

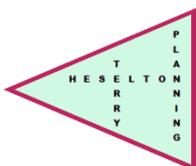
# **Draft Winshill Neighbourhood Plan (Submission Version)**

## **Report of the Independent Examination**

### **Fact Checking Version**

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**Independent Examiner**



**Terry Heselton Planning**

**September 2017**



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## **Summary**

I have examined the Winshill Neighbourhood Plan as submitted to East Staffordshire Borough Council by Winshill Parish 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 Winshill Neighbourhood Plan proceed to referendum, and that the voting area corresponds with the Winshill Neighbourhood Area as designated by East Staffordshire Borough Council on 24 April 2014.

## 1.0 Introduction

- 1.1 I have been appointed by East Staffordshire Borough Council, with the consent of Winshill Parish Council, to examine the Winshill Neighbourhood Development Plan and report my findings as an Independent Examiner.
- 1.2 The Winshill Neighbourhood Plan (referred to as ‘the Neighbourhood Plan’ or ‘the Plan’) has been produced by Winshill Parish Council under the provisions of the Localism Act 2011, which introduced the means for local communities to produce planning policies for their local areas. Winshill Parish Council is a qualifying body for leading the preparation of a neighbourhood plan<sup>1</sup>.
- 1.3 The Plan covers the Parish of Winshill, the northern most of three built up Parishes, on the eastern side of the River Trent opposite Burton on Trent. There is open countryside to the north and east and the A511 Ashby Road passes through the southern part of the Parish.
- 1.4 The Plan area contains a mixture of older terraced housing, Victorian villas and modern estate houses, including (former) post war Council housing. In addition to local schools, churches and a medical centre it supports a number of local shops and services, and includes a number of established open spaces.
- 1.5 The Plan focuses on protecting and enhancing the local environment, promoting good design, and supporting local enterprise and services, while managing proposals for new development in a way that is beneficial to the local community.
- 1.6 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 East Staffordshire Borough Council. The Plan would then be used to determine planning applications and guide planning decisions in the Winshill 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’.

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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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- 2.2 A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State', it is appropriate to 'make' the plan,
  - the plan contributes to the achievement of sustainable development,
  - it is in general conformity with the strategic policies of the development plan for the area of the authority (or any part of that area), and
  - it does not breach, and is otherwise compatible with EU obligations
- 2.3 In addition to reviewing the Submission Draft of the Neighbourhood Plan I have considered a number of background documents which are listed in Appendix 1, together with representations submitted by or on behalf of ten organisations, 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 which require a public hearing to be held. I am also of the opinion that all parties have had full opportunity to register their views and put their case forward. Neither have I seen any requests for a hearing. I have therefore undertaken the examination through consideration of written representations, supported by an unaccompanied site visit of the Neighbourhood Plan 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>.

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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

- 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 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 Winshill 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 to the Regulation 16 Publicity from or on behalf of ten organisations, namely; the Coal Authority, the Environment Agency, Historic England, the National Forest Company, Natural England, Sport England, Staffordshire County Council (including a separate representation as the Local Lead Flood Authority), Severn Trent Water, and Trent and Dove Housing Association.
- 3.2 While supporting the protection of land within the River Trent washlands as Local Green Space the **Environment Agency** consider that more emphasis should be placed in the Plan on mitigating and adapting to climate change, ensuring that new development does not increase flood risk, and by requiring proposals to reflect EA guidance. It is further suggested that more recognition should be given to the importance of the River Trent flood defences and to the potential for creating new water based habitats/educational resources in the river corridor.
- 3.3 **Historic England** compliment the Plan’s exemplary approach to the conservation of local distinctiveness and the local historic environment. In addition to supporting the designation of a Local Heritage Area it is

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

<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

suggested that the Local Heritage Area as well as other locally important buildings could form the basis for a Local Heritage List.

- 3.4 **Sport England** consider the Plan should better reflect national planning policy by protecting existing sports facilities and open space and by positively planning for additional open space, sport and recreation facilities.
- 3.5 **Staffordshire County Council** consider the scope of Policy 4 (Green and Blue Infrastructure Provision) should be widened by specifically including the conservation and enhancement of biodiversity as one of the key principles which development proposals should adhere to. The **County Council** also identify an additional area of land which is considered worthy of Local Green Space protection.
- 3.6 In their role of **Local Lead Flood Authority** the **County Council** suggest future development should be located in areas of lowest flood risk and incorporate measures to alleviate the impact of flooding including SUDS.
- 3.7 **Trent and Dove Housing Association** object to the proposed designation of land at Vancouver Drive as Local Green Space and suggest part of the site should be developed for bungalows.
- 3.8 **The Coal Authority, the National Forest Authority, Natural England, and Severn Trent Water** had no substantive comments to make.
- 3.9 Comments were also submitted on behalf of **National Grid** after the deadline for submitting responses. I have not taken these into account as no particular justification or explanation has been advanced for their late submission and because the acceptance of late comments could in principle potentially disadvantage other parties who might otherwise have submitted late responses. The comments are in any case of a general nature and not relevant to whether the Plan satisfies the Basic Conditions.
- 3.10 General and detailed points made 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) The Qualifying Body**

- 4.1 Winshill Parish Council is recognised as a relevant body for the purposes of preparing Neighbourhood Plans under sections 61F and 61G of the Town and Country Planning Act 1990.

**(b) The Plan Area**

- 4.2 The Neighbourhood Plan relates to the Neighbourhood Area that was designated by East Staffordshire Borough Council on 24 April 2014, following an application by Winshill Parish Council submitted on 26 February 2014. The Winshill Neighbourhood Area is coterminous with the area covered by Winshill Parish Council.
- 4.3 The Neighbourhood Area application and map of the proposed Neighbourhood Area were publicised on the Borough Council's website (and via emails and letters) and 'Deposit' copies were made available for inspection at Borough Council offices over a six week period. No responses were received.
- 4.4 I therefore confirm that the requirements for preparing a Neighbourhood Development Plan under section 61G of the Town and Country Planning Act 1990 (as amended) and Regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012 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.

**(c) 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).

**(d) 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 2012 to 2031 and therefore satisfies this requirement.
- 4.8 I am mindful of the fact that the time period covered by the Plan corresponds with the time period of the East Staffordshire Borough Council Local Plan in order to ensure consistency with the base date used by the Borough Council for calculating housing land supply. As a result the start date of the Plan precedes the present date by approximately five years. However as there is no necessity to apply the provisions of the Plan retrospectively I do not consider this creates any practical difficulty.

