

# **ASHTON HAYES & HORTON-CUM-PEEL NEIGHBOURHOOD PLAN 2016-2036**

## **Final Submission Draft**

**A report to Cheshire West and Chester Council of the Independent  
Examination**

**By Independent Examiner, Tony Burton CBE BA MPhil (Town Planning) HonFRIBA FRSA**

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# **1. Executive Summary**

1. I was appointed to carry out the independent examination of the Ashton Hayes & Horton-cum-Peel Neighbourhood Plan in December 2016 by Cheshire West and Chester Council with the support of Ashton Hayes & Horton-cum-Peel Parish Council.

2. I undertook the Examination by reviewing written representations and by making an unaccompanied visit to the Neighbourhood Area.

3. I consider the Plan to be based on an effective programme of public consultation which has informed a clear and relevant vision statement and policy objectives. These are translated into planning policies which deal with a wide range of issues distinctive to the locality.

4. Supporting evidence is provided on most aspects of the Plan and there is good evidence of community support. I have considered all representations made on the submitted Plan and addressed them in this report as appropriate.

5. Subject to the recommended modifications set out in this report I conclude that the Ashton Hayes & Horton-cum-Peel Neighbourhood Plan meets all the necessary legal requirements, including satisfying the Basic Conditions. I make a number of additional recommendations.

6. I recommend that the modified Plan should proceed to Referendum and that this should be held within the Neighbourhood Area.

## 2. Introduction

7. This report sets out the findings of my independent examination of the Ashton Hayes & Horton-cum-Peel Neighbourhood Plan. The Plan was submitted to Cheshire West and Chester Council by Ashton Hayes & Horton-cum-Peel Parish Council as the Qualifying Body.

8. I was appointed as the independent examiner of the Ashton Hayes & Horton-cum-Peel Neighbourhood Plan by Cheshire West and Chester Council with the agreement of Ashton Hayes & Horton-cum-Peel Parish Council in December 2016. My selection was facilitated by the Neighbourhood Planning Independent Examiner Referral Service.

9. I am independent of both Cheshire West and Chester Council and Ashton Hayes & Horton-cum-Peel Parish Council. I do not have any interest in any land that may be affected by the Plan. I possess the appropriate qualifications and experience to undertake this role.

10. My role is to examine the Neighbourhood Plan and recommend whether it should proceed to referendum. A recommendation to proceed is predicated on the Plan meeting all legal requirements as submitted or in a modified form. This requires the Plan to address the required modifications recommended in this report.

11. As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the Basic Conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
- contribute to the achievement of sustainable development; and
- be in general conformity with the strategic policies of the development plan in the area; and
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

12. I am also required to make a number of other checks under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

13. In undertaking this examination I have considered the following documents as the most significant in arriving at my recommendations:

- the submitted Ashton Hayes & Horton-cum-Peel Neighbourhood Plan (Parts 1, 2 and 3)
- the Basic Conditions statement (in Part 3)
- the consultation statement (in Part 3)
- relevant sources referenced in the Plan and on the neighbourhood plan website
- relevant parts of the development plan for the Neighbourhood Area (comprising the adopted Cheshire West and Chester Local Plan (Part One) 2015 and Chester District Local Plan)
- representations made to the submitted neighbourhood plan (hosted on Cheshire West and Chester Council's website)
- National Planning Policy Framework
- Planning Practice Guidance
- relevant Ministerial Statements

14. Having considered the documents provided and the representations on the submitted Plan I was satisfied that the examination could be undertaken by written representations without the need for a public hearing. I did not consider there to be any issues raised by the Plan which necessitated a hearing and there were no requests for a hearing in any of the representations.

15. I carried out an unaccompanied visit to the Neighbourhood Area on a warm and misty January day. This allowed me to appreciate its distinct character, including the rural setting of the compact Ashton Hayes village.

16. I visited much of the neighbourhood area using both public footpaths and the local road network. I viewed each of the proposed areas of Local Green Space and walked around Ashton Hayes village, including visiting the well-stocked community shop. I noted the distinct character of the settlement and the marked variation between the area now designated as a Conservation Area and the more recent development. This includes a remarkable number of bungalows with varied plot sizes and aspects. I noted the important and mostly clear distinction between the settlement and the surrounding countryside. I explored some of the surrounding undulating farmland and noted the distinctive hedgerows, water features and prominent linear woodland areas as well as the footpath network. I had some opportunity to appreciate the fine views although this was constrained by the weather conditions. I observed only a small amount of recent development and experienced only light traffic. There were a significant number of well used public noticeboards.

17. Throughout this report my recommended modifications are bulleted. Where modifications to policies are recommended they are highlighted in bold print with new wording in italics. Modifications are also recommended to some parts of the supporting text.

18. The Ashton Hayes & Horton-cum-Peel Neighbourhood Plan is clearly the result of a large amount of work by a small core of volunteers. It has involved a wide range of people and organisations in its development. I should like to congratulate all those who have worked so hard over a long period of time to prepare the Neighbourhood Plan and to thank the officers at Cheshire West and Chester Council and the representatives of Ashton Hayes & Horton-cum-Peel Parish Council who have supported this examination process.

### **3. Compliance with matters other than the Basic Conditions**

19. I am required to check compliance of the Plan with a number of matters:

#### Qualifying body

20. I am satisfied that the Plan has been prepared by a suitable Qualifying Body.

21. The original proposal for a neighbourhood plan came from Ashton Hayes Parish Council. A new joint parish of Ashton Hayes and Horton-cum-Peel was created following a governance review by Cheshire West and Chester Council before a revised neighbourhood area was agreed and this is now the Qualifying Body.

#### Neighbourhood Area

22. I am satisfied that the Plan relates to the development and use of land for a designated neighbourhood area and that this does not overlap with any other designated neighbourhood area.

