

# **KELSALL & WILLINGTON NEIGHBOURHOOD DEVELOPMENT PLAN 2016-2030**

## **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 Kelsall and Willington Neighbourhood Plan in October 2016 by Cheshire West and Chester Council with the support of Kelsall 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 Vision, Goals and Objectives for the Neighbourhood Area. These are translated into planning policies dealing with a wide range of issues distinctive to the locality.

4. Significant evidence is provided on most aspects of the Plan and there is good evidence of community support. I have considered all the 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 Kelsall and Willington 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 Kelsall and Willington Neighbourhood Plan. The Plan was submitted to Cheshire West and Chester Council by Kelsall Parish Council as the Qualifying Body.

8. I was appointed as the independent examiner of the Kelsall and Willington Neighbourhood Plan by Cheshire West and Chester Council with the agreement of Kelsall Parish Council in October 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 Kelsall 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, with 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 Kelsall & Willington Neighbourhood Plan and its appendices
- the Basic Conditions statement
- the consultation statement and its appendices
- relevant parts of the development plan for the Neighbourhood Area (comprising the adopted Cheshire West and Chester Local Plan (Part One) 2015, Chester District Local Plan and Vale Royal Borough Local Plan)
- representations made to the submitted neighbourhood plan (hosted on Cheshire West and Chester Council's website)
- Kelsall and Willington Neighbourhood Plan Viability Study (AECOM)
- National Planning Policy Framework
- Planning Practice Guidance
- relevant Ministerial Statements

14. Having considered the documents provided and the representations on the submitted Plan, which included one request for a hearing, 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.

15. I carried out an unaccompanied visit to the Neighbourhood Area on a sunny October day. This allowed me to appreciate its fine setting and the excellent far views. The area has a distinct character that is well reflected in the Neighbourhood Plan.

16. I walked around much of Kelsall using public footpaths and the local road network. I visited each of the proposed areas of Local Green Space. I examined the settlement

boundary and noted how new development has not yet been picked up on the base map. I also examined where the proposed settlement boundary includes areas of Green Belt and noted the development which has taken place on areas shown as Green Belt.

17. I spent a considerable time locating each of the proposed Key View Points, including addressing errors in their mapping or description. These are covered in my proposed amendments. I noted the significance of these viewpoints and also the importance of sympathetic tree and hedgerow maintenance to their future protection alongside planning policy.

18. I walked around all sides of the Central Sites and observed the new housing developed and under construction to the south east. I noted how well screened the Central Sites are by extensive hedgerows. I also walked around the Village Centre boundary and noted its general line.

19. I observed the diverse character of building styles and materials, including some new housing of striking contemporary design. I also observed and reflected on the contribution of the local footpath network and the small areas of open space which the Plan recognises as Sites of Open Space Value. I also noted the significant contribution of trees, hedges and other green infrastructure. In walking around the settlement edge I noted the important and usually clear distinction between the settlement and the surrounding countryside. I experienced limited traffic volumes and observed a high proportion of off street parking.

20. I explored the rest of the Neighbourhood Area by car, including the large "Area of defined Gap between Kelsall and Willington". I appreciated the setting of the Neighbourhood Area in visiting Yeld Lane and when visiting the proposed Local Green Space at The Waste and Boothsdale. With the exception of Willington I noted the undeveloped character of the small sections of the Neighbourhood Area in neighbouring parishes.

21. I was encouraged to see information on noticeboards and elsewhere about the Neighbourhood Plan and its progress as I visited different parts of the Neighbourhood Area.

22. I should like to congratulate all those who have worked so hard over a long period of time to prepare the Neighbourhood Plan and all those who have contributed to its content. I should like to thank the officers at Cheshire West and Chester Council and the representatives of Kelsall Parish Council who have supported this examination process.

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

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

#### Qualifying body

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

25. Unusually, the parish councils with an interest in the Neighbourhood Area have changed since it was agreed with the local planning authority.

26. The original application was made by Kelsall Parish Council with the agreement of Delamere Parish Council which had some of its area included in the Neighbourhood Area.

27. Subsequently Cheshire West and Chester Council conducted a governance review which resulted in changes to the parish boundaries and parish council structures. Willington has become a separate parish council and the Neighbourhood Area now includes land within small areas of Tarvin parish, Ashton Hayes and Horton-cum-Peel parish, Willington parish and Delamere and Oakmere parish.

28. I have seen written confirmation from Ashton Hayes and Horton-cum-Peel, Delamere and Oakmere, Willington and Tarvin that shows each of these parish councils is aware of the neighbourhood plan and supports it being led by Kelsall Parish Council. I recognise that it is possible the Neighbourhood Area boundaries may be reconsidered at some future point.

#### Neighbourhood Area

29. 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.



30. The Kelsall, Upper Kelsall and Willington Corner Neighbourhood Area was designated by Cheshire West and Chester Council on 26<sup>th</sup> November 2013. The Plan includes non-land use related aspirations but these are clearly distinguished from the planning policies which will become part of the development plan as and when the Plan is made.

#### Plan period

31. I am satisfied the period of the neighbourhood plan is clearly stated as being from 2016 – 2030.

32. This is on the cover of the submitted plan and aligns with the period of the adopted Local Plan.

#### Excluded development

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

## **4. Consultation**

34. I reviewed the consultation statement and extensive appendices submitted with the Plan. This provides evidence that the Plan is supported and underpinned by consultation with the local community, landowners and other interests.

35. The consultation statement describes a systematic and well considered approach to community engagement over four years and provides evidence of good levels of participation and informed feedback. It confirms how Kelsall Parish Council has amended the emerging Plan in response to feedback. It also confirms how it has explored public views on specific issues and made informed choices in drawing up the Plan.

36. I find the document well-presented and the approach convincing. The public consultation deployed a range of techniques and provided many different opportunities for feedback. It included a special effort to engage local businesses. It also addressed different options for the location of future development.

37. Over 100 responses were received to the consultation draft Plan between November 2014 and January 2015 in addition to feedback from statutory consultees. The subsequent amendments made to the Plan as a result of these responses are clearly presented.

38. It is notable how few responses were received to the submitted Plan other than by those with a statutory, landowning or development interest. The few comments from local residents are supportive.

39. 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 period of time to engage and involve people in the future of the neighbourhood.

