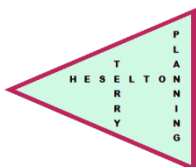


# **Neston Neighbourhood Plan (Examination Version)**

## **Report of the Independent Examination**

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**Independent Examiner**



**Terry Heselton Planning**

**March 2016**



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## **Summary**

I have examined the Neston Neighbourhood Plan as submitted to Cheshire West and Chester Council by Neston Town Council. The examination has been undertaken by written representations.

I conclude that the Neighbourhood Plan meets all of the statutory requirements, including those set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990. However a number of modifications are required to ensure that the Plan meets the four 'Basic Conditions', as defined in Paragraph 8(2) of the Schedule.

Subject to making the modifications set out in my report I recommend that the Neston Neighbourhood Plan proceed to referendum, and that the voting area corresponds with the Neston Neighbourhood Area as designated by Cheshire West and Chester Council on 6 March 2013.

## **1.0 Introduction**

- 1.1 I have been appointed by Cheshire West and Chester Council, with the consent of Neston Town Council, to examine the Neston Neighbourhood Development Plan and report my findings as an Independent Examiner.
- 1.2 The Neston Neighbourhood Plan (referred to as ‘the Neighbourhood Plan’ or ‘the Plan’) has been produced by Neston Town Council under the provisions of the Localism Act 2011, which introduced the means for local communities to produce planning policies for their local areas. The Town Council is a qualifying body for leading the preparation of a neighbourhood plan<sup>1</sup>.
- 1.3 The Neighbourhood Plan covers the historic market town of Neston and the adjacent communities of Parkgate, Little Neston, Ness, and Hinderton together with the rural hinterland. Neston is situated on the Wirral Peninsular adjacent to the Dee Estuary.
- 1.4 My report provides a recommendation as to whether or not the Neighbourhood Plan should proceed to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Neighbourhood Plan would be *made* by Cheshire West and Chester Council. The Plan would then be used to determine planning applications and guide planning decisions in the Neston Neighbourhood Area.

## **2.0 Scope and Purpose of the Independent Examination**

- 2.1 The independent examination of neighbourhood plans is intended to ensure that neighbourhood plans meet four ‘Basic Conditions’<sup>2</sup>, together with a number of legal requirements. Neighbourhood plan examinations are narrower in scope than Local Plan examinations and do not consider whether the plan is ‘sound’.
- 2.2 In order to meet the ‘Basic Conditions’, a neighbourhood plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State’,
  - contribute to the achievement of sustainable development,
  - be in general conformity with the strategic policies of the development plan for the area of the authority (or any part of that area), and
  - not breach, and be otherwise compatible with EU obligations
- 2.3 In addition to reviewing the examination version of the Neighbourhood

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<sup>1</sup> Section 38C of the Planning and Compulsory Purchase Act 2004 and Section 61F of the Town and Country Planning Act 1990.

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

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Plan I have considered a number of background documents which are listed in Appendix 1, together with fourteen submitted representations, as part of the examination.

- 2.4 The general rule is that examination of the issues is undertaken through consideration of written representations, unless the examiner considers that a public hearing is necessary to ensure adequate examination of an issue (or issues) or to ensure that a person has a fair chance to put a case.
- 2.5 In reviewing the Neighbourhood Plan and the accompanying background documents and submitted representations, I have not identified any issues on which I require clarification. I am also of the opinion that all parties have had full opportunity to register their views and put their case forward. I have therefore undertaken the examination through consideration of written representations, supported by an unaccompanied site visit of Neston and the surrounding area.
- 2.6 In undertaking the examination I am also required to check whether:
- the Neighbourhood Plan policies relate to the development and use of land for the designated Neighbourhood Area<sup>3</sup>;
  - the Neighbourhood Plan meets the requirement to specify the period for which it is to have effect, not to include provision relating to 'excluded development', and not to relate to more than one Neighbourhood Area<sup>4</sup>,
  - the Neighbourhood Plan has been prepared for an area that has been properly designated<sup>5</sup> and has been developed and submitted for examination by a qualifying body<sup>6</sup>, and
  - adequate arrangements for notice and publicity have been made in connection with the preparation of the Neighbourhood Plan<sup>7</sup>.
- 2.7 As Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan is submitted to referendum, on the basis that it meets the 'Basic Conditions' and other legal requirements; or
  - that modifications (as recommended in the report) are made to the draft Neighbourhood Plan and that the draft Neighbourhood Plan as modified is submitted to Referendum; or
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the 'Basic Conditions' and other relevant legal requirements<sup>8</sup>.
- 2.8 Modifications may only be recommended to ensure that the

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<sup>3</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004 as amended

<sup>4</sup> Section 38B (1) Planning and Compulsory Purchase Act 2004 as amended

<sup>5</sup> Section 61G Town and Country Planning Act 1990 as amended

<sup>6</sup> Section 38C Planning and Compulsory Purchase Act 2004 and Section 61F of the Town and Country Planning Act 1990.

<sup>7</sup> Section 38A (8) Planning and Compulsory Purchase Act 2004 as applied by the Neighbourhood Planning (General) Regulations 2012

<sup>8</sup> Paragraph 10(2) Schedule 4B of the Town and Country Planning Act 1990 as amended

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Neighbourhood Plan meets the 'Basic Conditions', that it is compatible with Convention Rights, or for the purpose of correcting errors<sup>9</sup>.

- 2.9 If recommending that the Neighbourhood Plan should proceed to referendum, I am required to then consider whether or not the Referendum Area should extend beyond the Neston Neighbourhood Area, and if so what the extended area should be<sup>10</sup>.
- 2.10 I make my recommendations in this respect in the final section of this report.

### 3.0 Representations

- 3.1 Responses were received during the Regulation 16 Publicity period from or on behalf of Cheshire West and Chester Council, Natural England, the Environment Agency, the Coal Authority, the Canal and River Trust, Welsh Water, United Utilities, Aldi Stores UK Ltd, the Royal Mail Group, the Mobile Operators Association, and four members of the public.
- 3.2 **Natural England** are pleased that their previous comments have been incorporated in the Plan.
- 3.3 **Welsh Water** support the requirement in Policy NNH1 (New Residential Development) for new residential development to be adequately serviced by the existing infrastructure and utilities network and confirm that the local Waste Water Treatment Works and the local sewerage system may require upgrading to accommodate additional development beyond that already committed.
- 3.4 **Cheshire West and Chester Council** consider the Plan is in general conformity with the Cheshire West and Chester Local Plan (Part One) and provide comments on a number of issues and policies in the Plan, including a number of suggestions to improve conformity.
- 3.5 **The Environment Agency, United Utilities, the Canal and River Trust, and The Coal Authority** had no substantive comments to make.
- 3.6 **Aldi Stores UK Ltd** consider the Plan should provide more support for the future expansion of their Regional Distribution Centre in Neston by acknowledging the very special circumstances to justify incursion into Green Belt. They also object to the removal of potential expansion land adjacent to their existing town centre store from the defined town centre area.
- 3.7 **Royal Mail Group** are concerned that the operation of their existing postal delivery office may be compromised if 'sensitive uses' are allowed to become established on adjacent sites as a result of proposed town centre policies which they consider do not reflect higher tier policies.

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<sup>9</sup> Paragraph 10(3) Schedule 4B of the Town and Country Planning Act 1990 as amended

<sup>10</sup> Paragraph 10(5) Schedule 4B of the Town and Country Planning Act 1990 as amended

- 3.8 **The Mobile Operators Association** consider that Policy NNE4 is ambiguous and does not adequately reflect national planning policy and suggest alternative wording for a dedicated telecommunications policy to be included in the Plan.
- 3.9 Suggestions submitted by members of the public include placing more emphasis on public transport, providing safe cycle and walking routes to local schools, and introducing of 20 mph speed restrictions.
- 3.10 Another member of the public is concerned that Policy NNT1 may conflict with established conservation area policies and considers the boundary of the special policy area for Parkgate Parade should be extended.
- 3.11 The general and detailed points raised on specific issues and policies in the Plan by those submitting representations are considered in Section Six of my report.

#### **4.0 Compliance with Legal Requirements**

##### **(a) Plan Area**

- 4.1 The Neighbourhood Plan relates to the whole of the Neighbourhood Area that was designated by Cheshire West and Chester Council on 6 March 2013, following an application by Neston Town Council. The Town Council is recognised as a Qualifying Body for the purposes of preparing Neighbourhood Plans under Sections 61F and 61G of the Town and Country Planning Act 1990.
- 4.2 The Neston Neighbourhood Area is coterminous with the area covered by Neston Town Council. It includes the historic market town of Neston, and the adjacent communities of Parkgate, Little Neston, Ness, and Hinderton, and the surrounding rural area.
- 4.3 While many of these areas retain individual characteristics they form a coherent built up area with shared resources, facilities, and town centre.
- 4.4 I am satisfied that the relevant statutory requirements in relation to the designation of the Neighbourhood Area and the authority of the organisation preparing the Neighbourhood Plan have been complied with.
- 4.5 I am also satisfied that the Plan does not relate to more than one neighbourhood area and there are no other neighbourhood development plans for the designated Neighbourhood Area in accordance with statutory requirements.



**(b) Policies for the Development and Use of Land**

- 4.6 The Neighbourhood Plan sets out policies in relation to the development and use of land for the defined Neighbourhood Area, which accords with the definition of neighbourhood plans in Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended).

**(c) Time Period**

- 4.7 A neighbourhood plan must specify the period during which it is to have effect. The Neighbourhood Plan clearly states on its title page that it covers the period 2010 to 2030. It therefore satisfies this legal requirement.
- 4.8 I am mindful of the fact that the start date of the Plan, which corresponds with the base date for the housing supply calculation, precedes the Localism Act which empowers Local Councils to prepare Neighbourhood Plans. However as there is no necessity to apply the provisions of the Plan retrospectively I do not consider this creates any practical difficulty.

**(d) Excluded Development**

- 4.9 The Neighbourhood Plan does not include policies on excluded development such as national infrastructure, mineral or waste related development.

**(e) Publicity and Consultation**

- 4.10 Public consultation on the production of land use plans, including neighbourhood plans, is a legislative requirement. Building effective community engagement into the plan-making process encourages public participation and raises awareness and understanding of the plan's scope and limitations.
- 4.11 The submitted Neighbourhood Plan is accompanied by a comprehensive Consultation Statement which describes in some detail the process followed in preparing the Neighbourhood Plan as well as the methods used to engage with the local community and other stakeholders. It also demonstrates how comments received from members of the public and other stakeholders have been taken into account, and how these have influenced the preparation of the Plan.
- 4.12 I have considered the various stages of consultation undertaken prior to and during preparation of the Neighbourhood Plan with particular regard

to content, openness and transparency, as well as the extent to which the Regulatory requirements have been satisfied.

- 4.13 The stages of consultation and engagement can be summarised as
- Initial Engagement (May 2012 – March 2013)
  - Informal Consultation (April 2013 - December 2014)
  - Pre-submission (Regulation 14) consultation on the draft Plan
- 4.14 I note that Neston Town Council was one of the first local councils to successfully apply for 'Front Runner' status as part of the Governments Neighbourhood Plan programme.
- 4.15 By devolving responsibility for the preparation of the Plan to a Community Steering Group (CSG), comprising 10 members of the public and 3 Town Councillors, the Town Council has been able to ensure active community involvement throughout the whole process. The CSG has also been supported by the creation of Task and Finish Groups (comprising local volunteers and stakeholders), and by the appointment of planning consultants during the later stages of Plan preparation.
- 4.16 I would particularly commend the Town Councils approach to keeping local residents and other stakeholders regularly informed of progress by publishing the minutes of CSG meetings (which are held monthly) on the Councils web site and through regular newsletters.

Initial Engagement (May 2012 – March 2013)

- 4.17 At the start of the process the Town Council actively sought the participation of residents, local businesses and local service providers through a special edition of the Town Council newsletter, which also asked for feedback on a number of key questions to help identify what people liked best about living in Neston, what they liked least, and how they would like to see facilities and services develop in the future.
- 4.18 This was accompanied by a launch event in the Town Hall on 15 June 2012, attended by about 160 people, and a follow up meeting on 17 June at which a number of people volunteered to help oversee the production of the Plan as part of the Community Steering Group.
- 4.19 The inaugural meeting of the Community Steering Group was held on 13 September 2012.

Informal Consultation (April 2013 – December 2014)

- 4.20 In order to further promote the preparation of the Plan and to obtain views on specific issues and emerging policies three separate consultations were undertaken as work progressed on the Plan.
- 4.21 The first of these was an informal canvas of 'public opinion' undertaken in the Town Hall and Market Square over two days in April 2013, with the results from over 350 responses provided through a News Briefing.
- 4.22 This was followed by a detailed questionnaire sent to over 7000 addresses in July 2013, which asked whether people agreed, disagreed or were neutral about 25 outline proposals covering housing, economic

development/retailing and transport/quality of life issues. About 350 responses were received which were reported in the November 2013 newsletter.

- 4.23 Finally, a leaflet summarising the emerging policies and proposals (and seeking feedback) was distributed to all residential properties in the Neighbourhood Area by Royal Mail, and hand delivered to all commercial addresses by volunteers in December 2014.
- 4.24 During the later part of 2014 a series of informal meetings were also held with key stakeholders including Cheshire West and Chester Council.

