

TATTENHALL AND DISTRICT NEIGHBOURHOOD PLAN EXAMINATION VERSION

A Report to Cheshire West and Chester Council of the Examination into
the Tattenhall and District Neighbourhood Plan

by Independent Examiner, Nigel McGurk

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1. Introduction

Neighbourhood Planning

Neighbourhood Planning provides communities with the power to establish their own policies to shape future development in and around where they live and work. As a “Front Runner,” the Tattenhall and District Neighbourhood Plan is one of the first neighbourhood plans to come forward in the country and it is the first in Cheshire West and Chester.

This Report provides the findings of the Examination into the Tattenhall and District Neighbourhood Plan (referred to as the Neighbourhood Plan). In line with the aims of neighbourhood planning, set out in the Localism Act (2011) and recognised in the National Planning Policy Framework (2012), Tattenhall and District Parish Council is a *qualifying body*¹ for leading a neighbourhood plan. Following its designation as a Neighbourhood Plan Front Runner, the Parish Council established a Steering Group, including members and residents, to produce the Neighbourhood Plan.

This Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward 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 Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Tattenhall and District Neighbourhood Area.

Role of the Independent Examiner

I was appointed by Cheshire West and Chester Council, with the consent of Tattenhall and District Parish Council, to conduct the examination and provide this Report as an Independent Examiner. 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 experience – I have land, planning and development experience, gained across the public, private, partnership and community sectors.

As Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan as modified should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

¹The qualifying body is responsible for the production of the Neighbourhood Plan.

If recommending that the Neighbourhood Plan should proceed to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Tattenhall and District Neighbourhood Area to which the Neighbourhood Plan relates. I make my recommendation on the Referendum Area at the end of this Report.

In examining the Neighbourhood Plan, I am also required, under Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990, to check whether:

- a) the policies relate to the development and use of land for a designated neighbourhood area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- b) the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area),
- c) the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the contents of this Report, I am satisfied that each of the above points have been met.

Plan Period

A neighbourhood plan must specify the period for during which it is to have effect. The Neighbourhood Plan clearly states, on its title page and in the Introduction and Background Chapter, that it covers the period 2010 to 2030. It therefore satisfies this legal requirement.

Public Hearing

As a general rule, neighbourhood plan examinations should be held without a public hearing – by written representations only. I have considered written representations as part of the examination process. A public hearing must be held *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case.

A neighbourhood plan public hearing is different from a planning inquiry, an examination in public or a planning appeal hearing. It is essentially to provide for the Independent Examiner to further consider matters against the Basic Conditions, referred to in section 2 of this report.

Taking the above into account, I decided that it was necessary for there to be a Tattenhall and District Neighbourhood Plan Hearing (*referred to as the Hearing*). The Hearing was advertised in the local press and in Tattenhall itself, and was held on 14 August 2013. I invited a number of parties to speak. The Hearing was open to the public and took place in The Barbour Institute, Tattenhall and lasted from 1.30pm until around 4.30pm.

I invited parties to the Hearing to consider specific parts of the Neighbourhood Plan in more depth and to clarify points made during consultation. All consultees who had indicated in their representations that they would like to speak at a public hearing were invited to do so. However, it is worthwhile emphasising that representations to the Tattenhall and District Neighbourhood Plan have been taken into account whether or not consultees took part in the Hearing. Involvement in the Hearing does not make any one representation more, or less valid than another.

2. Basic Conditions and Development Plan Status

An Independent Examiner must consider whether a neighbourhood plan meets the “Basic Conditions” which were *set out in law*² following the Localism Act 2011. 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 (see Development Plan Status below) for the area;
- and it must be compatible with EU obligations and human rights requirements.

I confirm that I have examined the Neighbourhood Plan against these Basic Conditions. I consider whether the policies of the Neighbourhood Plan have regard to national policies, contribute to sustainable development and are in general conformity with strategic development plan policies in section 6. In this section, I consider the status of the relevant development plan and whether the Neighbourhood Plan is compatible with EU obligations and human rights requirements.

Development Plan Status

A small number of representations to the Neighbourhood Plan considered it to be “premature” in the light of there being an emerging, but un-adopted, Local Plan for Cheshire West and Chester. However, the fact that there is an emerging development plan in a local authority area is not unusual and there is nothing in the legislation to support the contention that such a situation should stop, or slow down, the progress of a neighbourhood plan.

We live in a changing world and planning is a dynamic process. Just as there are examples of where neighbourhood plans follow on from new, up-to-date, adopted development plans, there will be occasions where neighbourhood plans are made ahead of emerging local plans. Whenever a neighbourhood plan, following a ‘Yes’ vote at Referendum, is *made* ahead of an emerging Local Plan, then simply, the Local Plan would need to take the policies of the neighbourhood plan into account.

I think it relevant to point out in this regard, that one of the significant benefits of neighbourhood plans is the relative speed with which they can come forward, enabling local communities to establish policy in an efficient and effective manner. Importantly, a *made* neighbourhood plan can, in such cases, provide for certainty in areas where there may otherwise be an absence of up-to-date policy.

² Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

During consultation, concern was raised, via representation, that the Neighbourhood Plan, because it had been prepared in advance of the Local Plan, was inappropriate “according to the Inspector examining the Dawlish Neighbourhood Plan.” Just for clarity on this point, the Dawlish plan referred to was not intended to be a formal neighbourhood plan under the Localism Act. It was prepared before the Localism Act or the Neighbourhood Planning Regulations (April 2012) came into effect and was aimed at comprising an “input” into the emerging development plan for the area, rather than comprising a statutory plan itself. Consequently, Dawlish does not set any precedent in terms of neighbourhood plans being “premature” if they are ahead of emerging Local Plans.

In the case of Tattenhall and District, the relevant development plan is the adopted Chester District Local Plan³. During the Hearing, it was confirmed that the Local Plan was adopted in 2006 and that a number of policies were “saved” on the 10th March 2009.