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

### Vision, Goals and Objectives

40. I have reviewed the Vision, seven Goals and 24 Objectives. These are clearly related to the feedback received through consultation and the evidence base. The Plan also well describes the link between each Policy and its relevant Objective(s). Progress on a number of Objectives will also be achieved through other means than planning policy, such as community projects.

41. In this section my recommended modifications are bulleted.

### Other issues

42. 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.

43. The submission draft Plan includes some content which is not relevant if it is successful at referendum and made. Examples include references to the basic condition statement in 1.3, use of the future tense in 1.6, and the whole of section 1.7.

- Edit the Plan, including to update the wording in the areas identified, so it reads as if it had been made and was being used to inform decisions on planning applications

44. It is not the Examiner's role to edit the Plan. However, some restructuring, renumbering, retitling and changes to the maps, tables and supporting text will be necessary to address the recommended modifications. In some cases larger scale maps would be helpful. My recommendations only address the most significant of the changes which will need to be made. It will be important not to add significant new text in making these changes.

- Make consequential changes to the Plan in response to the recommended modifications without adding significant new text

45. The Plan is generally clearly structured with a detailed contents list although only its sections are numbered which will make referencing the made Plan difficult.

- Provide numbers for each paragraph in the Plan

46. I note the intention to review the Plan every five years and the tasks and responsibilities identified to achieve this. This is a helpful, albeit challenging approach. The Plan also notes the relationship of the Plan to neighbouring parishes and the implications for the development of their own neighbourhood plans. It is important that all affected parishes are addressed.

- Amend paragraph 11.3 to refer to all other parish councils included in the Neighbourhood Area

## 6. Compliance with the Basic Conditions

### National planning policy

47. 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 policies to the National Planning Policy Framework.

48. The Basic Conditions statement addresses the content and not the drafting of the Plan’s policies. 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.

49. 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.

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

### Sustainable development

51. 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.

52. 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

53. The Plan must be “*in general conformity with the strategic policies of the development plan*”. Cheshire West and Chester Council informed me it considered the following policies as being both strategic and relevant to the Plan. No different view was expressed by Kelsall Parish Council or in other representations:

All relevant policies in the Cheshire West and Chester Local Plan (Part One)

Chester District Local Plan

HO4 – Infill housing development

HO5 – Criteria for assessing proposals for residential sites not allocated in the Local Plan

HO7 – Housing in the open countryside

SR5 – Guidelines for formal and informal sport and recreation provision in new housing development

Vale Royal Local Plan

GS5 – The Open Countryside

NE11 – Areas of Special County Value (also policy ENV25 in the Chester District Local Plan but the designation within the Neighbourhood Area falls within the former Vale Royal area)

54. In addition, I would identify the Green Belt boundary as a strategic development plan policy.

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

#### Strategic Environmental Assessment

56. 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.

57. To address these requirements a screening opinion was prepared by Cheshire West and Chester Council for both the public consultation (in May 2015) and submission versions (in June 2016) of the Plan. I am satisfied the screening opinion has been undertaken in an appropriate way. The June 2016 screening opinion concludes:

*“This SEA and HRA screening determination is based on the findings of the initial screening assessment. It also takes account of amendments to the Draft Neighbourhood Plan policies since that original screening was undertaken. Although many changes have been made to the plan, those changes are not considered to be significant in relation to the SEA screening and do not alter the conclusion that it is unlikely there will be any significant environmental effects arising from the Kelsall Neighbourhood Plan. The conclusion remains that a Strategic Environmental Assessment is not required. Likewise, the Kelsall Neighbourhood Plan is unlikely to have an adverse effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010), alone or in combination with other plans and projects.”*

58. Natural England concurred with the May 2015 screening opinion and the Environment Agency offered no opinion. Historic England concurred with the June 2016 screening opinion, Natural England noted it and the Environment Agency offered no opinion.

59. 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.

#### Other European obligations

60. The Plan must be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations. I am satisfied that the Neighbourhood 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 to contradict my conclusion 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

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

### Development Locations

62. **Policy L1** – This defines the settlement boundary for Kelsall and supports development within it. It makes an exception for development required to increase school capacity.

63. The level of housing completions and consented housing development already evident in the Neighbourhood Area means that it is likely to comfortably meet the expectation in Local Plan Policy STRAT 8 to accommodate "*at least 200 dwellings*". I am very satisfied this can be met within the settlement boundary proposed. I do not agree with representations that there is a strategic conflict with Local Plan Policy STRAT 8.

64. Map 2 indicates that the proposed settlement boundary includes some areas of Green Belt, along part of Hollands Lane and a small area around Chester Road, close to the Conservation Area. I observed on my visit that some of this Green Belt land has been or is about to be developed. Nevertheless, Green Belt is a strategic policy of national importance and Cheshire West and Chester Council has recently undertaken a boundary review and decided to make no changes in the Neighbourhood Area. This is despite representations for amendments from Kelsall Parish Council.



65. I have considered whether the inclusion of Green Belt land within the settlement boundary is in breach of the Basic Conditions because it does not have regard to national planning policy. The National Planning Policy Framework (paragraph 89) states that “*limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land)*” can be an exception to the otherwise inappropriate nature of development on land designated as Green Belt. Local Plan Policy STRAT 9 relies on the National Planning Policy Framework. The areas in question are largely already developed with houses and gardens or have buildings under construction. After due consideration I am satisfied, therefore, that there is no conflict with national planning policy.

66. I note the discrepancy between the proposed settlement boundary in the Neighbourhood Plan and the emerging Local Plan (Part Two) and also views in some representations that having a settlement boundary is inappropriate. It is in order for the Neighbourhood Plan to progress ahead of the Local Plan and set out the community’s views on the best location for the settlement boundary.

67. I have considered representations to amend the settlement boundary at Green Lane Farm and note these have not been put forward during the preparation of the Plan and so lack evidence of local support. I make no recommendation for change. I have also considered the representations relating to land north of Chester Road which is in the Green Belt. I am aware of the support expressed by the Parish Council for release of this site. Cheshire West and Chester Council has decided not to make any amendment to Green Belt boundaries in the Neighbourhood Area when preparing its Local Plan. This is a strategic matter than cannot be addressed by the Neighbourhood Plan.

68. Policy L1 proposes an exception to the settlement boundary for development necessary to increase school capacity. The implication is that development plan policies for the protection of Green Belt and/or countryside outside the settlement boundary will be set aside for schools-related development. This would be a significant departure from the existing development plan and potentially also from national planning policy for the Green Belt. The policy provides no certainty as to the location or scale of the development which may be required and could be applied to any part of the Neighbourhood Area, not just that

immediately adjacent to Kelsall. I consider this to be in conflict with the Basic Conditions in relation to both national planning policy and strategic development plan policies.