23. The former Ashton Hayes Parish Council applied for a neighbourhood area which was agreed on 6<sup>th</sup> June 2013. Subsequent changes to the structure and boundary of parish councils in the area meant a revised neighbourhood area was submitted by the new Ashton Hayes and Horton-cum-Peel to Cheshire West and Chester Council. This was designated on 3<sup>rd</sup> March 2016 during the pre-submission consultation. It follows the revised parish boundary with the exception of a small area (including three properties) that had been previously included in the Kelsall, Upper Kelsall and Willington Corner Neighbourhood Area. Two additional properties in the north west of the neighbourhood area were included within the revised boundary. The amended boundary also includes an area proposed for Local Green Space designation that was not in the neighbourhood area agreed in 2013.

24. I have considered whether the amendments to the neighbourhood area during the consultation period are significant. It is an unusual situation. The changes to the

neighbourhood area are small and consultation on the neighbourhood plan (including the proposed Local Green Space designations) was undertaken on the basis of the revised neighbourhood area. Residents in the two properties added to the neighbourhood area were included in the consultation. I conclude that it would be a disproportionate response to halt the Plan on these grounds and require re-consultation.

25. The Plan includes non-land use related aspirations. These are clearly distinguished from the planning policies and they are addressed through a separate Community Action Programme process.

#### Plan period

26. I am satisfied the period of the neighbourhood plan is clearly stated as being from 2016 – 2036.

27. This is on the cover of the submitted plan and extends beyond the period of the adopted Local Plan which runs to 2030. There is potential for confusion as the submitted plan states:

*“The Ashton Hayes and Horton-cum-Peel NP covers the period from 2016 to 2036, a total of 20 years with 5 year reviews. This period has been chosen to align with the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015).”*

Paragraph 2.5, Part 3

- Amend paragraph 2.5, Part 3 to state that the neighbourhood plan period has been chosen to “*extend beyond*” that of the Local Plan

#### Excluded development

28. I am satisfied that the neighbourhood plan makes no provisions for excluded development (such as national infrastructure, minerals extraction or waste).

## 4. Consultation

29. I reviewed the consultation statement and other information on community engagement submitted with the Plan and online. This provides evidence that the Plan has been subject to systematic and structured community engagement, including wide public consultation at “vision and objectives” and “preferred option” stages as well as formal pre-submission consultation. The local planning authority has been engaged throughout the process.

30. Much of the community consultation took place when the earlier Ashton Hayes neighbourhood area was in place. The revised Ashton Hayes and Horton-cum-Peel neighbourhood area was designated only three days before the end of the formal pre-submission consultation. This is unusual but the pre-submission consultation was on the basis of the neighbourhood area subsequently agreed by Cheshire West and Chester Council and included those additional properties which were added to the neighbourhood area. I am therefore satisfied that this technicality does not raise any material issues relating to the fairness of the neighbourhood plan’s preparation.

31. Public consultation on the neighbourhood plan deployed a range of techniques and involved residents, landowners, local businesses, statutory consultees and others with an interest.

32. 35 responses raising 185 specific issues were generated during pre-submission consultation. The consultation statement provides a detailed breakdown of how responses to the pre-submission consultation have been addressed in finalising the Plan. There is evidence of a diligent approach and of the Plan being amended in response to consultation feedback.

33. Only five representations have been made on the submitted Plan.

34. I am satisfied with the evidence of the public consultation undertaken in preparing the Plan and commend the Parish Council and all those who have worked so hard over such a long time to engage and involve people in the future of the parish.

## 5. General comments on the Plan's presentation

### Vision, Objectives and Policies

35. I have reviewed the Vision and the 10 Objectives prepared for 11 Policies. The Vision is distinct and relates to the feedback received through consultation and the evidence base. There is a positive approach to development. The Policies are well presented with each being supported by identification of the key issues and objective and then justified with reference to the evidence base. The Plan presents each Policy in a tinted box and I consider this an effective way of distinguishing the policies from the other Plan content. The Plan recognises that topics raised through the process which are outside the scope of the neighbourhood plan can be taken forward through a separate Community Action Programme process.

### Other issues

36. The Plan is presented in three Parts. The intention to separate the policy content from too much detailed information is commendable. Yet, there are occasions when information provided in Part 3 of the Plan would be better included in Part 1. These are indicated in the examination of the individual policies below.

37. The submission draft Plan includes references to an independent “assessor” (e.g. Part 1 section 2, section 3 (timeline)) rather than examiner.

- Replace references to an “independent assessor” with “*independent examiner*” throughout the Plan

38. The paragraphs in the documents are inconsistently numbered. This doesn't aid navigation and in Part 1 it results in a majority of the paragraphs being unnumbered.

- Provide consistent paragraph numbering across the whole Plan which ensures easy navigation of the documents

39. The Plan's maps and illustrations are generally of moderate quality and not fit for purpose. It is important to provide much clearer and larger scale maps where site specific policies are included (such as for Local Green Space). All maps need relevant titles - e.g. Part 1 p7 map of neighbourhood area refers both to "area application" and the area being "revised" instead of stating this is the designated neighbourhood area. It would also help to number maps and include them in the list of contents.

40. It is not the Examiner's role to edit the Plan and some consequential work will be necessary to address the recommended modifications. It will be important not to add significant new text in making these changes.

41. The inclusion of both Attachment H (Part 3) and Section 7 (Part 2) as the "List of mentioned sources" is unnecessary as they are identical.

- Number all maps and provide appropriate titles
- Provide clear, large scale maps where indicated in the recommended modifications
- Make consequential changes to the Plan in response to the recommended modifications without adding significant new text
- Delete Part 3, Attachment H

## 6. Compliance with the Basic Conditions

### National planning policy

42. The Plan is required to “*have regard*” to national planning policies and advice. This is addressed in the Basic Conditions statement which relates the Plan’s policies to the National Planning Policy Framework.

43. The Basic Conditions statement addresses the alignment of the Plan’s policies and the policy objectives. In addition, it is also important to address the approach to policy drafting. The National Planning Policy Framework requires plans to provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraphs 17 and 154). It is also important for the Plan to address the need expressed in Planning Practice Guidance for policies in neighbourhood plans to be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications (paragraph 41). Policies should also be concise, precise and supported by appropriate evidence.

44. Generally, I concur that the Plan has regard to national planning policies and guidance but there are some exceptions set out in my comments below. These cover both conflicts with national planning policy and the need for some policies to be more clearly expressed and/or evidenced.