A number of objectors stated that, in their view, the adopted Chester District Local Plan was “time-expired” and that its policies were “out of date.” However, no evidence was presented to demonstrate that the saved policies of the adopted Chester District Local Plan do not form the adopted local plan for the area, or are not a material consideration in determining planning matters. Indeed, the Council confirmed their status and consequently, there is no doubt in my mind that the Chester District Local Plan is an adopted development plan document, the saved strategic policies of which need to be taken into account when examining the neighbourhood plan.

I am mindful that the adopted Chester District Local Plan predates the National Planning Policy Framework (the Framework). As such, in the case of any of the saved strategic policies of the adopted Chester District Local Plan conflicting with the Framework, the Framework takes precedence. This is simply standard practice.

Further to the above, the Council confirmed that policy HO1, which previously set out the scale of housing provision, has lapsed as it was not saved in 2009 and cannot, therefore, be taken into account. This particular point led a number of objectors to state, in support of their cases, that the Neighbourhood Plan should not progress until a new housing provision policy has been adopted across the whole of the local authority area. However, there is nothing in the legislation that states, or suggests, that the absence of a strategic housing provision policy in a development plan means that a neighbourhood plan should not include a housing policy, or policies. On the contrary, and as pointed out above, a neighbourhood plan provides a good opportunity to provide for a degree of certainty in such situations. More fundamental, and the focus of this examination, is whether the policies of the Neighbourhood Plan meet the Basic Conditions. I consider this in detail below.

³ Chester District Local Plan (2006. Saved 2009).

The emerging Cheshire West and Chester Local Plan has reached its *Publication Draft* stage – it has been approved by Council Members for public consultation, although this has not yet begun. This is a relatively early stage on its journey to adoption and as such, the Local Plan is yet to be rigorously tested at examination. The Neighbourhood Plan does not ignore the emerging Cheshire West and Chester Local Plan, but it has, as the Council itself points out, “been prepared in parallel with the emerging Local Plan.”

This is a sensible and pragmatic approach, providing a good example of how a neighbourhood plan can take into account emerging policies. Furthermore, through this approach, plan-makers have been able to make use of evidence gathered and prepared for the emerging strategic policies of the Local Plan, thus providing information and analysis to help justify the Neighbourhood Plan’s policies.

I was informed during the Hearing of the extent of the significant and sustained collaborative working between the Council and the Neighbourhood Plan-makers. Cheshire West and Chester Council held membership of the Steering Group established by the Parish Council and I note that the officer support this provided “went over and above the call of duty” and was of huge benefit to the Neighbourhood Plan. I consider this collaborative approach to be exemplary. It sets a helpful precedent for other neighbourhood plan-makers. Such effective joint working is to the great benefit of plan-making and is to be welcomed.

Neighbourhood plan policies are not examined against *emerging* strategic policies. However, it makes good sense for neighbourhood planners to understand and have a mind to how the neighbourhood plan fits with the emerging strategic policies of the development plan and be able to clearly explain the rationale for any significant differences, should there be any.

European Convention on Human Rights (ECHR) and European Union (EU) Obligations

I am satisfied that the Neighbourhood Plan does not breach, nor is in any way incompatible with the ECHR. Similarly, I am also satisfied that the Neighbourhood Plan is compatible with EU obligations.

Further to screening, it was considered that the Neighbourhood Plan would be likely to have a significant environmental effect and that a Strategic Environmental Assessment (SEA) was required. A Sustainability Appraisal (SA), together with a comprehensive Sustainability Appraisal Scoping Report (SR), have been produced to support the Neighbourhood Plan. Prior to final versions being produced, the SA and SR documents went through interim and draft stages, respectively. This allowed for the results of consultation and the evolution of the Neighbourhood Plan to be taken into account. I consider this to comprise good practice, the overall impact of which is to enhance the Neighbourhood Plan’s contribution to the achievement of sustainable development

Together, the SA and SR provide a thorough, detailed consideration of the Neighbourhood Plan's sustainability credentials. Their content is thorough and comprehensive and I find it clearly demonstrates how the SA in particular has supported the plan-making process, by testing its proposals in the light of a clearly defined methodology.

The overall approach to assessing the Neighbourhood Plan's environmental, social and economic effects meets the legal requirements of the EU's SEA Directive.

A Habitats Regulations Assessment (HRA) screening statement has been produced. This establishes that the Neighbourhood Plan is not concerned with the management of a European site for nature conservation and that there are no other projects or proposals that, together with the Neighbourhood Plan, could impact on the integrity of a European site. The statement establishes that the Plan does not require a HRA and I am satisfied that this is the case.

No objections in relation to any of the above matters were received during the statutory consultation stage.

Cheshire West and Chester Council

Cheshire West and Chester Council has confirmed that it is satisfied that the Neighbourhood Plan meets the Basic Conditions. In so doing, it finds that the Neighbourhood Plan is in general conformity with the strategic policies of the Chester District Local Plan, adopted in 2006 and saved in 2009.

3. Background Documents and Tattenhall and District Neighbourhood Area

Background Documents

In undertaking this examination, I have considered each of the following documents in addition to the Examination Version of the Tattenhall and District Neighbourhood Plan:

- National Planning Policy Framework (The Framework) (2012)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning Regulations (2012)
- Chester District Local Plan (Adopted 2006. Saved 2009)
- Cheshire West and Chester Local Plan Publication Draft
- Basic Conditions Statement
- Consultation Statement
- Sustainability Appraisal Report
- Sustainability Appraisal Scoping Report
- HRA Screening Statement
- Green Spaces (map)
- Submission Letter
- Neighbourhood Area (map)

Also:

- All representations received during the publicity period
- All comments made during the Tattenhall and District Neighbourhood Plan Hearing (14th August 2013)

Further to the above, I spent an unaccompanied day visiting the Tattenhall and District area.