**(e) Excluded Development**

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

**(f) 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 I have considered the steps taken to engage with the local community 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.
- 4.12 The stages of consultation and engagement, as identified in the Consultation Statement accompanying the 'Submitted Plan', can be summarised as :-
- Initial Public Engagement and Awareness Raising (Spring/Summer 2014)
  - Householder Questionnaire (February – April 2015)
  - Pre-submission (Regulation 14) consultation on the draft Plan (October – December 2015)
  - Second Pre-submission (Regulation 14) consultation on the draft Plan (November – December 2016).
- 4.13 Following the designation of the Neighbourhood Area an initial period of awareness raising in the Parish was undertaken. This included a number of informal events to canvass views and ideas from local residents and groups which were facilitated by consultants appointed by the Parish Council to assist with the preparation of the Plan.
- 4.14 In order to further promote the preparation of the Plan and to obtain views on specific issues a questionnaire was distributed to every household in the Plan Area. A fifth of all households were contacted (randomly) on the doorstep in order to increase the response rate and completed forms were collected individually. The questionnaire was also publicised through displays at various locations
- 4.15 382 forms were completed (approximately 11% of all households) and the responses to the questionnaire were collated and published in a report in May 2015.
- 4.16 The responses to the questionnaire and other evidence were then taken into account in preparing the draft (Pre-submission) Plan which was
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formally published for consultation in October 2015.

- 4.17 The Pre - Submission (Regulation 14) consultation, which included a number of housing policy options, was publicised through the Neighbourhood Plan website and Parish newsletter sent to every household in the Parish. As part of the consultation three consultation events were held in accessible locations in the Parish and a public exhibition was held at Winshill Neighbourhood Resource Centre on 5 December 2015. Details of the various consultation bodies, including neighbouring Parish Councils, consultation bodies and other stakeholders who were specifically consulted on the draft Plan are provided in the Consultation Statement.
- 4.18 In view of the nature of the changes made to the Plan as a result of the Consultation, and order to ensure compliance with the Regulations by consulting on firm proposals rather than options, a second Regulation 14 Consultation was undertaken on an amended Plan in November/December 2016.

#### Conclusions

- 4.19 The Parish Council has taken positive steps to engage with the local community during the preparation of the Plan through a questionnaire delivered to every household and by using the free parish newsletter and the Parish Council website to publicise the Plan.
- 4.20 Delegating the preparation of the Plan to a steering group made up of a mixture of Parish Councillors and co-opted non-Council members has also ensured that the views of a wider cross section of the community have been taken into account.
- 4.21 While I have reservations about the fact that no details are provided about the informal consultation events that took place prior to the distribution of the questionnaire as there is no prescription in the Regulations on the frequency or manner of publicity this does not prevent the Plan satisfying the Basic Conditions.
- 4.22 I am also satisfied that that the arrangements for publicising the Regulation 14 Consultation meet, and in some cases exceed, the regulatory requirements. For example the time allowed for submitting comments was extended for an additional week beyond the 6 week statutory minimum period. The Consultation Statement also addresses the requirement to summarise and explain how the various issues raised by interested parties at various stages of Plan preparation have been taken into account.
- 4.23 My only other reservation concerns the fact that no reference is made in the Consultation Statement as to how local businesses and other stakeholders have been engaged in the preparation of the Plan. However no individual or organisation has suggested (for example at Regulation 16 stage) that they been disadvantaged by a lack of publicity and I am mindful of the fact that an ongoing dialogue has been maintained with East Staffordshire Borough Council throughout the preparation of the Plan.

- 4.24 Taking all the above factors into account there is enough evidence to show that the consultation process as a whole was appropriate to the size and nature of the local community and that those with an interest in the Plan were made aware of the opportunity to comment on it and that the views of relevant consultation bodies have been pro-actively sought.

#### Regulation 16 Publicity

- 4.25 The draft Neighbourhood Plan, as amended in response to the consultation, was subsequently submitted to East Staffordshire Borough Council in June 2016. The submitted Plan incorporates a map identifying the area covered by the Neighbourhood Plan, 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.
- 4.26 East Staffordshire Borough Council published details of the Plan on their website, notified interested parties and ‘consultation bodies’ of its receipt, and provided details as to how and by when representations could be submitted. Hard copies of the submitted documents were also made available for inspection at the Customer Services Centre in Burton Market Place, Burton Library and Winshill Neighbourhood Resource Centre.
- 4.27 The formal six week publicity stage for submitting representations covered the period Friday 16 June to Friday 28 July 2017.

#### Conclusions

- 4.28 In the light of the foregoing I am satisfied that the Regulation 16 requirements to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area 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 policies in the Winshill 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 facilitate the provision of new dwellings through infilling subject to environmental safeguards. Other policies aim to protect green space and local heritage, safeguard biodiversity, and retain and improve local facilities and amenities. 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
- The East Staffordshire Local Plan (2012-2031) adopted October 2015,
  - The Minerals Local Plan for Staffordshire (2015-2030) adopted by Staffordshire County Council on 16 February 2017, and
  - The Staffordshire and Stoke on Trent Joint Waste Local Plan (2010-2026).
- 5.17 The Minerals Local Plan for Staffordshire and the Staffordshire and Stoke on Trent Joint Waste Local Plan have no direct relevance for the Winshill Neighbourhood Area.
- 5.18 The East Staffordshire Local Plan (ESLP) provides an up to date framework to guide future development in the Borough and to inform the preparation of neighbourhood plans.

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

- 5.19 The Local Plan specifically identifies those policies which are considered to be strategic policies for the purposes of determining whether neighbourhood plans meet the Basic Condition of general conformity with the development plan for the area (Neighbourhood Policy 1 - Role of Neighbourhood Plans).
- 5.20 While opinions may differ as to whether other Local Plan policies also perform a strategic or part strategic role I nevertheless welcome this proactive approach to supporting the preparation of neighbourhood plans in accordance with national Planning Practice Guidance on conformity and the definition of strategic policies<sup>17</sup>.
- 5.21 Policies identified in Neighbourhood Policy 1 which are relevant to the Neighbourhood Plan, are :-
- P1 Principal of Sustainable Development
  - SP1 East Staffordshire Approach to Sustainable Development
  - SP2 Settlement Hierarchy
  - SP3 Provision of Homes and Jobs 2012 - 2031
  - SP4 Distribution of Housing Growth 2012 - 2031
  - SP5 Distribution of Employment growth 2012 - 2031
  - SP8 Development Outside Settlement Boundaries
  - SP14 Rural Economy
  - SP16 Meeting Housing Needs
  - SP17 Affordable Housing
  - SP18 Residential Development on Exception Sites
  - SP20 Town and Local Centres Hierarchy
  - SP32 Outdoor Sports and Open Space
- 5.22 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**

- 5.23 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>.
- 5.24 In circumstances where a neighbourhood plan is likely to have significant environmental effects, for example where it includes proposals to allocate

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<sup>17</sup> Planning Practice Guidance paras 074 - 077 Ref ID: 41-074- 077- 20140306

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

land for development, it may require an SEA to be undertaken as part of the preparation process, in accordance with the SEA Directive and Environmental Assessment Regulations<sup>19</sup>. Draft neighbourhood plan proposals should therefore be screened to assess whether they are likely to have significant environmental effects<sup>20</sup>. Where significant environmental effects are identified plans should be accompanied by a full SEA report.

