
Report to Cheshire West and Chester Council

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an Inspector appointed by the Secretary of State

Date: 21 June 2019

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies

The Plan was submitted for examination on 9 March 2018

The examination hearings were held between 18 and 27 September 2018

File Ref: PINS/A0665/429/6

Abbreviations used in this report

AA	Appropriate Assessment
CELP	Cheshire East Local Plan
DtC	Duty to Co-operate
HELAA	Housing and Economic Land Availability Assessment
HMO	House in multiple occupation
HRA	Habitats Regulations Assessment
KSG	Key Settlement Gap
KSC	Key Service Centre
LDS	Local Development Scheme
LSC	Local Service Centre
LPP1	Cheshire West and Chester Council Local Plan (Part One) Strategic Policies
LPP2 or the Plan	Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies Submission March 2018
MHCLG	Ministry of Housing, Communities and Local Government
MM	Main Modification
NPPF	National Planning Policy Framework
OAN	Objectively assessed need
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
the Regulations	Town and Country Planning (Local Planning) (England) Regulations 2012.
Submission Policies Map	Cheshire West and Chester Council Local Plan Part Two: Land Allocations and Detailed Policies Policies Map Changes March 2018
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SUDS	Sustainable Urban Drainage Systems
WMS	Written Ministerial Statement

Non-Technical Summary

This report concludes that the Cheshire West and Chester Council Local Plan Part Two: Land Allocations and Detailed Policies (LPP2) provides an appropriate basis for the planning of the Borough provided that a number of main modifications [MMs] are made to it. Cheshire West and Chester Council (the Council) has specifically requested me to recommend any MMs necessary to enable the LPP2 to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out sustainability appraisal (SA) and Habitats Regulations Assessment (HRA) of them. The MMs were subject to public consultation over a seven-week period. In some cases, I have amended their detailed wording. I have recommended their inclusion in the LPP2 after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- A number of MMs to ensure that the Plan's approach to minerals reflects national policy;
- A number of MMs to ensure that the Plan's approach to the historic environment (including policies DM46 to DM50) reflect the statutory tests and national policy;
- MM to ensure greater flexibility in the approach to development within Local Service Centres (LSCs) in the rural area (Policy R1);
- MM to refine requirements for optional higher Buildings Regulations standard for accessible and adaptable dwellings (Policy DM20) and replacement with a more flexible approach;
- MMs to ensure that policies within the countryside accord with national policy (Policies DM21 and DM22);
- MM to ensure that essential worker dwellings are tied to a specific rural enterprise and occupancy is restricted to those persons employed in agriculture, forestry or other land based rural enterprise (Policy DM25)
- MM to delete, in the supporting text, a restriction on hot food takeaways in a retail centre as defined in the Plan (Policy DM29);
- MM to refine the approach to noise impact on living conditions (Policy DM30);
- A number of MMs to ensure appropriate reference to documents that have not been through examination;
- A variety of others to ensure the Plan's policies are justified and effective.

Introduction

1. This report contains my assessment of the LPP2 in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate (DtC). It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework 2012 (NPPF) (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised NPPF was published in July 2018 and further revised in February 2019. It includes a transitional arrangement in paragraph 214 which indicates that, for the purpose of examining this Plan, the policies in the 2012 NPPF will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the 2018 NPPF.
3. The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound plan. The LPP2, submitted in March 2018 is the basis for my examination. It is the same document as was published for consultation in December 2017 through to January 2018.
4. After submission of the Plan, in light of the People Over Wind judgment,¹ a revised HRA (July 2018) was undertaken and consulted upon. That Assessment, along with Natural England's general support for its approach and its conclusions, have been taken into account in my deliberations and in this report.

Main Modifications (MMs)

5. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2**, **MM3** etc, and are set out in full in the Appendix.
6. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out SA and HRA of them. The MM schedule was subject to public consultation for seven weeks. I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made some amendments to the detailed wording of the MMs and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory

¹ People Over Wind, Peter Sweetman v Coillte Teoranta

processes, SA or HRA that have been undertaken. Where necessary I have highlighted these amendments in the report.

Policies Map

7. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as Cheshire West and Chester Council Local Plan Part Two: Land Allocations and Detailed Policies Policies Map Changes (Submission Policies Map) (SD2).
8. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend MMs to it. The Council published further changes to be made to the Submission Policies Map at the same time as the consultation on the MMs. In this report, I identify that no changes to the Submission Policies Map are required having regard to the tests of soundness.
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in the Submission Policies Map.

Background

Scope of the Plan and relationship with the adopted Local Plan Part One Strategic Policies (LPP1)

10. LPP1 was adopted in January 2015 (2010-2030). That document establishes the broad scale and distribution of development within the Local Plan area, which covers the four main urban areas of Chester, Ellesmere Port, Northwich and Winsford and the smaller settlements and mainly rural area that make up the remainder. It sets out the main role and function of different areas through the settlement hierarchy. The role of the LPP2, identified in the Local Development Scheme December 2017 (LDS), is to set out non-strategic allocations and detailed policies to guide and control development, following on from the strategic framework set out in the LPP1. In addition, it sets out some specific requirements, which are addressed later on in my report, in relation to my issues.
11. LPP1 and, on adoption, LPP2, along with made Neighbourhood Plans, will together, replace the existing Local Plans for Chester, Ellesmere Port and Neston and Vale Royal along with the Minerals and Waste Local Plans produced by the former Cheshire County Council. Specific policies in those plans were saved and are reviewed in LPP2. Many of the identified settlements, retail centres, regeneration areas, rural employment sites and site allocations have previously been identified and are reviewed through this Plan. In compliance with Reg 8(5) of the Town and Country Planning (Local Planning) (England) Regulations 2012, LPP2 includes a schedule which identifies all policies that it is intended to supersede.

12. A number of those who made representations on the LPP2 argued that the approach taken to the scale and location of development is too restrictive as the housing figures in the LPP1 are set out as minima. Some suggested that a greater level of development should be accommodated within the rural area and that the restrictive approach adopted does not accord with paragraph 47 of the NPPF, as it fails to boost significantly the supply of housing. Further, it was argued that in order to achieve consistency with paragraph 47, Green Belt boundaries should be altered to accommodate new development.
13. The LDS sets out the scope of the LPP2 and its relationship with the LPP1. It is clear from the LDS and the LPP2 itself, that it is not intended to supersede any of the policies in the LPP1, including its approach to the scale and distribution of development and Green Belt. The LPP2 is required to be consistent with the adopted LPP1 under the terms of Reg 8(4) of the Regulations.
14. LPP1 sets out the overall amount of development required to 2030, including the homes and employment land to be delivered. Whilst the housing and employment targets set within that document are minimums, overall, the role of this Plan is to deliver the scale and distribution of development envisaged by that Plan. In respect of the Green Belt, I am aware that LPP1 dealt with Green Belt matters. At examination, that Inspector found that identified need could be accommodated without the need for Green Belt release, except in Chester, where exceptional circumstances could be demonstrated to justify some release (paragraph 156 KSD008).
15. It is not the role of the LPP2, which is clearly intended to implement and be consistent with the adopted LPP1, to revisit the overall approach to development needs and the spatial strategy to deliver them, including Green Belt boundaries. The key tests in respect of the scale of development proposed are whether the LPP2 is consistent with the LPP1 and whether it would realistically deliver the scale and distribution of development envisaged. I deal with these issues in more detail further on in my report.

Consultation

16. Concern was expressed that the Council carried out inadequate consultation, prior to the submission of the Plan, particularly in relation to student accommodation in Chester. The Council's Statement of Consultation (SD6) sets out the consultation that took place at each stage of the Plan making process. It then sets out how comments made were taken into account in the Plan. Those concerned about student accommodation in Chester would have had the opportunity to submit their comments at the consultation opportunities identified at each stage of the Plan making process.
17. In addition, community representatives addressed the Council's Local Plan Working Group on the matter. Comments on student accommodation in Chester were also made at the consultations in relation to the LPP1, which set out the strategic approach to this matter. They were also made in relation to the Houses in Multiple Occupation and Student Accommodation Supplementary Planning Document (KSD015), which included a work shop with members of the community and stakeholders.

18. Generally, on the basis of the above, I am satisfied that consultation on the matter of student accommodation in Chester, along with other aspects of the Plan, was carried out in accordance with the Council's Statement of Community Involvement (2017), the NPPF, the PPG and the requirements of the 2004 Act and the Regulations.