- **Delete last sentence of Policy L1**

69. **Policy L2** – Policy L2 seeks to maintain a gap between Kelsall and Willington. This is supported by Map 3 which includes a proposed area to be protected. The mapped area is not referred to in the Policy. It is difficult to be clear about the area’s precise boundary because on the map it is obscured by other information showing woodland and other planning designations. The size of the area proposed is significant but I do not concur with the view expressed in representations that this is a “*blanket*” policy restricting housing development. There is evidence of strong support through the public consultation but limited other evidence is provided of the need for the policy. Cheshire West and Chester Council has undertaken work on settlement gaps as part of the preparation of its Local Plan (Part Two), notably the *Local Landscape Designation Review Advisory Position Paper* (February 2016). This provides important evidence of the need for the gap and also for the functions provided by the open land.

70. I consider there to be merit in the Policy but it proposes too extensive an area of land on the basis of the limited evidence base provided. The Policy is also poorly presented.

71. In order to meet the Basic Conditions I recommend:

- **Referencing the area defined in Map 3 in the wording of the Policy – “No planning application *in the defined gap shown in Map 3* will be supported where it would contribute to the merging of the villages of Kelsall and Willington**
- Amend Map 3 to:
  - Remove the area included in the defined gap on either side of Common Lane located west of the Area of Special Countryside Value
  - Improve the clarity of the map and increase its scale
  - Amend the title to read “Defined gap between Kelsall and Willington”

- Add to the supporting text – “The land in the defined gap performs a number of functions to be protected, including those identified in the *Local Landscape Designation Review Advisory Position Paper* published by Cheshire West and Chester Council in February 2016.” It would be helpful to summarise them.

72. **Policy L3** – This seeks to focus development within 400m of the village centre on a defined list of community facilities. It is supported by Map 2 which includes an area defined as the “village centre”. The mapped area is not referenced in the Policy, the Policy is poorly justified (although the rationale is evident from my visit) and there is potential for confusion as to where the 400m distance is measured from. The Policy applies to the large bulk of the area within the proposed settlement boundary as only the north east area of the village is more than 400m from the village centre as defined. No evidence is provided as to why 400m has been selected although it is considered to be “*easy walking distance*”. The Policy is consistent with the need to provide for development in accessible locations. It is negatively worded and introduces significant restrictions across the bulk of the settlement area and as a result of supporting only an exclusive list of uses.

73. The Policy includes a section “Note on Green Belt sites” in the supporting text. The relevance of this text, which largely describes the Parish Council’s view about the release of an area of Green Belt that was rejected during a recent review by Cheshire West and Chester Council, is unclear. It also includes errors in relation to Green Belt policy, including that inappropriate development can be permitted in “exceptional” rather than “very special” circumstances. The section ends with a statement on exceptions schemes in the Green Belt that might be misconstrued as a Policy.

74. In order to meet the Basic Conditions I recommend:

- **Policy L3 is amended as follows: “Planning applications for development of sites within *easy walking distance* of the boundary of the village centre *shown in Map 2* for the following uses will be supported:**
  - ***education***
  - **recreation and leisure**

- **retail**
  - **healthcare**
  - **housing for the elderly**
  - ***other community facilities and services***
- Delete the “Note on Green Belt sites” on page 17 & 18 (including the sections headed “Reasoning” and “NDP position on exception schemes in the Green Belt”)
  - Include reference to “400m” being an “easy walking distance” in the supporting text

75. **Policy L4** – This focuses business and retail development on to brownfield sites. It is consistent with national and development plan policy. One change is recommended for consistency with other policy wording.

- **Replace “permitted” with “supported” in Policy L4**

#### Growth policies

76. **Policies G1 and G2** – These policies introduce detailed thresholds for housing density in the area to ensure new development is of a scale that respects its character and allows some flexibility for sheltered and affordable housing. The Policy is based on a detailed assessment of actual gross densities for different parts of the built-up area of the village, excluding development granted after 27<sup>th</sup> March 2012. I have considered whether this is an example of a policy to “*set out their own approach to housing density to reflect local circumstances*” (NPPF paragraph 47) or “*unnecessary prescription or detail*” (NPPF paragraph 59) and also representations to this effect. I have also considered the 9<sup>th</sup> June 2010 Ministerial Statement supporting “*flexibility to set density ranges that suit local needs*” which is now taken forward in the National Planning Policy Framework. I conclude that the principle of the approach set out in Policy G1 is acceptable as a local response to a widely recognised issue in the Neighbourhood Area.

77. I have then considered whether the evidence provided for the Policy is well grounded. I note improvements to the Policy and evidence which have been made since the

public consultation version of the Plan and also the lack of large sites in the village. I have sympathy for the view expressed in some representations that recent housing development should not have been excluded from the calculations and note that Policy G2 seeks to allow exceptions for some types of housing development. No justification is given for a more flexible approach to sheltered and affordable housing. I do not accept that less attention should be given to the impact of affordable housing. I recognise that sheltered accommodation may require additional development to provide for necessary care arrangements but this is not explained in the supporting text and I do not consider it appropriate to distinguish between net and gross density in making any exceptions.

78. To address these issues I recommend a more flexible approach and the merging of Policies G1 and G2.

- **Reword Policy G1 as follows “The net housing density, gross density and *percentage* developable area of any new development *should* not exceed the figures shown in Table 1. Exceptions may be made for sheltered housing to accommodate necessary care arrangements.”**
- **Delete Policy G2**
- Add to the supporting text “An exception to Policy G1 for sheltered housing is appropriate because of the possible need to provide for extra care arrangements, such as in a small block of units.”

79. **Policy G3** – This Policy seeks to ensure the pace of development in the area aligns with the provision of education and health services. There is clear evidence of capacity issues and the policy approach has strong public support. The lack of capacity in education and health services is also recognised in supporting statements from the primary school’s trustees and from Kelsall Surgery. Kelsall Surgery has also made its own representations.

80. I share the view made in some representations that policy cannot require applicants to go beyond what can be reasonably required through planning obligations (or the

community infrastructure levy) to help address any extra demand on community services. I am also concerned that the wording of the Policy is restrictive and embraces all types of applicant.

