

# **Report on the Dunham on the Hill and Hapsford Neighbourhood Plan 2025 – 2030**

**An Examination undertaken for Cheshire West and Chester Council with the support of the Dunham on the Hill and Hapsford Parish Council on the Regulation 15 submission version of the Plan.**

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Date of Report: 14 May 2025

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## **Main Findings - Executive Summary**

From my examination of the Dunham on the Hill and Hapsford Neighbourhood Plan (DHHNP/the Plan) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Dunham on the Hill and Hapsford Parish Council (DHHPC);
- The Plan has been prepared for an area properly designated – the Dunham on the Hill and Hapsford Neighbourhood Plan Area as shown on the map on page 5 of the Neighbourhood Plan;
- The Plan specifies the period during which it is to take effect: 2025 - 2030; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### **Dunham on the Hill and Hapsford Neighbourhood Plan 2025–2030**

- 1.1 Dunham on the Hill, a small village about 10km east of Chester on the A56 lies about 2km from Hapsford, a similarly small village which adjoins the A5117 which leads to the nearby M56 Junction 14. Set in gently undulating countryside, the majority of the area, including the two villages, is located within the Green Belt. In 2021, the population of Dunham on the Hill and Hapsford parish was 700.<sup>1</sup>
- 1.2 The preparation of the Dunham on the Hill and Hapsford Neighbourhood Plan (DHHNP) was initiated in 2021, following which a working group was formed in 2022. Led by the Working Group, evidence was collected, consultations were carried out and the final version of the Plan was submitted to Cheshire West and Chester Council (CWaCC) in February 2025.

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<sup>1</sup> 2021 Census; paragraph 1.1.5 of the Plan.

## The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the DHHNP by CWaCC with the agreement of the Dunham on the Hill and Hapsford Parish Council (DHHPC).
- 1.4 I am a chartered town planner and former government Planning Inspector and have experience of examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the Plan.

## The Scope of the Examination

- 1.5 As the independent examiner, I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the plan meets the Basic Conditions.
  - Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development'; and
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
  - Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.

- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').
- 1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

## The Basic Conditions

- 1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contribute to the achievement of sustainable development;
  - be in general conformity with the strategic policies of the development plan for the area;
  - be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>2</sup>; and
  - meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Plan does not breach the requirement of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>3</sup>

## 2. Approach to the Examination

### Planning Policy Context

- 2.1 The current Development Plan for the Dunham on the Hill and Hapsford area, excluding policies relating to minerals and waste development, principally comprises the Cheshire West and Chester Local Plan (CWaCLP). The CWaCLP (Part One) deals with Strategic Policies and was adopted in January 2015. The CWaCLP (Part Two) covers Land Allocations and Detailed Policies and was adopted in July 2019.

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<sup>2</sup> The existing body of environmental regulation is retained in UK law.

<sup>3</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF).<sup>4</sup> In addition, the Planning Practice Guidance (PPG) offers advice on how the NPPF should be implemented.

### Submitted Documents

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, as well as those submitted which include:
- the draft Dunham on the Hill and Hapsford Neighbourhood Plan 2025 – 2030 (submission version);
  - the map on page 5 of the Plan which identifies the area to which the proposed Neighbourhood Plan relates;
  - the Consultation Statement (January 2025);
  - the Basic Conditions Statement (July 2024);
  - the Strategic Environmental Assessment (SEA), Habitats Regulation Assessment (HRA) and Marine Plan (MP) Screening Determination (February 2025);
  - the Dunham on the Hill and Hapsford Parish Neighbourhood Plan Design Appraisal and Code (January 2025);
  - all the representations that have been made in accordance with the Regulation 16 consultation; and
  - the responses dated 27 April 2025 from DHHPC and 28 April 2025 from CWaCC to the questions of clarification in my letter of 17 April 2025.<sup>5</sup>

### Site Visit

- 2.4 I made an unaccompanied site inspection to the DHHNP area on 15 April 2025 to familiarise myself with it and visit relevant locations referenced in the Plan and evidential documents.

### Written Representations with or without Public Hearing

- 2.5 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. No requests for a hearing session were received.

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<sup>4</sup> A revised NPPF was published on 12 December 2024 which includes transitional arrangements for neighbourhood plans. Paragraph 239 of the December 2024 NPPF advises that it will only apply to neighbourhood plans submitted (under Regulation 15) after 12 March 2025.

<sup>5</sup> View all the documents at:

<https://consult.cheshirewestandchester.gov.uk/kse/event/38296>

## Modifications

- 2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix to this report.