Assessment of Duty to Co-operate (DtC)

19. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation. In this regard, cross-boundary strategic issues have primarily been addressed through the preparation of LPP1. However, throughout the preparation of this Plan, the Council continued to engage with other bodies to ensure any remaining issues were addressed, and no new strategic matters were raised. Such issues include minerals and waste, gypsy and travellers, transport infrastructure, water quality and flood risk, biodiversity in terms of national and international designated habitats and species and the approach to Middlewich.
20. Concerns were raised as to whether the Council had engaged constructively with Cheshire East Council, with regard to employment and housing land in Middlewich near the border with the neighbouring authority. However, the overall amount of housing and employment land to be provided within the Plan period was defined by the LPP1. This took into account strategic cross border matters regarding housing and employment land. The Inspector for the LPP1 found that there were no unresolved issues with other authorities or relevant organisations in terms of strategic matters and that the Council had complied with the DtC in this respect.
21. Further, the Council's DtC Statement (SD8) sets out the areas of joint working and provides detail on how relevant statutory and other organisations have engaged throughout the preparation of the Plan. There is convincing evidence of constructive and ongoing joint working between the two Councils on the strategy for development around Middlewich, including housing and employment land, during the preparation of this Plan; a matter that is confirmed by both Councils.
22. In any event, the amount of housing and employment land in dispute, in this regard, (roughly 169 homes and 12 hectares (has) of employment land) in the context of the amount of development proposed to be accommodated in Middlewich by Cheshire East in its Local Plan Strategy (Policy PG7 requires in the order of 1950 homes and 75 has of employment land), would not constitute a strategic cross border matter requiring compliance with the DtC.
23. Taking all these matters into consideration, overall, I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the DtC has therefore been met. Issues of soundness relating to housing and employment land provision in Middlewich and compliance with LPP1 Policy STRAT7 raised by some participants are addressed separately in Issue 7 of this report.

Sustainability Appraisal

24. The Council carried out an SA at each stage of the production of the LPP2. That exercise evaluated, amongst other things, anticipated environmental and infrastructure constraints of proposed policies and sites, along with the consideration of alternatives. A number of objectors queried the methodology adopted in the SA and its findings. The methodology adopted included professional planning judgement in evaluating sites and policies against defined criteria. Generally, I find that the methodology assisted in choosing sites and resulted in some improvements in the sustainability of policies by the incorporation of mitigation measures. In this respect, I find the methodology adopted and its findings robust and conclude that the Plan has been positively prepared and is justified, effective and consistent with national policy in this respect. I note that the SA methodology is the same as that which underpinned the LPP1. It has therefore been through the rigors of that examination, which adds weight to my conclusions, in this regard.

Assessment of Soundness

Main Issues

25. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified 12 main issues upon which the soundness of the Plan depends. Under these headings my report deals with the matters of soundness, rather than responding to every point raised by representors.

Issue 1: Whether the LPP2 is consistent with the LPP1 strategy and whether it has been positively prepared, is justified, effective and consistent with national policy in relation to the scale and distribution of development proposed and the approach to site allocations

26. The LPP1 generally seeks to focus new development within the existing settlements, whilst protecting the countryside including the Green Belt. The majority of new development is to be accommodated within the four main urban areas of Chester, Ellesmere Port, Northwich and Winsford. To maintain the vitality and viability of rural areas, more limited development is proposed within ten of the larger rural settlements, known as Key Service Centres (KSCs) and more limited development again within selected smaller rural settlements with services, facilities and access to public transport, known as Local Service Centres (LSCs); the latter to be identified through the LPP2. Through examination of my main issues, I find that the location of planned development in LPP2 generally reflects the size and character of different settlements. It reflects the settlement hierarchy set out in LPP1 Policy STRAT2 and the development requirements for each spatial area set out in LPP1 Policies STRAT3-STRAT9. Those, together, form the basis for the distribution of growth outlined in the above LPP1 strategy.

Housing

27. In terms of housing, the LPP1 aims to provide for an average of 1,100 additional dwellings per year between 2010 and 2030 (22,000 over the plan period). The four main urban areas are expected to accommodate most

(roughly 80%), being the main focus for new housing development in the Local Plan area, each with a specific requirement set out in LPP1 Policies STRAT3-STRAT6. The rural area is expected to accommodate the balance (at least 4,200 dwellings), half of which is sought within KSCs. LPP1 Policy STRAT8 sets out a minimum housing requirement for each KSC and then sets out that LSCs will also accommodate new development.

28. I deal specifically with the issue of housing land supply and delivery in more detail under Issue 2 below. In summary, taking account of completions and commitments since the beginning of the Plan period, the LPP1 strategic housing requirement is likely to be exceeded at the end of the Plan period. In terms of the four main settlements, the Council's Land Allocations Background Paper (EB046) sets out that the specific LPP1 requirements for Chester, Ellesmere Port, and Winsford will be met, through completions since 2010, extant planning permissions, strategic allocations in LPP1, sites in made Neighbourhood Plans and sites identified on the Council's Brownfield Sites Register (EB009/010).
29. In respect of the rural area, as the overall requirement was almost met through completions and planning commitments (2010-2014), along with the individual requirements for KSCs and the rest of the rural area, LPP1 Policy STRAT8 recognises that there will be little if any need for additional allocations to be made in the rural area to meet those requirements. This matter was explored and agreed by the LPP1 Inspector, (paragraph 59 KSD008). LPP2, therefore, has a very limited role in terms of meeting the overall LPP1 housing requirement. Rather, it is restricted to delivering the specific requirements of particular spatial areas, confined to a few KSCs in the rural area and Northwich.
30. In terms of the location of site allocations, the overall approach taken in the LPP2 is consistent with LPP1. The allocated housing sites are concentrated in the areas with an outstanding requirement. They are located in Northwich to fulfil the requirements of LPP1 Policy STRAT5 and in Tattenhall, a KSC in the rural area, to meet those of LPP1 Policy STRAT8.

Employment Land

31. The LPP1 seeks to provide a flexible supply of land for industrial and business use (falling within use classes B1, B2 and B8) to meet a range of types and sizes of site in locations across the Borough. The requirement in LPP1 Policy STRAT2 is for up to 365ha borough wide of employment land over the Plan period to be delivered in accordance with the settlement hierarchy. Taking account of completions (2010-2017), existing commitments (to April 2017) and allocations in Made Neighbourhood Plans, there is a residual requirement for 113ha to be provided within the Plan period. This Plan reviews employment allocations in previous plans and makes new allocations focussed on key sites identified in LPP1 Policy ECON1, employing criteria set out in that policy. Taking account of proposed allocations, the LPP1 requirement would be exceeded within the Plan period by over 50ha, giving some flexibility should some sites fail to come forward in the required time period. In addition, that figure could be added to through employment land coming forward through regeneration schemes on vacant or previously developed land e.g. Stanlow Ellesmere Port, rural diversification and the large employment sites identified

in the Green Belt. I am therefore satisfied that an adequate supply of suitable land for employment across the Local Plan area would be maintained. Further, proposed allocations ensure that the spatial distribution of additional provision established in LPP1 Policies for Northwich (STRAT5), Winsford (STRAT6) and the rural area (STRAT8) is provided, such that the overall provision is consistent with the LPP1.

Site Allocations

32. Evaluation of site allocations for housing, employment, minerals sites and areas and waste have been carried out through a series of Borough wide assessments. The Council carried out a Housing and Economic Land Availability Assessment (HELAA) (EB040) to initially identify sites and tested them against LPP1 policy objectives (EB046). That included consultation with stakeholders, environmental bodies and operators in respect of candidate minerals sites. In addition, the Council carried out an SA at each stage of the production of the LPP2. Further environmental assessment took place through HRA. The methodology adopted included professional planning judgement in evaluating each site against defined criteria. It also took account of the views of local people. A number of objectors queried the methodology adopted in the studies that identified sites. However, I find the methodology adopted robust and in this respect, I conclude that the Plan has been positively prepared and is justified, effective and consistent with national policy.