- **Reword Policy G3 as follows: “Applications for development which will have a significant impact on the demand for education, health facilities and/or services will be supported where applicants can demonstrate that there is existing capacity or show how they will work with education, health and/or other service providers to ensure provision of the extra capacity required.”**
- Delete the reference to development of school facilities as an exception to Policy L1 on page 26

81. **Policies G4 and G5** – These allocate the last significant greenfield site in the centre of the village for retirement/sheltered housing and mixed use development and require any development to improve pedestrian and cycle access. The justification for the Policy is comprehensively explained in the Consultation Statement and the supporting text and the Policy seeks to address a significant issue for the local community.

82. I share the view expressed in some representations that this is a single site with development of one part dependent on access through the other. I recommend that this should also be reflected in the relevant density calculations in relation to (modified) Policy G1.

83. I am satisfied this is an appropriate site for such development providing care is taken to safeguard recognised wildlife interests, respect local character and secure appropriate access. The Policy intentions for ensuring this last remaining significant site makes a major contribution to the Plan’s objectives by providing for both a mix of development and enhancements to open space that connects with Kelsall Green are well judged and very strongly supported. The options for what should be provided on the site have been a particular focus of the public consultation.

84. My consideration has been whether the restriction to retirement/sheltered housing is realistic and appropriate and specifically whether the Policy is appropriately worded to meet the expressed intention for healthcare facilities, retirement housing, vehicular access only from Chester Road and improved non-vehicular access. I recommend changes to the wording including to combine the two sites and to secure a significant area of publicly accessible green space without being unduly prescriptive.

85. I have reviewed all the relevant representations, including those from representatives of a developer with an interest in the site and a recent planning application. These representations confirm reaching “*a position where a development proposal for residential / surgery / green space is realistic, achievable, deliverable and viable*” (Cassidy & Ashton representations, paragraph 3.10). The main issues in question, therefore, are whether the retirement/sheltered housing restriction is both deliverable and consistent with national planning policy and development plan policy.

86. I am content with the intention to restrict development to retirement/sheltered housing. It will help ensure an appropriate mix of housing types to meet the needs of all sections of the community and appropriate provision for other types of housing, including open market housing, has already been made. The approach makes good use of this last remaining significant development site within the settlement boundary. This is consistent with national planning policy and development plan policy and is an example of the kind of issue well suited to neighbourhood planning. I note that Cheshire West and Chester Council considers Policies G4 and G5 to comply with Local Plan policy.

87. I have reviewed the different sources of evidence of the need for retirement/sheltered housing and the viability of the site for its development. First, the evidence base for the Plan indicates nearly 25% of the population is 65 or older and that the locally generated need for housing for the elderly exceeds that for affordable housing. Second, the two page “marketing commentary” provided in Annex 2 of Cassidy & Ashton’s representations concludes on the basis of individual approaches that leading housebuilders “*were not willing to proceed with the development of tenure restricted accommodation for the over 55’s as they believe there was simply too much risk in restricting the potential*

*market in this way.” It also concludes feedback from leading developers specialising in the provision of retirement housing was “negative in tone” due to a lack of facilities and the small size of the market. By contrast, the Neighbourhood Development Plan team’s representations cite evidence from four developers interested in taking forward the aspects of the envisaged scheme. Some are interested in the whole scheme. This is supported by an individual representation from an unnamed “charity and Registered Provider that owns and operates houses for older people across the UK”. The final source of evidence is provided by a significant report on the viability of the development envisaged by Policies G4 and G5 prepared for Kelsall Parish Council by AECOM. Using an established approach to determining viability it concludes a 42 unit retirement scheme generates land values 17 times existing use value and is of “marginal” viability. AECOM’s assessment assumes development at higher density and with less green space than provided for in other proposed Plan policies. The report further states that the “viability of the scheme tested could be improved with the provision of traditional market units acting as enabling development, increased density and/or more flexible affordable housing requirements agreed with CWAC (i.e. lower than 30%, a predominantly shared ownership product and/or an off-site commuted sum) where it would help to bring forward retirement properties to help meet local needs for older peoples housing. With such amendments it is our view that the scheme can be adjudged to be viable in the plan making context.” I consider the evidence provided in the AECOM report to be the most robust available, recognising as it does the mutability of development viability according to the planning policy context.*

88. On the basis of all the information available to me I conclude that planning policies to secure a mixed development of the site, including health facilities and retirement/sheltered housing is both appropriate and deliverable. It will require a flexible approach, including to both the density of new housing development and the provision of open space. I observe that the development mix in the current planning application has changed over a relatively short period of time indicating flexibility in the approach is possible. With a clear Policy providing the necessary certainty for developers it is entirely feasible for a mixed development of the kind envisaged in Policy G4 will come forward during the Plan period.



- **Reword Policy G4 to read “Planning applications shall be supported for the development of the Central Site shown in Figure 1 which provide for:**
  - *development of retirement and/or sheltered housing;*
  - *mixed use development for community, retail, employment, live/work and/or healthcare uses;*
  - *a significant area of publicly accessible green space, including to recognise the existence of protected species on the site;*
  - *vehicular access only from Chester Road; and*
  - *improved pedestrian and cycle access to Flat Lane, Chester Road, Kelsall Green and the adjacent public right of way.”*
- Rename Policy as “Allocation of Central Site”
- **Delete Policy G5**
- Amend Figure 1 to show a single site and increase the scale so as the site boundary can be clearly identified
- Make consequential changes to the supporting text

#### Housing policies

89. **Policies H1 – H6, H10** – This suite of policies seeks to secure a mix of different housing sizes and types to meet a range of needs within the Neighbourhood Area. The overall approach to these housing policies is consistent with national planning policy and Cheshire West and Chester Council considers them to conform to Local Plan policy SOC3. I share the view expressed by Cheshire West and Chester Council that the policies would benefit from being combined to provide a more simplified approach. This would also meet the need expressed in the National Planning Policy Framework for concise, precise and clear drafting.

90. Policy H3 requiring a proportion of new dwellings to be to Lifetime Home Standards 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. Cheshire West and Chester Council has made some helpful representations on how this might be addressed. I consider the proposed requirement to provide bungalows on larger developments to be an inflexible, blunt and ineffective way of meeting the expressed need for housing for an elderly population. It is appropriate to support bungalows to be provided as a part of the development of larger sites but not to require them.

91. I have considered the evidence base for this suite of policies and conclude there is evidence of the need for the range of housing types sought from within the local area, especially as a result of the ageing population.