## 3. Procedural Compliance and Human Rights

### Qualifying Body and Neighbourhood Plan Area

- 3.1 The DHHNP has been prepared and submitted for examination by the DHHPC, which is a qualifying body. The DHHNP extends over all the area designated by CWaCC on 26 January 2022. I am satisfied it is the only Neighbourhood Plan for the Dunham on the Hill and Hapsford area and does not relate to any land outside the designated Neighbourhood Plan Area.

### Plan Period

- 3.2 The Plan period is from 2025 to 2030 as clearly stated on the front cover.

### Neighbourhood Development Plan Preparation and Consultation

- 3.3 The Consultation Statement (CS) describes the thorough preparation of the Plan with involvement of the public and various stakeholders at the stages of the process. A working group was formed in 2022 early in the preparation process of the Plan. Online surveys were conducted, open meetings and drop-in sessions were held and regular updates were published in the parish newsletter. A section of the parish web site was developed for the Plan which enables access to various documents. The collection of the evidence for the Plan included a Housing Needs Survey and a wildlife and biodiversity study of the area by the Cheshire Wildlife Trust.
- 3.4 The pre-submission Plan was published for consultation under Regulation 14 of the 2012 Regulations from 27 February 2024 until 22 April 2024. An overview of the analysis of comments made by CWaCC, statutory consultees and members of the public are summarised in Section 3 of the CS (pages 8 to 24), together with the responses of the Parish Council Working Group, any action taken and the resulting changes to the Plan.
- 3.5 The final version of the Plan was submitted to CWaCC on 4 February 2025. Consultation in accordance with Regulation 16 was carried out from 27 February 2025 until 10 April 2025. 11 responses were received about the Plan, including those from CWaCC. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the DHHNP, that has had regard to advice in the PPG on plan preparation and



engagement and is procedurally compliant in accordance with the legal requirements.

## Development and Use of Land

- 3.6 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

## Excluded Development

- 3.7 The Plan does not include provisions and policies for 'excluded development'.<sup>6</sup>

## Human Rights

- 3.8 The Basic Conditions Statement (BCS) notes that the Parish Council has been mindful of the fundamental rights and freedoms guaranteed under the European Convention on Human Rights in the process of the preparation of the Plan. I am aware from the CS that considerable emphasis was placed throughout the consultation process to ensure that no sections of the community were isolated or excluded. I have considered this matter independently and I am satisfied that the policies will not have a discriminatory impact on any particular group of individuals.

## 4. Compliance with the Basic Conditions

### EU Obligations

- 4.1 The BCS notes that the Plan was screened for Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) by CWaCC. It was concluded that there are not likely to be any significant environment effects arising directly from the Plan and therefore a SEA was unnecessary. Similarly, the proposed policies in the Plan would not create any adverse effects on any identified European sites alone or in combination with other plans or projects and therefore further stages of Appropriate Assessment were not required. Furthermore, the Screening Determination states that the Plan is unlikely to impact significantly on the North West Marine Plan or Welsh Marine Plan. The statutory consultees did not dissent from these conclusions.<sup>7</sup>
- 4.2 I have read the SEA, HRA and Marine Plans Screening Determination and the other information provided and, having considered the matter

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<sup>6</sup> See section 61K of the 1990 Act.

<sup>7</sup> Details in Appendix 7 of the Strategic Environmental Assessment, Habitats Regulations Assessment and Marine Plan Screening Determination for Dunham on the Hill and Hapsford Neighbourhood Plan.

independently, I agree with the conclusions. Therefore, I am satisfied that the DHHNP is compatible with EU obligations as retained in UK law.

## Main Issues

- 4.3 Having considered whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the remaining Basic Conditions, particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance of all the Plan's policies.
- 4.4 As part of that assessment, I consider whether the policies are sufficiently clear and unambiguous, having regard to advice in the PPG. A neighbourhood plan policy 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.<sup>8</sup>
- 4.5 Accordingly, having regard to the Dunham on the Hill and Hapsford Neighbourhood Plan, the consultation responses, other evidence and the site visit, I consider that the main issues in this examination are whether the DHHNP policies (i) have regard to national policy and guidance; (ii) are in general conformity with the adopted strategic planning policies; and (iii) would contribute to the achievement of sustainable development?

## Vision and Objectives

- 4.6 The vision for the DHHNP is based on issues raised by the community during the initial stages of the consultation process. The succinct vision is described on page 6 of the Plan. A series of objectives have then been developed to help to achieve the vision and which form the basis for the ten specific land use based policies.