- 5.25 East Staffordshire Borough Council have therefore prepared a Strategic Environmental Assessment (SEA) screening opinion based on policies in the draft Plan. The assessment concludes that the Neighbourhood Plan does not require a full SEA as no significant environmental effects are likely to occur as a result of the implementation of policies contained in the Plan.
- 5.26 A separate Habitats Regulations Assessment screening as to whether a Habitats Regulations Assessment (HRA)<sup>21</sup> was required under the Habitats Directive<sup>22</sup> was also carried out by the Council. This concludes that an appropriate assessment of European designated sites is not required in order to progress the Plan further.
- 5.27 All three statutory consultation bodies who were consulted during the preparation of the screening reports agree with the conclusions in the report and no concerns in relation to the screening process have been raised.
- 5.28 I am therefore satisfied that the screening reports undertaken in accordance with the Regulations, demonstrate that neither a full SEA nor HRA are required.
- 5.29 The Plan has also been assessed to establish whether there are any detrimental impacts on aspects of Human Rights. The assessment, which is reproduced in the Basic Conditions Statement accompanying the Plan, demonstrates that the Plans objectives and policies have neutral or positive impacts on groups with protected characteristics and on property rights. I have no reason to question the conclusions reached in the assessment and no evidence has been put forward to suggest otherwise.
- 5.30 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'.

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<sup>19</sup> Environmental Assessment of Plans and Programmes Regulations 2004

<sup>20</sup> Planning Practice Guidance para 027 Ref ID: 11-027-20150209

<sup>21</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>22</sup> European Directive 92/42/EEC

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## 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 planning policy, and whether they are in general conformity with local strategic policies identified in Neighbourhood Policy 1 (Role of Neighbourhood Plans) in the East Staffordshire Local Plan. Where modifications are recommended, they are highlighted in **bold print**, with any proposed new wording in *italics*.

### (a) Introductory Sections

6.2 The introductory sections explain the background to the preparation of the Plan including the historical development of Winshill, the reasons for preparing the Plan and the process for consulting the local community. They also highlight the demographic and economic characteristics of the area and identify key local issues. The text (and the Plan as a whole) is supported by a number of photographs which provide examples of some of the issues referred to.

#### Comments

6.3 These opening sections are clearly written and informative. They help to develop a sense of place and to demonstrate how the overall vision and Plan objectives have been arrived at.

6.4 While the photographs supporting the text contribute toward the readability of the Plan it would have been more informative to identify specific sites or highlight particular issues by including titles or captions. However as this is not a pre requisite for satisfying the Basic Conditions I make no formal recommendation in this respect.

6.5 My only other reservation is that the planning context within which the Plan has been prepared has been overlooked. For example it is unclear why the ESLP '*provides no detailed proposals for Winshill*' as referred to in the fifth paragraph on page 9 (Section 1.5 The Need for a Neighbourhood Plan).

6.6 Similarly no explanation is provided in the first paragraph in section 1.1 (Background) that the start date of the Plan has been backdated to 2012 to coincide with the start date and Plan period covered by the ESLP.

6.7 From my reading of the Plan and the associated background documents, and my visit to the area, it is apparent that Winshill functions as a suburb of Burton on Trent which is identified in the East Staffordshire Local Plan as a main town within the settlement hierarchy where the majority of development will be directed to. I also note that in establishing both the scale and location of future growth in Burton on Trent no development opportunities or allocations of land have been identified in Winshill.

- 6.8 While I recognise that reference is made in Section 5.1 (Housing) to the fact that no specific housing allocations are made (in the Local Plan) in Winshill owing to the built up nature of the Parish, the Plan's overall approach would be clearer and better justified if an explanation was provided in section 1.5 as to why the focus is on protecting local heritage and environmental resources, promoting good design and managing new development rather than identifying specific sites for development.

#### **Recommendation 01**

- a) **Incorporate an explanation in section 1.5 (The Need for a Neighbourhood Plan) that as the ESLP has already set the agenda for the scale and location of future growth the Plan does not attempt to establish local levels of growth or identify specific sites for development and focuses instead on how future development will be managed, while protecting local heritage and environmental resources, promoting good design, and supporting local enterprise and services.**
- b) **Insert '*to coincide with the period covered by the ESLP*' after 'period 2012 -2031' in the first paragraph of section 1.1 (Background)**

- 6.9 I also recommend changes to correct a number of minor errors and inaccuracies in the Introductory sections.

- 6.10 First the reference to 'Objectives' on the Contents page should be to 'Vision and Objectives' consistent with section 2.1. Second, there is an element of repetition between the first paragraph on page 4 and the last paragraph on page 3. Third, no evidence is provided to justify the reference to 'social and economic decline' in the last paragraph on page 9 which should therefore be removed. Fourth, it would be more accurate to refer to the Neighbourhood Area rather than Winshill Parish in the plan on page 10.

#### **Recommendation 02**

- a) **Insert '*Vision and*' before 'Objectives' on the Contents page.**
- b) **Delete the first paragraph on page 4, and insert '*(about 700 households)*' after 'just over a fifth of all households' in the last paragraph on page 3.**
- c) **Delete 'reverse the social and economic decline in the area' in the last paragraph on page 9.**
- d) **Substitute '*Neighbourhood Area*' for 'Winshill Parish' in both the plan title and legend on page 10.**

**(b) Vision and Objectives**

- 6.11 The overarching vision of the Plan is to ensure that Winshill has an attractive, safe and thriving community and is a place where people wish to live and will be proud to live. It incorporates specific aspirations such as preserving green spaces, ensuring better connectivity, conserving cultural and built heritage, and harnessing opportunities to improve job opportunities.
- 6.12 The vision is supported by nine objectives which are intended to inform the policies which follow in the next section of the Plan.