45. I am satisfied that the Plan meets this Basic Condition other than where identified in my detailed comments on the Plan policies.

### Sustainable development

46. The Plan must “*contribute to the achievement of sustainable development*”. This is addressed in the Basic Conditions statement which reviews the contribution of the Plan according to the elements of sustainable development established in the National Planning Policy Framework and sets out the specific contribution of each policy to sustainable development.

47. I am satisfied that the Plan meets this Basic Condition. It takes a positive approach to meeting the social and economic development needs of the Neighbourhood Area and respecting the natural and historic environment.

#### Development plan

48. The Plan must be *“in general conformity with the strategic policies of the development plan”*. Cheshire West and Chester Council informed me it considers the following Cheshire West and Chester Local Plan (Part One) policies as being both strategic and relevant to the Plan. No different view was expressed by Ashton Hayes and Horton-cum-Peel Parish Council or in other representations:

- STRAT 1 – Sustainable development
- STRAT 2 – Strategic development
- STRAT 8 – Rural area
- STRAT 9 – Green Belt and Countryside
- STRAT 10 – Transport and accessibility
- STRAT 11 – Infrastructure
- ECON 1 – Economic growth, employment and enterprise
- SOC 1 – Delivering affordable housing
- SOC 2 – Rural exception sites
- SOC 3 – Housing mix and type
- SOC 5 – Health and well being
- SOC 6 – Open space, sport and recreation
- ENV 2 – Landscape
- ENV 3 – Green Infrastructure
- ENV 4 – Biodiversity and geodiversity
- ENV 5 – Historic environment
- ENV 6 – High quality design and sustainable construction
- ENV 7 – Alternative energy supplies

49. In its representations on the Plan Cheshire West and Chester Council states that none of the retained policies in the Chester District Local Plan are considered strategic for the purposes of the neighbourhood plan. Nevertheless, it has indicated that it does consider the following policies to be of strategic relevance:

- ENV21 - Trees, hedgerows and woodland

- ENV22 - Landscape and development
- ENV27 - Nature conservation strategy
- ENV28 - General
- ENV30 - Strategic wildlife corridors
- EC6 - Protection of existing employment land and buildings
- EC11 - Re-use of rural buildings
- HO4 - Infill housing development
- HO5 - Criteria for assessing proposals for residential sites not allocated
- HO6 - Infill development in washed over villages in the GB
- HO10 - Re-use of rural buildings
- CF3 - Re-use of surplus land and buildings
- SR5 - Guidelines for provision in new housing developments

50. The Plan has been prepared alongside the development of Cheshire West and Chester's Local Plan and draws on its evidence base. There is evidence of good co-operation with the local planning authority. In its representations Cheshire West and Chester Council states that *"in general, the plan conforms with the policies in the Local Plan and is supported"* and makes an affirmative statement of general conformity against all the strategic policies in its Local Plan. There have been no other representations on development plan conformity.

51. I am satisfied that the Plan meets this Basic Condition. I make a number of recommended modifications to minimise repetition of Local Plan policy in the neighbourhood plan.

#### Strategic Environmental Assessment

52. The Plan must be informed by a Strategic Environmental Assessment if it is likely to have significant environmental effects and by a Habitats Regulations Assessment if it is likely to lead to negative significant effects on protected European sites.

53. To address these requirements a screening opinion was prepared by Cheshire West and Chester Council for both the pre-submission (in December 2015) and submission versions (in September 2016) of the Plan. This followed an earlier scoping report and interim report in 2012. I am satisfied the screening opinion has been undertaken in an appropriate way.

54. In respect of the need for a Strategic Environmental Assessment the 2016 screening concludes “....that it is unlikely there will be any significant environmental effects arising from the Ashton Hayes and Horton-cum-Peel. A Strategic Environmental Assessment of the Ashton Hayes and Horton-cum-Peel Neighbourhood Plan is not required.”

55. In respect of the need for a Habitats Regulations Assessment the 2016 screening concludes that the Plan “....is unlikely to have an adverse effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010 (d), alone or in combination with other plans and projects. As such, a separate full screening exercise and Habitats Regulations Assessment are not considered to be required.”

56. Historic England and Natural England responses to consultation did not dispute this conclusion and the Environment Agency, CADW, Environment Wales and Natural Resources Wales were also consulted.

57. On this basis I am satisfied that an adequate and proportionate process has been undertaken and that the submitted Plan is compatible with this aspect of European obligations.

58. The Basic Conditions statement is confused in its presentation of the requirements to ensuring compatibility with EU Regulations. It confuses Sustainability Appraisal with Strategic Environmental Assessment. It also includes contradictory statements that a Sustainability Appraisal “has not been done” (para 7.1) and that one “has been undertaken” (para 7.2).

59. Neighbourhood plans do not require a Sustainability Appraisal. They may require a Strategic Environment Assessment if the Plan is likely to have a significant effect on the environment and/or a Habitat Regulations Assessment if it is likely to have a significant effect on a European site designated for its conservation value.

60. As Planning Practice Guidance explains:

*“There is no legal requirement for a neighbourhood plan to have a sustainability appraisal as set out in section 19 of the Planning and Compulsory Purchase Act 2004. However, a qualifying body must demonstrate how its plan or order will contribute to achieving sustainable development. A sustainability appraisal may be a useful approach for doing this and the guidance on sustainability appraisal of Local Plans should be referred to.”*

61. Screening for SEA and HRA purposes is required to ensure compatibility with EU requirements while a Sustainability Appraisal may help in showing how the Plan meets the Basic Condition to contribute to sustainable development.

- Amend the Basic Conditions statement to clarify the role of Strategic Environmental Assessment, Habitat Regulations Assessment and Sustainability Appraisal

#### Other European obligations

62. The Plan must be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations. I am satisfied that the Plan has appropriate regard to the rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and no contrary evidence has been presented. There has been every opportunity for those with an interest in the Plan to make their views known and representations have been handled in an effective manner.