Tattenhall and District Neighbourhood Area

The Tattenhall and District Neighbourhood Area coincides with the parish boundary of Tattenhall and District.

Further to an application by the Parish Council and the publication of a notice of this application, Cheshire West and Chester Council approved and designated the Parish of Tattenhall and District as the Tattenhall and District Neighbourhood Area on 17th January 2013 and wrote to inform the Parish Council of its decision on 18th January 2013. This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Background

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.

Robust, sustained and comprehensive public consultation can provide the foundations for a successful neighbourhood plan. It forms part of the evidence base. Successful consultation can also create a sense of public ownership, achieve consensus and provide the foundations for a successful 'Yes' vote at Referendum.

As required by *regulation*⁴, Tattenhall and District Parish Council submitted a Consultation Statement to Cheshire West and Chester Council, setting out who was consulted and how, along with comments on the outcome of the consultation. Commencing in Summer 2011, the Neighbourhood Plan underwent several stages of consultation, prior to the formal, publicity stage, six week consultation period (3 June 2013 to 19 July 2013). These can be broken down into:

- Raising awareness (Summer 2011)
- Pre-vision consultation (Autumn 2011)
- Vision and objectives consultation (Summer 2012)
- Draft neighbourhood plan consultation (Winter 2012)

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.

Public Consultation: Raising Awareness

I note that the Parish Council and Neighbourhood Planning Steering Group attended a number of public events to raise awareness of the forthcoming Neighbourhood Plan. People were given the opportunity to show where they lived and provide comments about the area. I find that the wide range of events – including a Beer Festival and a Garden Fete – provided for significant advanced publicity and the approach encouraged public involvement from an early stage.

⁴Neighbourhood Planning (General) Regulations 2012.

Public Consultation: Pre-Vision

Five public open meetings were held at three venues – three meetings in Tattenhall itself, one in Gatesheath and one in Newton-by-Tattenhall. This provided the opportunity for people to attend meetings in different parts of the Parish, as well as providing for more than one opportunity to attend.

The associated publicity was comprehensive, with invitations sent to every household and widespread public notices. Notably, the invitations included a summary about neighbourhood planning, together with general information about the Parish. I consider that this enabled people to attend the meetings on an informed basis and provided an advanced starting point, thus helping make the most of the meeting time available.

Discussion at the meetings was focused around questions relating to what people liked and disliked about the area and how, or whether, they would like to see the area evolve, change and/or improve in the future. Around one hundred people attended the meetings and responses were collated. I note that, in addition, questionnaires were provided to the local primary school and that 66 individual responses were received. Again the information was collated and helped to inform the next stage of plan-making.

Young people, especially teenagers, can be hard to engage in the planning process. The Parish Council and Steering Group recognised and sought to address this by adopting a highly innovative approach. They hosted a 'rave,' with attendees required to fill in a questionnaire prior to entry. The rave was very well attended and 63 completed responses were received.

Taking all of the above into account, this stage of consultation was transparent and widely promoted, with plentiful opportunities for comment. Together with the preliminary raising awareness stage and the subsequent vision and objectives stage (see below), the pre-vision consultation stage demonstrated the pro-active approach and significant efforts made by the Parish Council and Steering Group to go beyond the legislative requirements for public consultation.

Public Consultation: Vision and Objectives

Following analysis of the pre-vision consultation, the Steering Group were able to bring the findings together into seven main themes, identifying the issues and proposing actions relating to each one. The community was then asked to agree or disagree with each proposal via a Vision and Objectives document, which was sent to every household in the Parish during a four week consultation period.

Almost three hundred responses were received. The scale of response demonstrates the interest in and success of this stage of the consultation. In this way, the results of the consultation provided a significant input into and helped steer the content of, the draft Neighbourhood Plan, providing compelling evidence of its community-driven foundations.

Public Consultation: Draft Neighbourhood Plan

Following consideration of all of the information received during the vision and objectives stage, the draft Neighbourhood Plan was produced and underwent a six week statutory consultation period.

A copy of the draft Neighbourhood Plan was issued to every household in the Parish and to businesses in Tattenhall High Street. Five neighbouring Parish Councils were also provided with copies and the draft Neighbourhood Plan was available to view on the Parish Council website. Over one hundred formal responses to the draft Neighbourhood Plan were received. The Parish Council and Steering Group demonstrated how these were taken into account to improve the form, content and structure of the Neighbourhood Plan.

Taking this and all of the previous stages into account, there is 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.

Public Consultation: Range and Type of Consultees

Effective public consultation should encourage the views of as wide a range of people affected by the proposals as possible. In this regard, it was appropriate for consultation on the Neighbourhood Plan to focus on people living within the neighbourhood area. Tattenhall and District Parish Council has demonstrated that it did as much as it reasonably could to raise local awareness and to encourage people to get involved in the plan-making process. There is evidence that, as well as the views of local residents, input has been encouraged, from the earliest stage, from other interested parties including local businesses. There is no evidence of the Parish Council precluding anyone from the consultation process.

The views of younger people, especially harder to reach groups, were actively sought. The involvement of the local school and the successful 'rave' were highly commendable approaches to community engagement and provide good examples for other neighbourhood planning groups to consider.

It is apparent that the Parish Council and Steering Group went to a lot of effort to encourage participation in public consultation from a wide range of people, to the overall benefit of the Neighbourhood Plan.

Public Consultation – Summary

Given its fundamental importance to neighbourhood planning, I have scrutinised the public consultation process. There is no evidence of any dissatisfaction with the consultation process throughout the two year plan-making period. I am satisfied that the Neighbourhood Plan not only meets its statutory obligations, but exceeds them. Consequently, the Neighbourhood Plan is a community-driven document demonstrates an excellent approach to public consultation in neighbourhood planning.