Minerals

33. LPP1 Policy ENV9 identifies that in order to make provision for the adequate, steady and sustainable supply of sand, gravel, salt and brine, specific sites and preferred areas for mineral extraction will be identified through LLP2. The requirement for sand and gravel set in LPP2 Policy M1 is based on the sub-regional apportionment figure, applied to the Plan period and includes a seven year supply beyond the Plan period. Taking account of permitted reserves at the start of the Plan period, together with additional permitted reserves (2009-2017), the total remaining requirement for the Plan period is 11.798 million tonnes. I am satisfied that the requirement can be met by continued provision from permitted reserves at existing sand and gravel sites, the proposed allocation which would extend the site at Forest Hill and the identified Preferred Area. An identified Area of Search will ensure provision in the event that permitted reserves, the allocated site and/or Preferred Area cannot meet the required level of provision.
34. A steady supply of salt and brine will be provided through the existing operations at Winsford Rock Salt Mine (South Bostock) and controlled brine pumping at Holford Brinefields, both of which are safeguarded. Identified Preferred Areas at both sites are sufficient to meet any proven additional requirements during the Plan period.
35. There is no requirement for industrial sand in LPP1 Policy ENV9. However, since identification of resource at Rudheath Lodge, its proposed allocation will contribute to the supply of minerals to meet the aim of LPP1 Policy ENV9.
36. Mineral Safeguarding Areas (MSA) will protect the Local Plan area's finite resources and necessary infrastructure from incompatible development. All in

all, I find that the Plan makes adequate provision for minerals, and in this respect, it would accord with LPP1. I am satisfied that the Plan has been positively prepared, and is justified, effective and consistent with national policy, in this regard.

Waste

37. LPP1 concludes that there is sufficient capacity within existing and planned waste facilities to manage predicted waste arisings to 2030. Subsequent updates of the Waste Needs Assessment 2016 (EB090) confirms this. LPP1 Policy ENV8 safeguards specific sites with planning permission for waste development and operational sites to ensure sufficient capacity remains in place for the Plan period. LPP1 Policy ENV8 also sets out a requirement for LPP2 to identify replacement sites to deliver household waste recycling centres at suitable locations at Frodsham, Chester and Tattenhall. In this respect, a suitable facility is already operational in Chester. Due to an extension to the Council's contract for household waste recycling centres, there are no plans to close Frodsham or Tattenhall facilities prior to 2023.
38. A site identification and assessment process was carried out as part of LPP2 to identify replacement sites at Frodsham and Tattenhall, however, none were identified. Support for the identification of replacement household waste recycling centres at those locations is committed to through LPP2 Policy DM55. That is a criteria based policy to guide any future proposals to appropriate previously developed sites in locations which would serve the current catchment areas for the existing facilities at Frodsham and Tattenhall. As the need for these facilities will now arise towards the end of the Plan period, this approach would be in general accordance with LPP1 requirements. In this regard the Plan has been positively prepared, is justified, effective and consistent with national policy.

Town Centres

39. LPP1 Policy ECON2 identifies the borough's retail hierarchy and the requirements for retail food and non-food floorspace for each town centre. It identifies two major retail and leisure proposals in Chester (Northgate scheme) and Northwich (Barons Quay scheme) and a new food store in Winsford (as part of the Town Centre regeneration) to meet identified needs up to 2030. An updated retail study (2016) (EB013) was carried out as part of LPP2. Taking account of forecast need, existing commitments and recently completed developments, the study recommended no additional allocations to those identified in LPP1. On the basis of the evidence before me, I have no reason to take an alternative view on this matter.
40. LPP1 Policy ECON2 also sets out a requirement for LPP2 to identify district and local centres at the lower end of the retail hierarchy, define the extent of all retail centres along with revised primary and secondary shopping frontages within the higher order centres. In this regard, one district centre at Boughton and approximately 19 local retail centres, along with primary and secondary shopping frontages in Chester and Northwich have been identified through LPP2. Retail centres are defined on the basis of a borough wide assessment of existing designated centres in the three saved Local Plans, other potential centres identified and all KSCs. On this basis, I am satisfied that the scope of

assessment was appropriate. It was based on a logical, easily understood and consistently applied set of criteria, based on the definitions set out in annex 2 to the NPPF, including the range of uses and function of the centre, accessibility, location and context. The shopping frontages were defined using appropriate criteria based on definitions in annex 2 to the NPPF, the amount of continuous retail frontage, relationship of uses to the centre and the likelihood of linked trips. Desk top studies were supplemented by survey work and on-site judgement. Generally, I find the evidence to support these designations proportionate and justified.

41. Boundaries are set for all centres in the retail hierarchy, based on the criteria used to identify them. Generally, they reflect the extent of main town centre uses where retail development is concentrated. They are mainly compact centres encompassing the majority of commercial buildings, local services and any allocations, following property boundaries and defined physical barriers. Generally, they include some opportunity for limited development well related to the scale of the centre. Together with the definition of shopping frontages within Chester and the higher order town centres, I consider that they would provide an appropriate basis for the application of LPP2 Policies DM14 and 15, which seek to protect A1 retail uses and support town centre uses generally. In this regard the Plan has been positively prepared, is justified, effective and consistent with national policy.

Local Service Centres

42. LPP1 Policy STRAT2 sets out a requirement for this Plan to identify LSCs in the rural area, which have adequate services and facilities and access to public transport. These have been identified in accordance with a clear, consistently applied and easily understood set of criteria, which accord with criteria set out in that policy. A number of objectors queried the methodology adopted and the assessment made against them arguing that some settlements should or shouldn't be included within the designation. The methodology included professional planning judgement in defining the criteria to be used and evaluating each settlement against them, taking account of the views of local people. Whilst some objectors may have exercised planning judgement in a different way, particularly in relation to the number and type of facilities and services required, that does not mean that the process adopted was not logical, thorough and robust. Generally, I am satisfied that the approach taken was robust and its outcome consistent with LPP1. In this regard, the Plan has been positively prepared, and is justified, effective and consistent with national policy.

Settlement Boundaries

43. The requirement to define settlement boundaries is set out in LPP1 Policy STRAT9 (paragraph 5.73). It states that where there is a need to accommodate development on the edge of a settlement then the boundary will be drawn to reflect this. In accordance with this, where there are no additional development needs, settlement boundaries have been defined to reflect the existing built form, Green Belt boundaries, Neighbourhood Plan allocations and existing planning commitments. Unimplemented planning commitments that were granted as an exception to planning policy are not included within settlement boundaries. Generally, settlement boundaries have been

established in accordance with a clear, consistently applied and easily understood set of criteria.

44. The Council, post submission suggested a revision to the settlement boundary at Malpas. The definition of settlement boundaries includes an element of professional judgement. Whilst there are no additional development needs identified at that settlement and some areas included are undeveloped land, I am satisfied that they generally reflect the existing built form. No substantive evidence is before me to indicate that the settlement boundary should be altered post submission in order to ensure that the Plan is sound. Other post submission changes to the Submission Policies Map, relating to Northwich settlement boundary and Rudheath Lodge minerals allocation are dealt with under Issues 5 and 11.
45. The LPP2 is therefore consistent with the LPP1 in terms of the approach to settlement boundaries. Within this context it has been positively prepared and it is justified, effective and consistent with national policy.

Gypsy and Travellers

46. LPP1 Policy SOC4 sets out a requirement for the allocation of sites to accommodate Gypsy, Traveller and Travelling show persons in LPP2. The need was identified by the Gypsy and Traveller Accommodation Assessment 2014 (GTAA) for 30 further permanent gypsy and traveller pitches 2013-2023 and 16 2023-2028, along with 12 plots for travelling show people households 2013-2023, 1 2023-2028 and a transit site. The requirement in LPP1 is to meet at least the level of need identified by that assessment.
47. However, consultation on candidate sites in the preparation of LPP2 concluded that insufficient suitable sites were available. Additional work was also identified due to the Government's revised definition of travellers, which necessitated a revised GTAA. To avoid delay in the adoption of LPP2, the Council has carried out an updated GTAA (2018), commenced work on a separate Traveller Development Plan Document and amended its LDS to reflect this, setting out a timescale for its adoption at the end of 2019. At the time of hearings, work was underway on production of the Traveller Development Plan Document.
48. The updated GTAA (2018) identifies an outstanding need for 21 permanent pitches, 3 for travelling show people households, taking account of the revised definition of travellers, and 1 transit site in the period 2017-2030. This would indicate that some unmet need from earlier in the Plan period has been met, taking account of the revised definition. It would have been preferable had site allocations been identified in this Plan to meet the outstanding need. However, some need from earlier in the Plan period has been met. The Council has progressed provision of a transit site. In addition, it has demonstrated a commitment to the provision of suitable accommodation to meet the rest of identified need to 2030 through the production of a separate Development Plan Document and the timescale for its adoption would not be significantly different to that of the LPP2, even if there was some slippage on that date. Further, LPP1 Policy SOC4, includes criteria to guide future development proposals for this type of accommodation. Taking all these factors into account, the approach adopted therefore would not be out of step with LPP1

Policy SOC4. In these circumstances, I find that the approach that the Council has adopted reasonable.