Pre submission (Regulation 14) Consultation on the Draft Plan

- 4.25 The draft Plan was published for consultation in January 2015 and the 6 weeks pre-submission (Regulation 14) consultation took place between 23 January 2015 and 6 March 2015.
- 4.26 The consultation was publicised through the Town Council web site, press releases and newspaper articles, and letters/e-mails sent to 31 consultation bodies and 71 local stakeholders. Leaflets were distributed to over 50 local shops, commercial premises and community facilities. Hard copies of the Plan were placed in Neston Town Hall and Neston Library.
- 4.27 During the consultation two drop in sessions were held in Neston Town Hall providing a further opportunity for local residents and other stakeholders to learn about the proposals. An interview with CSG representatives and local stakeholders was broadcast on BBC Radio Merseyside.
- 4.28 Specific evidence is provided in the Consultation Statement to demonstrate how the publication of the Plan and the opportunity to comment on it has been publicised. This includes a well presented and easy to understand analysis of the responses to the various surveys and questionnaires. There are also details of the various consultation bodies and other stakeholders who were consulted.

Conclusions

- 4.29 During the preparation of the Plan it is apparent that a wide variety of methods have been used to inform and engage with the local community including conventional methods such as meetings, leaflets, drop in events, and the local media, as well as digital methods such as email, and the provision of a dedicated web page on the Town Council's website.
- 4.30 The publication of the consultation draft Plan which was available in both paper and electronic formats has also been well publicised, and I am satisfied that those with an interest in the plan have been made aware of the opportunity to comment on it and that the views of relevant consultation bodies have been pro-actively sought.
- 4.31 Taking this and all of the previous stages into account, there is therefore plenty of evidence to show that the consultation process was comprehensive and conducted in an open and transparent manner from start to finish, with lots of opportunities for engagement, involvement and

feedback. The Regulation 14 requirements for consultation and publicity have therefore been met and in some cases exceeded.

#### Regulation 16 Publicity

- 4.32 The draft Neighbourhood Plan, as amended in response to the consultation, was subsequently submitted to Cheshire West and Chester Council. The submitted plan, incorporating a map identifying the area covered by the Neighbourhood Plan, was accompanied by a Consultation Statement, and a Basic Conditions Statement explaining how the proposed Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990.
- 4.33 The Consultation Statement provides details of those consulted and explains how they were consulted. It also contains a schedule identifying specific comments and objections made in relation to individual paragraphs and policies in the Plan, and the actions taken in response together with a commentary as to how the points raised have been accommodated in the submitted version of the Plan, or the reasons for rejecting them.
- 4.34 Cheshire West and Chester Council published details of the Plan and the accompanying documents, notified interested parties and 'consultation bodies' of its receipt, and provided details as to how and by when representations could be submitted. The formal six week publicity stage for submitting representations covered the period Monday 12 October to Monday 23 November 2015.

#### Conclusions

- 4.35 In the light of the foregoing I am satisfied that the Regulation 16 requirements for publicity have been met.

## **5.0 Basic Conditions**

- 5.1 This section of my report considers whether the Neighbourhood Plan taken as a whole has regard to national policies and advice contained in guidance issued by the Secretary of State, whether the plan contributes to the achievement of sustainable development, and whether it is in general conformity with local strategic policy. It also addresses EU obligations. Each of the plan policies is considered in turn in the section of my report that follows this.

### **(a) National Planning Guidance**

- 5.2 National Planning Guidance is set out principally in the National Planning

Policy Framework (NPPF) which was published in 2012. At the heart of the NPPF is a presumption in favour of sustainable development<sup>11</sup> which when applied to neighbourhood planning means that neighbourhoods should develop plans which support the strategic development needs set out in Local Plans, and which plan positively to support and shape local development that is outside the strategic elements of the Local Plan.<sup>12</sup>

- 5.3 The NPPF incorporates 12 Core Principles<sup>13</sup> which underpin both plan-making and decision-taking. These are summarised in paragraph 17 of the NPPF and elaborated in the remainder of the NPPF through individual policy topics such as building a strong economy, delivering a wide choice of high quality homes, requiring good design, promoting sustainable transport, and conserving the historic environment.
- 5.4 Included in the 12 Core Principles is a requirement to produce neighbourhood plans which set out a positive vision for the future of the area and which provide a practical framework within which decisions on planning applications can be made.
- 5.5 The NPPF also (paragraph 184) requires neighbourhood plans to be 'aligned with the strategic needs and priorities of the wider local area, and to be in general conformity with the strategic policies of the Local Plan. To facilitate this, Local Planning Authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans (and neighbourhood development orders) should not promote less development than that set out in the Local Plan or undermine its strategic policies.
- 5.6 It goes on (paragraph 185) that once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict.
- 5.7 More detailed guidance and advice, expanding on the general policies in the NPPF has been available since March 2014 as Planning Practice Guidance (PPG). This includes specific guidance as to 'What evidence is needed to support a neighbourhood plan?'<sup>14</sup>, and 'How policies should be drafted'<sup>15</sup>, that is "*a policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise, and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared*".

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<sup>11</sup> National Planning Policy Framework (2012) para 14

<sup>12</sup> National Planning Policy Framework (2012) para 16

<sup>13</sup> National Planning Policy Framework (2012) para 17

<sup>14</sup> Planning Practice Guidance para 040 Ref ID: 41-040-20140306

<sup>15</sup> Planning Practice Guidance para 041 Ref ID: 41-041-20140306

- 5.8 I have had regard to these principles in carrying out the examination, since the manner in which policies are drafted and whether or not they are supported by appropriate evidence is clearly fundamental to determining whether or not individual policies and a plan as a whole satisfies the Basic Conditions.
- 5.9 Less straightforward to determine is whether a policy is distinct, and whether it reflects local circumstances. For example while it is clear that many policies in the Neston Neighbourhood Plan are driven by local circumstances and community preferences, to a certain extent some could apply to other, if not all, locations. I have taken the view that the fact that a local community has chosen to include a particular policy, reflects its awareness that the particular issue is of special importance to the locality, and this does not therefore prevent that policy from satisfying the Basic Conditions.
- 5.10 Taken as a whole I conclude that the Neighbourhood Plan reflects the broad principles embedded in the NPPF and PPG. In those instances where individual policies and/or supporting text have been found to be inconsistent with national policy I have made specific recommendations to correct this later in the report.

#### **(b) Sustainable Development**

- 5.11 In carrying out the examination I am also required to consider whether the Plan would contribute to the achievement of sustainable development, as described in the NPPF.
- 5.12 There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of interdependent roles, namely:
- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
  - **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
  - **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

- 5.13 Although the Neighbourhood Plan does not make specific provision for new development, for example through site allocations, it does recognise there will be new development in the Plan area, and includes policies to manage and integrate that development. Other policies aim to conserve and enhance the natural and historic environment, and ensure the retention and improvement of local facilities and greenspaces. These are key aspects of sustainable development, as set out in the NPPF, which states (paragraph 9) that *“Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life, including (but not limited to):*
- *making it easier for jobs to be created in cities, towns and villages;*
  - *moving from a net loss of bio-diversity to achieving net gains for nature;*
  - *replacing poor design with better design;*
  - *improving the conditions in which people live, work, travel and take leisure; and*
  - *widening the choice of high quality homes”.*
- 5.14 Subject to the modifications recommended later in my report I am satisfied that the Neighbourhood Plan is capable of contributing to the achievement of sustainable development.

### **(c) Strategic Local Policy**

- 5.15 Statutory weight is given to neighbourhood development plans that are closely aligned with and in general conformity with the strategic policies of the development plan for the local area. Neighbourhood plans are also required to plan positively to support local strategic policies<sup>16</sup>. This ensures neighbourhood plans cannot undermine the overall planning and development strategy for the local area set out in the development plan.
- 5.16 The current development plan for the area comprises
- Cheshire West and Chester Local Plan (Part One): Strategic Policies (adopted 29 January 2015)
  - Remaining saved policies in the Ellesmere Port and Neston Borough Local Plan (adopted January 2002)
  - Saved policies in the Cheshire Replacement Minerals Local Plan (adopted by Cheshire County Council 1999), and
  - Saved policies in the Cheshire Replacement Waste Local Plan (adopted by Cheshire County Council 2007).
- 5.17 The Cheshire Replacement Minerals Local Plan and the Cheshire Replacement Waste Local Plan have no relevance for the Neston Neighbourhood Area.

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<sup>16</sup> National Planning Policy Framework (2012) para 184

- 5.18 The Cheshire West and Chester Local Plan (Part One): Strategic Policies (the Local Plan) sets out a number of strategic policies to guide future development in the wider local area. Policies relevant to the Neighbourhood Plan are
- STRAT1 Sustainable Development
  - STRAT2 Strategic Development
  - STRAT8 Rural Area
  - STRAT9 Green Belt and Countryside
  - STRAT10 Transport and Accessibility
  - STRAT11 Infrastructure
  - ECON1 Economic Growth, Employment and Enterprise
  - ECON2 Town Centres
  - ECON3 Visitor Economy
  - SOC1 Delivering Affordable Housing
  - SOC2 Rural exception Sites
  - SOC3 Housing Mix and Type
  - SOC5 Health and Well-being
  - SOC6 Open Space, Sport and Recreation
  - ENV2 Landscape
  - ENV3 Green Infrastructure
  - ENV4 Biodiversity and Geodiversity
  - ENV5 Historic Environment
  - ENV6 High Quality design and Sustainable Construction
- 5.19 As the Local Plan post dates the NPPF its policies take precedence in the event of any conflict (except in circumstances where the NPPF has been updated or added to).
- 5.20 Of less relevance is the Ellesmere Port and Neston Borough Local Plan (EPNBLP) which was adopted as long ago as January 2002. Policies in the Plan were initially saved for a three year period until 27 September 2007 under the provisions of the Planning and Compulsory Purchase Act 2004. Policies that remained relevant and compliant with (at the time) national and regional or Structure Plan policies were then extended beyond that date by Direction of the Secretary of State in September 2007.
- 5.21 Although a number of saved policies in the EPNBLP have been superseded by policies in the Local Plan others will remain in force until replaced by future development plan documents and are still part of the 'development plan' for the area, although less weight may be attributed to them owing to the period of time which has elapsed since they were first adopted.
- 5.22 A number of these are hybrid policies which while performing a development management function also contain strategic elements which meet the definition of strategic policy set out in PPG.<sup>17</sup>
- 5.23 Remaining 'Saved' Policies which are of relevance to the Neighbourhood

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<sup>17</sup> Planning Practice Guidance para 076 Ref ID: 41-076-20140306



Plan Area are:-

- GEN7 Development by Telecommunications Code Systems Operators
- H1 Housing Allocations
- H5 Conversion to Flats
- H6 House Extensions
- GB5 Extension and Alterations to Dwellings in the Green Belt
- ENV4 Protection of Sites of Local Importance for Nature Conservation (Sites of Nature Conservation Value)
- ENV5 Ecological Interest
- ENV6 Area of Special County Value for Landscape
- ENV7 Agricultural Buildings and Structures
- ENV8 Urban Green Network
- ENV9 Landscape and Habitat Features
- ENV12 Coastal Zones
- ENV13 Development in Conservation Areas
- ENV14 Parkgate Conservation Area
- ENV15 Conservation of Listed Buildings
- ENV16 Non Listed Buildings and Structures of Archaeological Interest
- ENV17 Sites of Special Archaeological Interest
- REC2 Open Space Provision in New Residential Development
- REC7 Recreational Routeways
- SHOP1 Primary Shopping Areas
- SHOP2 Local Shopping Centres
- SHOP3 Small Shopping Areas
- SHOP6 Shop Fronts
- TRANS5 Car Parking in Residential Areas
- TRANS6 Car Parking Standards

5.24 Some of these policies will be replaced by policies in the Neighbourhood Plan. As the 'saved' policies in the EPNBLP predate the NPPF, the NPPF takes precedence where there is a conflict.

5.25 In assessing whether the Neighbourhood Plan is in general conformity with strategic policies contained in the Development Plan for the area I have taken policies in the 2015 adopted Local Plan as the starting point.

5.26 A number of modifications are necessary for the Neighbourhood Plan to be in general conformity with the above strategic policies. These are set

out in the *Comments on the Neighbourhood Plan* section of my report.

#### **(d) European Union Obligations**

- 5.27 Local Planning Authorities are legally responsible for deciding whether neighbourhood plan proposals are compatible with EU obligations, including obligations under the Strategic Environmental Assessment (SEA) Directive<sup>18</sup>.
- 5.28 In circumstances where a neighbourhood plan is likely to have significant environmental effects, for example where it includes proposals to allocate land for development, it may require an SEA to be undertaken as part of the preparation process, in accordance with the SEA Directive. Draft neighbourhood plan proposals should therefore be screened to assess whether they are likely to have significant environmental effects<sup>19</sup>. Where significant environmental effects are identified plans should be accompanied by a full SEA report.
- 5.29 At the request of Neston Town Council Cheshire West and Chester Council have prepared a Strategic Environmental Assessment (SEA) screening opinion<sup>20</sup> based on policies in the draft Plan.
- 5.30 The screening has been undertaken in accordance with the SEA Directive and Environmental Assessment Regulations<sup>21</sup>.
- 5.31 Cheshire West and Chester Council's assessment, which included consideration as to whether a separate Habitats Regulations Assessment (HRA)<sup>22</sup> was required under the Habitats Directive<sup>23</sup>, concludes that the Neighbourhood Plan does not require a full SEA as no significant environmental effects will occur as a result of the implementation of policies contained in the Neighbourhood Plan. It further concludes that no further consideration of European designated sites (or Natura 2000 sites) is required.
- 5.32 The three statutory consultation bodies comprising English Heritage, the Environment Agency and Natural England were consulted during the preparation of the screening report, in accordance with the Regulations. Due to the proximity of the Welsh border Natural Resources Wales were also consulted.
- 5.33 All four bodies agree with the conclusion of the screening report that no significant effects will result from the implementation of the policies and that it is unnecessary to undertake a full SEA or HRA.
- 5.34 No objections in relation to any of the above matters were received during

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<sup>18</sup> European Directive 2001/42/EC

<sup>19</sup> Planning Practice Guidance para 027 Ref ID: 11-027-20150209

<sup>20</sup> in accordance with European Directive 2001/42/EC

<sup>21</sup> Environmental Assessment of Plans and Programmes Regulations 2004

<sup>22</sup> in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

<sup>23</sup> European Directive 92/42/EEC

the Regulation 16 'Publicity' stage.