Comments

- 6.13 While it is good practice to capture the key issues and community aspirations arising during the preparation of the Plan the inclusion of detailed aspirations in the Vision tends to detract from the overall cogency of the Vision. I also note that these detailed aspirations duplicate the Plan's objectives presented in section 2.1, and some relate to non-land use issues such as introducing traffic management measures and improving bus services.
- 6.14 At the same time I am mindful of the fact that the Vision represents the long term aspirations for the future wellbeing of the community as a whole. As there is no prescription in national planning policy, Planning Practice Guidance and neighbourhood plan regulations on this issue it seems to me that the scope or content of the Vision is not necessarily material to whether or not the Plan satisfies the Basic Conditions. In any case any alteration to the overall vision for the area would potentially require changes to be made to the Plan objectives and policies that flow from it. I therefore make no recommendations to amend or alter the scope of the Vision.
- 6.15 However a number of changes are required to ensure that the Plan's objectives fully reflect national planning policy and Planning Practice Guidance, that the meaning is clear and unambiguous and that they relate to land use matters.
- 6.16 First, with the exception of Objective Three, all the Objectives refer to the Parish Council's intention to work with East Staffordshire Borough Council and other partners to achieve specific outcomes. This is inappropriate as the Objectives should reflect the Plan's Objectives rather than the Parish Council's. It also implies a commitment to a proposed course of action on the part of the Parish Council rather than a land use planning matter.
- 6.17 Second, a number of Objectives are only tenuously related to land use planning matters, and Objectives Six and Seven are wholly concerned with non-land use issues.
- 6.18 Third, there is duplication between Objectives One and Two. Objective One is principally concerned with local heritage, design and sustainable construction but also includes reference to 'meeting the needs of Winshill

people'. Objective Two is principally concerned with housing provision but includes reference to local character and design considerations.

- 6.19 Fourth, Objective Two refers to meeting the housing needs of the local community 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 the role of Burton on Trent as a main town in the settlement hierarchy.
- 6.20 In addition Objective Three is written as a policy and should be redrafted accordingly.

### Recommendation 03

- a) Delete 'The Parish Council will work with East Staffordshire Borough Council' in Objectives One, Two, and Four.
- b) Delete 'The Parish Council will work with East Staffordshire Borough Council and Staffordshire County Council' in Objective Five.
- c) Delete Objective Six and Objective Seven.
- d) Delete 'The Parish Council will work with East Staffordshire Borough Council and Staffordshire County Council, voluntary organisations and government support agencies' in Objective Eight.
- e) Delete 'The Parish Council will work' in Objective Nine.
- f) In Objective One insert '*complement the existing character of the area,*' after 'ensure that any new developments', insert '*and*' after 'local vernacular', and delete 'and meet the needs of Winshill people'.
- g) In Objective Two substitute '*identified housing needs including the needs of*' for 'needs of' after 'new housing provision meets', and delete 'and complements the existing character of the area'.
- h) Insert '*To resist*' at the beginning of Objective Three and delete 'will also be resisted unless it is clear that no compatible other use with the existing class use order may be found)'.

### (c) Scope of the Plan/Omissions

- 6.21 A number of organisations responding to the Regulation 16 Publicity have commented on the fact that the Plan does not cover issues such as climate change (**the Environment Agency**), flood risk (**the Local Lead Flood Authority and the Environment Agency**) or the desirability of securing improvements to existing sports facilities and/or the provision of new facilities in conjunction with new development, particularly housing

**(Sport England).**

- 6.22 **Sport England** also consider the Plan should positively plan for additional open space, sport and recreation based on evidence of need and that policies should prevent the loss of existing facilities.
- 6.23 **The Environment Agency** suggest the Plan should recognise the important contribution made to blue and green infrastructure by the River Trent flood defences and that initiatives to enhance the river corridor should be supported. It is further suggested that future development proposals should be required to take Environment Agency guidance into account, and that future development should be required to incorporate SUDs to avoid increasing flood risk elsewhere.

Comments

- 6.24 While the Plan may be improved by incorporating some of these suggestions neighbourhood plans are not obliged to contain policies addressing all types of development<sup>23</sup> and there is no prescription in current guidance or legislation about the range of topics that should be covered, 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.
- 6.25 The perceived omissions do not therefore affect the Plan's ability to satisfy the Basic Conditions and the Plan instead concentrates on addressing issues which have been identified as local priorities through consultation with the wider community.
- 6.26 Having said that some of the issues raised such as protecting open space and providing additional sports facilities and play areas are partly addressed by Policy 1 (Enhancing and Protecting Open Space) and Policy 2 (Local Green Space). Developer contributions toward additional open space and recreation provision may be secured through Section 106 Agreements and Community Infrastructure Levy since a number of relevant projects are identified in the list of local priorities set out in Section 9.1. Proposals to enhance the River Trent Corridor may also be supported by Policy 4 (Green and Blue Infrastructure Protection).
- 6.27 No changes to the Plan are therefore recommended in response to the above representations.

**(d) Policies and Supporting Text**

**Format**

- 6.28 The land use policies part of the Plan covers five topics, namely; Environment, Local Heritage, Housing, Design, Local Economy and Services, and Transport and Access.
- 6.29 Individual policies are presented in bold text in a black lined box to

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<sup>23</sup> Planning Practice Guidance para 040 Ref ID: 41-040-20160211

distinguish them from the preceding supporting text and justification.

- 6.30 Three policies are followed by proposed 'Community Actions' where the Parish Council intends to undertake specific actions or work with other organisations to achieve specific objectives linked to those policies.

Comments

- 6.31 The presentation of policies and the rationale behind each policy is clear and easy to follow particularly where this is cross referenced to the issues and community views arising from consultation on the emerging Plan.
- 6.32 While it would have been helpful to include more cross referencing to supporting information there is on the whole adequate justification to satisfy the Basic Conditions. Where this is not the case I have made recommendations to either rectify the absence of supporting information or to delete policy wording.
- 6.33 I am also satisfied that the proposed 'Community Actions' are sufficiently distinguishable from the Plan policies to avoid confusing non-land use aspirations with land use and development policies which will be used to inform the decision making process.

## **Land Use Policies and Supporting Text**

### **3.1 Environment, Open Spaces, Blue and Green Infrastructure**

- 6.34 **Policy 1 (Enhancing and Protecting Open Space)** supports the retention, improvement and provision of open spaces, and encourages the provision and/or improvement of outdoor sports facilities and children's play areas.