49. In coming to this conclusion, I have had regard to the aims expressed in S149(1) of the Equality Act 2010. Even if there was a slight slippage in the timescales set out in the LDS for adoption of the Traveller Development Plan Document, the approach adopted would be capable of directly benefitting Gypsy and Travellers, who share protected characteristics as defined in S149(7) of that Act. In this way the disadvantages that they suffer would be minimised and their needs met in so far as they are different to those without a relevant protected characteristic. There is also no compelling evidence that the approach would bear disproportionately or negatively on them. Overall, therefore, I find that, in this regard, the Plan has been positively prepared and it is justified, effective and consistent with national policy.

Conclusion on Issue 1

50. Overall, therefore, I conclude that the LPP2 is consistent with the LPP1 in relation to the scale and distribution of development proposed and the approach to site allocations. Within this context it has been positively prepared and it is justified, effective and consistent with national policy.

Issue 2: Whether the approach towards the supply and delivery of housing land is justified, effective and consistent with national policy

51. I have previously concluded that the role of LPP2 in respect of housing is confined to meeting the specific requirements of particular spatial areas. I examine the role for this Plan in relation to housing supply in this context.
52. In respect of the spatial distribution of housing development, Chester, Ellesmere Port and Winsford have already met their housing requirements through strategic allocations, completions and existing commitments, including those in Made Neighbourhood Plans. An outstanding requirement of just over 240 dwellings in Northwich has been identified. If all proposed allocations in this Plan are delivered, the requirement for Northwich will be exceeded.
53. In the rural area, whilst the overall target of 4,200 new dwellings has been met, LPP1 Policy STRAT8 sets out a specific requirement for each of the KSCs. Taking into account completions since the beginning of the Plan period, and existing commitments, the individual requirements for KSCs have been met in all but a few settlements. Tattenhall has an outstanding requirement for 43 dwellings which is met through the proposed allocation and safeguarded site in this Plan. Tarvin and Cuddington and Sandiway have outstanding requirements of 6 and 2 dwellings respectively. In accordance with the site allocations methodology applied, no allocation is made for the limited outstanding requirements in those settlements. On the basis of the likely contribution from rural exception sites where a need is demonstrated, infill and redevelopment, small site windfalls and possible future allocations through Made Neighbourhood Plans, I consider this a justified and effective approach.
54. In terms of the requirement for the Council to maintain a five year supply of deliverable housing sites, it accepts that completions in the first four years of the Plan period fell below the annual requirement of 1,100 net dwellings per

year. Since then, in the following four years housing delivery has exceeded the annual requirement (Council's Annual Monitoring Report (2018) (CWC003), such that there is now a cumulative oversupply above the LPP1 requirement of some 2,000 dwellings. The Council applies a 5% buffer, which bearing in mind the sustained level of delivery above requirement, I consider appropriate. Further, LPP1 Policy STRAT2 in its supporting text (para 5.21) sets out that any undersupply since 2010 should be dealt with over the lifetime of the Plan (the Liverpool approach). On this basis and taking completions since 2010 into account, the net five year requirement, as of April 2018, equates to 4,814 dwellings. That relates to an annual requirement of 963 net dwellings per year. The Council considers that as of April 2018, the supply of deliverable sites would provide for approximately 7,753 dwellings i.e. in excess of the five year requirement. LPP2 would contribute in the region of 118 to those numbers (roughly 1.5%), making a small contribution², which would be in accordance with the LPP1's limited expectations of the LPP2's contribution to its housing land supply generally.

55. The LPP2 allocations are a small proportion of the overall housing supply over the Local Plan period, being roughly 4% of the total. However, the LPP2 allocations will provide for housing to meet the needs of local communities and further assist the overall housing supply and the Council's five year housing land supply. As the LPP1 overall requirement would be exceeded, a five year supply maintained and most urban areas and the rural area would deliver above their LPP1 requirements, LPP2 would provide some flexibility should some sites not deliver. In addition, the Council has not included a figure for housing coming forward as part of mixed use schemes in regeneration areas identified within LPP1, infill, redevelopment or rural exceptions, which adds weight to this conclusion.
56. My deliberations under Issues 3-6 and 8 conclude that I have found no compelling evidence that any of the proposed housing site allocations in the LPP2 do not have a reasonable prospect of being available and viably developed during the Local Plan period. The Council only includes sites in Made Neighbourhood Plans, which significantly reduces uncertainty in its delivery. The proposed housing site allocations have been identified within the policy framework provided by the LPP1. Within this context there is a reasonable degree of variety in terms of the size, character and location of sites.
57. Taking all of these factors into account and the lower requirement for certainty in terms of specific sites later in the Plan period (NPPF paragraph 47), I consider that the total potential supply of housing sites in the LPP2 will be sufficient to meet the residual requirement in the two identified settlements for the rest of the Local Plan period and will provide some flexibility should sites not come forward as envisaged. In this regard it would meet the objective set out in NPPF Paragraph 47, to boost significantly the supply of housing.
58. In addition, LPP2 includes a range of policies including Policies DM20, DM23 and DM26 aimed to deliver a mix and type of housing development to take account of housing needs in the local area, including those of an aging

² Land at Winnington Avenue (Policy N3.B) and Land west of Ravensholme (Policy R2.A)

population. They will help ensure a range of house types, tenures and sizes are provided to support mixed, balanced and sustainable communities to deliver the aims of LPP1 Policy SOC3.

59. I conclude therefore that the approach towards the supply and delivery of housing land is justified, effective and consistent with national policy. I deal with specific issues relating to each spatial area in the following sections of my report.

Issue 3: Whether the approach towards Chester is justified, effective and consistent with national policy

60. The settlement boundary to the city of Chester as shown on the submission policies map is justified. It closely defines the built up area and generally demonstrates the application of criteria set out in LPP1 Policy STRAT9 (paragraph 5.73). Policy CH1 provides appropriate criteria on which development proposals should be assessed. **MM1** is necessary to clarify what is meant by the 'historic core' and will ensure that the policy is effective.
61. LPP2 Policy CH1 identifies strategic open space, which are corridors of open space that are strategically important to protect the character and setting of the city. Those areas are identified through Chester: The Future of an Historic City study (EB022), which although aged, provides an evidenced basis to identify the landscaped approaches to the City that help to define its distinctive countryside setting. The areas identified are justified by that study. That this approach to protecting the landscaped setting of Chester and the areas identified is a longstanding approach evidenced in the Chester District Local Plan Policies ENV15 and 16, adds weight to this finding.
62. To support the City's role as a sub-regional shopping and leisure destination, areas to deliver regeneration benefits and promote the visitor economy are identified to fulfil the requirements of LPP1 Policy STRAT3. Regeneration areas are focussed on a number of key sites and broad locations mainly identified in LPP1 Policy STRAT3 or 'One City Plan' (EB021) and provide the basis to deliver the overarching development strategy identified for Chester, with an emphasis on previously developed land. Policies CH2 to CH2.D set out criteria against which development proposals within the regeneration areas should be assessed. However, **MM2-MM5** are necessary to ensure that those policies are positively worded, clear and effective.
63. Proposed employment allocations are identified in accordance with the methodology appraised under Issue 1 (paragraph 32). Site areas, proposed uses and timescales for development are realistically identified, based on evidence from owners and developers and no barriers to development or other reason as to why they would not deliver within the Plan period has been identified. All are expected to deliver within 6-10 years, except Chester Business Park sites, with an extant outline permission expected to deliver within 5 years, from April 2018. Some argued that insufficient employment land is proposed to be allocated. However, there is no employment land requirement for Chester set out in LPP1 Policy STRAT3. The proposed allocations will contribute towards the borough wide target of 365ha set out in LPP1 Policy STRAT2, which is likely to be exceeded within the Plan period. Therefore, I am satisfied that even if some of these sites identified did not

deliver, sufficient flexibility is built into the Plan's approach to ensure consistency with LPP1. **MM6** will ensure that those proposed allocations include all development criteria necessary to deliver sustainable development. I have amended the wording of the MM in relation to New Crane Street (CH3.G) to ensure that any likely significant effects on the River Dee SAC are assessed.