- 5.35 Although an equalities impact assessment has not been undertaken the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics. And no evidence has been put forward to suggest otherwise.
- 5.36 I am therefore satisfied that the Neighbourhood Plan does not breach, and is otherwise compatible with EU obligations and human rights requirements and therefore satisfies that 'Basic Condition'.

## 6.0 Comments on the Neighbourhood Plan

- 6.1 The Neighbourhood Plan is considered against the Basic Conditions in this section of my report, particularly whether individual policies and supporting text have regard to national policy, and whether they are in general conformity with local strategic policies in the Cheshire West and Chester Local Plan (Part One). Where modifications are recommended, they are highlighted in **bold print**, with any proposed new wording in *italics*.

### (a) Neighbourhood Plan Context, Vision, and Objectives

- 6.2 The first part of the Plan describes the general background and planning policy context within which the Plan has been prepared, and in 'Understanding the Neston Neighbourhood Area' identifies the key characteristics of the area with reference to demographic, household composition and economic activity indicators. This is followed by a commentary on key spatial issues, and then the overall Plan Vision and Objectives.

#### Comments

- 6.3 These opening sections are clearly written and informative. They provide the background to the policies that follow and a comprehensive assessment of issues, which helps to develop a strong sense of place and to demonstrate how the vision and objectives have been arrived at.
- 6.4 The Plan also includes helpful lists of policies, appendices, figures, tables and acronyms at the beginning of the document.
- 6.5 In a small number of instances changes are required to correct anomalies or to ensure the wording of three Objectives and the conclusions reached in some of the key issues fully reflects national planning policy.
- 6.6 First in paragraph 4.8 it is incorrectly stated that the housing requirement for Neston has already been exceeded when the latest evidence provided by Cheshire West and Chester Council as part of their response to the

submitted Plan suggests that only 90 out of the 200 dwellings minimum target have so far been provided

- 6.7 Second reference is made in Objective 2 on page 28 to meeting local housing needs only whereas national planning policy makes it clear that provision for new housing should be based on 'objectively assessed housing need' across the whole housing market rather than just local housing need. (NPPG paragraph 47 refers). Discrimination in favour of providing housing for local people only would also be at odds with Neston's role as a key service centre in the settlement hierarchy. The wording should therefore be amended to bring it in line with national policy.
- 6.8 Third, similar considerations apply to Objective 4. National planning policy to support economic growth and ensure the vitality of town centres is not qualified by references to meeting local needs only and paragraph 23 of the NPPF specifically refers to meeting needs for retail, leisure, office and other main town centre uses in full.
- 6.9 Fourth, Objective 5 refers to 'making improvements to cycling provision and public transport services' which is beyond the scope of the Neighbourhood Plan to deliver. It would be more accurate to refer to 'the promotion' of these aspirations.
- 6.10 I am also required to address an objection to Objective 1 submitted on behalf of Aldi Stores UK Ltd as part of their response to the Regulation 16 Publicity. Aldi suggest that the scope of Objective 1 should be extended to reflect the fact that the Green Belt will be protected from inappropriate development 'unless there are very special circumstances'. This objection is linked to other objections, promoting the release of Green Belt land in order to expand the Company's Regional Distribution Centre at Clayhill Business Park.
- 6.11 While I accept there may be very special circumstances when 'potential harm to the Green Belt by reason of inappropriateness' is outweighed by other considerations, as referred to in paragraphs 87 and 88 of the NPPF, that is a matter to be judged when considering specific proposals for development. I do not consider that the mechanism for considering whether there are very special circumstances which is clearly linked to the development management process is something that need necessarily be acknowledged as part of the Plan's broad intention to protect the Green Belt.

### **Recommendation 01**

- a) **Amend paragraph 4.8 to refer to the fact that the contribution from recent completions and current permissions, combined with other identified development opportunities is more than enough to satisfy identified housing need.**
- b) **Delete 'meets local' and insert '*is made for identified*' in Objective 2 in paragraph 5.4, and insert '*including local housing need*' after 'social sectors'.**

- c) Substitute '*identified*' for 'to meet' in Objective 4.
- d) Substitute '*Promote*' for 'Make' in Objective 5.

### **(b) Chapter 6 - Strategy**

- 6.12 The Neighbourhood Plan Strategy focuses on how new development will be managed, relying primarily on existing permissions, future windfall proposals and an extant allocation to cater for future housing needs, and an extant employment allocation to cater for future employment needs. The emphasis is on incremental, sustainable and beneficial change.
- 6.13 Underpinning this strategy is a strong desire to accommodate future development needs within the existing built up area and to maintain the existing Green Belt.
- 6.14 Other priorities include maintaining and regenerating the town centre, sustaining key visitor attractions, diversifying the local employment base, ensuring that development is of a high design quality, promoting sustainable transport, and creating and protecting green spaces and other local assets.

#### Comments

- 6.15 The overall approach to growth and development in the plan generally conforms with the growth strategy in the Cheshire West and Chester Local Plan (Part One), which identifies Neston as a key service centre, inset within the Green Belt, which provides a good range of facilities and services for the surrounding area and which will be the focus for new development in the rural area (Policies STRAT 2 and STRAT 8).
- 6.16 It also reflects the approach to key service centres in the Local Plan (Policy STRAT 8) which indicates that development in key service centres should be appropriate in scale and design to conserve each settlements character and setting.
- 6.17 Policies in the Plan to create local job opportunities and local facilities, to support and regenerate the town centre, and to sustain key visitor attractions, also conform with strategic policies to support the role of the town as a settlement serving a wider catchment area.
- 6.18 However a number of modifications are required to ensure that the Strategy is fully compliant with national planning policy, to eliminate a small number of inaccuracies, to ensure consistency with other parts of the Plan, and to clarify the scope of the Plan.
- 6.19 First while an oblique reference is made in paragraph 6.4 (and in other parts of the Plan) to the fact that the overall housing requirement for Neston has been established through the Cheshire West and Chester Local Plan, there is no explanation as to the respective roles of the Local Plan and the Neighbourhood Plan. Greater clarity could be achieved by specifically acknowledging that the agenda for future growth, including housing numbers, has been established through the Local Plan, and that

the Neighbourhood Plan does not therefore attempt to establish appropriate levels of future housing or employment growth or identify specific sites to accommodate future development needs.

- 6.20 Second, I note that the explanation as to how future housing will be delivered in paragraph 6.4 differs from the explanation given in paragraph 7.8. For example no reference is made to the potential contribution from existing permissions, and reference is made to the contribution from 'identified potential sites', which are in effect potential windfall sites. I recommend the explanation be amended in line with paragraph 7.8 which provides a more accurate, succinct description.
- 6.21 Third as referred to previously the reference to meeting local needs in paragraph 6.4 does not accord with national planning policy which makes it clear that provision for new housing should be based on 'objectively assessed housing need' across the whole housing market rather than just local housing need. The wording should therefore be amended to bring it in line with national policy.
- 6.22 Fourth, the clarity of paragraph 6.8 would benefit from an explanation as to the difference between designated and non designated heritage assets.

## **Recommendation 02**

- a) **Insert an additional paragraph after paragraph 6.1 explaining that the agenda for future growth, including housing numbers, has been established through the Local Plan, and that the Neighbourhood Plan will rely on the emerging Land Allocations and Detailed Policies Document to identify specific sites (if needed) to accommodate future development needs, including housing, employment and other needs.**
- b) **In the second sentence of paragraph 6.4 insert '*existing planning consents,*' after 'developments from', reposition the comma after 'windfall sites', insert '*and*' after 'windfall sites,' and delete 'and identified potential sites' at the end of the sentence.**
- c) **In the third sentence of paragraph 6.4 delete 'local' after 'for identified' and insert '*including local housing needs*' after 'social sectors'.**
- d) **Transfer the last sentence in paragraph 6.8 to a new paragraph with additional explanation about the difference between designated and non designated heritage assets.**

## **(c ) Land Use Policies and Explanatory Text**

### **Format**

- 6.23 The land use policies part of the Plan is organised into nine themes,

namely; Strategy, Housing, Employment, Neston Town Centre, Tourism, Movement and Travel, Design, Landscape and Environment and Community.

- 6.24 Each themed sub section contains a group of policies relevant to that particular theme, preceded by a list of the objectives which are intended to be addressed, and the rationale behind each individual policy.
- 6.25 Individual policies within each sub section are set out in a grey highlighted box to distinguish them from the accompanying text and justification.
- 6.26 Finally each sub section concludes with a list of local strategic policies which the sub section policies are considered to comply with.

Comments

- 6.27 The presentation of policies and the rationale behind each policy is very clear and easy to follow.
- 6.28 The justification for individual policies is also cross referenced to supporting information in the accompanying Appendices Document where appropriate
- 6.29 While it would have been helpful to include more cross referencing to information in the supporting Evidence Base document this is not essential for the Plan to satisfy the Basic Conditions.

**Scope of the Plan/Policy Omissions**

- 6.30 A number of local residents responding to the Regulation 16 Publicity have suggested that the Plan should place more emphasis on issues such as improving public transport, providing safe cycle and walking routes particularly to local schools, and promoting traffic management measures, including the introduction of 20 mph speed limits.

Comments

- 6.31 While the Plan would no doubt be improved by incorporating some of these suggestions there is no prescription about the range of topics that should be covered in neighbourhood plans, or the level of detail. It is also outside my remit to recommend the incorporation of additional policies and proposals or changes to introduce more ambitious targets or objectives. In addition some of the suggestions made such as the provision of traffic management measures and improved public transport are outside the scope of the Plan which is concerned with land use issues.
- 6.32 Having said that some of the concerns raised are addressed indirectly through policies such as Policy NNDS1 (Neston Development Strategy) and Policy NNE1 (Clayhill Business Park) which require development to cater for non car borne modes of transport. In addition Policy NNT2 (Visitor Economy) and NNM2 (Enhancing Pedestrian and Cycle Routes) specifically promote proposals for cycle facilities including new routes and Policy NNM3 (Public Transport Improvements) supports proposals that would enhance bus and rail services.

## Development Strategy

- 6.33 **Policy NNDS1 (Neston Development Strategy)** provides an overarching framework for considering proposals for new development, change of use and redevelopment. Proposals must meet local needs, be located within the existing settlement limits, be appropriate in scale and design to the local context, be accessible by a variety of means of transport and contribute to sustainable development. This reflects a number of key objectives including protecting the surrounding Green Belt from inappropriate development.

### Comments

- 6.34 As referred to previously the reference to meeting local needs does not accord with national planning policy which makes it clear that provision for new housing should be based on 'objectively assessed housing need' across the whole housing market rather than just local housing need. (NPPG paragraph 47 refers). Discrimination in favour of only providing housing for local people would also be at odds with Neston's role as a key service centre in the settlement hierarchy.
- 6.35 Similarly other key objectives in national planning policy to support economic growth and ensure the vitality of town centres are not qualified by references to meeting local needs only. This is referred to in representations submitted on behalf of Aldi Stores UK Ltd, who quote Core Planning Principles set out in paragraph 17 of the NPPG which states (inter alia) that "*every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth*".
- 6.36 While I am mindful of the fact that Local Plan Policy ECON2 (Town Centres) requires proposals to support Neston in meeting 'local shopping and service needs' this is within the context of Neston as a key service centre serving the surrounding rural area. In this respect Cheshire West and Chester Council comment that the requirement to meet local needs in all development proposals seems unduly onerous and it is not clear how this would be assessed. The policy wording and accompanying rationale should therefore be amended to bring it in line with national policy.
- 6.37 The remainder of the policy accords with national planning policy by supporting development that contributes to sustainable development and reflects a number of core planning principles established in the NPPF. It also generally conforms with local strategic policy in relation to sustainable development (STRAT1), strategic development (STRAT2), the rural area (STRAT8), Green Belt and Countryside (STRAT9) and transport and accessibility (STRAT10).
- 6.38 In responding to the Regulation 16 Publicity, Aldi Stores UK Ltd suggest that the scope of criterion 2 should be extended to reflect the fact that there may be very special circumstances when inappropriate forms of development may be approved in the Green Belt. However I do not agree



this is appropriate as similar considerations apply as described previously in relation to my response to Aldi's objection to Objective 1 of the Plan.