92. I consider it necessary to include a minimum threshold size of development for some of the policy requirements so they are not unduly onerous.

- **Reword Policy H1 to read “*Planning applications for housing developments for five or more dwellings shall be supported which:*”**
  - *provide a range of property sizes suitable to meet local housing needs;*
  - *provide open market houses across the full range of dwelling sizes on developments comprising a mix of open market and affordable housing;*
  - *include dwellings constructed to part M4 Category 2 of the Building Regulations (2010) standards (Accessible and Adaptable dwellings) and Category 3 (wheelchair user dwellings) (or their successors) (including in the affordable housing provided where appropriate); and*
  - *meet the local needs for sheltered, supported and/or extra care housing (including in the affordable housing provided where appropriate).*
- **Reword Policy H2 to read “*Planning applications for housing developments for 10 or more dwellings shall be supported which provide at least two bungalows.*”**
- **Delete Policies H3, H4, H5, H6 and H10**

93. **Policy H7** – This encourages self-build housing and meets the Basic Conditions. There is evidence of need in the Neighbourhood Area and nearby. A redraft is recommended for consistency with the rest of the Plan:

- **Reword Policy H7 to read “Planning applications for the development of plots available exclusively to people wishing to build their own homes *shall be supported.*”**

94. **Policy H8** – This requires all developments of 10 or more market homes to include one or more plots for self-build. The Policy places a significant new requirement on new housing development. There is no evidence presented that the demand for self-build is proportionate and Policy H7 supports self-build developments. I consider Policy 8 to be in breach of the Basic Conditions. It is poorly evidenced, unduly onerous and does not pay sufficient regard to national planning policy requirements for policy flexibility.

- **Delete Policy H8**

95. **Policy H9** – This requires affordable housing to be made available to people with a local connection. It draws on the requirement of Local Plan Policy SOC1 for up to 30% of new housing to be affordable. It seeks to (a) extend Cheshire West and Chester’s policy for affordable housing for social rent to non-rented affordable dwellings, and (b) to introduce a 12 rather than 4 week timescale when offering such dwellings first to people living in Kelsall or Willington parishes. Reference is made to Cheshire West and Chester’s policy but this is not provided. I have reviewed the [West Cheshire Homes allocation policy](#) to understand the approach taken by the local authority for affordable housing for social rent and the definition of local connection. The Plan provides limited evidence justifying any departure from Cheshire West and Chester’s policy or to distinguish between social rented and other types of affordable housing. There is also no definition of “local connection”. This lack of information and evidence is confusing and unhelpful and, in the absence of substantial evidence, I agree with the representations from Cheshire West and Chester Council that a 12 week period for non-rented affordable housing offered locally is “*excessive*”.

96. Cheshire West and Chester Council defines “local connection” (para 2.9) as having:
- lived within the area for at least 6 out of the last 12 months or 3 out of the last 5 years immediate family (mother, father, brother, sister, son, daughter) who are currently living in the area and have done so for at least the last 5 years
  - a permanent contract of employment in the area
  - other significant reasons why they need to live in the area (e.g. to give or receive support from a family member who does not fulfil the above criteria)
97. Those serving in the Armed Forces, ex-spouses and civil partners do not need to demonstrate a local connection.
98. In addition, priority is given to those in rural areas (including the Neighbourhood Area) where (para 3.19):
- the prospective occupant or a member of his/her household currently resides, and has been residing continuously for the past 2 years, in the electoral ward where the property has become available; or
  - the prospective occupant has permanent full-time or part-time work in the ward
  - the prospective occupant has a close family member living in the ward (i.e. mother, father, brother, sister, son, daughter) who has resided there continuously for at least 5 years.
99. A less definitive approach is taken to other tenures of affordable housing such as shared ownership or discount for sale properties where the requirement will be agreed in an affordable housing statement required through planning conditions and for shared ownership schemes eligibility will be assessed by the registered provider.
100. Additional restrictions apply on rural exception sites which are being incorporated into the consultation draft Local Plan (Part Two) Policy DM13 which states:

“Unless defined differently in a Neighbourhood Plan, local connection means people or households who:

- currently live in the parish and have been living there continuously for at least five years; or
- have permanent employment in the parish; or
- have close family members (defined as children, parents, siblings only) who have been residing in the parish continuously for at least five years; or
- people who have previously lived in the parish for a continuous period of at least 10 years.”

101. The Plan does not address the issue of rural exception sites in relation to these criteria. The only reference is a comment in the supporting text that no exception sites should come forward in the Green Belt as the need for affordable housing in the area is being met elsewhere. This is in conflict with national planning policy and not presented as a policy and should be deleted.

102. The time periods used by Cheshire West and Chester Council are:

- 4 weeks – resident/strong local connection / in ward
- 2 weeks – in neighbouring wards
- 2 weeks - anywhere in Cheshire West and Chester Council area
- 2 weeks – anyone deemed to be in housing need by Cheshire West and Chester Council

103. This differs for rural exception sites with the following timescales for the first disposal/let:

- 10 weeks – resident/strong local connection/parish
- 2 weeks - neighbouring parishes
- 2 weeks – ward
- 2 weeks - Cheshire West and Chester area

104. Resales/lets use the same cascade as other affordable housing.

105. No evidence is provided to justify moving away from the approach established by the local authority or to distinguish between social rented and other types of affordable housing.

- **Reword Policy H9 to read: “Affordable housing provided in accordance with Local Plan policy SOC1 or SOC2 shall be made available to people who satisfy the relevant local connection criteria for the relevant timescales and in the locations set out in Table?.”**
- Agree with Cheshire West and Chester Council a description of the local connection criteria for different categories of affordable housing and the relevant timescales offered in different locations (as summarised above) and set this out in Table? in the supporting text. Provide relevant references to Cheshire West and Chester Council documents.
- Delete the sub heading and the last paragraph in the “Note on Exception Sites in the Green Belt” in the supporting text

#### Design policies

106. **Policy D1** – This requires new housing development to meet Building for Life 12 criteria. While good design is an integral part of both national planning policy and existing development plan policy it is unduly onerous to require all housing development to be assessed by a non-mandatory framework. Instead the Plan could make direct reference to the Building for Life 12 criteria.