5. The Neighbourhood Plan – Overview and Introductory Chapters

The Neighbourhood Plan is considered against the Basic Conditions in this and the following two chapters of this Report. Where modifications are recommended, they are highlighted in bold print, with any proposed new wording in *italics*.

The Neighbourhood Plan sets out the strong and clear message that it aims to make Tattenhall and District “an even better place to live.” I find the opening sections on background, location, history and preparation to be informative and helpful and set the scene in an interesting way.

The Neighbourhood Plan sets out its vision, objectives and strategy, before going on to present its policies in six distinct sections. The layout of the Neighbourhood Plan is user-friendly and comprises a logical progression, from background to vision, through to detailed policies. Its overall design, along with the inclusion of interesting and attractive photographs, helps to provide a document which holds the attention and is easy to follow.

Less positively, only two maps are included in the document and I note that these are both quite small and consequently, don’t provide a great deal of information. It is my view that there is more scope for the better use of map-based plans in the document. For example, I note that there is a separate Green Spaces map (Tattenhall Green Spaces are described in Appendix B). It would be helpful, for example, if a user-friendly version of this map was included in the Plan, either as part of Policy 6, or as an appendix, rather than as a separate document. In this regard, I note that the relevant policy itself refers to Green Spaces being shown on the “proposals map.” I think that this is confusing – generally a proposals map in a land use plan is wide-ranging and not restricted to a single topic. Also, there is no reference to where the “proposals map” is situated.

I recommend that further use is made of map-based plans and that the Green Spaces Plan or Plans are included within the Neighbourhood Plan, rather than as a separate document. I also recommend that further thought is given to the title of this map – subject to the comments specific to Policy 6, below, this could simply be “*Local Green Spaces Plan*.”

The titles in the Contents page of the Neighbourhood Plan do not match with the subsequent titles of each section. This is just a drafting error.

I recommend that the titles of each section of the Neighbourhood Plan correspond to those set out in the Contents page. In particular, the Contents should refer to “*Sustainable Development for the Whole Community*.” The section on page 12 should be headed “*Housing Growth*.” “Local Economy” and “Local Facilities” are in the wrong order on the Contents page.

The Vision and Objectives

The vision set out in the Neighbourhood Plan builds upon Tattenhall's previous Parish Plan (2006) and Village Design Statement. This makes best use of important existing information and allows for continuity. It was confirmed during the Hearing that the vision and objectives, and subsequent policies, reflected the views of the community and were derived from the consultation process.

The vision recognises the need for continued growth, whilst retaining the special characteristics of the area. It clearly sets out how this will be achieved. The vision and objectives are aspirational yet straightforward and are distinctive to Tattenhall and District. Together with the objectives, the vision establishes a framework for the rest of the Neighbourhood Plan and as one reads through, the link between the vision and the detailed policies of the Neighbourhood Plan is clear. This is a significant strength of the Neighbourhood Plan.

The approach set out in the vision and objectives contributes to the achievement of sustainable development. It has regard to and is in general conformity with, those national and local strategic policies which seek to combine the protection of local character with suitable provision for appropriate development and growth.

Strategy – Sustainable Development for the Whole Community

The Neighbourhood Plan is explicit in stating that Tattenhall and District will accommodate future development and growth. Its policies aim to achieve this whilst sustaining the special qualities of the area. The economic, social and environmental dimensions of sustainable development are all recognised and the Neighbourhood Plan sets out the aim of engaging positively with developers, through the planning process, to guide future development.

At the Hearing, Tattenhall and District Parish Council confirmed that the Sustainability Appraisal formed a key part of the process of determining the policies of the Neighbourhood Plan. The Neighbourhood Plan's approach to sustainable development focuses on ensuring that new development is sensitive to the existing character of the area and that it demonstrates excellence in terms of quality. In this way, the Neighbourhood Plan has regard to the Framework and is in general conformity with the strategic policies of the development plan.

The following part of the Report considers the policies of the Neighbourhood Plan in detail.

6 The Plan – Neighbourhood Plan Policies

The policies of the Neighbourhood Plan are separated into six themes or sections, reflecting the findings of the consultation. There is one policy, accompanied by supporting text, for each theme. Whilst in the case of Policy 6, this makes for a long policy, I do not suggest any changes to the overall approach, as it presents a logical, simple and user-friendly structure. I find this approach to provide a distinctive feature of the Neighbourhood Plan.

The supporting text provides useful, relevant and interesting context for each policy. Most notably, it refers to national and local policy and for each theme, provides a separate section headed “Community Feedback.” This draws a clear, direct link between the results of consultation and the issues addressed by the relevant policy and consequently, it demonstrates the emphasis that the Neighbourhood Plan places on the input of the community during the plan-making process. It is an exemplary approach to neighbourhood planning – leaving no doubt that the policies of the Neighbourhood Plan reflect the views of the community.

When plan-making at the neighbourhood level, where aspirations can be wide-ranging, it is often difficult to ensure that all policies relate only to land use and development. I am satisfied that the policies of the Neighbourhood Plan are appropriate in this respect and note that the Neighbourhood Plan recognises that some matters are outside the scope of neighbourhood planning. In the Delivery section, the Neighbourhood Plan refers to encouraging interventions by other stakeholders. I find this to be an appropriate way in which to ensure that policies remain focused on land use and development, without losing sight of important local issues raised during the plan-making process.

Housing Growth

As noted above, the adopted Chester District Local Plan does not contain a policy setting out the scale of housing provision for the area and the Cheshire West and Chester Local Plan is an emerging document, the policies of which have not been adopted. This does not, however, mean that there is a ‘policy vacuum’ or that a neighbourhood plan cannot be progressed. Rather, the neighbourhood plan provides an excellent opportunity to provide policies that can help provide for certainty. The Framework provides clear, up to date national policy advice and there are other, saved strategic policies in the adopted Chester District Local Plan.