- 6.39 A correction is required in paragraph 7.1 to clarify that the extent of the Green Belt shown in the Key Diagram corresponds with the existing settlement limits as there is no 'settlement limit' notation in the Key Diagram.
- 6.40 Amendment to the second part of paragraph 7.2 is required to reinforce the fact that the Plan Strategy is intended to manage all forms of development and not just housing. Neither is it necessary to repeat how new housing will be delivered as this is covered in paragraphs 6.4 and 7.8.

### Recommendation 03

- a) Substitute '*Meet identified needs*', for '*Meet local needs*' in sub clause (1) of the policy.
- b) Delete 'and' after 'the NPA' and insert '*the boundary of which corresponds with*' in paragraph 7.1
- c) Substitute '*identified needs including housing, economic and other forms of development*' for 'local' in paragraph 7.2, and delete the second sentence in the paragraph.

- 6.41 Subject to the above modifications the Policy meets the Basic Conditions.

### Housing

- 6.42 **Policy NNH1 (New Residential Development)** directs new development to sustainable locations which is adequately serviced by existing infrastructure and utilities. Proposals will be required to satisfy a number of considerations including appropriate scale and design and adequate access. The policy also promotes a mix of housing types, sizes and tenures to meet local needs.
- 6.43 The context for the policy provided in the accompanying rationale also explains how the housing requirement (for Neston) established in the adopted Cheshire West and Chester Local Plan will be satisfied through a combination of completions, existing permissions, an extant allocation and future windfalls.

### Comment

- 6.44 The policy reflects the presumption in favour of sustainable development in national planning policy, and has regard to sustainable transport objectives including the provision of safe and suitable access. It also reflects one of the core planning principles in the NPPF to secure high quality design and a good standard of amenity by ensuring that development takes account of its surroundings. This will ensure that

- future housing developments contribute to the social and environmental dimensions of sustainable development.
- 6.45 The policy generally conforms with Local Plan Policy SRAT1 by promoting sustainable forms of development, with Policies STRAT2, STRAT8, and STRAT9 by supporting the development strategy for key service centres and the rural area, and with Policy SOC3 by promoting the provision of a mix of house types, tenures and sizes.
- 6.46 However amendment to criterion 2 of the policy is required in order to fully accord with national planning policy which makes it clear that provision for new housing should be based on 'objectively assessed housing need' across the whole housing market rather than just local housing need. (NPPG paragraph 47 refers). Discrimination in favour of providing housing for local people only would also be at odds with Neston's role as a key service centre in the settlement hierarchy.
- 6.47 I am also uncertain as to whether reference to 'style' in criterion 2 should be a reference to 'size' as this would better reflect the wording in national planning policy and in Local Plan Policy SOC3.
- 6.48 In commenting on the Plan, Welsh Water have pointed out that sewerage infrastructure is approaching capacity, and may constrain future windfall development. However the capacity of existing infrastructure and utilities need not necessarily restrict further development provided the capacity can be increased. The Plan should be amended accordingly.
- 6.49 In reviewing the rationale accompanying the policy I note that Neston is expected to accommodate at least 200 dwellings (Local Plan Policy STRAT 8) and that more than this number of dwellings is already provided for through recent completions, current permissions and an extant allocation.
- 6.50 The conclusion that the housing requirement can be met without the need for additional allocations is reinforced by Cheshire West and Chester Council in their response to the Submitted Plan. As the Council refer to more up to date monitoring data which suggests that the combined contribution from completions (90) and commitments (109), (as at 31 March 2015), is just one dwelling less than the housing requirement of 200 dwellings, it would be appropriate to update the Neighbourhood Plan to reflect the more up to date information. Consequential changes to Appendix D are also required.
- 6.51 The availability of an extant EPNBLP housing allocation for 25 dwellings at Moorside Lane, Parkgate, provides additional comfort that the housing requirement will be exceeded (whether or not any additional windfalls come forward) as this is equivalent to a 12% allowance for the non implementation of existing commitments. In this respect I note that subsequent to the publication of the Councils most up to date land availability data planning permission has been granted on appeal in July 2015 (for 33 units) on this site. (For clarification in updating the Neighbourhood Plan housing supply data the Moorside Lane site should continue to be identified as an allocation since the planning permission

post dates the most recent monitoring report).

- 6.52 However I have reservations about the assessment of potential housing sites referred to in paragraph 7.11 and presented in Appendix E, as this is potentially misleading. For example the inclusion of Site A1 (Land off Boundary Park, Moorside Lane, Parkgate) duplicates the potential contribution from this site as it is included in the housing supply calculation in paragraph 7.9 as an extant allocation. Similarly Site A3 (Former Dairy Site, Liverpool Road, Neston) has already been taken into account as an existing permission.
- 6.53 It would be more accurate to remove those sites from Appendix E which are already taken into account as part of the housing land supply and refer to the remainder as sites identified in the Strategic Housing Land Availability Assessment (SHLAA) or by the Neighbourhood Plan Housing Task and Finish Group. A consequential change is required to paragraph 7.11 to clarify that potential windfall sites would supplement the housing land supply calculated in paragraph 7.9.

#### **Recommendation 04**

- a) Delete 'local need' in criterion 2 and insert '*identified need*'
  - b) Substitute 'size' for 'style' in criterion 2.
  - c) Insert '*and/or the capacity can be increased to accommodate the development*' after 'utilities network' in criterion 4.
  - d) Update the housing supply data in paragraph 7.9 and in Appendix D
  - e) Delete Sites A1 and A3 from Appendix E and refer to the remainder as '*potential windfall sites identified through the SHLAA and by the Neighbourhood Plan Housing Task and Finish Group*'.
  - f) Substitute '*In addition to sites that form part of the calculated housing supply above*', for 'In this context', in paragraph 7.11 and insert '*windfall*' after 'assessment of potential', in the second line.
- 6.54 Subject to the above modifications the Policy meets the Basic Conditions.
- 6.55 **Policy NNH2 (Housing Type and Mix)** aims to ensure that new housing developments take account of housing needs in the local area, including the provision of small family and nonfamily homes and smaller sized accommodation for older people.

#### Comment

- 6.56 Policy NNH2 has regard to national planning policy by supporting the provision of inclusive and mixed communities one of the key aspects of sustainable development. It also generally conforms with Local Plan Policy SOC3 (Housing Mix and Type).

- 6.57 By encouraging the provision of more housing for older people the policy reflects the additional emphasis given to the housing needs of older people through recent changes to Planning Practice Guidance<sup>24</sup> in the light of the projected national increase in the number of households aged 65 and over.
- 6.58 To more accurately reflect national policy and local strategic policy, consistent with Policy NNH1, reference should also be made to the provision of a mix of housing types, tenure and sizes.
- 6.59 The reference in paragraph 7.14 to proposals having to demonstrate how they meet local needs should be changed to 'taking account of local needs', consistent with the policy wording and with national policy and local strategic policy.
- 6.60 Cheshire West and Chester Council advise in their comments that the overall housing requirement and the proportion of affordable housing is set out in the Cheshire West and Chester Local Plan (Part One) and suggest that reference to this should be made in the policy. However adequate cross reference is already provided in the rationale supporting the policy.

#### **Recommendation 05**

- a) Insert '*provide a mix of house types, tenures and sizes*' after 'affordable housing should' in the third line of the policy, and substitute '*taking*' for 'take'
- b) Substitute '*take account of needs in the local area*' for 'demonstrate how they meet the needs of local people' in the last line of paragraph 7.14.

- 6.61 Subject to the above modifications the Policy meets the Basic Conditions.
- 6.62 **Policy NNH3 (Rural Exception Sites)** is intended to ensure that affordable housing needs are accommodated within the existing built up area before Green Belt sites are considered. In circumstances where proposals are acceptable in the Green Belt development will be strictly controlled to minimise the impact on the Green Belt and preserve the integrity of the 'gap' between neighbouring settlements. Proposals must also satisfy a range of design and development considerations including impact on the setting and special character of the settlement, landscape and visual amenity, landscaping and access to public transport and local amenities.

#### Comment

- 6.63 National planning policy recognises the provision of limited affordable housing as an appropriate form of development in the Green Belt.

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<sup>24</sup> Planning Practice Guidance para 021 Ref ID: 2a-021-20150326

Affordable housing serving the needs of rural areas can contribute to the creation of inclusive and mixed communities consistent with the social dimension of sustainable development.

- 6.64 While the policy introduces a greater level of restriction than Green Belt policy, for example by restricting 'exception sites' to locations on the edge of key service centres and local service centres, I note that this reflects the provisions of Local Plan Policy SOC 2 (Rural Exception Sites) which post dates national policy.
- 6.65 I am also mindful of the fact that the policy goes further than national planning policy and local strategic policy by introducing an element of sequential testing. However as strong local justification is put forward for this approach and the policy is not subject to objection the policy approach is acceptable in principle.
- 6.66 I do however have reservations about some aspects of the detailed policy wording which are not fully compliant with national and local strategic policy and which may be unworkable.
- 6.67 First, I agree with Cheshire West and Chester Council that as development of 'Rural Exception Sites' is intended to help overcome a shortage of affordable housing it is important that proposals are based on demonstrable need, particularly in Green Belt areas, in line with Local Plan Policy SOC 2 (Rural Exception Sites). This should be reflected in both the policy wording and accompanying rationale.
- 6.68 Second I consider the requirement in criterion (2) for small scale developments on the edge of settlements to be 'well contained' presumably by existing hedgerow cover and other physical features, to be unrealistic, particularly bearing in mind the generally flat and open field nature of the area. A requirement for proposals to be 'well related to the existing settlement' would be more appropriate.
- 6.69 Third, It is not clear how criterion (4) would be applied or how decision makers would judge the extent to which proposals detract from the 'as yet' undefined 'setting and special character of the settlement'. It seems to me that judging proposals against the extent to which they impact on the character of the local area would be more pertinent but this is already covered by sub clause (3) in Policy NNDS1 (Neston Development Strategy). I therefore recommend deletion of this criterion.
- 6.70 Fourth, it may be an unrealistic expectation for structural landscaping to be achievable or appropriate in all circumstances, for example in the case of land already contained by woodland or where the introduction of significant landscaping would affect views into or out of the settlement. Criterion (5) should therefore be qualified to that effect. The potential impact of development on the landscape and amenity of the area should also be assessed in terms of whether there is an 'unacceptable adverse impact' to ensure consistency with the approach in other policies (as recommended to be modified – see Recommendation 7 below).
- 6.71 Fifth as pointed out by Cheshire West and Chester Council rural exception sites tend to be much smaller than 30 units because of the

economics of letting/selling schemes over 15 units in rural areas. In addition no particular justification has been put forward for the intended threshold. I therefore recommend deletion of criterion (7).

#### **Recommendation 06**

- a) Insert an additional criterion '*The tenure split and housing mix should be based on the most up to date assessment of housing need*', and incorporate additional explanation in the accompanying rationale.
- b) Substitute '*be well-related to*' for 'well-contained in relation to' in criterion (2)
- c) Delete criterion 4
- d) Delete 'be appropriate in terms of' and insert '*not have an unacceptable impact on the*' in criterion (5) and insert '*where appropriate*' after 'visual amenity of the area and'
- e) Delete criterion (7)

6.72 Subject to the above modifications the Policy meets the Basic Conditions.

#### **Employment**

6.73 **Policy NNE1 (Clayhill Business Park)** supports the continued development and modernisation of the Business Park subject to proposals meeting a number of environmental and development criteria. Another policy strand aims to prevent the loss of B1, B2 and B8 uses unless the premises are no longer commercially viable and there is no demand for its continued use.

##### Comments

6.74 In deciding whether the policy meets the Basic Conditions I am required to address a number of issues raised on behalf of Aldi Stores UK Ltd. Aldi consider that the Plan provides insufficient recognition of the value of the company's operations in Neston to the local economy. In particular Aldi would like Policy NNE1 amended (or a new policy inserted) to support the continued expansion of their existing Regional Distribution Centre (RDC) at the Business Park. They also object to criterion 5 in part A of the policy and criterion 1 in part B.

6.75 These objections are linked to Aldi's plans to extend their existing premises which involve expansion onto Green Belt land. While Aldi accept that the proposal constitutes inappropriate development in the Green Belt they consider the special circumstances exist to justify an incursion into Green Belt.

6.76 While it is not my role to examine the merits of this specific proposal I do have to consider the principal raised in terms of whether the absence of a special policy promoting the expansion of the RDC affects the Plans

ability to satisfy the Basic Conditions, particularly in terms of its compliance with national and local strategic policy.