- **Reword Policy D1 to read: “New housing development should respect local character and be of high quality design. To achieve this proposals should, where appropriate, demonstrate how the following factors have been taken into account:**
  - **connections;**
  - **facilities and services;**
  - **public transport;**

- *meeting local housing requirements;*
- *character;*
- *working with the site and its context;*
- *creating well defined streets and spaces;*
- *easy to find your way around;*
- *streets for all;*
- *car parking;*
- *public and private spaces; and*
- *external storage and amenity space”*
- Make reference to Building for Life 12 (2015) in the supporting text

107. **Policy D2** – This limits the height of new buildings to two storeys unless responding to the topography or context. I have considered whether this is unduly restrictive and judge there to be sufficient flexibility in the policy given the character of building in the area with one recommended change.

- **Replace “shall” with “should” in Policy D2**

108. **Policy D3** – This seeks variety in the character of different areas within larger developments. The intention of the policy is clear and it is sufficiently flexible with one recommended change.

- **Replace “shall” with “should” in Policy D3**

109. **Policy D4** – This recognises the distinctive contribution of sandstone in the building materials. The Policy addresses a valued characteristic of the area and is sufficiently flexible with one recommended change.

- **Replace “shall” with “should” in Policy D4**

110. **Policies D5 and D6** – These seek boundaries to new and existing development which are sympathetic to the character of the area. The intention is clear, justified and strongly supported by the local community and I consider the Policies to meet the Basic Conditions. Small changes to Policy D6 are recommended to aid clarity.

- **Reword Policy D6 to read “Boundary treatments *in new and existing development* should reflect the open rural character of the *Neighbourhood Area* by retaining its visual permeability.”**

111. **Policy D7** – This seeks linkages between new development and existing open spaces and rights of way. The policy intention is clear although there is no justification provided in the supporting text (although the rationale was clear on my visit). The effect of the Policy is to support provision of green corridors and links for the benefit of wildlife as well as public access. The Policy meets the Basic Conditions.

- **Make no change to Policy D7**
- Provide written justification for Policy D7 in the supporting text which recognises the benefits provided.

112. **Policy D8** – This places restrictions on the location of parking spaces and resists the provision of parking courts. The Policy is prescriptive and negatively worded despite the justification for this Policy acknowledging there is no single solution to providing for car parking. The need for car parking arrangements to respect local character and be well designed is already addressed in Policy D1. If a separate Policy is considered necessary then it needs to justify the basis on which certain parking arrangements might not be permitted.

- **Reword Policy D8 to read “*Parking arrangements in new development should respect local character and be of high quality design. Parking courts which do not respect the rural character of the Neighbourhood Area should be avoided.*”**



113. **Policy D9** – This addresses the need to reduce surface water run-off in new development. The Policy is consistent with national planning policy and development plan policy and sufficiently flexible. It meets the Basic Conditions.

- **Make no change to Policy D9**

#### Environment policies

114. **Policies E1, E2 and E3** – These address the need to recognise and protect important views within the Neighbourhood Area, including by identifying 15 “Key View Points” where unobstructed lines of sight are to be maintained. The Policies address detailed matters which might otherwise not be recognised in development plan policy. They are a good example of the benefits of neighbourhood planning, informed by the local community. The value of the diversity of views across the Neighbourhood Area is apparent and its location beneath the sandstone ridge is one of the area’s defining characteristics. There is strong public support and evidence of need in the Kelsall Parish Landscape and Design Statement.

115. Policies E1 and E3 are appropriate and meet the Basic Conditions. Some small changes are recommended for the benefit of clarity.

116. Policy E2 is ambitious in identifying 15 “Key View Points”. These are located on a Map and defined in terms of whether the views are “wide” or “narrow”. Each point is supported by a photograph and short description in Appendix 6.

117. I have visited each of the proposed Key View Points. I have considered whether the Policy provides the clarity to decision makers expected in national planning policy. The supporting photographs do not always include the whole of the relevant part of the view and the supporting descriptions vary in quality. It is clear that determining both the relevant part of the view and what is significant within it requires judgment to be exercised. I have also considered whether there is sufficient distinction between the narrow and wide views and whether the term “obscure” correctly describes the policy intent.

118. Subject to some important changes and the correction of errors I have concluded that Policy E2 adequately addresses an important matter for the Neighbourhood Area.

119. I have identified the following errors in the location of the Key View Points (KVP) in Map 4:

- *KVP1* - Wrongly located. Should be junction of Kelsborrow Way and Orchard Way. Orientation is WSW not SW
- *KVP2* - Wrongly located. The view from the public footpath junction with Quarry Lane is unremarkable and includes a number of obstructions. The location of the photograph is at a junction to south with private access opposite The Court House on Quarry Lane. This view is similar to that evident in a number of locations further north along Quarry Lane and lacks the distinction of other proposed Key View Points. It is recommended to delete it from the proposed list.
- *KVP3* – Orientation is ESE not NNE
- *KVP4* – Wrongly located. This site offers a limited view largely obstructed by a hedgerow. The actual location is at a bend in public footpath network to north west.
- *KVP5* – Wrongly located. Should be moved east to where "5" is currently printed on Map 4.
- *KVP6* – Wrongly located. Should be moved east to where "6" is printed on Map 4.
- *KVP8* – This is a single wide vista sweeping from SW to SE.

120. I also noted how Key View Point 9 is being negatively impacted by new housing development under construction.

- **Replace “Plan Area” with “*Neighbourhood Area*” in Policy E1**

- **Reword Policy E2 to read: “Proposed new buildings or extensions *should* not *damage* the views *described* for the Key View Points *identified* in Map 4 and existing visual connections with unobstructed lines of sight shall be maintained.”**
- Make the changes to Map 4 identified above, including deleting Key View Point 2 and renumbering the remaining Key View Points
- Locate the information provided in Appendix 6 in the supporting text to Policy E2
- **Reword Policy E3 to read: “*Planning applications shall be supported which provide or retain views along streets and open spaces to the surrounding countryside from within new developments.*”**

121. **Policy E4** – This identifies eight areas for designation as Local Green Space. These are identified with brief comments in a Schedule and on a Map. Photographs of each proposed Local Green Space are included in Appendix 8. This information only just provides sufficient evidence to support the designations.

122. 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.

123. It notes that designation will not be suitable for most green spaces. Once designated Local Green Space has protection equivalent to Green Belt.