## Policy DHH 1 - Local Green Spaces

- 4.7 Policy DHH 1 designates six Local Green Spaces (LGS) as listed in the policy and shown on the three Inset Policy Maps, together with photographs in Appendix A. LGS designation should only be used where the green space is:
- a) in reasonably close proximity to the community it serves;
  - b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and

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<sup>8</sup> PPG Reference ID: 41-041-20140306.

c) local in character and is not an extensive tract of land.<sup>9</sup>

The LGS should also be capable of enduring beyond the end of the Plan period.<sup>10</sup>

- 4.8 I questioned DHHPC about whether LGS 1 is demonstrably special to the local community, given its relative inaccessibility. The protection of the outlook from the rear of the small number of adjoining residential properties is not normally in the public interest. However, I accept the close relationship of the LGS to the listed Church and the role the open space would play in any redevelopment of the former Wheatsheaf Public House contribute to its special value. Moreover, the owners of the land have not objected to the designation. Accordingly, together with LGS 2 – 6, I agree that LGS 1 meets the designation criteria and, therefore, the policy has regard to national guidance as referenced above, generally conforms with Policy ENV 2 of the CWaCLP (Part One) and meet the Basic Conditions.

#### Policy DHH 2 - Incidental Open Spaces of Community Value

- 4.9 Policy DHH 2 aims to safeguard five incidental open spaces of community value which are listed in the policy and identified on the Policies Inset Maps, with accompanying photographs in Appendix B. I saw each of the open spaces on my site inspection. The policy has regard to national guidance<sup>11</sup>, generally conforms with Policies SOC 5 and SOC 6 of the CWaCLP (Part One) and meets the Basic Conditions.

#### Policy DHH 3 – Wildlife and Biodiversity

- 4.10 Policy DHH 3 considers wildlife corridors, high distinctiveness habitats and habitats that are dependent on hydrology. The first clause of the policy indicates that development proposals on land which lies within a 15 metre buffer of a designated Wildlife Corridor as shown on Map 1 of the Plan will be resisted. As confirmed by CWaCC, this clause does not generally conform with Policy ENV 4 of the CWaCLP (Part One). Therefore, I shall remedy this deficiency by recommending as a modification the phrasing suggested by CWaCC. **(PM1)** The policy would then have regard to national guidance<sup>12</sup>, would generally conform with Policies ENV 3 and ENV 4 of the CWaCLP (Part One) and would meet the Basic Conditions.

#### Policy DHH 4 – Dunham on the Hill and Hapsford Parish Neighbourhood Plan Design Appraisal and Code

- 4.11 Policy DHH 4 states that development proposals must have regard to the Dunham on the Hill and Hapsford Parish Neighbourhood Plan Design Appraisal and Code (Design Appraisal and Code). In my opinion, the

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<sup>9</sup> NPPF: paragraph 106.

<sup>10</sup> NPPF: paragraph 105.

<sup>11</sup> NPPF: paragraphs 96 and 103.

<sup>12</sup> NPPF: paragraphs 185 b).

compelling nature of the phrase "... must have regard to ..." when read together with the first sentence in paragraph 3 (page 9) of the Design Appraisal and Code which states: "*The Design Code forms a part of proposed Policy DHH 4 of the Neighbourhood Plan and therefore will carry the full weight of the development plan in decision making once the Plan is adopted ('made') by the local planning authority, Cheshire West and Chester Council.*" is contrary to national guidance in the PPG.<sup>13</sup>

- 4.12 Therefore, having canvassed rephrasing both Policy DHH 4 and the offending sentence in the Design Appraisal and Code with DHHPC and CWaCC, I shall recommend modifying the policy to that suggested by CWaCC and shall recommend that the third paragraph of the Introduction to the Design Appraisal and Code should be modified consistent with the phrasing in my letter of 17 April 2025. **(PM2)** The policy would then have regard to national guidance<sup>14</sup>, would generally conform with Policy ENV 6 of the CWaCLP (Part One) and would meet the Basic Conditions.

#### Policy DHH 5 – Hapsford Area of Special Character

- 4.13 Policy DHH 5 aims to safeguard or enhance an Area of Special Character defined at Hapsford and shown on Map 5 of the Plan. The policy has regard to national guidance<sup>15</sup>, generally conforms with ENV 5 of the CWaCLP (Part One) and meets the Basic Conditions.

#### Policy DHH 6 – Local Heritage Assets

- 4.14 Policy DHH 6 seeks to safeguard local non-designated heritage when development proposals are considered. These are identified on the Policies Inset Maps and described with photographs at Appendix C. The policy has regard to national guidance<sup>16</sup>, generally conforms with Policy ENV 5 of the CWaCLP (Part One) and meets the Basic Conditions.