Whilst the Neighbourhood Plan does not base its policies on the draft policies of the emerging Cheshire West and Chester Local Plan, I acknowledge above that there has been close working between the Parish Council/Steering Group and the local authority. This has, for example, enabled the sharing of evidence prepared for the emerging Cheshire West and Chester Local Plan.

Effective, collaborative working between plan-makers at the neighbourhood and district-wide level is a sensible and helpful approach. In the case of the Neighbourhood Plan, with its Front-Runner status, it is an approach which is to be highly commended. It has enabled the policies of the Neighbourhood Plan to come forward in advance of, but not 'blind to,' the emerging Cheshire West and Chester Local Plan's overall vision, spatial strategy and strategic policies.

The Neighbourhood Plan recognises that the Cheshire West and Chester Local Plan will "set the agenda for housing numbers and growth." In the absence of a current, adopted policy setting out housing supply for the whole local authority area, the Neighbourhood Plan does not seek to determine the overall quantum of houses to be built within the Neighbourhood Area during the plan period. Rather, its emphasis is on influencing *how* housing will be delivered. Housing supply for the local authority area will be rigorously examined over the coming period through consideration of the emerging Cheshire West and Chester Local Plan.

Objections have been received – mainly from housebuilders – with regards the absence of an overall housing figure in Policy 1 (*To enable managed housing growth*) and the absence of any land allocations in the Neighbourhood Plan. However, there is no legislative requirement for Neighbourhood Plans to set their own housing numbers – or to wait for housing numbers to be allocated to them by the development plan. Similarly, there is no legislative requirement for Neighbourhood Plans to allocate land for development. As above, the focus of Policy 1 is on how housing will be delivered, rather than on overall housing numbers or land allocations.

A number of housebuilders, with specific reference to lapsed Policy HO1 in the adopted Chester District Local Plan, agreed with one another that Policy 1 did not meet the Basic Conditions because it could not be in general conformity with a policy that doesn't exist. Whilst I have read Sartre, I struggled a little with the existentialist nature of this. However, after contemplation with a cold towel on my head, I am satisfied that not being in general conformity with something that doesn't exist is not a test relevant to this examination.

The approach taken by the Neighbourhood Plan is clear – it allows for any specific housing numbers and site allocations to be determined through the emerging Local Plan and the rigorous examination that this will entail, whilst adopting a positive approach to housing growth. I consider this to be a sensible and pragmatic approach which, crucially, has regard to the Framework. Furthermore, with regard to national policy and in general conformity with strategic local policy, the Neighbourhood Plan, when considered as a whole, sets out the type of new developments that would be appropriate to enable growth whilst respecting local character. Given all of this, Policy 1 provides a housing policy that is relevant and distinctive to Tattenhall and which meets the Basic Conditions. I consider this in more detail below.

In recognising the purpose of sustainable development, the Framework emphasises that *development* means growth. The Neighbourhood Plan is **explicit** in its recognition of the need to plan positively for growth and to provide for a wide choice of high quality homes. Subject to various other requirements, particularly with regard to encouraging sustainable development (and I note the Neighbourhood Plan's helpful reference to the need to consider its policies as whole), Policy 1 does not place a limit on the total quantum of housing to be built across the Neighbourhood Area. This is in keeping with the Framework's clear agenda for sustainable housing growth, which looks to provide the supply of housing required to meet the needs of present and future generations. Consequently, Policy 1 has regard to national policy and contributes to the achievement of sustainable development.

The Council, in representations and during the Hearing, is satisfied that the Neighbourhood Plan does not promote less development than that set out in the adopted Chester District Local Plan, but that it allows for more. During the Hearing, the Council confirmed that the adopted Chester District Local Plan allowed for some infill and windfall development in Tattenhall. In addition to other development, Policy 1 specifically allows for the expansion of Tattenhall by accepting development adjacent to the settlement, and does not place a cap on the total number of houses. I therefore consider the Council's view on this matter to be reasonable. No submissions demonstrated that Policy 1 provides for development which would be less, or equal, to that set out in the adopted Chester District Local Plan.

The adopted Chester District Local Plan seeks a mix of housing types, requires the provision of affordable housing and includes a rural exceptions policy, in and adjacent to rural settlements, allowing for residential development that meets local affordable housing. Policy 1 seeks a housing mix, requires affordable housing on a basis largely in line with the development plan and includes a detailed exceptions requirement. This allows for small-scale 'exceptions' schemes incorporating 'enabling' market housing, development on brownfield land and the conversion of existing buildings. Policy 1 is in general conformity with the strategic policies of the development plan in this regard. I note here that no substantive evidence was presented to demonstrate that small scale exceptions development would be contrary to the Basic Conditions.

Representations were received – from landowners and housebuilders – objecting to Policy 1's requirement for individual developments within or immediately adjacent to the built-up part of Tattenhall village to be limited to up to 30 homes. This specific topic was also considered at the Hearing.

The Neighbourhood Plan recognises the pressures for residential development in the area. The objections from landowners and housebuilders appear to reflect the significant demand to develop individual sites of more than 30 houses around the edge of Tattenhall. Policy 1 is aimed at providing for housing growth, whilst preserving what it is that makes the Neighbourhood Area special.

A number of different arguments were presented against the “30-limit.” These included it not being justified given the scale of housing need; not justified in relation to unpublished future policy; no sound basis for the threshold to be justified in design terms; may result in unsustainable use of land; no evidence to suggest the approach is deliverable; the figure is arbitrary, with no evidence base; is contrary to the Framework; and that larger developments can generate more affordable housing, open space (presumably meaning “public” open space) and enhance services.

Importantly, in my view, no representations demonstrated that housing growth *could not be achieved* in the way set out in Policy 1.