64. LPP2 Policy CH4 provides support for the University, identifying University campus sites within Chester, in accordance with LPP1 Policy ECON1. I consider that the extent of the allocated sites at Parkgate and Kingsway Campuses adequately reflect existing built form and constraints including flood risk and existing open space. Whilst the Glenesk site to the north of the Parkgate campus is not included within the proposed allocations, having been included in the previous Plan, flood risk concerns now raise some uncertainty, regarding its potential for development. In any event, it is still within the settlement boundary and within the boundary of the Parkgate campus and would be subject to the support within LPP2 Policy CH4. This would generally accord with LPP1 Policy ECON1.
65. The approach to conservation areas is set out in Policy CH5. To ensure effectiveness, consistency with national policy and legislation **MM7** is necessary. This ensures that the policy is in accordance with the approach to the historic environment taken in Policies DM46 to DM50 and throughout the Plan and will ensure that the policy is effective. **MM8** amends Policy CH6 in the same way and provides clarification on the height of buildings in relation to the prevailing building height. This is necessary to ensure that the policy is effective.
66. Some objected to the Council's approach to student accommodation in Chester. However, the approach taken in LPP2 was defined by LPP1 Policy SOC3. That policy supports the provision of specialised student accommodation within Chester in appropriate, accessible locations, convenient for the facilities at the University of Chester. It is not the role of this Plan to revisit that high level intent and I am satisfied that the approach taken accords with the policy intent in LPP1.
67. Subject to these MMs I consider that the approach taken towards Chester would be justified, effective and consistent with national policy.

Issue 4: Whether the approach towards Ellesmere Port is justified, effective and consistent with national policy

68. LPP2 Policy EP1 establishes the settlement boundary for Ellesmere Port and sets out development criteria against which development will be assessed. Generally, I find all criteria are justified in delivering the overall spatial strategy for Ellesmere Port set out in LPP1 Policy STRAT4. This includes the requirement for development in the Rossmore area to contribute towards the provision of a new railway bridge crossing to improve connectivity with the town centre. Improvement to the existing bridge would fail to adequately deliver the longstanding improvements to connectivity sought and as viability of any development would be taken into account at development stage, specific reference in this regard is not necessary to ensure soundness.

69. The detailed nature and extent of employment land allocations in Ellesmere Port are identified through LPP2 and locally specific policies and proposals confirmed. The proposed allocations concentrate on the key sites identified in LPP1 Policy STRAT4, support the growth sectors identified in paragraph 5.34 of that policy and enable delivery of a flexible supply of land for industrial and business use falling within use classes B1, B2 and B8, as required by LPP1 Policy ECON1. They have been identified and reviewed in accordance with the methodology set out in paragraph 32 of my report, a significant number have planning permission for all or part of the site or active developer interest and no barrier to their development within the Plan period is identified.
70. Whilst no specific target for employment land is set out in LPP1 for Ellesmere Port, the proposed allocations would contribute towards achievement of the borough wide target. As the borough wide target is likely to be exceeded within the Plan period, as concluded in paragraph 31 of my report, I find that the approach delivers the strategic objectives set out in LPP1 policies STRAT2, STRAT4 and ECON1. There is no reason to seek further allocations in Ellesmere Port therefore.

71. I deal with particular issues relating to selective proposed allocations below:

Policy EP2.E Cheshire Oaks Business Park

72. This proposed allocation is for B1 office development on a vacant site within the Cheshire Oaks Business Park. It is an allocation brought forward from Neston and Ellesmere Port Local Plan (2002). There was concern that it had not been developed within that time and that there was limited developer interest in the proposed use. Evidence of active marketing since mid-2017 is before me. However, this is recent evidence over a limited period and does not convince me that a proposal would not come forward in the future. Further, in the face of the limited opportunities for this type of employment floorspace in the Local Plan area, the loss of this site would limit the range and type of employment provision and would compromise the objectives set out in LPP1 Policies STRAT2, STRAT4 and ECON1. However, **MM10** is necessary to ensure that the development criteria are clear and the policy effective.

Policy EP2.C former Booston Oil Depot

73. This proposed allocation is a vacant site with planning permission for part of it, which includes energy related uses. I consider that this policy, when read together with other policies in the Plan, including Policy DM53, which provides support for energy generation, storage and district networks, provide sufficient flexibility to support both energy uses and other employment uses. Whilst I acknowledge the requirement to ensure that the range and choice of employment land in the area would not be limited by development of this site, such a requirement would not necessarily prohibit energy related uses. Such development could meet the requirements of LPP1 Policies STRAT2, STRAT4 and ECON1.
74. Some of the proposed allocations surround existing operations, some of which are subject to strict health and safety regulations covering the site and a significant area beyond, including hazardous consultation zones. When read as a whole the Plan would provide sufficient protection for existing hazardous

installations. This is because any proposed development within these areas would be subject to other policies in the Plan, including Policy DM34, which deals with development within the vicinity of hazardous installations. This would ensure consistency with the support for employment uses set out in LPP1 Policies STRAT2, STRAT4 and ECON1 in this regard.

75. **MM11** in relation to Policy EP2.F (remaining land at Rossmore Road East) and **MM12** in relation to Policy EP2.G (land at Station Road Ince) are necessary to ensure that detailed development criteria are clear and effective. In addition, for the same reason **MM13** in relation to Policy EP3 (Stanlow special policy area), **MM14** in relation to Policy EP4 (Hooton Park) and **MM16** in relation to Policy EP6 (Ince Park) are necessary.
76. To ensure that Policies EP2.B relating to New Bridge Rd, Stanlow, EP5 relating to Thornton Science Park and E7 relating to Ellesmere Port historic canal port, are consistent with national policy and legislation in respect of the historic environment **MM9**, **MM15** and **MM17** are necessary.
77. Subject to these MMs I consider that the approach taken to Ellesmere Port would be justified, effective and consistent with national policy.

Issue 5: Whether the approach towards Northwich is justified, effective and consistent with national policy

78. The settlement boundary has been defined in accordance with the methodology set out in paragraph 43 of my report. It generally reflects the built up area and accords with Neighbourhood Plans where appropriate (Davenham and Whatcroft KSD025 and Hartford KSD028). The Council, post submission, suggested changes to the settlement boundary to ensure that all of Gadbrook Park, including the land to the southwest allocated under Policy N4.E and F is included within the settlement boundary. That Policy, together with Policy N5 allocate land to the southwest of the established Park and seek to ensure that new development is compatible with the existing, in accordance with LPP1 Policy STRAT5. The omission of this site within the settlement boundary is explained as a drafting error. However, as LPP2 Policy N4.E and F allocate the site and LPP2 Policy N5 provides site specific development criteria, such an adjustment is not necessary to ensure soundness.
79. LPP1 Policy STRAT5 identifies that Northwich will provide 4,300 homes and 30ha of additional employment land for business and industrial development, including a site for logistics/warehousing and distribution. It identifies major areas to deliver mixed use development at Winnington and Wincham Urban Villages, retail led regeneration within the town centre and riverside, including Barons Quay development. The regeneration areas identified in LPP2 accord with these broad areas and would be effective in delivering the strategic objectives of LPP1 Policy STRAT5. However, **MM18 to MM20** are necessary to ensure that the detailed wording of those policies N2.A, N2.B and N2.C are clear and therefore effective. In relation to Policy N2.C, which relates to Wincham, guidance on the proposed location of both residential and employment development, along with the need to take account of impacts on neighbouring residents will ensure some flexibility in the site's delivery. I have amended the wording **MM20** in relation to Policy N2.C slightly to provide greater clarity on the location of proposed housing development.

80. Sufficient evidence is before me to indicate that the housing allocations set out in LPP2 Policy N3 represent a reasonable application of the methodology set out in paragraph 32 of my report. Further, on the basis of the evidence before me, I am satisfied that they would be developed within the Plan period. Taking into account the housing element of the mixed use development at Wincham Urban Village, net completions since the beginning of the Plan period and existing commitments, the proposed allocations would deliver in excess of the housing requirement for Northwich set out in LPP1 Policy STRAT5. It would provide some flexibility (just under 200 dwellings) should some of the sites fail to be developed within the Plan period and a range of sites in terms of size. In these circumstances no further allocations are required. However, **MM21** and **MM22** in relation to Policies N3 and N3.B are necessary to correct and clarify wording to ensure that the proposed allocation at Winnington Avenue is factually correct and enables delivery of both housing and employment development, in accordance with Policies N3.B and N4.
81. The proposed employment land allocations have been identified and assessed in accordance with the methodology set out in paragraph 32 of this report and together would meet the requirements set out in LPP1 Policy STRAT5. Sufficient evidence is before me to support their development within the Plan period. With flexibility in terms of proposed uses, together, those allocations would enable the provision of a site for warehousing and distribution. However, **MM23** is necessary to ensure clarity in relation to Policy N5, which seeks to ensure that any future development at Gadbrook Park is compatible with that existing.
82. Policy N6 sets out requirements for the Northwich Conservation area. **MM24** is necessary for clarity and to ensure that the policy is effective and consistent with national policy and legislation in relation to the historic environment.
83. Subject to these MMs I consider that the approach taken to Northwich would be justified, effective and consistent with national policy.