#### Policy DHH 7 – Land at the former Wheatsheaf public house

- 4.15 Policy DHH 7 supports proposals to redevelop previously developed land at the former Wheatsheaf public house as shown on the Policies Map Inset 2, subject to five criteria. The policy has regard to national guidance<sup>17</sup>, generally conforms with Policies STRAT 8, STRAT 9 and SOC 3 of the CWaCLP (Part One) and meets the Basic Conditions.

#### Policy DHH 8 – Protecting community facilities and assets

- 4.16 Policy DHH 8 supports the retention and enhancement of community facilities and assets listed in the policy and described with photographs at

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<sup>13</sup> PPG Reference ID: 26-008-20191001.

<sup>14</sup> NPPF: paragraph 132.

<sup>15</sup> NPPF: paragraph 196.

<sup>16</sup> NPPF: paragraph 209.

<sup>17</sup> NPPF: paragraphs 123 & 124.

Appendix D. The policy has regard to national guidance<sup>18</sup>, generally conforms with Policies STRAT 8 and STRAT 11 of the CWaCLP (Part One) and meets the Basic Conditions.

#### Policy DHH9 – Sustainable drainage systems and flood mitigation

- 4.17 Policy DHH 9 supports proposals for development which would include sustainable drainage systems. The policy has regard to national guidance<sup>19</sup>, generally conforms with Policy ENV 1 of the CWaCLP (Part One) and meets the Basic Conditions.

#### Policy DHH 10 – Renewable energy generation

- 4.18 Policy DHH 10 supports proposals for the development of renewable energy subject to various criteria. The policy has regard to national guidance<sup>20</sup>, generally conforms with Policy ENV 7 of the CWaCLP (Part One) and meets the Basic Conditions.

#### Overview

- 4.19 Therefore, on the evidence before me, with the recommended modifications, I consider that the policies within the DHHNP are in general conformity with the strategic policies of the CWaCLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.
- 4.20 A consequence of the acceptance of the recommended modifications would be that amendments will have to be made to the explanation within the Plan in order to make it logical and suitable for the referendum. Further minor amendments might also include incorporating factual updates, correcting inaccuracies, typographical and punctuation errors, any text improvements suggested by CWaCC in their Regulation 16 consultation response and any other similar minor or consequential changes (such as paragraph numbering or the resolution of the Inset Policy Map 1 on page 28) in agreement with CWaCC. None of these alterations would affect the ability of the Plan to meet the Basic Conditions and could be undertaken as minor, non-material changes.<sup>21</sup>

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<sup>18</sup> NPPF: paragraph 97.

<sup>19</sup> NPPF: paragraphs 157 & 158.

<sup>20</sup> NPPF: paragraphs 157.

<sup>21</sup> PPG Reference ID: 41-106-20190509.

## 5. Conclusions

### Summary

- 5.1 The Dunham on the Hill and Hapsford Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the DHHNP, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify two of the ten policies to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### The Referendum and its Area

- 5.3 I have considered whether the referendum area should be extended beyond the designated area to which the Plan relates. The DHHNP, as modified, has no policy which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be that of the designated Neighbourhood Plan Area.

### Concluding Comments

- 5.4 The DHHPC, the Neighbourhood Plan Working Group and other voluntary contributors are to be commended for producing a succinct Plan. The Plan is logical and informative. The Consultation Statement and the Basic Conditions Statement were concise and very useful. The Plan also benefitted from the constructive comments from CWaCC at the Regulation 14 stage and the helpful responses from the DHHPC and CWaCC to my questions. Subject to the small number of recommended modifications, the DHHNP will make a positive contribution to the Development Plan for the area and should enable the attractive character and appearance of Dunham on the Hill and Hapsford to be maintained whilst enabling sustainable development to proceed.

*Andrew Mead*

Examiner

## Appendix: Modifications

Proposed modification no. (PM)	Page no./ other reference	Modification
PM1	Policy DHH 3	Delete the first clause and substitute: <b>"Development proposals on land which lies within 15 metres of a Wildlife Corridor will be permitted so long as they safeguard or enhance the elements for which the Corridor is defined."</b>
PM2	Policy DHH 4  Dunham and Hapsford Design Appraisal and Code	Delete the policy and substitute: <b>"Development proposals will be supported provided they accord with the Dunham on the Hill and Hapsford Parish Neighbourhood Plan Design Appraisal and Code, where applicable. The Design Appraisal and Code is appended as a separate document to the Neighbourhood Plan."</b>  Delete the first sentence of the third paragraph on page 9 and substitute: <b>"The Design Appraisal and Code supplements Policy DHH 4 of the Neighbourhood Plan and therefore will be a material consideration in decision making once the Plan is adopted ("made") by the local planning authority, Cheshire West and Chester Council."</b>