Briefly considering each of the arguments above in turn - in terms of housing need, I have found above that Policy 1 allows for housing growth and no evidence was presented to demonstrate that this cannot be achieved. There is no requirement for me to examine whether or not policies are justified in relation to future policy. No evidence was submitted to demonstrate that a development of up to 30 homes cannot be designed in an appropriate manner, cannot be designed to use land sustainably, or is not deliverable.

With regards the suggestion that the 30 threshold is arbitrary, with no evidence base, I am mindful that Policy 1 has been determined by the Parish Council and Steering Group further to a comprehensive and open consultation process (outlined above). There is nothing to suggest that developers and housebuilders were prevented from engaging in this process.

Through consultation, it has been established that the community wishes to see housing growth which is incremental and which harmonises with and respects the existing character of the area. Policy 1, together with the other policies of the Neighbourhood Plan, seeks to ensure that new homes are developed in accord with the distinctive features, scale and grain of the local area. To achieve carefully managed growth, Policy 1 allows for individual developments of a modest scale, whilst, subject to other policies, placing no cap on the total number of houses to be built within the Neighbourhood Area.

In this way, the Neighbourhood Plan provides a clear policy approach which, I find, achieves the difficult overall balancing act of supporting housing growth whilst preventing large scale new development that could, in the words of the Neighbourhood Plan, “erode the very qualities that make the village special.” Through the Neighbourhood Plan, the community is exercising its power to prevent housebuilding from being a mere “exercise in meeting housing growth ‘numbers’.” Policy 1 has thus been drafted to include the specific aim of preventing the addition of large housing estates, more typical of suburban developments, to the edge of Tattenhall. This approach is entirely in line with the Framework, which requires policies to recognise housing growth *and* respond to local character and reflect the identity of local surroundings.

I do not disagree with the point raised by objectors, that the Framework recognises that the “supply of new homes can sometimes be best achieved through...larger scale development...such as extensions to existing villages...” (para 52). However, the key word in this paragraph is “*sometimes*.” The Neighbourhood Plan establishes that, in the case of Tattenhall, the community is happy to see housing growth, but not in the form of larger scale development. There is no conflict with the Framework in this regard.

The Framework states that neighbourhood planning provides for “local people to ensure that they get the right types of development for their community.” It allows for communities to “deliver the sustainable development they need.” In addition to all of the comments made above, it has been demonstrated through the consultation process that the policies of the Neighbourhood Plan reflect the overall views of the community. It is no small matter that the local community accept and embrace housing growth and the absence of any objections to Policy 1 from anyone other than housebuilders, landowners or property companies, appears to provide further evidence of the community’s overall support for the approach taken.

Taking all of the above into account, I find that introducing the threshold of 30 homes has been a far from “arbitrary” process. It is an approach founded on the evidenced local desire to maintain and enhance the distinctive and cherished qualities of Tattenhall and District. It is an approach which has regard to national planning policy and which contributes to the achievement of sustainable development.

Policy 1 is therefore not contrary to the Framework and with regards the final point above, that large schemes can deliver more affordable housing, public open space and services, this may well be the case, but it does not justify their being built in any location. The Neighbourhood Plan sets out the type of development appropriate to Tattenhall and District and together, the policies of the Neighbourhood Plan welcome and do not preclude, the provision of public benefits through development. It was established during the Hearing that objectors to Policy 1 accept that developments of up to 30 homes can deliver public benefits.

Representations were made regarding the wording of the final sentence of Policy 1, re: maintaining “...the overall shape of Tattenhall village...” A valid point, with which I completely agree, was made with reference to the fact that any development on the edge of Tattenhall will change its overall shape. Consequently, I find that retaining this reference in Policy 1 would create a contradiction - Tattenhall’s overall shape cannot be maintained whilst providing for managed housing growth.

Were Policy 1 to remain as drafted, it would fail to provide for housing growth. If this were the case, Policy 1 would not have regard to the Framework and would fail to meet the Basic Conditions. However, I am satisfied that the intention of this final sentence is not to prevent housing growth, but is simply a case of poor drafting. The clear intent of this part of the policy is to maintain Tattenhall's overall character. Alteration to the wording, as set out below, is essential. It ensures that Policy 1 does not fail to meet the Basic Conditions in this specific regard.

**Delete the final sentence of Policy 1. Replace it with a sentence which reads
“Maintain Tattenhall village’s strong and established sense of place.”**

In conclusion, I find that in providing for appropriate growth, Policy 1 contributes to the achievement of sustainable development, has regard to national policy and is in general conformity with the strategic policies of the development plan.

Importantly, I consider the proposal to limit individual developments to 30 homes to be distinctive to Tattenhall and District. It is a *ground-breaking policy*. It provides a tangible example of how neighbourhood planning can empower local people to shape their own surroundings. In so doing, it meets with one of the core land-use planning principles of the Framework.

Further to all of the above, I am satisfied that Policy 1 meets the Basic Conditions.

Local Character

This section of the Neighbourhood Plan recognises that, whilst the predominant land use in the Neighbourhood Area is agricultural, the character of the local area is also defined by its buildings. The attractive, unspoilt qualities of Tattenhall village are emphasised as attributes which need to be protected.

Policy 2 is clear in that it will support new development that respects local character and historic and natural assets. However, I am concerned that Policy 2's explicit reference to “new” development is potentially confusing. In this regard, I am mindful of the Council's comment that the Neighbourhood Plan appears to define “new” development as “new-build.” In this regard, I agree that Policy 2's emphasis on “new” development leads the Policy to be interpreted as not including, for example, alterations and extensions to existing buildings.

The Framework is clear in affording great weight to the conservation of heritage assets and in recognising the need for development to respond to local character. Clearly, changes to existing buildings have the potential to impact on heritage and local character. Not recognising this within the Neighbourhood Plan would mean that it does not have regard to national policy in this respect and would thus fail to meet the Basic Conditions.

