

144 The first part of Policy NE&L3 is reliant upon standards not within the control of the Neighbourhood Plan. I am also mindful that it repeats elements of other Policies in the Neighbourhood Plan itself.

145 Paragraph 75 of the Framework states:

*“Planning policies should protect and enhance public rights of way and access.”*

146 Part of Policy NE&L3 has regard to this, although it is unclear how this might be achieved via planning conditions, as no substantive evidence is provided to demonstrate that it would, in all cases, be necessary, directly related to development and fairly and reasonably related in scale and kind to the development for *“opportunities to be taken”* to enhance rights of way, having regard to Paragraph 204 of the Framework. Further, the term *“other proposals”* is imprecise.

147 Similarly, a requirement for opportunities to be taken to provide *“appropriate new uses...in ways that benefit the community”* is ambiguous and again, fails to have regard to Paragraph 204 of the Framework in respect of planning obligations.

148 I recommend:

- **Delete Policy NE&L3 and replace with *“The development, improvement and extension of the footpath and open space network in Whittington and Fisherwick, in order to provide better pedestrian access to the countryside and to wildlife or nature conservation sites, will be supported.”***
- **Change title of Policy NE&L3 to *“Public Rights of Way”***
- **Delete text under Explanation and replace with *“This Policy seeks to extend the public rights of way network in an appropriate manner, in line with national policy.”***



Community Facilities and Open Spaces Policies (CFOS)

**Policy CFOS1: Existing Community Facilities**

149 In seeking to support a prosperous rural economy, Paragraph 28 of the Framework promotes:

*“...the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.”*

150 Generally, Policy CFOS1 seeks to retain community facilities and therefore has regard to national policy. Further, Local Plan Strategy Core Policy 3 seeks to support the vibrancy and vitality of local communities through the provision of a range of facilities. Policy CFOS1 is in general conformity with this.

151 As worded, the Policy refers to *“the satisfaction of the Local Planning Authority.”* However, no measures of how *“satisfaction”* will be measured and on what basis are provided and this part of the Policy is unclear.

152 In representation to the Neighbourhood Plan, Lichfield District Council has drawn attention to the fact that no *“Proposals Map”* exists. The Policies of the Neighbourhood Plan should not refer to something that does not exist.

153 I recommend:

- **Delete “to the satisfaction of the Local Planning Authority” from both b) and c)**
- **Delete “, marked on the Proposals Map (Whittington Inset):”**
- **Delete the numbers next to each Community Facility and replace with a bullet point**
- **Delete third sentence of text in Explanation on page 46 (“Any...enhanced.”)**

**Policy CFOS2: Community Facilities and New Development**

154 The first part of Policy CFOS2 requires all new development to enhance existing community facilities and provide additional facilities.

155 As set out above, Paragraph 204 of the Framework states that planning obligations should only be sought where they meet the following tests:

*"...necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development."*

156 There is no evidence to demonstrate that the Policy has regard to national policy in this respect. Furthermore, Policy CFOS2 refers to the retention of community facilities and the Policy Explanation refers to the protection of community facilities. These are matters that are already covered by another Policy in the Neighbourhood Plan.

157 Policy CFOS2 does not have regard to national policy and does not meet the basic conditions. I recommend:

- **Delete Policy CFOS2 and Explanation**

**Policy CFOS3: Existing Open Spaces and Proposed Local Green Spaces**

158 The first part of Policy CFOS3 relates to the protection of open spaces. Whilst many of the spaces referred to comprise formal sports and recreational areas, it is not entirely clear, in the absence of an appropriate plan, what each of the spaces comprise. In this respect, the Policy is imprecise and fails to have regard to national planning advice, as referenced in Paragraph 80 of this Report.

159 However, in more general terms, national planning policy promotes healthy communities and recognises that:

*"...high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities."* (Paragraph 73, the Framework)

160 The Framework goes on to state that existing open space, sports and recreational land, including playing fields, *"should not be built on"* unless it is clearly surplus to requirement or will be replaced in an appropriate manner.

161 In general terms, in seeking to protect locally valued open space, the first part of Policy CFOS3 has regard to this.

162 The second part of Policy CFOS3 relates to Local Green Space. Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 76 of the Framework states that:

*"By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances."*

163 Consequently, Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. A Local Green Space designation provides protection that is comparable to that for Green Belt land.