Issue 6: Whether the approach towards Winsford is justified, effective and consistent with national policy

84. Concern was expressed regarding the Council's reliance on sites allocated within the Winsford Neighbourhood Plan to meet the LPP1 Policy STRAT6 housing requirement of at least 3,500 homes for Winsford. However, those allocations are within a Made Neighbourhood Plan and are part of the development plan for the Local Plan area and therefore I consider that they are suitable, available and developable within the Plan period. In any event, small site windfalls, town mixed use sites and those identified in the HELAA (EB040) for inclusion on the Brownfield Register will together add further flexibility to housing delivery, should some of the sites fail to deliver. All in all, I consider that the approach to housing in Winsford would accord with LPP1 Policy STRAT2, be consistent with national policy, including NPPF paragraph 47 and would be justified and effective.
85. The requirement for employment uses will be exceeded by the three allocations within the Winsford Neighbourhood Plan (sites O5, W6 and W7) along with retained employment allocations from the previous Vale Royal Borough Local Plan, which have been reviewed in accordance with the

methodology set out in paragraph 32 of my report. No substantive evidence of barriers to their development within the Plan period have been identified. Further flexibility will be provided by Winsford Neighbourhood Plan Policy E2, which supports B1 uses in the town centre, the Station Quarter and on sites accessible and close to the railway station (Sites S4 and S5). Overall, I am satisfied that the approach taken would be consistent with LPP1 and would be justified and effective.

86. I have found that the proposed allocations are sound. The settlement boundary has been drawn to include the built up area and those allocations. It would allow for the requirements of LPP1 Policy STRAT6 to be met along with support for the regeneration of the town centre. However, **MM25** is necessary to improve clarity, avoid repetition and ensure that Policy W1 is effective. Subject to this I consider that the approach taken to Winsford would be justified, effective and consistent with national policy.

Issue 7: Whether the approach towards Middlewich is justified, effective and consistent with national policy

87. LPP1 Policy STRAT7 sets out a commitment to work closely and effectively with Cheshire East Council to plan for sustainable development in or around the town of Middlewich. It states that, if justified, this could include allocating land in Cheshire West and Chester on the edge of the town through LPP2.
88. Representations were made that there is an outstanding requirement that would not be met within Cheshire East for both housing and employment land. With regards to employment land, the Cheshire East Local Plan (2017) (CELP) sets a minimum requirement for 380has of employment land across the borough (195has net plus 120.2has allowance for land loss, plus 20% flexibility). CELP Policy PG7 also requires '*in the order of 75has of employment land in Middlewich*'. Cheshire East Council is confident that both requirements would be exceeded. From the evidence before me, I am satisfied that would be the case, even taking into account the potential loss of land for employment uses at Midpoint18 due to the Middlewich Eastern Bypass. This is because significant flexibility is built into those targets, they assume a plot ratio which means that all identified land would not have to be developed, and those targets are expressed as approximations.
89. Further, representations were made regarding the allocation in this Plan of a site known as Cheshire Fresh in Middlewich, as it is an existing planning commitment. However, on the basis of my previous findings, I find no reason to seek additional employment allocations, either in Middlewich or indeed borough wide to ensure soundness. Whilst that site has an extant planning permission, it was granted contrary to policy for a bespoke high quality scheme (B1, B2, B8), which includes substantial mitigation to ensure that it relates satisfactorily to its surroundings. General employment development in this location would be likely to result in harm to the landscape and its allocation on that basis would not be justified. The approach taken therefore generally accords with the site allocations methodology the Council has adopted.
90. With regards to housing, CELP Policy PG7 states that Middlewich is expected to accommodate in the order of 1950 homes. Taking into account completions

since 2010, existing commitments and strategic allocations, roughly 1831 are likely to be delivered. This is likely to be added to by windfall development during the remaining Plan period. On this basis, I am satisfied that there is no imperative for additional allocations to meet Cheshire East's needs in Middlewich. I consider that the approach taken to Middlewich to be justified, effective and consistent with national policy.

Issue 8: Whether the approach towards rural area is justified, effective and consistent with national policy

91. LPP2 Policy R1 is a permissive policy in respect of development within settlement boundaries of identified settlements in the rural areas (KSCs and LSCs). It sets out the circumstances in which development will be supported outside but adjacent to settlement boundaries. In doing so, I consider that the approach is generally consistent with LPP1 Policy STRAT 2, which seeks to locate most new development in rural KSCs. This approach is generally supported in paragraph 5.22 of the accompanying text to that policy. Further I find this approach justified on the basis that the LPP1 housing requirement for the rural area is likely to be exceeded within the Plan period and the limited role for this Plan in that matter. However, **MM26** is necessary to ensure that development criteria within LSCs accord with LPP1 Policy STRAT2 and 8 and is consistent with national policy.
92. The approach taken to housing allocations within the rural area is set out in paragraph 53 of my report. Land for housing is allocated in Tattenhall to meet an outstanding requirement for 43 additional dwellings as measured against the requirement of 250 set out in LPP1 Policy STRAT8. The need to allocate additional housing sites in Tattenhall was questioned on the basis that the LPP1 requirement would be met through existing commitments. In this respect, I acknowledge that a recent planning permission³ would have such an effect. However as that development is still under construction and the original permission could be implemented, which would reduce the number of self-contained units, there is not certainty on this point. On this basis, I consider the approach to housing allocations proposed, which allocates a site for up to 30 dwellings and safeguards another if the requirement is not met before 2025, to be justified. It would provide adequate flexibility should current commitments, together with windfall sites within the built up area, deliver more than can be assured at this stage.
93. The proposed sites are both greenfield sites towards the edge of the settlement boundary. Land west of Ravensholme already has outline planning permission for up to 30 dwellings, which demonstrates how development would take account of site specific constraints. No substantive evidence is before me to indicate that either would not deliver within the Plan period. Therefore, I find that their identification would be justified, effective and consistent with national policy. To ensure that development of these sites would accord with Tattenhall Neighbourhood Plan Policy 1, which seeks to avoid large scale suburban type development, **MM27** is necessary. On the basis of the above conclusions, enlargement of either site would not be justified.

³ Development at Gifford Lea Retirement Complex Frog Lane

94. To meet the LPP1 Policy STRAT8 requirement for 10 Has of land for business and industrial development in the rural area, LPP2 Policy R3 supports the small scale development of existing employment sites, mainly on the edge of KSCs outside the Green Belt. Some are outside LSCs but that is not precluded by LPP1 Policy STRAT8. Together with land allocated in the Neston Neighbourhood Plan, more than 10 Has would be provided close to KSCs and therefore such an approach would generally accord with LPP1 Policy STRAT8. Additional flexibility would be provided as the Borough wide requirement in LPP1 Policy STRAT2 is likely to be exceeded. In addition, No Mans Heath Neighbourhood Plan policies support small scale expansion of employment sites, which could enable additional supply. As all sites are within the rural area and Monument Place Employment Park, Farndon close to designated heritage assets, **MM28** and **MM29** are necessary to ensure that development would relate appropriately to the locality. Subject to these MMs I consider that the approach taken to the rural area would be justified, effective and consistent with national policy.

Issue 9: Whether the approach towards the Green Belt and countryside is justified, effective and consistent with national policy

95. LPP2 Policy GBC1 designates commercial sites in the Green Belt where infilling development or partial or complete redevelopment would be acceptable. This would accord with LPP1 Policy STRAT9. It designates five sites and in subsequent policies sets out criteria against which development proposals would be assessed. To ensure that appropriate reference is made to documents that have not been examined, and heritage assets are fully taken into account in accordance with national policy, **MM30, to MM33**, in relation to Policies GBC1.A (Chester Zoo), GBC1.B (Countess of Chester Health Park, GBC1.C (Dale Barracks) and GBC1.E (Urenco, Capenhurst) are necessary. In this regard, I consider that the supporting text to Policy GBC1.E would enable the current and future operational needs of the site to be taken into account.
96. LPP2 Policy GBC2 defines and sets out protection for Areas of Special County Value. **MM34** will provide the necessary clarity to ensure that development proposals take account of guidance in the Landscape Strategy and the setting of the designations. This will ensure that the policy is effective.
97. LPP2 Policy GBC3 defines Key Settlement Gaps (KSGs) in accordance with LPP1 Policy ENV2. These are designated to maintain the distinct separation between different settlements outside the Green Belt where the threat of coalescence or erosion is likely due to pressure from development. It designates five KSGs within the wider built up area of Northwich. Those designations are based on the Landscape Policy Review Part 2-KSGs (EB055 and EB056). Generally, that sets out a clear methodology that assesses the landscape on a borough wide level, against a set of clear criteria and included a field survey stage. Inevitably it includes the application of professional judgement, but its conclusions are rational. On this basis, I am satisfied that it is a logical and objective methodology. The defined KSGs would help to protect the wider built up area of Northwich from coalescence and I find that they would be justified. **MM35** is necessary to clarify the purpose of the designations and explain the term 'identity functions', to ensure effectiveness.