- 6.77 In this respect I am mindful of the fact that the Green Belt boundary has recently been reaffirmed through the Cheshire West and Chester Local Plan (Part One). Inclusion of a special policy as suggested would not only undermine the provisions of the Local Plan but would effectively pre-judge consideration of any future planning application in terms of whether the proposal meets the very special circumstances necessary to overturn Green Belt policy.
- 6.78 Since circumstances might change I do not consider it is appropriate to identify in advance the very special circumstances that might justify 'inappropriate' development in the Green Belt. Proposals should be judged on their merits at the time of consideration.
- 6.79 I therefore conclude that the inclusion of a special policy is not justified.
- 6.80 In reaching this conclusion I have also taken into account the fact that there is no requirement for neighbourhood plans to allocate land for development or to promote specific sites for development and that they may rely on higher tier Local Plans to identify future development needs and if necessary to allocate land required to meet identified needs.
- 6.81 In relation to criterion 5 (in part A) I agree with Aldi that it is unrealistic to require proposals to avoid any adverse impact on neighbouring residents and occupiers since all proposals must have some degree of adverse impact.
- 6.82 Development plan policies which are intended to control the potential impacts of development on the character of an area or on local amenity often include a test as to whether a proposal has a 'significant effect' or an 'unacceptable adverse impact'. While I appreciate that decision makers would still be required to make a judgement as to whether an impact is considered significant or unacceptable I consider this to be a more realistic approach.
- 6.83 I therefore recommend that Policy NNE1, and other policies affected by this issue (NNE3, NNE4, NNR1, NNR2, NNT1, NNT2, NNM2, NNM3, NNM4, NND1, NND2, NND3, NNLE1, NNLE2, NNC2, and NNC3) be modified accordingly.
- 6.84 For clarification the qualified reference to 'unacceptable adverse impact' does not apply to impacts on nature conservation interests, highways capacity or the vitality and viability of local retail areas as these tend to be more clear cut impacts, where any adverse impact would be reason to reject the proposal.
- 6.85 Aldi also object to criteria 1 in part B of the policy which requires proposals to demonstrate that there is no demand for continued use of a building after 12 months marketing. This is considered to conflict with NPPF policy which takes a more permissive approach and does not set a requirement for marketing.
- 6.86 In my view the pre-conditions in the policy for allowing non B1, B2, and

B8 uses generally reflect paragraph 22 of the NPPF which indicates that the long term protection of employment sites should be avoided where there is no reasonable prospect of the site being used for that purpose.

- 6.87 I acknowledge that the introduction of a 12 month marketing requirement in criterion 1 goes beyond the requirements set out in national planning policy and Local Plan Policy ECON 1 (Economic growth, employment and enterprise). However as there is no prescription in either of those documents as to how to establish viability or demand for premises testing the market for a period of time seems a reasonable way of establishing whether there is any demand. Based on practice elsewhere and current market conditions 12 months seems a not unreasonable period of time to undertake marketing.

### **Recommendation 07**

**Delete ‘adversely’ in criterion A5 and insert ‘*have an unacceptable adverse*’, and make consequential changes to the following policies: NNE3, NNE4, NNR1, NNR2, NNT1, NNT2, NNM2, NNM3, NNM4, NND1, NND2, NND3, NNLE1, NNLE2, NNC2, and NNC3.**

- 6.88 Subject to the above minor modification the policy satisfies the Basic Conditions. It has regard to national planning policy by positively promoting sustained economic growth, supporting existing business sectors, and by encouraging environmental improvements. This is consistent with the economic dimension of sustainable development.
- 6.89 The policy also generally conforms with Local Plan Policies ECON 1 (Economic growth, employment and enterprise) and STRAT 11 (Infrastructure).
- 6.90 **Policy NNE2 (Retaining Employment Uses in Neston Town Centre)** aims to retain professional services and businesses which help the vitality and viability of the town centre by placing stringent tests on proposals that would lead to the loss of these uses.
- 6.91 The policy has regard to national planning policy by supporting existing business sectors and promoting customer choice and diversity to ensure the vitality of the town centre. This is a key attribute of sustainable development. Although there is no comparable local strategic policy the policy reflects elements of Local Plan Policy ECON 1 (Economic growth, employment and enterprise) and Policy ECON 2 (Town Centres) by resisting the loss of business uses and supporting service needs within the town centre.
- 6.92 The policy is the subject of 3 representations in response to the Regulation 16 Publicity.
- 6.93 **Cheshire West and Chester Council** highlight a potential conflict between this policy which promotes the town centre as a business
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location (by restricting the loss of business premises other than to retail classes A1 – A5) and Policy NNR1 (Neston Town Centre) which promotes social, cultural and service uses (classes D1 and D2) as well as retail uses (A1 – A5), potentially at the expense of business uses.

Comment

- 6.94 This creates a dilemma as the Plan places considerable emphasis on both of these objectives which will help create ‘a town centre for living, working and visiting rather than just a place to do the daily or weekly shop’. On balance as the opportunities for securing land or premises for social, cultural and service uses are likely to be more challenging and may involve land assembly I consider that more weight should be attached to the provision of these uses than the retention of B1 and A2 uses. Policy NNE2 should therefore be amended to incorporate D1 and D2 uses as exceptions to the policy
- 6.95 **The Royal Mail Group (RMG)** consider that the policy should fully reflect the wording in Cheshire West and Chester Local Plan (Part One) Policy ECON 1 (Economic growth, employment and enterprise) by ensuring that where change of use or redevelopment of employment premises to non-employment uses takes place the proposed use is compatible with retained employment uses in the locality.
- 6.96 RMG are concerned that sanctions may be placed on the operation of their existing postal delivery office in Brook Street, if ‘uses of a sensitive nature’ are introduced in close proximity to their premises.

Comment

- 6.97 Having considered the issues raised and carried out a site inspection in the area it seems to me that the concerns raised are illogical and outside the scope of the policy.
- 6.98 In the first instance as the policy is only applicable to proposals affecting existing B1 and A2 uses, with the intention of resisting the loss of these uses, it has no influence over other proposals that might affect the postal delivery premises.
- 6.99 In any case there are no B1 and A2 uses in the vicinity. Surrounding uses comprise the Bidston to Wrexham railway, the new Sainsbury’s supermarket, a multi-storey car park and a surface car park opposite. The ‘town centre development opportunity’ referred to in Policy NNR2 which is situated further along Brook Street, comprises a public house and retail units, which are also non B1/A2 uses.
- 6.100 Neither would extending the scope of the policy to control the change of use/redevelopment of other forms of employment types serve any useful purpose since none of the surrounding land uses fall within ‘employment’ categories, and some including the postal delivery office itself are sui generis.
- 6.101 **Aldi Stores UK Ltd.** object to the requirement in the policy for proposals

to demonstrate that the existing use is not economically viable and to undertake 12 months marketing before proposals for non B1 and A2 uses will be acceptable. This is considered to conflict with the NPPF which takes a more permissive approach and does not set a requirement for marketing.

Comment

- 6.102 The issues raised are comparable to those considered in relation to policy NNE1 above which I reject for the same reasons.

**Recommendation 08**

**Insert '*and Use Classes D1 and D2 Non Residential Institutions and Assembly and Leisure Uses*' after '*Hot Food Takeaways*' in line 7.**

- 6.103 Subject to the above modification the Policy meets the Basic Conditions.
- 6.104 **Policy NNE3 (Promoting Local Employment Growth)** supports proposals for economic growth including new build, conversion and extensions to existing premises provided a number of environmental and development criteria are satisfied.
- 6.105 The Policy reflects national planning policy and local strategic policy (Local Plan Policy ECON 1) by supporting economic growth which is balanced with safeguarding environmental considerations. Facilitating economic growth is one of the key attributes of sustainable development.
- 6.106 While one of the responses to the Regulation 16 Publicity suggests that it is inappropriate to apply Green Belt controls to the conversion and extension of premises in rural areas this overlooks the fact that all land outside the existing settlement limits falls within Green Belt.
- 6.107 The policy therefore meets the Basic Conditions and no modification is required.

**Policy NNE4 (High Quality Communications Infrastructure)**

- 6.108 The policy recognises the importance of better broadband to local residents and businesses and supports the provision of new telecommunications infrastructure provided the facility is justified, the equipment is sympathetically designed and environmental and health and well being considerations are addressed.
- 6.109 The provision of high quality communications infrastructure and high speed broadband are recognised in national planning guidance as vital elements in the provision of local community facilities and services. They also contribute toward sustainable economic growth.
- 6.110 In considering whether the policy meets the basic conditions there is a substantive representation submitted on behalf of the Mobile Operators

Association (MOA) to consider. Principal concerns raised are

- The requirement in criterion 1 for proposals to be justified conflicts with national planning guidance
- It is not always possible to meet the requirement in criterion 2 for equipment to be sympathetically designed by altering the design of new structures, due to siting and technical reasons, and
- The wording in criterion 3 is ambiguous and does not reflect the guidance in national planning policy.

- 6.111 Detailed alternative policy wording is put forward which it is suggested could take the form of a separate policy, although I am bound to say the inclusion of this type of 'standard policy' would tend to defeat the object of local communities producing their own plans and policies tailored to local circumstances.
- 6.112 With regard to criteria 1 and 3 I accept that paragraph 46 of the NPPG make it clear that that Local Planning Authorities should determine planning applications on planning grounds and not question whether there is a need for the telecommunications infrastructure or determine health safeguards if the proposal meets International Commission guidelines for public exposure. This principle can also be applied to plan making and I therefore recommend the deletion of criterion 1 and amendment of criterion 3 along the lines suggested.
- 6.113 In any case criterion 1 provides no explanation as to how the need for a new site and/or facility can be justified.
- 6.114 With regard to criterion 2 the case for treating proposals for new masts differently to proposals for installing equipment on existing buildings and structures is well made.
- 6.115 I am also mindful of the fact that extant Policy GEN 7 (Development by Telecommunications Code System Operators) in the EPNBLP provides a more comprehensive range of considerations to be addressed than the policy wording proposed, including more restrictive controls on proposals within the Dee Coastal Area of Special County Value.
- 6.116 My recommended modification is therefore intended to retain elements of both the proposed policy and extant Policy GEN 7 (which will be superseded by the new policy), while addressing some of the relevant concerns raised to avoid conflict with national planning policy. It also reflects my previous recommendation that reference to 'adverse impacts' should be qualified by reference to 'unacceptable adverse impacts'.
- 6.117 While I acknowledge, as suggested by Cheshire West and Chester Council, that the first part of the policy effectively duplicates national planning policy as the provision of better broadband is clearly an important local issue I do not recommend its deletion.

## **Recommendation 09**

### **a) Delete criterion 1**

- b) Replace criterion 2 with the following:  
*'1. The siting and appearance of equipment does not have an unacceptable adverse impact on the character or appearance of the surrounding area and/or amenity of local residents.*  
*2. Equipment sited on existing buildings and structures is sympathetically designed.*  
*3. Where new masts are proposed there is no possibility of siting the equipment on existing buildings or structures'*
- c) Substitute the following *'4. The equipment meets International Commission guidelines for public exposure'* for criterion 3.
- d) Insert an additional paragraph at the end of the policy *'Within the Dee Coastal Area of Special County Value new masts will only be permitted where it can be demonstrated that there is no possibility of siting the mast outside the designated area'.*
- e) Make consequential changes to the accompanying rationale.

6.118 Subject to the above modifications the Policy meets the Basic Conditions.

### **Neston Town Centre**

6.119 A typographical correction is required as the sub-section heading is missing from the top of the page.

### **Recommendation 10**

**Insert a new heading '*Neston Town Centre*' at the top of page 38**

- 6.120 **Policy NNR1 (Neston Town Centre)** is intended to ensure the town centre continues to be the focus for retail uses. It also encourages the provision of social, cultural and service uses. The second part of the policy promotes initiatives to enhance the town centre environment including improvements to the market and other areas of public realm, improved signage and improved transport facilities.
- 6.121 The policy reflects national planning policy which recognises the importance of town centres as the heart of communities and encourages policies which promote competitive town centre environments. This is consistent with the economic, social and environmental dimensions of sustainable development. The policy also generally conforms with Cheshire West and Chester Local Plan (Part One) Policy ECON 2 (Town Centres) which identifies Neston as location where proposals should meet local shopping and service needs helping it to remain a healthy, competitive centre.
- 6.122 My recommended change to Policy NNE2 removes the potential conflict between Policy NNE1 and Policy NNE2, since Policy NNE2 as currently drafted resists the loss of B1 and A2 uses which could potentially restrict

opportunities for D1 and D2 uses. The policy is recommended to be amended in favour of permitting the change of use or redevelopment of B1 and A2 premises to D1 and D2. No change is required to Policy NNR1 in this respect.

- 6.123 I also recommend that the term ‘service uses’, which relates to elements of Use Classes A1, A2 and B1, is replaced by ‘leisure uses’ which more accurately reflects the type of uses covered by Use Class D2.
- 6.124 In preparing the Plan I note the opportunity has been taken to review the town centre boundary which dates back to the 2002 EPNBLP. This has been redrawn to better reflect the core shopping area mainly by excluding areas which are primarily residential in nature.
- 6.125 The proposed exclusion of land, which is currently in employment use adjacent to the Aldi retail store is however the subject of an objection on the grounds that it would remove the opportunity for further retail expansion.
- 6.126 While I agree that national planning policy indicates that future retail needs should be met in full and not compromised by limited site availability (as referred to in paragraph 23 bullet point 6) it is also the case that no future need for additional convenience shopping is identified in Neston in the Cheshire West and Chester Local Plan (Part One). The proposed boundary changes are therefore consistent with national and local strategic policy.
- 6.127 A number of modifications are however required to improve the legibility and accuracy of the accompanying map in Appendix G which are described in Section (e) Key Diagram, Figures and Appendices.

### **Recommendation 11**

#### **Substitute ‘leisure uses’ for ‘service uses’ in line 2 of Part A**

- 6.128 Subject to the above modifications the Policy meets the Basic Conditions.
- 6.129 **Policy NNR2 (Town Centre Development Opportunity)** identifies a single or mixed use development opportunity in the town centre involving the redevelopment of some outdated retail units and a public house, creating linked opportunities for environmental and public realm improvements, and enhancement of the adjacent car park. Proposals are required to achieve high quality, sustainable designs and to meet a number of environmental and development criteria.
- 6.130 Policy NNR2 has regard to national planning policy by planning positively to create a competitive town centre environment, which includes residential use, and to help maintain the vitality of the centre. These are key attributes of the economic, environmental and social aspects of sustainable development.