Comments

- 6.35 The policy has regard to national planning policy on sport and recreation as set out in paragraphs 73 and 74 of the NPPF and generally conforms with ESLP Strategic Policy SP32 (Outdoor Sports and Open Space).
- 6.36 The provision and retention of local sports and recreation facilities and open spaces also reflects the emphasis in national planning policy on the health and well being of communities, one of the key attributes of sustainable development.
- 6.37 Although I have reservations about the effectiveness of the policy, which in comparison with ESLP Strategic Policy SP32, lacks either a framework to assist the development management process or a mechanism to ensure the delivery of new facilities and improvements, it does provide a positive statement of support for proposals which retain and/or enhance open space and sport and recreation facilities
- 6.38 Similarly while I agree with **Sport England** that a more robust, evidence based policy would be more likely to ensure improvements in sports

facilities and open space provision, as referred to in paragraphs 6.24 – 6.26 above it is not appropriate to introduce major policy changes through the examination process and without further consultation.

- 6.39 As the policy otherwise satisfies the Basic Conditions no changes are required other than a minor alteration to correct grammatical/typographical errors.

#### **Recommendation 04**

**In the second paragraph of Policy 1 delete ‘for improving’ and insert ‘and/or improvement of’, and delete ‘providing’ and insert ‘provision’.**

- 6.40 **Policy 2 (Local Green Space)** aims to protect a number of green areas and amenity spaces which have particular local significance by ruling out development other than in very special circumstances.
- 6.41 Nine sites, comprising two recreation grounds, a memorial wood/ recreation ground, five amenity green spaces/children’s play areas, and an area of open grassland are identified for special recognition and protection.
- 6.42 Additional information and justification for each of the sites is provided in a table accompanying the policy.

#### Comments

- 6.43 The objective of protecting locally significant open spaces generally conforms with ESLP Strategic Policy 1 (East Staffordshire Approach to Sustainable Development) which promotes the retention and enhancement of the existing green infrastructure network, and ESLP Strategic Policy 32 (Outdoor Sports and Open Space) which specifically supports the designation of Local Green Space through neighbourhood plans.
- 6.44 The desirability of identifying and protecting Local Green Space is also recognised in national planning policy subject to meeting stringent conditions set out in paragraph 77 of the NPPF and the supporting Planning Practice Guidance on Local Green Space designation.
- 6.45 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.
- 6.46 Based on the analysis produced in the table accompanying the policy and my own observations I consider that all nine sites satisfy the three criteria.
- 6.47 My only reservation is that landowners (other than formal consultees) do not appear to have been contacted about proposals to designate any part

of their land as Local Green Space at an early stage of Plan preparation in accordance with the provisions of National Planning Practice Guidance.<sup>24</sup> However as the Parish Council undertook a targeted consultation of all those with an interest in proposed Local Green Space land in March 2017 prior to the Regulation 16 Publicity stage<sup>25</sup>, and amended the boundary of Area 4 (Waterloo Clump) as a result, I am satisfied that all those with an interest in the proposed designations have had at least two opportunities to put their views forward.

- 6.48 One site, the proposed Vancouver Drive Local Green Space (Area 8) is the subject of an objection by the **Trent and Dove Housing Association** on the grounds that the site could be developed to address an acknowledged shortage of bungalows, particularly in view of the sites sustainable location and the availability of alternative Local Green Spaces in the immediate vicinity.
- 6.49 In considering the merits of Local Green Space within the context of the NPPF criteria the amount and distribution of Local Green Space is not a relevant consideration. However it is necessary to take into account the additional NPPF requirement that the designation of Local Green Space should be consistent with the principles of sustainable development to secure the provision of new homes, jobs and other essential services at appropriate locations and that designated sites should be capable of enduring beyond the end of the plan period (NPPF paragraph 76).
- 6.50 In this regard identified development needs up until 2031 are addressed in the recently adopted ESLP, including the allocation of strategic sites for development. Although no allocations have been identified in Winshill continued development in the Parish may be accommodated through infilling, or if circumstances change, through the preparation of an allocations development plan.
- 6.51 The possibility of a firm housing proposal arising at some point in the future is insufficient reason however for rejecting the legitimate aspiration in the Plan to identify and protect those sites which hold particular significance for the local community, particularly when no objections have been raised by East Staffordshire Borough Council who are also the landowner.
- 6.52 I am also required to consider a suggestion submitted by Staffordshire County Council as part of their response to the Regulation 16 Publicity that the Plan should include an additional area of Local Green Space. This comprises a block of woodland immediately to the south of the Waterloo Clumps Local Green Space proposal (Area 4) which the County Council consider has both recreational and wildlife value. Reference is made to the fact that the site is identified as a Biodiversity Alert Site (BAS) which after further investigation I understand to be one of a number of sites identified by the Staffordshire Wildlife Trust which contain the best remaining areas of natural and semi natural habitats in the County.<sup>26</sup>

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<sup>24</sup> Planning Practice Guidance para 019 Ref ID: 37-019-20140306

<sup>25</sup> Winshill Neighbourhood Plan Consultation Statement (page 9), Winshill Parish Council, April 2017

<sup>26</sup> Guidelines for the Selection of Sites of County Biological Importance in Staffordshire, Staffordshire

- 6.53 While the inclusion of the site in the countywide list of sites with 'local importance for nature conservation' supports its wildlife credentials, I am mindful of national Planning Practice Guidance 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 <sup>27</sup>.
- 6.54 I also have reservations about including an additional area of Local Green Space at this late stage in the process since interested parties, including the landowner, have not previously been consulted or had the opportunity to comment on the proposal.
- 6.55 As referred to previously the purpose of the examination is to assess whether the Plan as submitted satisfies the Basic Conditions. Whether or not the Plan is amended to incorporate additional policies and/or suggestions put forward at Regulation 16 stage does not affect its ability to satisfy the Basic Conditions and I therefore cannot support this proposal.
- 6.56 Two minor amendments are required to improve the clarity of the policy wording and to ensure compliance with national PPG in relation to the presentation of evidence and justification for policies.
- 6.57 First, in demonstrating how the proposed areas of Local Green Space are special to the local community reference is made in the assessment table to the 'high wildlife value' of the Dale Brook/Wheatley Lane Local Green Space (Area 1). However no evidence is provided to justify this conclusion.
- 6.58 In comparison with other aspects of 'local significance' such as recreational value, where the use and function of the site is obvious, it seems to me that it is necessary to provide some evidence of the wildlife value of proposed Local Green Space sites in order to justify their designation. Bearing in mind that other considerations are taken into account in the justification for the Dale Brook/Wheatley Lane Local Green Space (Area 1) I therefore recommend deleting reference to the wildlife value of the site.
- 6.59 Second, the policy wording refers to proposed areas of Local Green Space as 'shown on the accompanying plans', when they are identified on a single map on page 20, although this is not clearly presented as a proposals map.
- 6.60 In order to improve the accuracy of the proposals map I therefore recommend adding a title and a north point, and correcting a typographical error in the map key. The reference to 'Environment Proposals Map' on the contents page is also slightly misleading and should consequentially be changed to 'Proposals Map'.