98. Subject to these MMs I consider that the approach taken to the Green Belt and countryside would be justified, effective and consistent with national policy.

Issue 10: Whether the approach towards transport is justified, effective and consistent with national policy

99. LPP1 Policy STRAT10 supports improvements to the transport network to be implemented through, amongst other things, the Chester Transport Strategy, including a longer term project for a Chester Western Relief Road. Such a route was safeguarded through Policy TR7 of the Chester District Local Plan (KSD010). As recent studies (Phase 2 interim report EB024) have recommended consideration of a refined route further west, and Cross border negotiations are underway to deliver this solution, I cannot be assured that the previously safeguarded route would represent the most practicable or deliverable solution. Whilst I appreciate that safeguarding a route would aid future delivery, that a preferred route would not be protected in this Plan would not prevent it being delivered. In light of this lack of certainty and all other considerations, I find that the approach taken is justified.
100. To ensure that Policy T2, which relates to the Hoole Road Park and Ride, is clear and effective, **MM36** is necessary. This clarifies the environmental and operational improvements sought as part of the policy.
101. LPP2 Policy T5 deals with parking and access. It sets out standards for the provision of electric vehicle charging infrastructure, intended to accord with LPP1 Policy STRAT10. However, that policy provides for the provision of such infrastructure, where appropriate. I remain unconvinced that the evidence presented, including air quality, justifies the prescriptive approach proposed in LPP2 Policy T5, which goes beyond that in LPP1. **MM37** is necessary to ensure a more flexible approach in accordance with LPP1 Policy STRAT10. In addition, that MM provides appropriate reference to the Council's Parking Standards Supplementary Planning Document, which is a document that has not been through an examination. Subject to the MMs set out, I consider that the approach taken to the matter of transport in the Plan would be justified, effective and consistent with national policy.

Issue 11: Whether the approach towards minerals is justified, effective and consistent with national policy

102. **MM38** includes amendments to wording of Policy M1, to ensure that the requirements set out within Policy M1 are set as minimums. This will ensure that the supply of minerals accords with national policy and LPP1 Policy ENV9, which states that a minimum seven year land bank for aggregate land won sand and gravel should be maintained. It will also enable a flexible approach to the location of future minerals development to ensure diversity of supply for the market, again in accordance with LPP1 Policy ENV9. Subject to this modification, Policy M1 would be effective in supporting delivery of land won sand and gravel, in accordance with LPP1.
103. LPP2 Policy M2 provides criteria against which development within a Minerals Safeguarding Area (MSA) will be assessed. MSAs were identified in LPP1. Whilst it does not define additional buffer zones around MSAs, on the basis of geological configuration of resources and the results of consultation, I am

satisfied that this is not required to safeguard mineral resources from the impact of development. Whilst no MSA or buffer is defined for silica sand, as there is no requirement set within LPP1 Policy ENV9, this would not be out of line with that Plan.

104. Policy M2 safeguards natural minerals resources from incompatible development, including hydrocarbon development within MSAs. However, it does not preclude hydrocarbon development within MSAs. Criteria 5 to that policy enables the decision maker to balance the material planning benefits of hydrocarbon development against those of the underlying or adjacent material, which enables adherence to national policy on hydrocarbon development. Therefore, I am satisfied that it is generally consistent with national policy. No alteration to that policy is required to meet the tests of soundness therefore.
105. **MM39 and MM40** are required to ensure support for minerals workings and the exploration and appraisal or production of hydrocarbons, in accordance with national policy and LPP1 Policies ENV7 and ENV9. These modifications omit a reference to Policy DM30, which deals with residential amenity, in Policies M3 and M4. They will ensure that the living conditions of residents are protected, in accordance with LPP1 Policy SOC5, whilst facilitating minerals development. In response to the consultation responses, I have further amended the relevant criteria (Policy M3 criteria 5 and Policy M4 criteria 3) to ensure some flexibility to minimise noise levels. Those MMs also include amendments to detailed wording of those policies and supporting text to improve clarity, ensure that mitigation measures are implemented and that structures are removed from site as soon as practicable or within a reasonable time frame, supported by industry operators.
106. In light of consultation responses on **MM40** specific reference to LPP1 Policy STRAT1 in criteria 2 of policy M4 has been deleted. This is because a cross reference to that policy, which seeks sustainable development, and in particular development to mitigate and adapt to the effects of climate change, is not required to make the policy effective. This is because the LPP1 policies form part of the development plan for the borough and any hydrocarbon development would be subject to that policy whether there is specific reference to it in LPP2 Policy M4 or not; a matter confirmed in paragraph 9.52 of the supporting text to that policy. Insufficient evidence is before me to justify the use of a buffer zone around hydrocarbon development, on the basis of the criteria set out within Policy M4, which aim to protect the locality, the environment generally and local communities from the impacts of such development.
107. Policy M7 makes an allocation for silica sand (industrial sand) at Rudheath Lodge. Whilst that allocation does not include land north of Platt Lane previously used for processing, I have insufficient evidence to demonstrate that its inclusion would be necessary for that policy to be effective.

Issue 12: Whether the development management policies are justified, effective and consistent with national policy

108. NPPF paragraphs 154-157 set out various principles for plan making. The PPG on Local Plans encourages them to be focussed, concise and accessible as

possible. The LPP2 includes 55 development management policies. There is some force in the argument that this is too many. Equally there should be sufficient detail and the Council generally prefers that policies are complete rather than requiring extensive cross referencing. The coverage and extent of the development management policies is a matter for the Council and any repetition does not go to the heart of soundness as such. This is the basis on which I make my further findings. I conclude that, subject to the recommended MMs below, the DM policies are consistent with one another and with the development plan as a whole.

Policy DM2 Impact on residential amenity

109. The aim of this policy is to protect residents' living conditions. The policy at present does not sufficiently differentiate between the impact on day light and sunlight. **MM41** is necessary to address this and ensure that the policy is effective in its aim.

Policy DM3 Design, character and visual amenity

110. The aim of this policy is to achieve high quality locally distinctive development. At present the detailed wording lacks the necessary clarity. **MM42** is necessary to address this and ensure that the policy is clear to future decision makers and thereby is effective.

Policy DM6 New agricultural buildings

111. This policy aims to support development that requires a countryside location, whilst protecting the intrinsic character and beauty of the countryside. At present it deviates from LPP1 Policy STRAT9, in requiring an established need for the development. **MM43** is necessary to ensure consistency with LPP1.

Policy DM7 Rural diversification of land based businesses

112. This policy supports rural diversification and land based businesses, whilst protecting the countryside and sets out criteria that such development should meet to ensure that they are appropriate in scale and type. At present it is not specific in reference to the impact on historic assets. **MM44** is necessary to address this and ensure that the policy is effective.

Policy DM8 Equestrian development

113. This policy supports equestrian development setting out criteria which should be met to protect the character of the countryside. The policy at present duplicates criteria and is not explicit in its requirements, particularly in relation to additional buildings. To provide greater clarity and ensure it is effective, **MM45** is necessary.

Policy DM9 Visitor accommodation and Policy DM10 Caravans and camping sites

114. These policies aim to support development within the countryside, whilst protecting the intrinsic character and beauty of the countryside. At present they set out restrictions in the Green Belt. **MM46** and **MM47** are necessary to ensure a consistent cross reference to Green Belt policy and consistency with

national policy. In addition, confirmation that camping and caravan sites are considered as tourism development would ensure consistency in this regard with LPP1 Policy ECON3.

Policy DM13 Oulton Park

115. This policy supports motor related development at this racing venue, which is an important national leisure and tourist attraction. At present the criteria are unclear as to the required relationship of new built development to existing buildings. **MM48** will correct this and ensure that the policy is effective.

Policy DM14 City and town centres

116. This policy supports the borough's retail centres. It defines boundaries for Chester and Northwich and other town centres, as defined by LPP1 Policy ECON2, and primary and secondary shopping frontages, for the first two. **MM49** will ensure clarity on the acceptability of changes of use within secondary shopping frontages. This will ensure that the policy is effective.