## 7. Detailed comments on the Plan and its policies

63. This section of the report reviews and makes recommendations on each of the Plan's policies to ensure that it meets the Basic Conditions. I provide comments on all policies whether or not modifications are recommended in order to give clarity on whether the Plan meets the Basic Conditions. The final Policy numbers will need to be amended to take account of the recommended deletion or combination of different policies.

### Built and natural environment

64. **Policy E1** – This provides for development to be sensitive to local character and establishes a number of criteria to guide decision making.

65. Policy E1 is positive in outlook although it could be more clearly expressed and offer “support” for development which meets the criteria rather than recognising its acceptability. It is also inappropriate to seek to “preserve” hedgerows, views or compactness as this implies no change.

66. In common with other policies in the Plan there is direct reference to existing Local Plan policies with which proposed development “*must comply*”. While there can be merit in neighbourhood plan policies covering all relevant issues, it is also important to avoid both unnecessary duplication and the risk of making unintended changes to the effect of Local Plan policies. Generally, it is sensible to avoid repetition of Local Plan policies given that any planning application will be determined in accordance with the development plan and this comprises both the adopted Local Plan and made neighbourhood plan.

67. The Policy makes reference to specific documents which may alter during the period of the Plan. These should instead be referenced in the supporting text. There is no need to reference Local Plan policies as these are part of the development plan and so must be considered by law when determining a planning application. The local planning authority also offers “guidance” on design rather than setting “standards”.

68. The Policy makes reference to development locations which are “*in and adjoining the countryside*”. This applies to the whole neighbourhood area, including within the built area of Ashton Hayes village and so is superfluous.

69. Policy E1 references various attachments in Part 3, including those that describe the area’s character, identify significant views and locate mature and/or important trees. This includes an erroneous reference to Attachment C as identifying important views when these are provided in Attachment D. I consider the description of those aspects of the village and its rural setting in Attachment D to be particularly important. It would be sensible also to locate this in Part 1 as a freestanding statement of the neighbourhood area’s character which can be referenced in Policy E1 as the “Ashton Hayes Character Statement”. This will make the Plan easier to navigate and understand.

70. The Policy seeks to maintain and replace important trees or groups of trees by reference to a map (of moderate quality) showing trees or groups of trees already protected with Tree Preservation Orders. It does not address trees or groups of trees not already recognised with TPOs. As a result this part of the Policy does not add to existing protections and is superfluous.

71. Policy E1 needs to make clear whether for development to be supported it needs to meet a single, several or all of the stated criteria. It is understood that all the criteria are considered relevant where they are appropriate to any individual development proposal.

- **Reword Policy E1 as follows:**

**“New development will be *supported* where it is designed and positioned so as to *respect* the built environment of the village and its rural setting *as expressed in the Ashton Hayes Character Statement* [reference], including where appropriate:**

- ***respecting* and enhancing the distinctive qualities of the landscape in which it would be situated, including the special characteristics identified in landscape character assessments by the local planning authority;**
- ***conserving* the sense of compactness of the village and the unobtrusiveness of its existing development;**

- designs and layouts which *respect* the predominant village grain and external architectural characteristics of nearby buildings;
  - being in accordance with the local planning authority's current design *guidance*;
  - protecting the valued rural views identified in the neighbourhood area character assessment; and
  - conserving hedgerows which are typically managed to be taller than is general across Cheshire."
- Include a copy of Attachment D in Part 3 in the supporting text for Policy E1 in Part 1 to provide the Ashton Hayes Character Statement which can be directly referenced in the Plan's policies
  - Identify the most recent local planning authority guidance on character and design for the purposes of Policy E1 in the supporting text
  - Replace the map showing Tree Preservation Orders in Attachment I with a higher quality map or provide a link to where the detailed locations may be viewed

72. **Policy E2** – This identifies and establishes planning policy for 18 areas to be designated as Local Green Spaces. The areas are identified in Attachments B and C to Part 3. Policy E2 also establishes criteria and requirements for all new development in relation to potential impacts on habitats and wildlife.

73. The ability to designate areas as Local Green Space is an important neighbourhood planning power. The National Planning Policy Framework (paragraph 77) sets out the requirements which need to be met:

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

- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- where the green area concerned is local in character and is not an extensive tract of land.

74. The National Planning Policy Framework notes that designation will not be suitable for most green spaces. Once designated Local Green Space has protection equivalent to Green Belt.

75. The main justification for a majority of the Local Green Space designations is the report of an ecological survey commissioned by the Qualifying Body in 2013. I have also referred to the “Green Space Selection Additional Information” note prepared by the Qualifying Body. The ecological survey identifies key wildlife habitats in the neighbourhood area and it underpins designation of nine Local Green Spaces for their nature conservation value. Seven sites are identified for their open space value and two sites for their recreational value.

76. There is only limited evidence provided that these areas are “*demonstrably special*” as required by the National Planning Policy Framework. The general policy proposals received very strong support during the community engagement on the Plan but this did not relate specifically to each of the areas proposed.

77. I have considered representations that areas NC2 and NC3 should not be designated as they fail to meet the criteria set out in national planning policy. I share some of the concerns expressed in relation to these areas which also apply to other areas proposed.

78. In considering whether the proposed Local Green Space designations add value I have considered the existing planning policies for these areas. The whole neighbourhood area is washed over by Green Belt (Local Plan Policy STRAT 9) and a majority of the areas proposed to be designated for their nature conservation value are recognised as Local

Wildlife Sites, Sites of Nature Conservation Value or Areas of Nature Conservation Value in the Cheshire West and Chester Local Plan (Part One) (Policy ENV4) or Chester District Local Plan (Policy ENV29). Two areas proposed to be designated for their open space value (and part of another area) are also recognised in Policy ENV29. Most of both the areas proposed to be designated for their recreational value is recognised as “Other Greenspace” in Policy ENV17. On the face of it this means there is no policy advantage to the designations as all are in the Green Belt and their wildlife or recreational significance is largely addressed in existing development plan policy.

79. Nevertheless Planning Practice Guidance states that *“....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 (e.g. 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.”* Ashton Hayes is a good example of the kind of village referred to in Planning Practice Guidance.