Consequently, I am not satisfied that, as currently worded, Policy 2 clearly responds to the need to manage changes to existing buildings. However, this is a matter which I consider can be simply rectified. Deletion of the word “New” at the beginning of Policy 2 would remove the ambiguity over whether the Policy applies only to new-build development and make it clear that the Policy is concerned with all development.

Recommendation – delete “New” and commence Policy 2 “Development will be supported where...”

Whilst all of the criteria listed within Policy 2 would not be directly relevant to such changes, I find that many and in particular, the first criteria (respecting local character) would be and thus, no further changes are required in this regard.

For clarity, the reference to Building for Life 12 is appropriate to new development, rather than all development, so it is not proposed to delete the word “new” in this latter part of the Policy. I am also satisfied that the reference to “New development” with regards the protection of important trees is not a matter which impinges on the Basic Conditions.

The Council makes a number of suggestions with regards adding further detail on heritage matters to the Neighbourhood Plan. I firmly agree with the Council’s view that the Neighbourhood Area contains many important heritage assets. I have considered the suggestions and whilst they are offered on a helpful basis, there is nothing that leads me to find that any of the suggestions relate to matters not already addressed by national and/or local policy. It is a general point that neighbourhood planning policies should not seek to repeat detailed policies which already exist elsewhere. I am also mindful in this regard that Tattenhall has a Village Design Statement SPD (which the Neighbourhood Plan recognises).

I consider it to be a strength of the Neighbourhood Plan that its policies have been drafted in a manner which is notably different to those of say, a Local Plan. In this way, the policies reflect the views and wording of the people who drafted them and are distinctive to Tattenhall and District.

With regards adding other heritage and development control-related information, the suggestions have no impact upon whether or not the Neighbourhood Plan meets the Basic Conditions. I leave it to the Parish Council / Steering Group as to whether they incorporate some of the ideas into the supporting text.

In the case of plotting heritage assets onto a map, I find that this would help to address some of my concerns with the limited presence of informative mapping within the Neighbourhood Plan. I do not consider this to be an essential requirement in terms of the Basic Conditions, but think that it would add to the overall quality of the Neighbourhood Plan.

Policy 2 is in general conformity with the strategic policies of the development plan, most notably with ENV1-6 and ENV 8, which together amongst other things, seek to protect local character. It also contributes towards the achievement of sustainable development, not least by promoting development that seeks to improve the environmental performance of buildings.

I would like to commend Policy 2 in particular, for making an explicit link to the criteria set out in Building for Life 12. This emphasises the importance of sustainable design and allows for the further scrutiny of design proposals. The Framework recognises the crucial role that enhancing the built environment has in achieving sustainable development. Building for Life 12 seeks to drive up design quality standards and aims to ensure that only the very best development takes place. In requiring proposals for new developments to demonstrate how they perform against Building for Life 12, the Neighbourhood Plan can help ensure that good design is factored into proposals from the beginning. I find the inclusion of each of the twelve criteria of Building for Life 12 to be helpful and informative.

Local Economy

The Neighbourhood Plan recognises that whilst a rural Parish, Tattenhall and District supports a diverse and sustainable local business community and that this is a strength of the Neighbourhood Area.

With an emphasis on respect for local character, highway safety and the living conditions of neighbours, Policy 3 states that the Neighbourhood Plan will support employment development which involves the conversion of existing buildings and the small-scale expansion of existing employment premises. It also supports small-scale new build development within, or adjacent to Tattenhall and adjoining hamlets.

I find that this approach allows for the measured, sustainable growth of business space. The approach does not seek to provide for major new employment in the Parish, which would be better suited to the main urban area, but provides for local employment growth. Consequently, it contributes towards the achievement of sustainable development. Furthermore, it is in general conformity with the strategic policies of the development plan, particularly EC10, which allows for the extension of existing premises, particularly if this helps to retain jobs, or grow employment; and EC11, which encourages the re-use of agricultural buildings. Policy 3 also has regard to the Framework, which recognises the need to provide for economic growth.

Taking all of the above into account, I find that Policy 3 meets the Basic Conditions.

Local Facilities

This section recognises that whilst rural services have frequently declined over recent years, retail and other services in Tattenhall have largely been retained. Consultation identified that 97% of respondents were in favour of supporting or enhancing existing services and facilities. The supporting text to the Policy also acknowledges Tattenhall's many active clubs and societies. Such groups and organisations are central to community cohesiveness and their recognition in the Neighbourhood Plan, the policies of which have been founded on the views of the community, is appropriate.

Policy 4 recognises the potential for development to support services, but also to impact upon village facilities - most notably on existing infrastructure. A core land use planning principle, identified in the Framework, is that planning should proactively drive and support the sustainable development of the infrastructure and thriving local places that the country needs. I find that Policy 4 has regard to national policy and contributes to the achievement of sustainable development by setting out the requirement to identify and address the impacts of development and going on to support development which will help Tattenhall to thrive.

However, I consider that, as currently worded, Policy 4 is unclear and as such, is not fully reflective of the supporting text to this section. A number of small changes can retain the intent of the Policy whilst providing greater clarity.

With regards the above, I recommend that the first two sentences be combined and altered, to read *“Proposals for development will be required to identify their likely impact on local infrastructure, services and facilities and to demonstrate how any such impacts will be addressed.”*

I recommend that the word *“combined”* should be added before “... with other schemes that have planning permission” on line 5.

Subject to the above, I consider that Policy 4 is in general conformity with the strategic policies of the development plan, particularly RET12 which supports the retention of village shops and RET13 which supports the extension of existing shops to increase village vitality.

Taking all of the above into account, Policy 4 meets the Basic Conditions.

Transport and Communications

This section recognises that congestion can be a local issue and that walking and cycling are important to the area. The supporting text also identifies the aspiration to see the re-opening of Tattenhall Road Railway Station. I commend the Neighbourhood Plan for not losing sight of this important local issue, raised throughout the consultation process, and for defining it as a “community goal.” In this way, the Neighbourhood Plan recognises the community’s aspiration, but does not set the Neighbourhood Plan the potentially unrealistic task of delivering it.