124. I visited each of the proposed Local Green Spaces and have considered them against these requirements.

1. *Kelsall Green*. This meets the requirements and is demonstrably special at the heart of the village and hosting an annual festival.
2. *Chapel Green and the War Memorial*. This meets the requirements and is a place of relative tranquillity and historic significance.
3. *The Allotments*. This meets the requirements and is clearly well used and has a waiting list.
4. *The Football Pitch*. This is isolated from the settlement area and in an area of designated Green Belt. As well as being relatively isolated, there is a lack of evidence that it is either demonstrably special or holds particular local significance. Its Green Belt designation means that recognition as Local Green Space affords no extra protection. It is recommended to delete this area from the sites to be designated as Local Green Space.
5. *Willington Green*. This meets the requirements and is one of very few areas of communal green space in Willington, serving an important local function.
6. *The Waste*. This is well connected to the Neighbourhood Area via the footpath network and meets the requirements as an area of local beauty with wildlife interest.
7. *Boothsdale*. This striking area meets the requirements and is both distinctive and beautiful and also of wildlife interest.
8. *Land off Pasture Close*. The Plan notes that this area of green space alongside Salters Brook and informally accessible from Pasture Close lacks any management. This is immediately evident on visiting the site which is overgrown and in large part impenetrable due to bramble cover. The site appears neglected and there is limited contrary evidence to indicate it is demonstrably special or of particular significance. The Plan itself notes that the sites value lies more in its future potential. Once this potential is realised the site may qualify for recognition as a Local Green Space at some future point but it is recommended the site is deleted from the sites to be designated in the Plan.

- **Reword Policy E4 to read “The *six sites shown in Table 3 and on Map 5* are designated as Local Green Space.”**
- Identify the Schedule as Table 3 and delete areas 4 and 8
- Modify Map 5 to delete areas 4 and 8 and to increase the scale so the boundaries of each Local Green Space is clear
- Modify Appendix 8 to delete areas 4 and 8

125. **Policy E5** – this seeks to ensure development affecting local open space or footpaths is not realised at the expense of the community. It references 28 footpaths (listed and identified by Grid References in Appendix 8) and defines 20 sites of “Open Space Value”, although only 18 are listed (with photographs) in Appendix 8. It is assumed the two additional sites are those on either side of two road junctions.

126. The Policy states that planning applications “*must apply the mitigation hierarchy*” and that they “*can only be permitted if the community gains equivalent or improved benefit*”. No explanation of the “mitigation hierarchy” is provided in the supporting text, nor is there any information about the method for assessing “equivalent or improved benefit”. The wording is emphatic in applying the Policy to all applications in all circumstances. It is difficult to locate the sites of “Open Space Value” as there is no map provided. The Plan gives the impression of creating a new planning designation for these 20 sites.

127. I recognise the value to the local community of the network of footpaths and the contribution of the sites of “Open Space Value” to the village feel within the settlement. Nevertheless, I find Policy E5 opaque, restrictive and poorly justified. It does not meet the Basic Conditions. I recommend an alternative approach which recognises the importance of local open space and footpaths.

- **Replace Policy E5 with the following: “*Planning applications shall be supported which do not adversely affect local footpaths or the areas of open space within the settlement boundary that contribute to the Neighbourhood Area’s rural character.*”**

- Locate the information provided in Appendix 8 on local footpaths and areas of open space in the supporting text to Policy E5. Rename “sites of Open Space Value” as *“areas of open space”*.

128. **Policies E6 to E12** – these address biodiversity within the Neighbourhood Area. They comprise a mix of policies to protect recognised sites, designate wildlife corridors, introduce requirements for information to be provided with planning applications and establish expectations from development. There is considerable evidence provided of the wildlife value of the Neighbourhood Area, including a report from Cheshire Wildlife Trust. The Policies are consistent with national planning policy and development plan policy while introducing some additional requirements, and meet the Basic Conditions. A number of recommendations are made to add necessary clarity and flexibility to the policies.

129. Policy E10 introduces a “mitigation hierarchy” – described in the Policy as *“avoid, mitigate, compensate and enhance”* – to *“be followed at all times”*. This is an established approach to limiting negative impacts from development on biodiversity and is addressed in the National Planning Policy Framework (paragraph 118) and Planning Practice Guidance but the Policy lacks context and explanation and no references or other information is provided in the supporting text. Local Plan Policy ENV4 also provides an equivalent approach. Policy E10 does not add to the planning policies for the Neighbourhood Area and it is recommended it is deleted.

- **No change to Policy E6**
- **Reword Policy E7 to read “Development should not adversely affect the wildlife corridors *identified in Map 6.*”**
- **Replace “must” with “*should*” in Policy E8**
- **Add “*where appropriate*” at the end of Policy E9**
- **Delete Policy E10**
- **Add “*where appropriate*” at end of Policy E11**
- **No change to Policy E12**

- Improve the legibility of Map 6 and provide it at a larger scale to provide clarity over the boundary of the wildlife corridors

130. **Policies E13 to E15** – these policies address the important contribution of trees to the Neighbourhood Area. They are consistent with national planning policy and development plan policy while introducing some additional requirements, and meet the Basic Conditions. A number of recommendations are made to add necessary clarity and flexibility to the policies.

131. Policy E15 introduces a requirement for one large native species of tree to be provided for every eight new dwelling constructed. This is on the basis that the current ratio of trees with Tree Preservation Orders (TPOs) to dwellings is 1:10 and the view that more mature trees exist than are covered by TPOs. No evidence is provided that these additional mature trees would qualify for TPO status and the requirement to provide a tree which is clearly intended to be capable of qualifying for a TPO in future for every eight dwellings therefore lacks a convincing evidence base.

- **Reword Policy E13 to begin: “Development proposals *should* be designed to retain trees *subject to* a tree preservation order or *significant trees in the Conservation Area*.....”**
- **Reword Policy E14 to begin: “All *significant* developments (including developments of ten or more dwellings).....”**
- **Replace “eight dwellings” with “*ten dwellings*” in Policy E15**

132. **Policy E16** – this seeks to protect residential back gardens from overdevelopment. The Policy addresses a recognised issue in the Neighbourhood Area and has wide support. Subject to being worded more positively it meets the Basic Conditions.

- **Reword Policy E16 to begin: “*Planning applications shall be supported* for new dwelling(s) within a private residential garden where.....”**

133. **Policy E17** – this addresses the important heritage assets in the Neighbourhood Area. It has support from Historic England and is consistent with national planning policy and development plan policy. Evidence is provided of the range of heritage assets, including a list in Appendix 9 of non-designated heritage assets comprising buildings of local merit. I have also considered the helpful detailed wording changes to the supporting text put forward by Cheshire West and Chester Council. The recommended changes ensure appropriate recognition for these non-designated assets.