80. Additionally, areas NC7, NC9 and NC10 are not recognised for their wildlife value in existing development plan policy and Local Plan policies do not always apply to the whole of some of the other areas.

81. I have also considered the proposed designation of the cricket ground (R2) as Local Green Space of recreational value. This is cited in Policy E2 and Part 2 of the Plan records that it was *“reinstated as requested in responses to the Regulation 14 consultation.”* An administrative error resulted in it not being listed in Part 3 and its location is not highlighted in the Attachment B maps. The Qualifying Body has since rectified this. While this is unfortunate I am satisfied that the intent to designate the cricket ground as Local Green Space is clear and that it was included in appropriate public consultation.

82. The details of the Local Green Spaces are poorly presented. They are confusingly presented in two different Attachments and in two different lists. The numbering is not always sequential and the quality of the maps is poor and at a scale that is too small for

boundaries to be clearly identified. The map showing the areas is described as a “Proposals map” in Policy E2 and as a “Map of Local Green Spaces” in Part 3 and on p5 of Part 1. Lily Wood is also spelt in two different ways.

83. I visited or viewed each of the proposed Local Green Spaces and have considered them individually:

NC1 – Ash Wood – In Green Belt and already recognised as an Area of Nature Conservation Value and Local Wildlife Site

NC2 – Lily Wood - In Green Belt and already recognised as an Area of Nature Conservation Value and part as a Local Wildlife Site

NC3 – Garden Wood - In Green Belt and already recognised as an Area of Nature Conservation Value

NC4 – Ark Wood - In Green Belt and parts recognised as an Area of Nature Conservation Value, Local Wildlife Site and Site of Nature Conservation Value

NC5 – Cat Rough – In Green Belt and already recognised as an Area of Nature Conservation Value and part as a Local Wildlife Site and Site of Nature Conservation Value

NC6 – Brine’s Brow - In Green Belt and already recognised as an Area of Nature Conservation Value, Local Wildlife Site and Site of Nature Conservation Value. The area also has evidence of being actively managed for recreational use; including a signed picnic area and well used paths. It comprises a tract of woodland and is located in an accessible triangle of land between three farms. It is distinct from the other areas proposed for their nature conservation value which are largely woodland strips away from public roads and with more limited recreational use

NC7 – Andrew’s Wood – In Green Belt and accessed via permissive route adjacent to OS5. This memorial woodland has been developed with the Woodland Trust and provides recreational access

NC9 – Gongar Brook – In Green Belt this is a very narrow strip of vegetation along the water course, including a section with the Baker Way - a public right of way used by local residents and long distance walkers

NC10 – Railway embankment - In Green Belt this is a narrow strip of woodland along Ashton Brook. It has wildlife importance and also provides a naturalised visual screening of industrial development outside the neighbourhood area

OS1 – Grass triangle, Peel Hall Lane – In Green Belt. An important area of informal public open space located within the built up area of Ashton Hayes. Within Conservation Area

OS2 – Grass triangle, Grange Road – In Green Belt. A very small yet significant area of grassland marking one of the gateways to Ashton Hayes, including village sign, planter, seat, rubbish bin and a small stretch of paved path

OS3 – Greens, Peel Crescent and Brookside – In Green Belt. Two important areas of informal public open space located within the built up area of Ashton Hayes but outside the Conservation Area. Both make an important and positive contribution to the street scene. They are of different sizes and not immediately accessible to each other

OS4 – Grass verge, village hall to Ashton Brook – In Green Belt. A steep wooded verge running along one of the main roads into Ashton Hayes and contributing to its setting. The southern section is opposite linear residential development and within the Conservation Area. Part of the northern section is already recognised as an Area of Nature Conservation Value

OS5 – Woodland between Grange Road & Andrew’s Wood – In Green Belt. An attractive wooded hollow with a small pond on the approach to Ashton Hayes. Most recognised as an Area of Nature Conservation Value, although the precise boundary is unclear due to a poor quality map. Relates to the open field to south west which provides access to Andrew’s Wood (NC7) via a permissive route but this is not proposed for Local Green Space designation. Located in Conservation Area

OS6 – Grass bank, Church Road – In Green Belt. Open grass verge on approach to Ashton Hayes and opposite existing development. Makes an important contribution to the village setting and located in Conservation Area

OS7 – Wooded bank on Mouldsworth to Delamere Road – In Green Belt. Steep wooded road verge adjacent to farmland and already recognised as an Area of Nature Conservation Value

R1 – Village hall playing field – In Green Belt. Small, flat area behind village hall with clear evidence of recreational use. Already recognised as Other Greenspace for its recreational value and located in the Conservation Area

R2 – Cricket ground. Currently unused but with permission for a relocated cricket pavilion. Already recognised as an Area of Nature Conservation Value and a significant area as Other Greenspace for its recreational value.

84. In considering the proposed Local Green Space designations I am very mindful of the need for evidence that they are “*demonstrably special*” and that all are located in the Green Belt. The majority also have significant additional protection through other development plan policies. The Plan provides neither an assessment of the proposed designations against the NPPF criteria in the justification nor strong evidence demonstrating why they are special. I have found some evidence during my visit and in the supporting material.

85. My conclusion is that nine of the proposed Local Green Space designations lack evidence that they provide sufficient “*additional local benefit*” over and above existing planning policies and do not meet the Basic Conditions.

86. NC1, NC2, NC3 and NC5 are in the Green Belt and relevant development plan policies already recognise their nature conservation value. There is limited evidence provided that each of these areas is demonstrably special to the local community.

87. NC4 is in the Green Belt and relevant development plan policies recognise the nature conservation value of the majority of the area. The nature conservation value of the rest of the area is addressed in part by other development plan policies (e.g. STRAT 1) and there is limited evidence provided that the area is demonstrably special to the local community.

88. NC6 is in the Green Belt and its nature conservation value is recognised in existing development plan policies. Nevertheless, it is demonstrably an important recreational amenity that is readily accessible to local people. I consider its designation as Local Green Space will provide additional local benefit.

89. NC7 is in the Green Belt and its nature conservation value is recognised in part by other development plan policies (e.g. STRAT1). Nevertheless, designation as Local Green Space recognises the origins of this memorial woodland which now provides recreational access as an important additional local benefit.