164 National policy establishes that:

*"The Local Green Space designation will not be appropriate for most green areas or open space."* (Paragraph 77)

- 165 Thus, when identifying Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.
- 166 Policy CFOS3 seeks to protect two areas of Local Green Space, Swan Park and Swan Allotments and evidence is provided to demonstrate that these meet the national policy tests. However, no plan clearly delineating the boundaries of each proposed Local Green Space is provided. Given the importance of a Local Green Space designation, this is a significant omission. However, I am mindful that both proposed areas are well-known locally and have self-evident boundaries. Taking this and the fact that the Neighbourhood Plan has emerged through robust consultation into account and subject to the recommendations below, their inclusion in the Neighbourhood Plan meets the basic conditions.
- 167 The Parish Council is not the Local Planning Authority. Consequently, inclusion within Policy CFOS3 of requirements relating to the “*agreement*” of the Parish Council are inappropriate and fail to have regard to national planning policy. The Policy also includes a statement relating to what the Parish Council might do at some stage in the future. This part of the Policy is not a land use planning policy that provides a decision maker with a clear indication of how to react to a development proposal and does not meet the basic conditions.
- 168 I recommend:
- **Policy CFOS3, delete “and agreed by the Parish Council.”**
  - **Delete “The areas of land” to “H The Vill**
  - **age Green” inclusive**
  - **Delete “In addition, the...open spaces.”**

- **Change last paragraph to “*Swan Park and Swan Allotments, as shown on the plan below, are designated as Local Green Space, where development is ruled out other than in very special circumstances.*”**
- **Provide a new plan, on an Ordnance Survey base, clearly showing the boundaries of each of the two areas of Local Green Space**

**Policy CFOS4: Open space provision as part of new development**

169 The first part of Policy CFOS4 is reliant upon another policy not controlled by the Neighbourhood Plan. However, in general terms, Policy CFOS4 seeks to promote good design and incorporate green space, having regard to Paragraph 58 of the Framework.

170 I recommend:

- **Policy CFOS4, change first sentence to “*New development should, where viable and deliverable, demonstrate consideration of the following:*”**
- **Change 1, to “*The provision of suitable green spaces to...wildlife.*” Delete last sentence**
- **Change 2, to “*The provision of mini green corridors to help bring the countryside into the built environment.*”**
- **Change 3 to, “*The provision of tree...*” Delete last sentence**

**Community Proposal: Healthcare Facilities**

171 I recommend:

- **Change last sentence of Explanation to *“The Parish Council is keen to see the Parish retaining its role as...needs.”***
- **Change proposal to *“The Parish Council will seek to work with third parties with the aim of maintaining the current level of healthcare in the Parish.”***

Traffic and Movement Policies

**Policy T&M1: The impact of development**

172 Paragraph 32 of the Framework is clear in establishing that:

*“Development should only be prevented or refused on transport grounds where the residual impacts of development are severe.”*

173 No indication is provided of when a Transport Statement, containing the information set out in Policy T&M1, would be required. This part of the Policy is imprecise. It is also unclear, and there is no substantive information in respect of, how, or why all of the various requirements for a Transport Statement set out in Policy T&M1, have regard to national policy, taking Paragraph 32 into account.

174 No substantive evidence is provided to demonstrate that necessary highway works can, in all circumstances, be designed to complement rural character and reflect local heritage. Further, there is no evidence to suggest that this is a national or local policy requirement. In this regard, I am mindful that Policy T&M1 could serve to prevent the achievement of sustainable development from going ahead.

175 Existing car parking standards are precisely that. Development should be in accordance with them. The Neighbourhood Plan does not seek to establish its own car parking standards and it is not necessary for it to include a Policy referring to standards controlled by other bodies.

176 There is no substantive evidence to support the contention that the local road system *“has reached its capacity for traffic.”*

177 I recommend:

- **Policy T&M1, delete all Policy wording after fifth line “...impact of the scheme.”**
- **Explanation, page 52, fourth line, delete “It has reached...issues.” Delete all text after ninth line “...Local Transport Plan.”**



**Policy T&M2: Pedestrian/cycle access and connections**

178 Generally, Policy T&M2 supports improvements for pedestrians and cyclists and has regard to Chapter 4 of the Framework, "*Promoting sustainable transport,*" which promotes sustainable patterns of movement.

179 As set out, the Policy is imprecise. No indication is provided of what a "*significant amount of movement*" amounts to, and "*traffic hazard*" is undefined. Further, it is not clear why "*identifying opportunities*" would, in any case, comprise a land use planning policy requirement that would address concerns.