- 6.131 The policy is also consistent with Policy ECON 2 (Town Centres) in the Cheshire West and Chester Local Plan (Part One).
- 6.132 The policy therefore meets the Basic Conditions and no modifications are recommended.
- 6.133 **Policy NNR3 (Town Lane and West Vale Local Retail Areas)** aims to prevent the loss of retail units in local retail areas by only permitting change of use to non retail uses where shop use is no longer viable, where it can be demonstrated that there is no demand for the current use by marketing the premises for 12 months, and the where the proposal would not affect the vitality and viability of the local retail area.
- 6.134 This accords with Cheshire West and Chester Local Plan (Part One) Policy ECON 2 (Town Centres) which promotes the retention of local shopping centres where they remain viable and suggests new uses should only be allowed where they are important in meeting the day to day needs of the local community.
- 6.135 By guarding against the loss of local shops the policy also reflects the national planning policy objective to help promote healthy and sustainable communities.
- 6.136 I acknowledge that the introduction of a 12 month marketing requirement in criterion 1 goes beyond the provisions set out in national planning policy and Local Plan Policy ECON 1 (Economic growth, employment and enterprise) which facilitate changes of use where the current use is not viable or sustainable. And strictly speaking that guidance is aimed at employment uses rather than retail use. However as there is no prescription in either of those documents as to how to establish viability or demand for premises testing the market for a period of time seems a reasonable way of establishing whether there is any demand. Based on practice elsewhere and current market conditions 12 months seems a not unreasonable period of time to undertake marketing.
- 6.137 The policy therefore meets the Basic Conditions and no modifications are recommended.

### **Tourism**

- 6.138 The Plan recognises the importance of tourism to the local economy and aims to capitalise on the areas location on the Dee Estuary, local visitor attractions, and the popularity of the area for informal outdoor recreation.
- 6.139 **Policy NNT1 (Parkgate Parade)** aims to maintain and enhance the visitor function at Parkgate Parade (a former port and seaside resort) provided this is compatible with (International) nature conservation and conservation interests.
- 6.140 **Policy NNT2 (Visitor Economy)** supports proposals to enhance existing tourism assets subject to a number of environmental and development criteria, including the need to protect nature conservation interests and

utilise sustainable transport modes. The second part of the policy identifies and promotes a number of specific proposals which will be supported, including the provision of a visitor centre, a cycle hub, visitor kiosks and enhancements to pedestrian and cycle access and existing car parks.

- 6.141 The policies generally reflect national planning policy and local strategic policy which support rural diversification and tourism (Policies STRAT 9 and ECON 3), balanced with environmental considerations. Making the fullest use of public transport, walking and cycling and focusing development in sustainable locations or locations that can be made sustainable is one of the core planning principles in the NPPF which contributes to the environmental and economic aspects of sustainable development.
- 6.142 A local resident has expressed concern about the potential conflict between Policy NNT1 (Parkgate Parade) and non strategic Policies ENV13 and ENV14 in the EPNBLP concerning development in conservation areas and Parkgate Conservation Area. It is suggested that the Plan should clarify which policy has priority and give more prominence to conservation issues including reference to the Parkgate Conservation Area Character Appraisal published by the former EPNBC in February 2008.
- 6.143 However I do not agree there is necessarily any conflict between those elements of the policy which promote tourism and those which are intended to safeguard conservation and environmental assets. Policy NNT1 in particular specifically requires proposals to preserve and enhance the character and appearance of the Conservation Area. In any case decision makers are used to balancing competing interests in considering proposals that affect heritage assets and this is one of the central tenets of national planning policy.
- 6.144 While reference to the Character Area Appraisal would have been helpful this does not affect the ability of the Plan to satisfy the Basic Conditions.
- 6.145 The same resident would also like his residential property included within the proposed policy area. My inspection of the area confirms that the proposed policy area is restricted to frontage properties that form the core visitor offer and therefore the focus of the policy. I do not consider it would be appropriate to include a residential property in a backland location just because the access to the property is taken between frontage properties from the Parade.
- 6.146 Policy NNT1 and Policy NNT2 therefore meet the Basic Conditions and no modifications are recommended.

### **Movement and Travel**

- 6.147 This group of policies balances the needs of the motorist and highways and access considerations with the desirability of promoting sustainable

forms of transport, including enhanced pedestrian and cycle facilities.

- 6.148 **Policy NNM1 (Transport and Development)** is intended to ensure that the traffic impacts of new development, including vehicular access and highway capacity are adequately addressed while catering for pedestrians, cyclists and the mobility impaired.
- 6.149 The policy applies to developments that create 10 or more dwellings, are over 1,0000 sq. m of floorspace or sites over 0.3 ha in area.

#### Comments

- 6.150 Policy NNM1 has regard to national planning policy by promoting pedestrian and cycle movements as an alternative to the motor car, which also supports the creation of healthy, inclusive communities. Maximising non car based transport and improving the environment in which people live and work also contributes to the social and environmental aspects of sustainable development.
- 6.151 The policy generally conforms with local strategic policy which recognises the need to provide safe transport networks for all modes of transport while ensuring that new development can be accommodated within the existing highway network (Cheshire West and Chester Local Plan (Part One) Policy STRAT 10 – Transport and Accessibility).
- 6.152 However as drafted the policy intentions are not very clear and the policy may be unworkable.
- 6.153 First the inclusion of the application size threshold in the policy effectively excludes small scale proposals from meeting basic requirements such as the provision of adequate vehicular access and vehicle parking. While I appreciate that these considerations may be addressed by decision makers through the normal application of development management and highway considerations this begs the question as to why these issues are included in the policy in the first place
- 6.154 Second, no justification has been put forward for the application size threshold although I appreciate that this corresponds with development classed as 'major' (by CLG) for planning application purposes.
- 6.155 Third the policy intentions of criterion 5 in particular are not very clear. For example one interpretation could be that proposals should simply provide adequate footpaths which would normally be the case with most development. If on the other hand development is expected to contribute toward more ambitious aspirations such as providing new cycleways and/or links to the existing footpath/cycleway network, then I would question whether this is even a reasonable or practical requirement for schemes as small as 10 dwellings.
- 6.156 I have considered whether the introduction of different thresholds would help overcome this difficulty, but in the absence of specific evidence and because interested parties have only had the opportunity to comment on the Plan proposals as published, this would be inappropriate. I therefore



suggest the words 'where appropriate' should be incorporated in the first part of the policy and the reference to site threshold be deleted. I appreciate this weakens the policy to a degree but without this qualification I am not confident that the policy could be applied in a meaningful way.

## **Recommendation 12**

- a) **Delete the first four lines of Policy NNM1 and substitute '*Proposals for new development, including change of use, must where appropriate meet the following criteria*'**

- 6.157 Subject to the above modification the Policy meets the Basic Conditions.
- 6.158 **Policy NNM2 (Enhancing Pedestrian and Cycle Routes)** supports proposals that provide improved and extended cycle and pedestrian routes across the Neighbourhood Area subject to satisfying a number of environmental and development criteria. The second part of the policy identifies some specific improvements to the existing cycleway network and footpath network which the Town Council will support. **Policy NNM3 (Public Transport Improvements)** supports proposals which enhance bus and rail services and associated infrastructure.
- 6.159 These are both positive policies which generally reflect the intentions in national planning policy and local strategic policy to encourage sustainable forms of transport which also satisfies health and well being objectives.
- 6.160 Both policies include a list of measures and improvements which the Town Council would like to see in place, and which are also identified in Appendix M (Local Projects and Initiatives). As these do not appear to relate to firm proposals it is debatable whether it is appropriate to include them within the policy, and whether they might alternatively be referred to in the accompanying rationale, cross referenced to Appendix M, as aspirational schemes which will be supported by the Town Council.
- 6.161 These considerations are particularly pertinent in the case of the public transport improvement schemes identified in Part B of policy NNM3 which are more related to operational matters, the achievement of which depends on the investment decisions of other organisations, other than through financial contributions which may be secured through financial contributions.

## **Recommendation 13**

**Delete Part B of Policy NNM3 and incorporate details in the accompanying rationale of the public transport improvements which will be supported.**

- 6.162 Subject to the above modification Policy NNM2 and Policy NNM3 meet the Basic Conditions.
- 6.163 **Policy NNM4 (Car Parking)** seeks to retain the existing car parks within Neston town centre and Parkgate. Proposals that displace existing off street parking may be acceptable where provision is made for replacement parking. Another policy strand encourages the provision of additional parking at Parkgate.
- 6.164 The policy is linked to the key objectives of supporting the vitality and viability of the town centre and the areas tourism function and as such is in accord with national planning policy and local strategic policy.
- 6.165 The policy therefore meets the Basic Conditions and no modifications are required.

### Design

- 6.166 The design policies reflect the importance to the local community of high quality sustainable design which responds to local character and history.
- 6.167 **Policy NND1 (Development and Design Principles)** has regard to national planning policy by requiring development to conform with a number of design and development principles including creating safe and accessible environments, ensuring appropriate scale and massing of development and providing visually attractive architecture and public realm. This is consistent with the environmental dimension of sustainable development.
- 6.168 **Policy NND2 (Environmental Improvement Corridors)** recognises the impact of key road, rail and cycle corridors on the image of the Neighbourhood Area, and encourages appropriate landscape and public realm improvements along seven identified routes, subject to highway safety and environmental safeguards.
- 6.169 Securing environmental improvements in transport corridors will contribute toward a number of key objectives in national planning policy including enhancing the health and well being of local communities and creating and extending green infrastructure and biological networks.
- 6.170 However as the seven identified routes (which are also identified in Appendix M – Local Projects and Initiatives) do not appear to relate to firm proposals, similar considerations apply as described previously in relation to the improvement schemes identified in Policy NNM2 and Policy NNM3. It is therefore debatable whether it is appropriate to include them within the policy, and whether they might alternatively be referred to in the accompanying rationale, cross referenced to Appendix M, as aspirational schemes which will be supported by the Town Council. On balance because they help identify locations where the policy applies I do not recommend deletion of the list of ‘transport corridors’ from the policy.

- 6.171 Both policies generally conform with Cheshire West and Chester Local Plan Policy ENV 6 (High Quality Design and Sustainable Construction) which promotes high quality sustainable design and safe, secure environments and access routes.
- 6.172 Policy NND1 and Policy NND2 therefore meet the Basic Conditions and no modifications are required.
- 6.173 **Policy NND3 (Sustainable Design)** reflects one of the core principles in national planning policy to move to a low carbon future by encouraging the development of renewable energy initiatives and by promoting energy efficiency improvements in existing buildings and the incorporation of energy efficiency in the design of new buildings. It also accords with local strategic policy (Cheshire West and Chester Local Plan Policy ENV 6 - High Quality Design and Sustainable Construction).
- 6.174 The reference to the Governments zero carbon buildings policy is however out of date. In publishing 'Fixing the Foundations: creating a more prosperous nation' in July 2015 the Government announced its intention not to proceed with the proposal to make all new homes carbon neutral from 2016 but will 'keep energy efficiency standards under review, recognising that existing measures to increase energy efficiency of new buildings should be allowed time to become established'.
- 6.175 Subject to amending the policy to reflect this change, and to future proof the policy wording, the policy meets the Basic Conditions.

#### **Recommendation 14**

**Delete 'the Government's zero carbon buildings policy' in line 3 and insert '*Government policy*', and make a consequential change to the accompanying rationale.**

#### **Landscape and Environment**

- 6.176 **Policy NNLE1 (Local Green Space)** aims to protect a number of green areas, open spaces and sports grounds which have particular local significance. Other than the provision of appropriate facilities for outdoor sport and recreation, extensions or replacement buildings development will not be permitted other than in very special circumstances.
- 6.177 Seven sites, comprising four sports grounds, a formal park and garden and two linear recreation routes are identified in the Key Diagram and Appendix H. Additional information and justification is provided in the accompanying evidence base report.

#### Comments

- 6.178 The objective of protecting existing open spaces generally conforms with

Local Plan policies to protect open spaces, sport and recreation facilities (Policy SO6) and to protect and enhance landscape character by supporting the designation of Local Green Space (Policy ENV2). It also complements Neighbourhood Plan Policy NNLE2 (Amenity Green Space).