90. NC9 is in the Green Belt and its nature conservation value is recognised in part by other development plan policies (e.g. STRAT 1). There is limited evidence provided that the area is demonstrably special to the local community or that it provides significant additional local benefit.

91. NC10 is in the Green Belt and its nature conservation value is recognised in part by other development plan policies (e.g. STRAT 1). Designation as Local Green Space would recognise the visual amenity afforded by the woodland as an additional local benefit.

92. OS1 and OS3 are in the Green Belt. They are the only significant open spaces within the built up area of Ashton Hayes and make a significant and positive contribution to its character. I consider their designation as Local Green Space will provide additional local benefit. I recommend that the two areas identified in OS3 are distinct from each other and should be separately designated.

93. OS2 is in the Green Belt. It hosts a remarkable amount of community infrastructure for such a small area of land and plays an important role in establishing the identity of Ashton Hayes. I consider its designation as Local Green Space will provide additional local benefit.

94. OS4 and OS7 are in the Green Belt and much of their area is recognised for its nature conservation value in existing development plan policies. They comprise steep wooded road verges and are unlikely locations for new development. There is limited evidence provided that the areas are demonstrably special to the local community and I note that OS7 is only *"included for completeness"* in the information on green space selection.

95. OS5 is in the Green Belt and largely recognised as an Area of Nature Conservation Value. There is limited evidence provided that the area is demonstrably special to the local community.

96. OS6 is in the Green Belt and has the potential at some future point to be considered as a possible location for development. It is opposite the school, church and existing residential development and links the village hall to the main built up area. It clearly adds to the rural character of Ashton Hayes and I consider its designation as Local Green Space will provide additional local benefit.

97. R1 and R2 are in the Green Belt. They both have evidence of past, existing and future intended use for organised sports and recreation and there is only limited land available for this purpose. This is an important additional local benefit.

98. It is unnecessary to distinguish the different areas proposed by numbering that relates to the reason for designation and this is a potential source of confusion for areas which provide multiple public benefits (e.g. NC6).

99. The second part of Policy E2 establishes criteria and requirements for all new development in relation to potential impacts on habitats and wildlife for the whole neighbourhood area and not just to those areas proposed as Local Green Space. It should be presented as a freestanding policy and this will also recognise the nature conservation value for areas which are not being recommended for designation as Local Green Spaces. The detailed wording of the policy needs to be amended, including to avoid placing undue burdens on applicants for small scale development. The concept of “environmentally friendly communal areas” is unclear and no explanation is provided in the Justification or Glossary. It would be appropriate to encourage the provision of additional green space.

- **Replace Policy E2 as follows *“The nine sites shown on the map of Local Green Spaces are designated as Local Green Spaces where new development shall not be permitted other than in very special circumstances. These are:***

***LGS1 Brine’s Brow***

***LGS2 Andrew’s Wood***

***LGS3 Ashton Brook railway embankment***

***LGS4 Grass triangle at eastern end of Peel Hall Lane***

***LGS5 Green in Peel Crescent***

***LGS6 Green in Brookside***

***LGS7 Grass bank along Church Road***

***LGS8 Village Hall playing field***

***LGS9 Cricket ground.”***

- Provide large scale maps which clearly define the boundary of each area of Local Green Space and include alongside Policy E2 in Part 1 as the “Map of Local Green Spaces”. Delete Attachment B

- Rename Attachment C as “Open Spaces in neighbourhood area” (to avoid any confusion with the Local Green Space designation) and provide details of ownership and relevant planning policies (including any Local Green Spaces designated by the neighbourhood plan) for each of the areas. Add LGS9 Cricket ground.
- **Add new Policy E3 as follows: “*Planning applications shall be supported which, where appropriate:*
  - *enhance existing habitats and biodiversity, including the planting of native trees and hedgerows on their boundary;*
  - *encourage and support the creation of new habitats;*
  - *establish wildlife corridors between existing and new habitats in conjunction with landowners;*
  - *enhance access by providing easy and safe pedestrian and cycle routes consistent with protection of habitats and biodiversity; and*
  - *create additional green space.***

***Planning applications should, where appropriate, be supported by ecological surveys of the site and surrounding area and proposed mitigating actions to address any adverse impacts.”***

100. **Policy E3** – This seeks to promote community renewable energy generation and establishes relevant criteria.

101. Ashton Hayes has a national reputation as a pioneer of carbon neutral thinking and has received support from central Government to develop its approach. The desire to achieve carbon neutrality is a good example of an aspiration that draws on local community engagement over more than a decade to develop a distinct approach in the Plan. Planning Practice Guidance states that “*Neighbourhood plans are an opportunity for communities to plan for community led renewable energy developments*” and renewable energy developments of up to 50 kW are permitted by local planning authorities. Thus it is clear that the Policy deals with a relevant matter.

102. Policy E3 is positively worded and can meet the Basic Conditions with a small amount of redrafting. There are two key issues raised by the Policy:

103. 1. *Justification for supporting community renewable energy generation capacity of up to 20% of the area's average energy consumption* – the Policy justification shows that 400 kW of additional renewable energy capacity (20% of the community's domestic energy consumption) is needed as part of the neighbourhood area becoming carbon neutral and this is supported by evidence in Part 2. The evidence acknowledges that establishing a precise figure for the extra generation capacity necessary to be considered as carbon neutral is "*difficult to estimate*". I am satisfied the Policy provides sufficient flexibility, however, by supporting installation of renewable energy generation capacity "*up to*" the 20% and is not setting this as a target. Indeed, there is no reason why renewable energy generation capacity above this figure is not suitable providing it is consistent with other development plan policies. As currently worded the Policy establishes a ceiling of 20%.

104. 2. *Definition of "community" renewable energy generation* – The Policy recognises ownership of the renewable energy generation facilities by Ashton Hayes Community Energy as a requirement. Ashton Hayes Community Energy reports to the Parish Council. I agree that Ashton Hayes Community Energy is an appropriate vehicle for securing community led renewable energy but it is not the only possible vehicle during the lifetime of the Plan and may be succeeded by a different organisation.