180 It is not clear what "*widening opportunities for pedestrians, cyclists and horse riders*" actually means in land use planning terms. This part of the Policy is imprecise.

181 Much of the Policy comprises a statement setting out what the Parish Council might do at some stage in the future. This is not a land use planning policy matter.

182 The first part of the Explanation to Policy T&M2 suggests that all development proposals should consider matters regardless of relevance. For example, the matters set out would not be relevant to a household extension.

183 Taking the above into account, I recommend:

- **Policy T&M2, delete first sentence**
- **Change second sentence to "*The extension and/or improvement of routes for pedestrians, cyclists and/or horse riders will be supported.*"**
- **Move last sentence of Policy to the end of the Explanation and change start of sentence to "*Working with the District...*"**
- **Explanation, page 53, delete first sentence**

**Policy T&M3: Managing the Impact of HS2**

184 Policy T&M3 relates to the scope and impact of HS2. This is a national infrastructure matter that is beyond the scope of the Neighbourhood Plan.

185 I recommend:

- **Delete Policy T&M3 and Explanation**

**Policy T&M4: The West Coast Mainline**

186 It is not the role or purpose of the Neighbourhood Plan to duplicate legislation. The Neighbourhood Plan is not responsible for matters that are the responsibility of Network Rail.

187 I recommend:

- **Delete Policy T&M4 and Explanation**

**Policy T&M5: The Coventry Canal**

188 As worded, Policy T&M5 runs the risk of supporting any form of development, anywhere, so long as it enhances the Coventry Canal. This could give rise to support for inappropriate forms of development and is a matter addressed in the recommendations below.

189 The criteria set out in the second part of Policy T&M5 in respect of heritage and residential amenity are more onerous than national or local planning requirements and there is an absence of substantive evidence to justify the approach set out.

190 I recommend:

- **Policy T&M5, delete first Para and replace with “*The enhancement of the Coventry Canal will be supported.*”**
- **Delete second Para and replace with “*Development proposals that impact on the Canal should demonstrate that full account has been taken of matters relating to heritage, nature conservation, rights of way, residential amenity and the local River of Flowers scheme.*”**

**Community Proposal: Traffic Management and Speed Limits**

191 No Changes recommended.

**Community Proposal: Public Transport**

192 I recommend:

- **Change Community Proposal to: *"The Parish Council supports a sustainable transport system and will support attempts to gain improvements to current public transport facilities."***

Local Employment and Business

**Policy LE&B1: Supporting Local Employment and Business**

- 193 Paragraph 19 of the Framework establishes that the planning system should support economic growth and Chapter 3 of the Framework, "*Supporting a prosperous economy,*" in Paragraph 28, goes on to require neighbourhood plans to:
- 194 "*...support the sustainable growth and expansion of all types of business and enterprise in rural areas...promote the development and diversification of agriculture and other land-based rural businesses...support sustainable rural tourist and visitor facilities...*"
- 195 The general intent of Policy LE&B1 has regard to national policy, in that it seeks to support sustainable economic growth.
- 196 As set out, use of the phrase "*will be permitted*" results in the Policy running the risk of pre-determining development proposals without taking all relevant factors into account and thus, it has the potential to undermine the planning process and fail to contribute to the achievement of sustainable development.
- 197 In addition, the criteria included in Policy LE&B1 are considerably more onerous than the requirements of national or local policy and no substantive evidence has been provided to justify such a departure. For example, the Policy requires there to be "*no adverse impact*" from various things. Such an approach fails to provide for a balanced approach, whereby the impacts of minimal harm may be considerably outweighed by benefits arising from a proposal. This could prevent the Neighbourhood Plan from contributing to the achievement of sustainable development.
- 198 No indication is provided of what an "*acceptable impact*" on local character comprises and the Policy is therefore imprecise in this regard. Also, neither national nor local policy requires employment or business development to secure the re-use of historic buildings and whilst a desirable outcome, no justification is provided for making this a requirement of development, contrary to national and local policy.

199 The final sentence of the Policy requires something to be “*considered*” but no indication is provided of why this comprises a land use planning matter. This part of the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal.