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Wildlife Trust, 2014

<sup>27</sup> Planning Practice Guidance para 011 Ref ID: 37-011-20140306

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**Recommendation 05**

- a) Delete 'with high wildlife value' in the 'landscape, historical, recreational and wildlife value' assessment of Area 1 in the table supporting Policy 2,
- b) Substitute '*proposals map*' for 'accompanying plans' in Policy 2.
- c) Add a title '*Proposals Map*' and a north point to the map on page 20, change 'Greer' to 'Green' in the key, and change 'Environment Proposals Map' to '*Proposals Map*' on the contents page.

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

6.62 **Policy 3 (Protecting and Enhancing Rights of Way)** is intended to ensure the retention and possible enhancement of rights of way affected by development proposals, unless an adequate alternative is provided.

6.63 The policy applies to footpaths, bridleways, cycleways and other rights of way and accords with national planning policy to protect and enhance public rights of way (NPPF paragraph 75 refers). The creation of safe and accessible developments containing pedestrian routes with good access to facilities and opportunities for informal recreation, are also ways of promoting the creation of healthy communities. These are all key attributes of the economic, social and environmental elements of sustainable development.

6.64 Although there is no equivalent local strategic policy it reflects the accessibility and health and wellbeing objectives of the ESLP. Maximising non car based transport and safeguarding/increasing opportunities for relaxation and improved wellbeing contributes to the social and environmental aspects of sustainable development.

6.65 The policy therefore satisfies the Basic Conditions and no modifications are required.

6.66 **Policy 4 (Green and Blue Infrastructure Protection)** is intended to safeguard and enhance the network of green and blue infrastructure within the Parish by supporting development proposals which contribute toward overall biodiversity and green and blue infrastructure. Six specific areas are identified on the proposals map where development proposals will be required to demonstrate how they have taken green and/or blue infrastructure into account.

6.67 The six areas comprise school grounds, school playing fields and sports pitches, a private cricket ground and woodland/floodplain adjacent to the River Trent and the Dale Brook.

Comments

- 6.68 The first part of the policy has regard to national policy by seeking to 'create, protect, enhance and manage networks of biodiversity and green infrastructure'. The conservation and enhancement of the natural environment, including biodiversity, is one of the core principles of national planning policy and is consistent with the environmental dimension of sustainable development, which includes the objective of 'moving from a net loss of biodiversity to achieving net gains for nature' (NPPG paragraph 9).
- 6.69 Although there is no relevant ESNP 'Policy NP1 defined' strategic policy the policy complements 'ESNP Policy SP23 (Green Infrastructure) and ESNP Detailed Policy DP10 (Blue Infrastructure and Water Recreation).
- 6.70 However the second part of the policy introduces a number of development principles which are unrelated to biodiversity objectives and green and blue infrastructure. Not only is it not clear how these development principles are meant to be taken into account as part of the development management process, but no justification has been advanced for their inclusion and two of the three criteria duplicate other policies.
- 6.71 For example, criteria (a) concerning the conservation and enhancement of the special character and distinctiveness of the area and its amenity value, is covered by Policy 7 (Support for Creative and Innovative Infill development) and partly by Policy 8 (Support for Good Design) which could be amended to ensure it specifically embraces these considerations. Criteria (c), concerning access and enhancement to rights of way, is covered by Policy 3 (Protecting and Enhancing Rights of Way) and Policy 8 (Support for Good Design), with slightly different emphasis in each policy.
- 6.72 With regard to criteria (b) although there is nothing in national policy which gives entitlement to a view I acknowledge that there are examples in both local plans and neighbourhood plans where specific views and skylines have been afforded protection in the wider public interest. However these policies are dependent on evidence to demonstrate the value of a particular view or viewpoint. It seems to me that the principle of protecting a view cannot be extended to protecting general, undefined views.
- 6.73 I therefore recommend deletion of the second part of the policy and incorporation of criteria (a) in Policy 8 (Support for Good Design).
- 6.74 **Staffordshire County Council** suggest that reference to 'conserving and enhancing overall biodiversity in the Parish' should be added to the criteria in the second part of the Policy in order to ensure the policy better reflects the policy aims and national planning policy. While I agree this would strengthen the policy wording my recommendation to delete the second part of the policy precludes this change being made. I therefore recommend incorporating reference to 'conserving and enhancing overall biodiversity in the Parish' in the first part of the Policy.
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- 6.75 Further modification is required to rectify a slight contradiction in the first sentence of the policy which suggests the policy applies to 'all new development proposals', but then goes on to qualify this as 'where appropriate'.
- 6.76 I also recommend that all references to 'blue and green infrastructure' in the policy, the supporting text and section heading are changed to 'green and blue infrastructure' to ensure consistent wording. A consequential change is required on the Plan's contents page.

#### **Recommendation 06**

- a) **Delete 'All new' at the beginning of Policy 4, and insert '*should conserve and enhance the overall biodiversity of the Parish and*' after 'where appropriate'.**
  - b) **Delete the second part of the policy from 'This positive recognition.....' to the end.**
  - c) **Incorporate an additional criterion in Policy 8 as follows; 'conserving and enhancing the special character and distinctiveness of the area and its amenity value to the community'.**
  - d) **Change all references to 'blue and green infrastructure' in the policy, the supporting text and section headings to '*green and blue infrastructure*'.**
  - e) **Change 'Environment, Green Infrastructure, Open Spaces and Access to the Countryside' to '*Environment, Open Spaces and Green and Blue Infrastructure*' on the contents page.**
- 6.77 Subject to the above modifications the Policy meets the Basic Conditions.

#### **4.1 Local Heritage**

- 6.78 **Policy 5 (Local Heritage Area)** requires development proposals affecting land and property within a defined 'Local Heritage Area' to be accompanied by a 'Local Heritage Statement' demonstrating how the development will protect, complement or enhance the historic character of the area, with specific regard to the materials used, the density, and scale and form of development.

#### Comments

- 6.79 The policy has regard to national planning policy by seeking to protect and enhance significant local heritage assets which contribute toward the quality of the built environment and toward people's quality of life, two of the key aspects of sustainable development.
- 6.80 The conservation and enhancement of buildings of heritage importance is also one of the core principles in ESLP Strategic Policy 1 (East
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Staffordshire Approach to Sustainable Development).