105. The Policy requires all developments to be funded by a mixture of commercial loans, community investment and grants. This may be likely but it is unnecessarily restrictive to require such a mix and the judgment as to funding sources is one for the proponent of the scheme

106. The criteria for selecting suitable sites needs to relate to planning considerations and avoid unintended conflict with national Green Belt policy

107. It is inappropriate for a planning policy to be an advocacy statement such that particular types of development are “promoted” rather than “supported”. The Policy also needs to be clear that all the criteria apply when selecting sites

- Delete “of up to 20% of the plan area’s average electricity consumption” in Policy E3
- Replace “promoted” with “*supported*” in Policy E3
- Replace “AHCE” with “*Ashton Hayes Community Energy*” in Policy E3
- Add “*or its successor*” after each reference to AHCE in Policy E3 and delete “and their advisers”
- Delete “and will involve a mix of commercial loans, community investment and grants” in Policy E3
- Delete “e.g. sheep grazing around solar panels” in Policy E3 and include any relevant example in the Justification
- Delete “Green Belt” in Policy E3
- Delete “preferably where the community already has an established interest” in Policy E3
- Insert “*Where appropriate*” before “selection of suitable locations” and add a semi colon to the end of the first four remaining bullets and an “*and*” to the end of the fourth bullet
- Include a statement in the supporting text that generating 20% of the neighbourhood area’s average electricity consumption through community renewables is considered reasonable and achievable.

108. **Policy E4** – This seeks to minimise pollution resulting from development in the neighbourhood area.

109. The Policy establishes a range of different measures for reducing different types of pollution as well as supporting local food production. It is supported by limited evidence over and above the support gained through community consultation.

110. The NPPF identifies one of planning’s environmental roles as being to “*minimise waste and pollution*” (paragraph 7) and this is also recognised in Planning Practice Guidance. Planning Practice Guidance also supports the role of planning in promoting health and well-being, including access to places for food growing and to healthy food.

111. The Policy deals with a relevant issue but generally lacks precision. In seeking to avoid people being exposed to higher pollution levels it doesn’t distinguish different types of pollution or the means through which existing levels are determined. There is no evidence presented on pollution in the neighbourhood area other than that pollution and waste levels in the neighbourhood area are generally in line with or better than those in the borough as a whole.

112. Conversely, in seeking to minimise light pollution the policy stipulates a requirement for the use of a particular lighting technology and this is too restrictive.

113. The Policy needs to be clear that all of the criteria apply where appropriate.

- **Delete “avoiding people being exposed to pollution levels higher than existing background levels” in Policy E4**
- **Replace final bullet of Policy E4 with “*minimising light pollution and ensuring that lighting has no significant detrimental impact beyond the area to be specifically lit*”.**

- Replace “possible” with “*appropriate*” and add a semi colon to end of first three remaining bullets and “*and*” to end of third bullet of Policy E4

## Housing

114. **Policy H1** – This establishes some additional criteria for residential development to those in the Local Plan.

115. Cheshire West and Chester Council is satisfied Policy H1 is consistent with Local Plan policies. The Policy places a particular emphasis on meeting the housing needs of the elderly and supporting community-led housing. There is evidence that the proportion of elderly in the neighbourhood area is significantly higher than in Cheshire West and Chester as a whole. A housing needs survey has been undertaken. The Policy is appropriate and meets the Basic Conditions providing the level of housing need for the elderly continues to exist. This element of the Policy could be more clearly drafted (including to avoid a double reference to development being “supported”)

116. There is support through community consultation for housing schemes to be community-led. As drafted policy H1 would require all schemes to be developed in this way unless impractical. This is unduly restrictive and does not meet the Basic Conditions. I recommend a redrafting which indicates support for this approach without requiring it.

117. The Policy should be clear that all the criteria are relevant.

- Add a semi colon and “*and*” to end of the first bullet in Policy H1
- Reword the second bullet of Policy H1 as follows: “*Where a significant proportion of the market housing permitted by Local Plan Policy SOC2 is appropriate for meeting the evidenced needs of the elderly within the neighbourhood area.*”
- Make the third bullet a freestanding paragraph (with no bullet) and reword as follows “*Planning applications for residential development led by the community*

***through a community development organisations (such as a community land trust) or in a partnership with the applicant will be supported.”***

- The Plan should provide the most recent information on whether Ashton Hayes has been identified as a Local Service Centre in its supporting text

118. **Policy H2** – This establishes criteria for the location of new housing development on rural exception sites. It establishes a hierarchy of preferred locations favouring sites not located on “key roads” and sets out specific expectations for housing development for the elderly.

119. The Policy is supported by evidence of housing need, especially among the elderly. There is limited evidence supporting the hierarchy of locations beyond a statement that *“Ashton Hayes nevertheless exudes a historic feel because the main estates are by and large discreetly embedded in their own areas accessible from the old centre.”* There is no clear reference identifying the “key roads” in the neighbourhood area.

120. Policy H2 references and then summarises the Ashton Hayes Character Statement. This part of the Policy duplicates Policy E1 and is superfluous.

121. The locational hierarchy in Policy H2 is restrictive and poorly evidenced. Its intention is largely delivered through Policy E1 (as amended) and the Ashton Hayes Character Statement. Nevertheless, there is clear evidence of community support for an approach to the location of new housing which re-enforces existing patterns of development in the least visible parts of the village.

122. The remaining part of Policy H2 relates to the location of housing for the elderly and this can meet the Basic Conditions through minor rewording. It is best provided as a separate policy. A location for the village centre should be identified. The reasoning behind the Policy’s reference to multi-site development is unclear.

- **Delete the first section of Policy H2**

- Delete the heading to the second section of Policy H2 and reword it as follows:  
*“Planning applications for the development of rural exception sites shall be supported which are delivered through extension of the existing settlement on sites not located adjacent to the key roads identified in section four of the Ashton Hayes Character Statement. Where sites can only be provided adjacent to the key roads they should include provision for an open space buffer and appropriate screening between the development and the key road.”*
- Introduce new Policy H3 – *“Location of housing for the elderly”* to replace the last section of Policy H2
- Reword new Policy H3 as follows – *“Planning applications for housing provided for the elderly which are within walking distance of the village centre and which have good, safe pedestrian access to the centre shall be supported.”*
- Identify the location of the village centre in the supporting text.