The re-opening of a railway station is a complex, lengthy, potentially onerous and costly process. It would be unrealistic for a neighbourhood plan to set a policy to undertake such a task without a clear delivery mechanism founded on a sound financial basis – ie demonstrating how the major development will be funded. The Neighbourhood Plan does not attempt to incorporate the re-opening of the station into a policy, as it has no way of controlling the delivery of this. However, its clear recognition of a community goal ensures that an aspiration is not lost sight of and can potentially be picked up in other ways, outside of the neighbourhood planning process.

Policy 5 requires development to address the impacts of congestion and to take highway safety into account. It requires development to seek to enhance walking and cycling, and to support public transport. Consequently, it has regard to national policy, contributes to the achievement of sustainable development and is in general conformity with the strategic policies of the development plan, which amongst other things, encourage non-car use.

The Framework states that advanced, high quality communications infrastructure is essential for sustainable economic growth and that the development of high speed broadband technology plays a vital role in enhancing local community facilities and services. In promoting and supporting the development of broadband, Policy 5 meets the Basic Conditions.

The minor change to the current wording of Policy 5, suggested below, is intended to ensure it is consistent with other policies in the Neighbourhood Plan and that it is clearly worded.

For clarity and consistency, I recommend that Policy 5 is re-worded to refer to development in the singular throughout. Thus change: “Developments” to “Development”; “they are” to “it is”; “They” to “It”; and “them” to “it”.

Landscape and Environment

The final policy of the Neighbourhood Plan requires development to protect and enhance biodiversity, respect local landscape character and support the creation of a network of green spaces for sport and outdoor recreation. All of these aims contribute towards the achievement of sustainable development, have regard to national policy and are in general conformity with the development plan, notably policy ENV17, which looks to protect biodiversity.

The Framework sets out a new right for local communities to protect green areas of particular importance to them. Local green space that is important to local life – for its natural beauty, its historic significance, its tranquillity, its recreational value, or its richness in wildlife – can be allocated and protected in neighbourhood plans. The Neighbourhood Plan recognises and embraces this new right and Policy 6 lists all of those sites designated as Green Spaces. Helpfully, it separates them out into sites designated for their open space value; their sport, recreation and amenity value; and their nature conservation value.

As it will afford significant protection to the designated sites, in line with the Framework, I consider that it is important that Policy 6 refers to “Local” Green Spaces and is therefore entirely consistent with the Framework. The detailed manner in which Local Green Spaces will be protected is set out in the Framework and this approach will therefore avoid any potential confusion or ambiguity.

To remove any doubt and with regard to the Framework, I recommend that Policy 6 refers to “Local Green Spaces.”

Given that they afford significant protection, not dissimilar to Green Belt status, it is essential that Green Space allocations are accurate. Objections were received to two of the proposed allocations, c7 and c11. It was established during the Hearing that these two sites were incorrectly identified and allocated. They should both be deleted. However, the objector was satisfied that alternative locations for Green Spaces, related to and close by to sites c7 and c11, may provide scope for appropriate replacement Green Spaces.

Delete sites c7 and c11. I recommend that the accurate boundaries of any possible possible replacement sites are agreed by appropriate parties before sites c7 and c11 are replaced in the Neighbourhood Plan.

Subject to the above, Policy 6 meets the Basic Conditions.

6. The Plan – Other Matters

The Neighbourhood Plan includes a section on Delivery and Implementation. Whilst this does not contain any policies, it provides a helpful explanation of how the Neighbourhood Plan will function. It recognises the importance of a collaborative approach and identifies those bodies with which the Parish Council will work to deliver the policies of the Neighbourhood Plan.

It states that a flexible rather than rigid approach will be required, in order to meet new challenges and opportunities as they arise over the plan period. It also refers to the Neighbourhood Plan as a “living” document, to be reviewed every 5 years. This recognises that land use planning is a dynamic process and sets an admirable long term approach to ensure that the Tattenhall and District Neighbourhood Plan remains relevant, meaningful and deliverable.

7. Summary and Referendum

Summary

In summary, it is my view that the Tattenhall and District Neighbourhood Plan reflects the views of the community and sets out a clear and deliverable vision for the neighbourhood area.

I have recommended a small number of modifications to the Plan. None of these fundamentally change its content, but are intended to ensure that the Plan meets the Basic Conditions and is a user-friendly document.

Subject to the above, the Tattenhall and District Neighbourhood Plan

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.

The Tattenhall and District Neighbourhood Plan meets the Basic Conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

Referendum

I am delighted to recommend to Cheshire West and Chester Council that, subject to the minor modifications proposed, **the Tattenhall and District Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

Neighbourhood Plan Area - I am required to consider whether the referendum area should be extended beyond the Tattenhall and District Neighbourhood Area. The Neighbourhood Area mirrors the Parish boundary. I consider the Neighbourhood Area to be appropriate. I note that no evidence has been submitted to demonstrate that this is not the case.

I recommend that the Plan should proceed to a referendum based on the Tattenhall and District Neighbourhood Area as defined by Cheshire West and Chester Council on 17th January 2013.

In opening the Hearing, I stated that, without prejudice to the final Examiner's Report, the Neighbourhood Plan and all of its related information - including representations for, against, or simply commenting - demonstrated the huge effort put in up until this, the examination stage. It also reflected the tremendous interest in, and the passion for, neighbourhood planning. Over 4,000 volunteer hours had been put into the Neighbourhood Plan prior to examination - a phenomenal example of civic responsibility and community spirit.

The professionalism, hard work, commitment and passion of all involved has created a Neighbourhood Plan which, in my view, provides for a sustainable and successful future, for a place which is clearly very special to the people who live and work there.

Nigel McGurk, August 2013
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