- 6.179 While the desirability of identifying and protecting Local Green Space is recognised in national planning policy this is subject to meeting stringent conditions set out in paragraph 77 of the NPPF and the supporting Planning Practice Guidance on Local Green Space designation.
- 6.180 The three criteria which must all be satisfied are;
- that the green space is in reasonably close proximity to the community it serves
  - the green area is demonstrably special to a local community and holds a particular local significance, and
  - it is local in character and not an extensive tract of land.
- 6.181 In addition national planning policy indicates that Local Green Space designation will not be appropriate for most green areas or open space.
- 6.182 Based on the analysis produced in Appendix J in the supporting evidence base report and my own observations I am satisfied that five of the seven sites satisfy the three criteria. The exceptions are the Wirral Way and Burton Marsh Greenway which form parts of routes extending beyond the Plan area and as such cannot be regarded as 'local in character'.
- 6.183 I also have some reservations about the extent to which the remaining five sites meet the requirements in Planning Practice Guidance.
- 6.184 First, a number of sites are already protected through saved EPNBLP policies and/or Green Belt designation. These comprise Neston Cricket Club, Stanney Fields Park, and Ness Village Hall Playing Fields, and part of the Wirral Way which are safeguarded from development that would be harmful to their essential qualities by EPNBLP Policy ENV8 (Urban Green Network), and the Wirral Way which are protected by EPNBLP Policy ENV3 (Nature Conservation Sites of Regional, District or more than Local Importance). The Playing Fields adjacent to Neston Recreation Centre, and Park Fields (Park Gate) are also afforded statutory protection as designated Green Belt
- 6.185 Not only does this duplicate Local Plan policies but it conflicts with Planning Practice Guidance<sup>25</sup> which suggests that where land is already protected by another designation consideration should be given as to whether any additional local benefit would be gained by designation as Local Green Space.
- 6.186 I am also mindful of the fact that Local Green Space policy is not necessarily the most appropriate way to protect sports pitches and recreational land since (unlike proposed Policy NNLE2) Policy NNLE1 does not recognise that there may be circumstances where future

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<sup>25</sup> Planning Practice Guidance para 011 Ref ID: 37-011-20140306

development may be desirable, for example where there may be overall community benefits such as allowing partial development on a site to secure funding for enhancement of the remainder or where alternative provision of equivalent or enhanced standard elsewhere is preferable.

- 6.187 However this must be balanced with the legitimate aspiration to protect land that is particularly valued by the local community, particularly since a future Green Belt Review and review of EPNBLP Policy ENV8 designations would be outside the control of the Town Council.
- 6.188 Second, Planning Practice Guidance<sup>26</sup> emphasises the importance of contacting landowners at an early stage about proposals to designate any part of their land as Local Green Space. One of the sites, namely Neston Cricket Ground appears to be in private ownership. However although I can find no evidence of targeted consultation with the landowners, Neston Cricket Club are included in the list of local stakeholders in Appendix 4.7 in the Consultation Statement accompanying the submitted Neighbourhood Plan who were consulted during the preparation of the Plan.
- 6.189 I also acknowledge that the above comments do not apply to the remaining six sites which are in the ownership of either Cheshire West and Chester Council or Neston Town Council. Cheshire West and Chester Council in their submitted comments specifically refer to the fact that they have no objection to the designation of Regents Park Open Space, Toadhole, Beans Covert, and Neston Golf Course (which are in their ownership) as Local Green Space.
- 6.190 I conclude that as the Wirral Way and Burton Marsh Greenway do not comply with the criteria for designating Local Green Space set out in national planning policy they should be deleted from the policy in order to meet the Basic Conditions.
- 6.191 Although the remaining sites are already protected through a combination of saved Local Plan policy and Green Belt policy as the sites, with the exception of Neston Cricket Ground considered above, are in public ownership, I have taken into account the desire to recognise the special significance of these sites and to provide a stronger level of long term protection than for other areas of green space. These are not therefore recommended for deletion.
- 6.192 The policy wording and accompanying rationale is clear and unambiguous and reflects Local Green Space policy in the NPPF, except for the reference to 'exceptional circumstances' in paragraph 7.110 which should be 'very special circumstances'. None of the sites are affected by current development proposals or extant permissions and their designation as Local Green Space would therefore be consistent with the principles of sustainable development and complement the provision of new homes, jobs and other essential services.

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<sup>26</sup> Planning Practice Guidance para 019 Ref ID: 37-019-20140306

### Recommendation 15

- a) **Delete the Wirral Way and Burton Marsh Greenway from the policy and make consequential amendments to the supporting rationale, Appendix H, Appendix L and the Key Diagram.**
- b) **Substitute '*very special circumstances*' for '*exceptional circumstances*' in paragraph 7.110.**

6.193 Subject to the above modifications the policy meets the Basic Conditions.

6.194 **Policy NNLE2 (Amenity Green Space)** designates areas of green space which the community wish to retain including parks and gardens, sports pitches and playing fields, play areas, amenity open space, allotments, cemeteries and natural/semi natural green spaces.

#### Comment

6.195 The retention of valued local facilities including sports venues and open spaces reflects the emphasis in national planning policy on the health and well being of communities one of the key attributes of sustainable development. The policy also generally conforms with Local Plan Policy SO6 to protect open spaces, sport and recreation facilities.

6.196 Policy NNLE2 supersedes saved Policy ENV8 in the EPNBLP by increasing the number of green space sites that will be protected. It is also wider in scope than Policy ENV8 by recognising that in circumstances where there is a surplus of green space provision in the area that development of open space may be desirable, for example where there may be overall community benefits such as allowing partial development on a site to secure funding for enhancement of the remainder or where alternative provision of equivalent standard elsewhere is preferable.

6.197 While this does not fully reflect national planning policy as set out in paragraph 74 of the NPPF, which indicates that development of green space may also be acceptable where alternative provision of a better quality and quantity is made elsewhere, (whether or not there is a surplus), I acknowledge it is also important to reflect local preferences and priorities in Neighbourhood Plans.

6.198 I do however recommend changes to clarify the meaning of criteria 3 and criteria 4, and to ensure consistency with other policies.

6.199 For example it is not appropriate to introduce nature conservation considerations in criteria 3 without corresponding evidence. In addition it is illogical to expect that where development takes place on an area of designated amenity green space that the visual and landscape value of the site can be retained.

6.200 Similarly in criterion 4 as existing links to other areas of green space are likely to be adversely affected to some extent by development, it would be more realistic to require the retention of existing links.

- 6.201 Modification to the policy is therefore required in order to ensure the policy is clear and unambiguous in line with Planning Practice Guidance.

**Recommendation 16**

- a) **Delete ‘The visual, landscape and nature conservation value of the site is retained or improvements are made through the development either on any’ in criterion 3 and insert ‘*Improvements are made to the visual appearance and/or landscape value of any*’.**
- b) **Delete ‘It does not have an adverse impact on a physical link’ in criterion 4 and insert ‘*It retains physical links*’.**

- 6.202 Subject to the above modifications the Policy meets the Basic Conditions

- 6.203 **Policy NNLE3 (Trees and Woodland and Development)** provides for compensatory tree planting at a ratio of two for one when areas of woodland or individual trees are affected by new development. The policy also establishes standards for new tree planting based on the number of dwellings or floorspace (for non residential development) and number of car parking spaces provided. Off site planting may be acceptable where it is not possible to secure new or replacement planting on site.

Comment

- 6.204 While it is common practice to require compensatory tree planting in conjunction with new development it is less usual to seek quotas for new planting.
- 6.205 While I acknowledge that securing additional tree planting would contribute toward the achievement of sustainable development, and the policy requirements is set out in a very clear way, that in itself is not sufficient justification for the approach taken.
- 6.206 Where policies introduce specific thresholds, standards, or ‘quantifiable mechanisms’, it is important that they are supported by ‘proportionate and robust evidence’ to explain the intention and rationale of the policies in line with national PPG <sup>27</sup>.
- 6.207 As no evidence, justification or explanation has been put forward in support of this proposal I am bound to recommend its deletion in order to satisfy the Basic Conditions.
- 6.208 The policy wording and the supporting rationale should also clarify that the policy applies to non TPO trees (and trees affected by planning conditions) as these are protected by specific legislation, and prior approval would in any case be required to fell any tree affected by a TPO.

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<sup>27</sup> Planning Practice Guidance para 040 Ref ID: 41-040-20140306

**Recommendation 17**

- a) **Insert ‘non TPO’ after ‘loss of’ in line 1 and incorporate additional explanation in the supporting rationale.**
- b) **Delete ‘Additionally new trees should be planted at a minimum of’ and delete the 3 bullet points in the third paragraph.**

- 6.209 Subject to the above modifications the Policy meets the Basic Conditions as the retention of established woodland and trees, and new tree planting, contributes toward biodiversity, local amenity, and health and well being objectives in national planning policy. The policy is also consistent with Cheshire West and Chester Local Plan (Part One) Policy ENV 3 by contributing toward the maintenance/enhancement of Green Infrastructure.
- 6.210 **Policy NNLE4 (Heritage Assets)** is intended to preserve designated and non designated heritage assets in a manner appropriate to their significance.
- 6.211 The policy has regard to national planning policy by seeking to sustain and enhance heritage assets so that they can contribute toward the quality of the built environment and toward the quality of life that can be enjoyed by this and future generations, two of the key aspects of sustainable development.
- 6.212 The rationale supporting the policy differentiates between designated and non designated heritage assets by acknowledging that designated heritage assets are afforded significant protection by national and local planning policy while non designated assets are afforded ‘some’ protection.
- 6.213 However I am not satisfied that this distinction is adequately reflected in the final part of the policy, which also refers to minimising or mitigating potential impacts. In comparison Policy ENV5 (Historic Environment) of the Cheshire West and Chester Local Plan (Part One) makes it clear that development likely to have a significant adverse effect on a designated heritage asset will not be permitted.
- 6.214 Modification is required to bring the policy fully in line with national and local strategic policy.
- 6.215 Reference is made in the supporting rationale to a list of locally listed buildings which is reproduced in Appendix J.
- 6.216 From the information at my disposal it is not possible to determine which organisation was responsible for preparing the local list. Nor is it possible to assess the extent to which the community may have been involved in preparing and commenting on the local list or whether it reflects English Heritage guidance for assessing the suitability of buildings to be identified as local heritage assets.
- 6.217 However I am mindful of the fact that the local community and other interested parties including Cheshire West and Chester Council and



English Heritage have had the opportunity to comment on the list during the preparation of the Plan and at Regulation 16 Publicity stage. It can therefore be relied upon to inform the policy.

- 6.218 An additional modification is required to clarify that heritage assets 'contribute toward' rather than 'enhance' local distinctiveness.

#### **Recommendation 18**

- a) **Substitute '*contribute toward*' for 'enhance' in line 1.**
- b) **Delete 'and put in place measures to avoid, minimise or mitigate any impact that may be caused' in line 6.**
- c) **Insert the following new sentence at the end of the policy '*Development likely to have an unacceptable adverse impact on designated heritage assets or their settings or where the heritage asset cannot be preserved in situ will not be permitted*'.**

- 6.219 Subject to the above modifications the policy meets the Basic Conditions.

#### **Local Nature Conservation Assets**

- 6.220 Paragraph 7.118 explains that saved policies ENV4 and ENV5 in the EPNBLP and Policy ENV4 in the Cheshire West and Chester Local Plan (Part One), will be relied on for policy guidance on nature conservation issues. This is an appropriate approach as there is little point in repeating national and local strategic policy.
- 6.221 Reference is also made to a list of Local Wildlife Sites (LWS) taken from EPNBC's Nature Conservation Supplementary Planning Guidance which was published in 1998. However as pointed out by Cheshire West and Chester Council this is misleading since the LWS designation has replaced a number of designations referred to in the SPG and the EPNBLP following a review of nature conservation sites against updated County wide criteria, (namely Sites of Biological Importance and Sites of Nature Conservation Value).
- 6.222 Modification is therefore required to clarify the status of the LWS sites and also to clarify that the non designated sites referred to as 'Other Local Sites of Importance' in Appendix L are not afforded the same status and level of protection as designated LWS assets.
- 6.223 There are also a number of anomalies and inaccuracies in the delineation of LWS sites in both the Key Diagram and Appendix L which are described in Section (e) Key Diagram, Figures and Appendices.

## **Recommendation 19**

**Incorporate additional explanation in paragraph 7.118 concerning the relative status of Local Wildlife Sites and 'Other Local Sites of Importance'.**

### **Community**

- 6.224 **Policy NNC1 (Community Infrastructure)** resists the loss of existing community facilities, including those registered as Assets of Community Value, unless it can be demonstrated that continued use is no longer commercially viable and the site has been marketed for at least 12 months for that or any other suitable use.

#### Comment

- 6.225 The need to deliver social, recreational and cultural facilities and to guard against the unnecessary loss of facilities and services which enhance the sustainability of communities is recognised in national planning policy, and in Cheshire West and Chester Local Plan (Part One) Policy STRAT 11 (Infrastructure).
- 6.226 While the policy is therefore generally compatible with national and local strategic planning I also have to consider whether the policy is sufficiently clear and whether it is deliverable in line with national Planning Practice Guidance.
- 6.227 As drafted the policy could potentially apply to all local facilities, whether or not they have been registered as an Asset of Community Value. However as referred to by Cheshire West and Chester in their comments on the Plan no definition of a 'local facility' is provided. Neither is it clear who decides whether the policy should apply to a particular proposal.
- 6.228 I note that reference is made in the rationale supporting the policy to paragraph 70 of the NPPF which refers to local shops, meeting places, sports venues, cultural buildings, public houses and places of worship as examples of local facilities. In the absence of information about specific local facilities or facilities at risk I therefore suggest that the facilities identified in the NPPF are named as the types of facilities the policy is intended to 'guard against the unnecessary loss of'.
- 6.229 Since there may be circumstances when the disposal and/or redevelopment of premises in public ownership might be justified on the grounds that they are no longer 'fit for purpose' and/or there is no demand or need for the facility I suggest reference is made to 'demonstrating need' in the policy.
- 6.230 I am also mindful of the fact that the intended 12 month time period for marketing premises differs from the 6 month 'Right to Buy' window introduced by Section 5 of the Localism Act to provide local communities with the opportunity to bid to buy land and premises registered as Assets of Community Value before they may be disposed of. However as 12

months for marketing is consistent with the approach in other policies, namely Policy NNR1 (Neston Town Centre) and Policy NNR3 (Town Lane and West Vale Local Retail Areas), and it relates to land use rather than ownership issues I do not see any conflict.