- 6.81 Identifying and managing those parts of the historic environment valued by local communities, but which do not qualify for conservation area or listed building status (designated assets) is an important element of the heritage protection system. This can take the form of Local Lists of non designated assets prepared by Local Planning Authorities in consultation with local communities and/or additional forms of local designation such as ‘areas of special character’ often referred to as ‘Local Heritage Areas’.
- 6.82 While national Planning Practice Guidance<sup>28</sup> confers responsibility for identifying non designated heritage assets through ‘Local Lists’ on Local Planning Authorities, there is nothing to prevent locally valued ‘areas of special character’ from being protected through neighbourhood plans. Arguably that is one of the main purposes of the neighbourhood approach to planning particularly where this involves local people helping to identify local heritage assets that are of greatest importance to them.
- 6.83 In this respect I note that that Historic England are fully supportive of the policy and the Plan’s overall approach to managing and protecting the local historic environment.
- 6.84 The requirement for proposals to be accompanied by a Local Heritage Statement also reflects national planning policy which establishes the principle (NPPF paragraph 128) of requiring applicants to submit information describing the significance of any (historic) assets affected by the proposal and the potential impact on the asset, at a ‘level of detail proportionate’ to the (historic) assets’ importance.
- 6.85 I therefore conclude that the policy provides a practical framework for considering development proposals. It would however be helpful to clarify the difference between designated heritage assets which are protected through specific legislation (such as listed buildings and conservation areas) and non designated heritage assets, with reference to the Planning Practice Guidance<sup>29</sup>, and the respective roles of Local Planning Authorities and Parish Councils in preparing ‘Local Lists’.

### **Recommendation 07**

**In the text supporting Policy 5 explain the difference between designated heritage assets which are protected through specific legislation (such as listed buildings and conservation areas) and non designated heritage assets, (such as ‘Local Heritage Areas and Local Lists’) and describe the respective roles of the Local Planning Authority and Parish Councils in producing ‘Local Lists’, with reference to the Planning Practice Guidance.**

- 6.86 Subject to the above modification the Policy meets the Basic Conditions.

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<sup>28</sup> Planning Practice Guidance para 041 Ref ID: 18a-041-20140306

<sup>29</sup> Planning Practice Guidance on Conserving and Enhancing the Historic Environment

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## 5.1 Housing

- 6.87 **Policy 6 (Housing Mix)** aims to ensure that provision is made for 1 and 2 bedroom homes, low cost market homes, and homes that meet the needs of the retired and less mobile population, based on preferences expressed by the local community during the preparation of the Plan.

### Comments

- 6.88 While the policy reflects the requirement set out in paragraph 50 of the NPPF to ‘plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community’ as drafted the policy wording could be interpreted as discriminating in favour of providing housing for local community needs only. This would also be at odds with the role of Burton on Trent as a main town in the settlement hierarchy. National policy is clear that provision should be made for objectively assessed needs across the whole housing market area (NPPG paragraph 47).
- 6.89 By restricting new housing to a limited range of house types and sizes the policy also overlooks the emphasis placed on the creation of ‘sustainable, inclusive and mixed communities’ in national planning policy<sup>30</sup>, and in the ESLP through Strategic Policy 1 (East Staffordshire Approach to Sustainable Development) and Strategic Policy 16 (Meeting Housing Needs). The provision of an appropriate mix of housing types, tenure and sizes is one of the key attributes of the social dimension of sustainable development,
- 6.90 The policy wording should therefore be amended to bring it in line with national and local strategic policy.
- 6.91 I also recommend deleting the first part of the policy which, in addition to its misplaced emphasis on satisfying local needs only, is superfluous to the operation of the policy.
- 6.92 A minor change is required to provide a more accurate reference to ‘older and less mobile people’ rather than ‘the retired and less mobile population’.

### **Recommendation 08**

- a) **Delete ‘In accordance with clear local preferences expressed in the public consultation’ at the beginning of Policy 6,**
- b) **Delete ‘for the development of’ after ‘proposals’ in line 2 and insert ‘*which provide an appropriate mix of house types, tenure and sizes (based on evidence of need), including*’,**
- c) **Delete ‘the retired and less mobile population’ and insert ‘*older and less mobile people*’ in line 4.**

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<sup>30</sup> National Planning Policy Framework (2012) para 50

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

**Policy 7 (Support for Creative and Innovative Infill Development)**

6.94 The policy supports additional residential infill development provided proposals respect the character and historical context of the area, are of an appropriate scale, would not impact on the amenity of neighbours, and make a positive contribution to the locality. The design of development is expected to pay particular attention to building height, scale, mass, appearance and materials.

Comment

6.95 The policy reflects the presumption in favour of sustainable development in national planning policy, and the broad strategy of the ESLP by facilitating continued residential infilling within the built up area of Burton on Trent. It also has regard to one of the core planning principles in the NPPF to secure high quality designs and a good standard of amenity for existing and future occupiers. This will ensure that future housing developments contribute to the social and environmental dimensions of sustainable development.

6.96 The policy generally conforms with ESLP Strategic Policy 1 (East Staffordshire Approach to Sustainable Development) by promoting sustainable forms of development which respond to and make a positive contribution to local character, and create visually attractive environments. It complements ESLP Strategic Policy 24 (High Quality Design) and Detailed Policies 1 (Design of New Development) and 3 (Design of New Residential Development).

6.97 The policy therefore meets the Basic Conditions and no modifications are recommended.

**6.1 Design**

6.98 **Policy 8 (Support for Good Design)** aims to ensure that new development is of a high design quality which contributes to local distinctiveness. Proposals are expected to conform with a number of design and development principles including respecting local character, ensuring well integrated designs, retaining existing trees and other natural features, and utilising locally sourced traditional materials.

6.99 A second policy strand is intended to ensure that the design and layout of development encourages healthy lifestyles through the provision of opportunities for walking and cycling and safe places to play.

Comments

6.100 Securing high quality design which takes account of, and integrates with

local character, and helps create healthy communities are key principles in national planning policy and in ESLP Strategic Policy1 (East Staffordshire Approach to Sustainable Development). The policy will ensure that future development contributes to the social and environmental dimensions of sustainable development. It also reflects strategic objective SO1 (Well Designed Communities) in the ESLP to promote distinctiveness and wellbeing whilst protecting and enhancing sensitive environments.

- 6.101 The policy therefore meets the Basic Conditions and no modifications are required, other than the incorporation of the additional criterion previously recommended in Recommendation 05.