- **Reword Policy E17 to begin: “Designated and non-designated assets, including all those included in Table ?, enhance.....**
- Place a Table ? of the designated and non-designated heritage assets from Appendix 9 in the supporting text to Policy E17 and cross reference Table ? in the Policy
- Make changes to the supporting text which respond to the representations from Cheshire West and Chester Council consistent with the recommendation to move Appendix 9 into the supporting text in the Plan

#### Economic policies

134. **Policies EC1 and EC2** – These establish requirements for supporting retail, business and live-work developments. The Policies are positively worded and encouraging to economic development. There is only limited evidence provided in support of the Policies which have backing through the consultation process. No definition of “small scale” is provided. The Policies address similar issues and could be combined. They are consistent with national planning policy and development plan policy and meet the Basic Conditions.

- **Reword Policy EC1 to read: “Planning applications for:**
  - ***development that combines living and small scale employment space; and/or***
  - ***new small scale retail and business premises; and/or***
  - ***expansion of existing retail and business premises***



***shall be supported provided there is no significant detrimental impact on the amenity of neighbours or on the environment and where the impact on the transport network and/or parking conditions is not severe.”***

- **Delete Policy EC2**
- Add to the supporting text – “Development that is of a similar or smaller scale than that already existing in the Neighbourhood Area is considered small scale for the purposes of Policy EC1.”
- Rename this section *Economic Policies* to provide consistency in the Plan headings

## Infrastructure

135. **Policy I1** – This addresses requirements for development not on Chester Road to alleviate perceived shortcomings in the road network. It places significant requirements on all planning applications (other than for infill development) to take steps to improve the connection to Chester Road. It is supported by a list of “Highway Improvements” in Appendix 10.

136. Cheshire West and Chester Council’s representations consider the Policy to provide a weak approach and not to address the need for improved connectivity for all modes of transport.

137. As drafted the Policy is both onerous and poorly targeted in respect of the development which might contribute to improving connections. It does not meet the Basic Conditions and the policy objective might be better achieved through linking planning obligations and the future community infrastructure levy to the desired highway and community improvements. This would also address the issues raised in paragraph 9.2 on “Other infrastructure improvements” which are not addressed in a Plan policy and also achieve similar objectives to the second part of the proposed Policy P2.

- **Rename and replace Policy I1 as follows: “Community infrastructure” “Resources generated through the Community Infrastructure Levy and Planning Obligations**

***will be spent on the project priorities identified in Table ?. The project list in Table ? is not exhaustive and may change as new opportunities arise.”***

- Combine the community and infrastructure projects identified in section 12 and Appendix 10 in a single Table ? and include this in the supporting text to Policy I1. Include the statement that “The project list in Table ? will be maintained by Kelsall Parish Council”.
- Correct the reference in paragraph 9.2 to “Section 11” to “Section 12”

138. **Policy I2** – this seeks to secure connectivity to neighbouring undeveloped sites. It responds to the perceived poor connectivity of the existing road network. The Policy duplicates Policy D1 and the supporting text notes that its purpose is addressed by Building for Life 12. It also requires connectivity to all neighbouring undeveloped sites even where these may not be suitable for development. It is recommended that the Policy is deleted and the supporting text to Policy D1 strengthened.

- **Delete Policy I2**
- Add to the supporting text to Policy D1 – “It is important to achieve sustainable connections between developments in the long term to avoid the problems of staggered development apparent in the existing road network. Some of Kelsall’s neighbourhoods are inaccessible from the sites adjacent to them and access necessitates long detours back to a main road, which encourages driving, and stymies contact between different parts of the community. Future connections will be helped by including access points to appropriate neighbouring undeveloped sites to allow for later connectivity by all modes of transport.”

139. **Policy I3** – this seeks to ensure road widths in new developments which allow for convenient on-street parking. This is consistent with the Manual for Streets and meets the Basic Conditions. As with Policy I2 it is a Design as much as an Infrastructure Policy and it is recommended to move and renumber the Policy.

- **Move Policy I3 to the Design section of the Plan and renumber it as D9**

- Make consequential amendments to the supporting text

140. There is one further recommendation for this section.

- Rename this section *Community Infrastructure*

#### Viability and planning obligations

141. **Policy P1** – this seeks to require applicants for developments not consistent with the Plan to justify the departure through submission of a full open book viability appraisal. The Policy extends the approach to affordable housing provision in Local Plan Policy SOC1 to other development proposals. As drafted the Policy has sweeping implications for all development. It is unduly onerous and poorly justified and does not meet the Basic Conditions. The Planning Practice Guidance is that viability assessments are not normally required for individual applications and only relevant where the deliverability of the development may be compromised by the scale of planning obligations and other costs. The supporting text indicates the Policy is intended to relate to housing development and I have considered the scale of development to which the Policy might apply. It is recommended that the circumstances when a full open book viability appraisal is required are more clearly defined and aligned to the size of development most significantly influenced by the modified housing policies. The five dwelling threshold also has support in Planning Practice Guidance in respect of affordable housing in rural areas.

- **Reword Policy P1 to read: “Where the deliverability of housing developments of five dwellings or more may be compromised by the scale of planning obligations and other costs required to comply with neighbourhood plan policies applicants will be expected to justify any alternative proposals through the submission of a full open book viability appraisal of proposed schemes.”**

142. **Policy P2** – this two part Policy seeks first to prevent planning obligations being avoided by submitting separate applications and second to link developer contributions to the community needs listed in the Plan. I have considered representations on this Policy.

143. The first part of the Policy seeks to avoid a procedural issue. No evidence is presented that this is a major issue in the Neighbourhood Area and Cheshire West and Chester Council states in its representations that *“Planning officers try to avoid this situation happening.”* Moreover, seeking to apply planning obligations retrospectively through later development on contiguous sites would not be consistent with the tests in paragraph 204 of the National Planning Policy Framework. This part of the Policy does not meet the Basic Conditions.

144. The second part of Policy P2 is now addressed in revised Policy I1.

- **Delete Policy P2**

145. **Policy P3** – this requires applicants to demonstrate how they have adapted the design of proposals to recognise the context. This Policy does not add to the revised Policy D1 and is superfluous.

- **Delete Policy P3**

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

146. I am satisfied the Kelsall and Willington 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 substantive information to suggest other than that I recommend the referendum area matches that of the Neighbourhood Area.