#### **Recommendation 20**

- a) **Incorporate specific reference in the rationale supporting the policy to the range of facilities identified in paragraph 70 of the NPPF which the policy is intended to ‘guard against the unnecessary loss of’.**
- b) **Insert ‘*or that there is no continued need for the facility*’ after ‘commercially viable’ in line 6.**

6.231 Subject to the above modifications the policy meets the Basic Conditions.

6.232 **Policy NNC2 (Neston High School) and Policy NNC3 (Neston Recreation Centre)** support the planned redevelopment of Neston High School and guide the future redevelopment of the school and the adjacent Recreation Centre for continued educational and recreational use. The policies establish a range of considerations which future development proposals will need to address including the improvement of access and car parking arrangements, the promotion of non car born modes of transport, and the provision of visually attractive designs at a key ‘gateway’ into the town.

6.233 Policy NNC2 also promotes the provision of affordable housing on any surplus land resulting from the redevelopment of the school site.

#### **Comment**

6.234 The provision of modern educational and recreation facilities reflects national planning policy which encourages positive planning to ensure that a sufficient choice of school places and sport and recreation venues are available to meet the needs of existing and new communities, balanced with environmental considerations. Combined with the promotion of affordable housing on part of the school site the policies contribute to the social, economic and environmental dimensions of sustainable development.

6.235 The policies generally conform with local strategic policies by maximising opportunities for improved accessibility and sustainable transport and by promoting the provision of enhanced educational and recreational facilities and associated infrastructure (Cheshire West and Chester Local Plan (Part One) Policy STRAT 10 and Policy STRAT 11).

6.236 Subject to correcting a typographical anomaly in the wording of criteria 4 and 5 in Policy NNC3 the policies meet the Basic Conditions.

## **Recommendation 21**

### **Insert the word 'It' at the beginning of criteria 4 and 5 in Policy NNC3**

- 6.237 **Policy NNC4 (Healthy Communities)** requires proposals for new residential development to demonstrate that there is sufficient capacity within local community health care provision and that it provides opportunities to improve health and wellbeing.
- 6.238 Policy NNC4 reflects national planning policy which includes delivering facilities to meet community needs and promoting healthy communities among its key objectives. These are important elements in the social and environmental aspects of sustainable development. The policy also complements Cheshire West and Chester Local Plan (Part One) Policy SOC 5 which promotes the provision of improved healthcare facilities, and opportunities for walking, cycling and outdoor relaxation in high quality greenspace.
- 6.239 However I have a number of reservations about the clarity and effectiveness of the policy.
- 6.240 First, it is not clear whether the first part of the policy is intended to resist development where there is insufficient healthcare capacity at any given location, or whether developments might be expected to contribute toward enhanced provision in order to overcome identified deficiencies. Given the range of specific requirements of different groups in the community (families with children, older people, people with disabilities etc), and the changing nature of health care provision, there would not appear to be a strong justification for rejecting proposals outright because of identified healthcare deficiencies.
- 6.241 Where development does generate the need for additional facilities I note that although there are no formal mechanisms to compel applicants to engage with health care providers as part of the planning process (contrary to the expectations in paragraph 7.131) the possibility of securing developer contributions toward future healthcare provision is effectively addressed by Policy NNC5 (Infrastructure Provision).
- 6.242 Second because the policy does not articulate specific measures that should be incorporated in schemes it would be difficult for decision makers to assess the extent to which the objectives of the policy are satisfied in a meaningful way. While I acknowledge that examples of relevant considerations are provided in the rationale supporting the policy this is still too vague
- 6.243 In any case health and wellbeing objectives are effectively satisfied through the provisions of other policies such as Policy NNDS1 (Neston Development Strategy) and Policy NNM1 (Transport and Development) which specifically require new development to cater for non car born modes of transport, and Policy NND1 (Development and Design Principles) which requires development to create safe and accessible environments with attractive areas of public realm. Policies in higher tier

documents such as saved policies in the EPNBLP also contribute to health and wellbeing by securing the provision of open space in conjunction with new development.

- 6.244 Third it would not necessarily be appropriate or practical to apply the policy as a whole to all types or scales of development.
- 6.245 I have considered whether the introduction of different thresholds would overcome this difficulty, but in the absence of specific evidence and because interested parties have only had the opportunity to comment on the Plan proposals as published, this would be inappropriate,
- 6.246 As the first part of the policy is addressed in part by Policy NNC5 (Infrastructure Provision) and the second part of the policy is addressed by other policies I therefore recommend the policy be deleted and replaced with a cross reference to other policies in the accompanying rationale.

## **Recommendation 22**

**Delete Policy NNC4 and cross reference paragraphs 7.129 - 7.133 to Policy NNDS1 (Neston Development Strategy), Policy NNM1 (Transport and Development), Policy NND1 (Development and Design Principles), and Policy NNC5 (Infrastructure Provision).**

- 6.247 **Policy NNC5 (Infrastructure Provision)** requires new development to contribute toward infrastructure provision, through either the CIL or S106 Agreement mechanisms. It is also intended to ensure that developer contributions contribute toward the delivery of local aspirations and priorities identified in a separate Appendix.
- 6.248 The provision of infrastructure, mitigating the impacts of development and providing services and facilities that reflect a community's needs are fundamental principles embedded in national planning policy and are key attributes of sustainable development.
- 6.249 Policy NNC5 generally conforms with local strategic policy by providing for the delivery of infrastructure improvements and the provision/enhancement of new facilities (STRAT11), and by supporting the delivery of other policies.
- 6.250 As the first part of the policy does not concern land use policy and repeats the explanation and justification provided in paragraph 7.134 of the accompanying rationale, the policy wording would be more effective if funding secured from developer contributions were directly linked to the list of local projects and initiatives identified in the accompanying appendix.
- 6.251 I am also mindful that the current process for securing financial contributions toward infrastructure provision through planning obligations is in the process of being replaced by the Community Infrastructure Levy. Until Cheshire West and Chester Council have a Community

Infrastructure Levy Charging Schedule in place contributions may continue through the planning obligations process. The fact that these are separate mechanisms should be made clear in the accompanying rationale.

### **Recommendation 23**

- a) Delete ‘The local community have identified a series of projects and initiatives that will assist in the NPA becoming a more sustainable and viable place to live, work and visit. These are identified in Appendix M’.**
- b) Delete ‘some of these projects and initiatives’, in the second part of the policy, and insert ‘*projects and initiatives identified by the local community in Appendix M*’.**
- c) Amend the accompanying rationale to clarify that the introduction of a Community Infrastructure Levy Charging Schedule will replace the S106 planning obligations mechanism.**

### **(d) Implementation and Monitoring**

- 6.252 The final sections of the Plan summarise the Town Council’s approach to delivery and implementation of each of the key issues and policy themes identified in the Plan, and establish a monitoring regime.
- 6.253 Planning Practice Guidance recognises the importance of ensuring that neighbourhood plans are deliverable and the Town Council are to be commended for their commitment to ongoing engagement with a range of partner organisations and other stakeholders who will influence the implementation of the Plan.

### **(e) Key Diagram, Figures, and Appendices**

- 6.254 The Plan is supported by a separate fold out key diagram, a number of technical appendices and tables (in a separate document), and an evidence base report. There are also a number of illustrative maps (Figures 1.1, 3.1, 3.4, 7.1 and 7.2) within the main document.
- 6.255 While there is no prescription in either legislation or neighbourhood plan regulations as to the form that any accompanying maps, diagrams and other illustrative material should take, policies and proposals are quite often illustrated on a map or proposals map. The Neston Neighbourhood Plan uses a key diagram for this purpose in combination with maps defining the town centre boundary, and areas of Local Green Space, Amenity Green Space and Local Wildlife Sites in more detail (Figure 7.1, Appendix G and Appendix L).

- 6.256 However I have reservations about the clarity of the key diagram as some of the boundaries may not be shown in sufficient detail to be of use for development management purposes. This is compounded by the differing degrees of legibility of some of the notations used.
- 6.257 In line with Planning Practice Guidance it is important that the meaning of policies and proposals is clear and unambiguous and that the areas to which they apply is also clear. While I appreciate that the various boundary lines and sites delineated can be more easily interpreted by expanding the online version of the Key Diagram that is not the case with the printed version.
- 6.258 As more detail is provided in a number of accompanying appendices significant changes to the key diagram are on balance not necessary although it would be helpful to incorporate additional text explaining that the Key Diagram should be read in conjunction with Figures 7.1 (Neston Town Centre), Figure 7.2 (Parkgate Seafront), and Appendix L (Areas of Local Green Space, Amenity Green Space and Local Wildlife Sites). I would further recommend that Figure 7.1 be shown as a 'Town Centre Inset' on the Key Diagram to clarify its purpose.
- 6.259 There are also a number of anomalies, inaccuracies and typographical errors to correct.
- 6.260 For example as referred to previously the proposed town centre boundary in Appendix G which is delineated with an orange line on the map extract is identified as a red line in the key at the top of the page. The readability of the map is also impaired by the inclusion of the conservation area boundary particularly because it is not identified in the key, it is confusingly delineated by a red line, and it is illegible in places. In addition the annotated text which refers to a 'vacant site with an application for residential development' is out of date as the site is now partially developed.
- 6.261 There are also inconsistencies between the extent of the town centre defined in Appendix G and the area shown on the key diagram and in Figure 7.1. The first of these concerns the detailed boundary of the proposed extension to the town centre to the east of the railway station in the vicinity of Raby Gardens. The second concerns land and premises situated between Chester Road and the Brook Street Car Park to the west of the Bidston – Wrexham railway. This is included within the town centre boundary in Appendix G but excluded in Figure 7.1 and the Key Diagram.
- 6.262 As suggested by Cheshire West and Chester Council I also recommend that the accuracy of Local Wildlife Sites plotted on the Key Diagram and Appendix L be checked, in view of the changes that have taken place since the publication of the EPNBLP and consequent Nature Conservation Supplementary Planning Guidance.

#### **Recommendation 24**

- a) Incorporate additional text in the Introduction to the Plan explaining the role of the Key Diagram and the supporting Figures and Appendices in delineating the precise areas where particular policies and proposals apply.**
- b) Incorporate a 'Town Centre Inset' on the Key Diagram corresponding with the area covered by Figure 7.1**
- c) Improve the legibility of Appendix G, correct the key and update the annotated text.**
- d) Amend the Town Centre boundary in either Appendix G or Figure 7.1 /Key Diagram to delineate the correct boundary.**
- e) In Appendix K change LNS018 to *LNCS18***
- f) In Appendix L change 'LWC Sites' in the title to 'LWC', change *LNCS16* to *LNCS15*, and change Neston County Primary School Playing Fields, Burton Road, Neston from *AGS004* to *AGS003***
- g) Add *LNCS008* to the Key Diagram and Appendix L and check the accuracy of all other delineated Local Wildlife Sites.**

## **7.0 Conclusions and Formal Recommendations**

### Referendum

- 7.1 I consider the Neighbourhood Plan meets the relevant legal requirements and subject to the modifications recommended in my report it is capable of satisfying the four 'Basic Conditions'.
- 7.2 Although there are a significant number of modifications the essence of the policies would remain, providing a framework, for managing future development proposals and protecting and enhancing the local environment.

**I therefore recommend that the Neighbourhood Plan should, subject to the recommended modifications, proceed to referendum.**

### Voting Area

- 7.3 I am also required to consider whether the Referendum Area should be extended beyond the Neston Neighbourhood Area. As the impact of the policies and proposals contained in the Plan, which does not include any land allocations, is likely to be focused on the built up area of Neston there will be minimal direct impact on land and communities outside the defined Neighbourhood Area. I therefore consider the Neighbourhood Area to be appropriate. No evidence has been submitted to suggest that this is not the case.

**I therefore recommend that the Neighbourhood Plan should proceed to a Referendum based on the Neighbourhood Area as approved by Cheshire West and Chester Council on 6 March 2013.**



## **Declaration**

In submitting this report I confirm that

- I am independent of the qualifying body and the Local Authority.
- I do not have any interest in any land that may be affected by the Plan and
- I possess appropriate qualifications and planning and development experience, comprising 40 years experience in development management, planning policy, conservation and implementation gained across the public, private, and community sectors.

Examiner     Terry Raymond Heselton BA (Hons), DiP TP, MRTPI

Dated            4 March 2016

**Appendix 1 :**

**List of Documents referred to in connection with the examination of the Neston Neighbourhood Development Plan**

- Submission Version of the Neston Neighbourhood Plan (July 2015)
- Submission Version Appendices (July 2015)
- Evidence Base Report (July 2015)
- Basic Conditions Statement (July 2015)
- Consultation Statement (July 2015)
- National Planning Policy Framework
- National Planning Practice Guidance
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning (General ) Regulations (2012) (as amended)
- The Environmental Assessment of Plans and Programmes Regulations (2004)
- Cheshire West and Chester Local Plan (Part One): Strategic Policies (2015)
- Remaining 'saved' policies in the Ellesmere Port and Neston Borough Local Plan (2002)
- Cheshire West and Chester Council Screening Opinion on Strategic Environmental assessment of the Neighbourhood Plan and Habitats Regulation Assessment (October 2015)
- Fourteen representations received during the Publicity period.

I also accessed Cheshire West and Chester Council's planning policy website pages during the course of the examination.