117. Some concern was expressed at the extent of marketing evidence required to support changes of use from shops to other uses within the primary shopping frontages. However, bearing in mind the limited extent of primary shopping frontages and the need to retain shop uses within them to maintain the vitality and viability of the shopping centre as a whole, I find it justified. That this length of time is used in saved Vale Royal Local Plan Policy E4, adds weight to my conclusions in this regard.

Policy DM16 Shopfronts

118. This policy supports new shopfronts or alterations to existing shopfronts. At present it includes criteria which set tests for development affecting designated heritage assets. These incorrectly state the applicable legal tests and consents required. **MM50** is necessary to correct this and ensure that the policy is effective.

Policy DM17 Advertisements

119. This policy aims to support high quality advertisements whilst protecting the character of the borough. The policy at present includes criteria which go beyond the remit of the advertisement control regime. **MM51** is necessary to restrict considerations of that policy to amenity and public safety. This will ensure that the policy is effective.

Policy DM18 ICT and telecommunications

120. This policy supports access to information communication technologies. Concern was expressed regarding the requirement for new development to be accessed by 'fibre to premises' or similar technology. However, as the policy states that developers should make provision for the installation and maintenance of information connection networks and takes account of viability considerations, I consider that it provides sufficient flexibility to be effective in its purpose. Such measures accord with NPPF paragraph 42, thereby

potentially reducing the need to travel and supporting sustainable development.

121. However, some of the criteria are overly prescriptive and **MM52** will ensure necessary flexibility and the correct Green Belt policy and historic environment tests are applied. This is necessary to ensure that the policy is effective and consistent with national policy and applies the correct legal tests.

Policy DM19 Proposals for residential development

122. This policy supports residential development within identified settlements and restricts housing in the countryside to that which requires a countryside location in support of the locational strategy set out LPP1 Policies STRAT3 to 8. However, at present some of the criteria relating to the replacement of buildings on previously developed land are more restrictive than Green Belt policy. **MM53** deletes those criteria to ensure that the policy as a whole provides an appropriate level of support for development in the countryside and then deals with Green Belt restrictions separately. This is necessary to ensure general accordance with NPPF paragraph 89.

DM20 Mix and type of new housing development

123. Although I accept that the borough has an ageing population, that mirrors the national picture. Taking all considerations into account, including the viability evidence presented, I find that there is insufficient justification for the requirement for all new dwellings to meet the optional Higher Building Regulations standard for accessible and adaptable dwellings, when applying the tests set out in the PPG⁴. **MM54** is necessary to remove that requirement along with overly prescriptive design requirements and ensure that the policy is justified and therefore sound.
124. The proposed criteria 2 sets out the provision of adaptable and accessible homes where justified, which provides some flexibility should the necessary justification be available in the future. This would enable the Council to negotiate such requirements in the future should the necessary evidence be available.

Policy DM21 Development within the curtilage of a dwelling house

125. The criteria in this policy are confusing particularly in relation to boundary treatments and hard surfacing. **MM55** is required to ensure relevant criteria are applied to each type of development, Green Belt policy is appropriately referred to and to improve clarity and ensure that the policy is effective.

Policy DM22 Change of use to dwelling houses and residential conversions

126. This policy supports conversion of existing buildings to dwellings. It sets criteria against which such development in the countryside will be assessed. However, at present some of the criteria are overly restrictive. **MM56** deletes

⁴ PPG Housing-Optional higher Buildings Regulations standard for accessible and adaptable dwellings

and modifies those criteria to ensure that the policy as a whole provides an appropriate level of support for such development in the countryside. This is necessary to ensure general accordance with NPPF paragraphs 55 and 90.

Policy DM25 Essential rural workers dwellings

127. NPPF paragraph 55 sets out that the essential need for a rural worker to live permanently at or near their place of work can fall within the special circumstances required to justify a new isolated home in the countryside. Policy DM25 aims to support such development. Whilst some mechanism to ensure that the resultant dwelling is available for a rural worker is necessary, at present it is too restrictive and would not be effective in meeting the policy aims. **MM57** is necessary to address this and to ensure that new dwellings are tied to the rural enterprise that they are proposed to support. This will ensure that the policy is effective and generally consistent with national policy.

Policy DM26 Specialist accommodation

128. This policy is intended to support the development of nursing homes and elderly persons accommodation in identified settlements to meet the needs of an ageing population. **MM58** is necessary to clarify that development should have good accessibility to a range of existing services and facilities. This is necessary to ensure that the policy is effective.

Policy DM28 Houses in multiple occupation (HMOs), Policy DM41 Sustainable drainage systems (SUDS)

129. These policies support the development of HMOs whilst protecting character and appearance and residents' living conditions and supports SUDS. **MM59 and MM65** are necessary to ensure that they appropriately refer to Council documents that have not been through examination, and that development would generally accord with them. This is necessary to ensure that the policy is effective.

Policy DM29 Health impacts of new development

130. The supporting text to this policy includes a requirement for hot food takeaways to be located within a retail centre. I find very limited evidence to justify this and, in any event, consider it unlikely to be effective. **MM60** therefore removes this reference in the supporting text to the policy. This will ensure that the policy as a whole is justified.

Policy DM30 Noise

131. This policy seeks to protect residents' living conditions against industrial and commercial noise. However, at present in referring to oil and gas development it is overly restrictive. In addition, at present it is very prescriptive and includes reference to fixed noise thresholds. Together, those parts of the policy could work to restrict otherwise acceptable development. Omitting fixed thresholds and instead requiring additional information to support development, where appropriate, will overcome this concern. **MM61** addresses

these matters and is necessary to ensure that the policy is justified, effective and is consistent with national policy.

Policy DM35 Open space and new development

132. There is some inconsistency between the policy, supporting text and the definition of dwelling in the glossary to LPP2, in relation to the threshold for open space provision. **MM62** provides the necessary clarity in this regard, referring consistently within the policy to 'units' as opposed to 'dwellings'. This MM will ensure that the policy is effective.

Policy DM36 Provision for sport and recreation

133. Some parts of this policy lack necessary clarity. **MM63** would address this, with regard to the conversion of existing artificial sports surfaces to a different type of surface. That MM would ensure that the policy is effective.

Policy DM39 Culture and community facilities

134. This policy requires that significant development should contribute to the provision of public art. To ensure compliance with the tests set out in NPPF paragraph 204, **MM64** is necessary. This will ensure that the policy is justified and effective.

Policy DM46 Development in conservation areas, Policy DM47 Listed buildings, Policy DM48 Non designated heritage assets, Policy DM49 Registered parks and gardens, Policy DM50 Archaeology

135. These policies seek to ensure that development improves the historic environment. They relate to different types of heritage asset and their settings. **MM66 to MM70** will ensure that all of these policies are consistent with the relevant legislation and national policy, along with their associated reasoned justification. This will ensure the appropriate tests in relation to designated and non-designated heritage assets are applied.

Assessment of Legal Compliance

136. My examination of the legal compliance of the Plan is summarised below.

137. The LPP2 has been prepared in accordance with the Council's LDS.

138. Consultation on the LPP2 and the MMs was carried out in compliance with the Council's Statement of Community Involvement.

139. An SA has been carried out and is adequate.

140. The Habitats Regulations Appropriate Assessment (July 2018) sets out a likely significant effects analysis covering all relevant internationally designated sites and then an appropriate assessment of effects on those for which the potential for significant effect cannot be discounted. This was followed by a Habitats Regulations Assessment of MMs (Dec 2018). Together, these conclude that the Plan may have some negative impact which requires mitigation and such measures are secured through this Plan.

141. LPP1 and LPP2, when read as a whole include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. Such policies include Policy STRAT1, which promotes sustainable development and the focus on previously developed land and existing urban areas (Policies STRAT2-9). LPP2 policies include Policy DM1, which supports development on previously developed land, Policy DM4, which supports sustainable construction, Policies DM44-DM45, which protect and enhance the natural environment including trees, woodland and hedgerows and Policies DM51-53, which promote wind and solar energy and energy generation, storage and district heat networks.
142. The LPP2 complies with all relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.
143. Throughout the examination of this Plan I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This, amongst other matters, sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
144. There are specific policies concerning specialist accommodation, affordable housing, the mix and type of housing and the approach to Gypsy and Traveller accommodation, that should directly benefit those with protected characteristics. In this way the disadvantages that those with protected characteristics suffer would be minimised and their needs met, in so far as they are different to those without a relevant protected characteristic. There is also no compelling evidence that the LPP2 as a whole would bear disproportionately or negatively on them or others in this category.

Overall Conclusion and Recommendation

145. The LPP2 has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
146. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended MMs set out in the Appendix to my report, the LPP2 satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the NPPF.

R Barrett

Inspector

This report is accompanied by an Appendix containing the MMs.