123. **Policy H3** – This addresses the design of development, including its contribution to the carbon neutral aspirations of the area.

124. There is strong community support for high quality design and the Ashton Hayes Character Statement provides an important description of what makes the neighbourhood area distinctive.

125. The Policy is overly prescriptive (stating that development *“must”* contribute to existing character) and ambiguous (referencing *“traditional”* materials and *“good”* design).

126. In specifying construction to AECB Gold standards Policy H3 is in breach of the Basic Conditions. The Written Ministerial Statement of 27<sup>th</sup> March 2015 indicates that plans should not include any additional local technical standards or requirements relating to the

construction, internal layout or performance of new dwellings. These matters are to be addressed in existing and future versions of the Building Regulations.

- **Reword Policy H3 as follows:**

***“Planning applications for development shall be supported which contribute to the character of the neighbourhood area and support the objective of becoming carbon neutral. To achieve this proposals should:***

- ***be of high quality design which respects the built environment of the village and its rural setting as expressed in the Ashton Hayes Character Statement;***
- ***use high quality materials that complement the existing palette of materials used within the neighbourhood area;***
- ***not dominate the surrounding area and where proposed on elevated sites not protrude above the predominant roofline of surrounding buildings***
- ***be energy efficient; and***
- ***meet Cheshire West and Chester’s car parking standards.***

***Planning applications incorporating pioneering design which can demonstrate a significant contribution to achieving carbon neutral objectives shall be supported.”***

#### Community facilities, amenities and social welfare

127. **Policy C1** – This recognises the importance of community buildings and infrastructure. It seeks to establish assets of community value as a material planning consideration, criteria for new or improved facilities and locational expectations. The Policy requires some modification to meet the Basic Conditions.

128. Neighbourhood planning policies can only deal with the development and use of land. They cannot determine what is and is not a material planning consideration. This part of Policy C1 does not meet the Basic Conditions.

129. In identifying criteria for the support of new or improved facilities Policy C1 unnecessarily overlaps or duplicates other Plan policies. The financial viability of

development proposals and the carbon intensity of materials and installation methods are not relevant planning considerations. It is important, however, to be able to evidence demand for such facilities.

130. In identifying sites for new facilities Policy C1 unnecessarily duplicates the Local Plan and it is inappropriate separately to identify Community Right to Build Orders as being a preferential approach to a planning application.

131. It will aid clarity to separate policies relating to the loss of community facilities or services from those relating to the development of new ones.

- **Reword Policy C1 as follows:**

***“Policy C1 - Existing community facilities and services***

***Planning applications for development which results in the loss of existing community facilities or services shall be required to demonstrate how they shall be replaced within the neighbourhood area by facilities or services of equal or greater value to the community to meet evidenced need.”***

- **Introduce Policy C2 as follows:**

***“Policy C2 - New community facilities and services***

***Planning applications for the development of new or improved community facilities or services shall be supported which:***

- ***can demonstrate that they meet the expressed needs of the community;***
- ***provide improved access to local services and facilities for people living and working in the neighbourhood area; and***
- ***prioritise use of previously developed land.”***

#### Business and employment

132. **Policy BE1** – This supports new premises for local businesses. It is supported by some evidence of significant out commuting. Cheshire West and Chester Council supports

the Policy as being consistent with existing Local Plan policy and proposes some helpful drafting amendments.

133. Policy BE1 is positively worded although it can be more clearly expressed. It has good levels of community support and the drafting has developed during the course of the Plan's preparation in response to community feedback.

134. A key consideration is the lack of any definition of a "local" business. The intention to encourage business premises to be used to employ people who live in the neighbourhood area is apparent but unstated. I do not consider the Policy is unduly restrictive in encouraging such development. It does not seek to limit other opportunities.

135. The Policy includes unnecessary references to existing Local Plan policies and other policies in the neighbourhood plan.

- **Reword Policy BE1 as follows: "*Planning applications for the development of suitable premises for local businesses will be supported, including:***
  - *the development of home and garden offices and workshops where they have no significant negative impact on the residential amenity of the occupiers of neighbouring properties; and*
  - *the conversion of redundant buildings to business or mixed use."*

136. **Policy BE2** – This supports new "*direct employment*" related development according to relevant criteria.

137. The Policy is unclear as to the definition of "*direct employment*". The intent of the Policy includes reducing work related travel, supporting the local economy and respecting local character. Many of the criteria established by the Policy do not add to existing Local Plan or other neighbourhood plan policies and are superfluous.

- Rename Policy BE2 as ***“Local employment opportunities”*** and reword it as follows:  
***“Planning applications for development providing additional local employment opportunities which reduce travel to work and/or support the local economy shall be supported.”***

#### Transport and infrastructure

138. **Policy T1** – This sets out expectations for developer contributions to improve access to public transport.

139. While the Policy is considered by Cheshire West and Chester Council to be consistent with the Local Plan it raises a number of concerns about the feasibility of some of the specific measures proposed. The Policy does not authorise any of the proposed transport measures and I am satisfied they are reasonable.

140. I also note that this is an area of flux in national policy and that Cheshire West and Chester Council is expected to introduce a Community Infrastructure Levy in parallel with the Plan’s preparation.

141. For clarity the final section could be better integrated into the Policy.

- Add a fourth bullet to Policy T1 as follows ***“provide additional public transport services which make a significant contribution to the needs of residents in the neighbourhood area”*** and delete the final section.
- Amend the supporting text to describe the Section 106 and Community Infrastructure Levy mechanisms in force at the time of the Plan

## **8. Recommendation and Referendum Area**

142. I am satisfied the Ashton Hayes and Horton-cum-Peel Neighbourhood Plan meets the Basic Conditions and other requirements subject to the modifications recommended in this report and that it can proceed to a referendum. I have received no information to suggest other than that I recommend the referendum area matches that of the Neighbourhood Area.