200 I recommend:

- ***Policy LE&B1, change wording to “The development of new small businesses and the expansion or diversification of existing businesses, including farm based operations, will be supported subject to no significant harm arising in respect of highway safety, noise and disturbance, or odours; and the proposal demonstrating respect for local character. Development proposals for new employment development should seek to achieve a fibre optic connection to the nearest connection chamber in the public highway.”***

Telecommunications and Renewable Energy Policies

**Policy T&RE1: Telecommunications**

201 Chapter 5 of the Framework, "*Supporting high quality communications infrastructure,*" recognises, in Paragraph 42, that:

*"Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services."*

202 Generally, in seeking to support high quality communications, Policy T&RE1 has regard to this. However, as worded, the Policy would support "*any improvement.*" Such an approach would fail to have regard to the national policy requirement for the provision of radio and telecommunications masts and the sites for such installations to a minimum consistent with the efficient operation of the network; or for the requirement for telecommunications equipment to be sympathetically designed and camouflaged where appropriate (Paragraph 43, the Framework).

203 The Policy goes on to require all forms of development to "*have a super-fast broadband connectivity.*" However, such a requirement may not be relevant to many forms of development and fails to have regard to Paragraph 204 of the Framework in respect of planning obligations.

204 I recommend:

- **Policy T&RE1, change to "*The improvement of broadband and telecommunications infrastructure will be supported, subject to it respecting local character. The provision of super-fast broadband connectivity together with suitable ducting to facilitate future installation will be supported.*"**



**Policy T&RE2: Renewable Energy**

- 205 Paragraph 93 of the Framework supports the delivery of renewable and low carbon energy and associated infrastructure.
- 206 In supporting such proposals, Policy T&RE2 has regard to this, although as set out, the Policy is imprecise. It requires the impact of proposals to be “*acceptable.*” However, no indication is provided of what would be acceptable, or of who would judge this and on what basis. Consequently, the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 207 The final part of the Policy requires all proposals to provide specific assessments of each of the criteria set out. However, not all of the criteria will necessarily apply to all proposals and consequently the Policy fails to have regard to Paragraph 193 of the Framework, referred to earlier in this Report.
- 208 I recommend:
- **Policy T&RE2, change wording of Policy to “*Proposals for renewable and low carbon energy should take into account any impacts on local character including views, the amenity of neighbours, heritage assets, highway safety and nature conservation. Proposals should demonstrate how any such impacts, including any cumulative impacts, would be addressed.*”**
  - **Move text from Application (which would otherwise be deleted) to form a second paragraph under Explanation**

**Area based Policy 1 (MoD Defence Medical Services site) (AB1)**

209 Policy AB1 is a positive land use planning policy that supports appropriate development. No changes are recommended.

## **7. The Neighbourhood Plan: Other Matters**

210 Whilst the Policy Summary on pages 65 and 66 might have been a useful reference point for plan-makers as the document emerged, its inclusion in the Neighbourhood Plan is unnecessary and detracts from the prominence of the Policies. I recommend:

- **Delete pages 65 and 66**

211 Once made, the Neighbourhood Plan will be used by the Local Planning Authority, Lichfield District Council, to inform planning decisions in the Neighbourhood Area. Taking this into account, I recommend:

- **Page 67, Para 7.2, line 2, change to “...key organisation *in the monitoring and...*”**

212 It is not the role of the Neighbourhood Plan to impose a monitoring requirement upon the Local Planning Authority and I recommend:

- **Page 68, Para 7.9, line one, delete “, supported by the District Council,”**
- **Para 7.11, delete final sentence**

213 The recommendations made in this Report will have a subsequent impact on Contents, Policy and page numbering.

214 I recommend:

- **Update the Contents, Policy and page numbering, taking account of all of the recommendations contained in this Report.**

## **8. Summary**

215 Having regard to all of the above, a number of modifications are recommended in order to enable the Neighbourhood Plan to meet the basic conditions.

216 Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- 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.

217 Taking the above into account, I find that the Whittington and Fisherwick Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

## 9. Referendum

218 I recommend to Lichfield District Council that, subject to the modifications proposed, **the Whittington and Fisherwick Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

219 I am required to consider whether the Referendum Area should be extended beyond the Whittington and Fisherwick Neighbourhood Area.

220 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

221 Consequently, I recommend that the Plan should proceed to a Referendum based on the Whittington and Fisherwick Neighbourhood Area approved by Lichfield District Council and confirmed by public notice on 8<sup>th</sup> April 2014.

**Nigel McGurk, December 2017**  
**Erimax – Land, Planning and Communities**



EST. 2011