## **7.1 Employment, the Local Economy and Local Shops and Services**

### **Policy 9 (Support for Home Working and Local Enterprise)**

- 6.102 The policy supports development proposals that enable home working provided proposals do not cause unacceptable harm to the amenities of neighbouring properties, the operation of the business can be contained within the existing curtilage and does not require substantial external modification of the premises, and there is no detriment to highway safety.
- 6.103 The policy has regard to national planning policy by supporting local businesses and economic growth in a positive sustainable manner. Facilitating economic growth is one of the key attributes of sustainable development.
- 6.104 Although there is no relevant local strategic policy the policy reflects strategic objective SO7 (Economic Diversification) in the ESLP to foster and diversify the employment base of Burton on Trent.
- 6.105 My only reservation concerns the clarity of criterion (a) which is intended to address whether proposals would create an unacceptable level of harm to the amenity of neighbouring properties, but which contains an unnecessary reference to 'the impact (of proposals) on' the amenity of neighbouring properties.
- 6.106 I also recommend inserting 'and' after criterion (c) to clarify that proposals are expected to satisfy all four criteria.

### **Recommendation 09**

- a) Delete 'The impact on' at the beginning of criterion (a) in Policy 9,**
- b) Insert '*and*' after 'modification of the premises;' at the end of criterion (c).**

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

- 6.108 **Policy 10 (Supporting the Local Shopping and Service Areas)** supports the reasonable expansion or modernisation of existing shops and services such as doctors' surgeries, post offices and pharmacies, provided environmental safeguards are met.

Comments

- 6.109 The policy has regard to national planning policy by ensuring that established shops, facilities and services are able to develop and modernise in a sustainable way, and that they are retained for the benefit of the community (NPPF paragraph 70).
- 6.110 It also generally conforms with ESLP Strategic Policy SP1 (East Staffordshire Approach to Sustainable Development) by supporting the viability of local businesses and services while safeguarding highway safety and the character of the locality.
- 6.111 However I have reservations about the clarity and practicability of the policy.
- 6.112 First, it is not clear whether the policy is intended to apply to proposals for additional retail premises, including the conversion of premises to retail use, or whether it is restricted to existing retail premises only.
- 6.113 Second, while proposals that create additional retail floorspace, including redevelopment and conversion schemes, might reasonably be expected to make adequate provision for service vehicles and to minimise impacts on highway safety, it is unrealistic to expect proposals such as the refurbishment of existing premises, which may already be operating without adequate access for service vehicles, to address these considerations.
- 6.114 I therefore recommend changes to the policy wording to provide a more practical basis for development management decisions, and to clarify that proposals involving the provision of additional retail premises or the creation of additional retail floorspace fall within the scope of the policy.
- 6.115 There is also a typographical error in the final paragraph of the policy which as drafted would only apply to existing premises.

**Recommendation 10**

- a) **Delete 'that it can be demonstrated that;' in line 3 of Policy 10 and insert the text from criterion (c),**
  - b) **Insert a new paragraph immediately before criteria (a) and (b) as follows '*Proposals involving an increase in retail floorspace should demonstrate that;*'**
  - c) **Delete criterion (c),**
  - d) **Insert '*and/or*' after 'The expansion of' in the final paragraph of Policy 10.**
- 6.116 Subject to the above modifications the Policy meets the Basic Conditions.

## 8.1 Transport and Access

- 6.117 **Policy 11 (Parking)** proposes minimum standards for off road parking in connection with new residential development, including conversions and redevelopment schemes. Proposals intended to cater for older age groups are expected to incorporate parking spaces large enough to enable wheelchair users to board and alight from vehicles. Another policy strand provides for the use of permeable surfaces where additional parking is created in existing garden space.

### Comments

- 6.118 The policy reflects principles established in national planning policy and in ESNP Strategic Policy 1 (East Staffordshire Approach to Sustainable Development) by ensuring development proposals do not create or exacerbate highway safety and flood risk or drainage issues.
- 6.119 The proposed parking standards in the policy are similar to those previously adopted by East Staffordshire Borough Council in 2004 (which are currently in force) but differ in two respects, namely; the introduction of increased parking provision for 1 bedroom accommodation (2 spaces per dwelling compared with 1 space per dwelling plus 1 space per 3 dwellings for visitors in the ESNP standards), and the introduction of minimum parking standards.
- 6.120 This approach is justified (in the Plan) on the basis of anticipated increases in residential conversions, particularly for younger people, combined with existing problems associated with on street parking in older terraced housing areas and former Council estates where no provision was made for off-street parking.
- 6.121 The changes are consistent with national planning policy and a post NPPF Ministerial Statement<sup>31</sup> which confirms that local parking standards should only be imposed where there is clear and compelling justification and that maximum standards should be avoided. While national guidance is aimed at local planning authorities there is no reason why neighbourhood plans should not establish their own local parking standards for residential and other forms of development, or to modify existing standards.
- 6.122 There are no objections to the policy from East Staffordshire Borough Council, the local highway authority (Staffordshire County Council) or the development industry and I am satisfied that it meets the Basic Conditions.
- 6.123 No changes are therefore required other than minor changes in both the first and second parts of the policy to provide more accurate references to 'older and less mobile people' rather than 'people of retirement age and

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<sup>31</sup> Secretary of State for Communities and Local Government (Parking; helping local shops and avoiding congestion) March 25, 2015

above' consistent with my recommended change to Policy 6 (Recommendation 08).

- 6.124 The accuracy of the second part of the policy could be further improved since this overlooks the fact that some wheelchair users access vehicles from the side as well as the rear. Consequentially reference to 'a different standard of provision' rather than 'a lower standard of provision' would be more appropriate at the end of the first part of the policy.

### Recommendation 11

- a) Delete 'people of retirement age and above' in line 7 in the first paragraph in Policy 11 and insert '*older and less mobile people*'.
- b) Delete 'lower' in line 8 of the first paragraph and insert '*different standard of*'
- c) Delete 'age groups' after 'use of older' in line 1 in the second paragraph and insert '*older and less mobile people*'.
- d) Insert '*the side or rear of vehicles*' after 'alight from', in line 4 and delete 'by means of a tail lift or suitable ramp'.

- 6.125 **Policy 12 (Public Transport)** is intended to direct development schemes of more than 20 dwellings to locations within 400 metres of a bus stop (with a frequent daytime service to Burton Town Centre), or 200 metres in the case of development intended for older age groups.

#### Comments

- 6.126 The policy reflects sustainability considerations in both national planning policy and local strategic policy, by aiming to influence the spatial distribution of development.
- 6.127 However it does not satisfy the Basic Conditions for the following reasons.
- 6.128 First, the policy is not supported by appropriate evidence. Where policies introduce specific targets, standards, thresholds or 'measurable criteria' it is important that they are supported by 'proportionate and robust evidence' to justify the intention and rationale of the policies in line with PPG guidance<sup>32</sup>. The dwellings threshold and the 'maximum walking distances allowed from a bus stop' would appear to be arbitrary thresholds.
- 6.129 Second, the elimination of parts of the Plan area as potential locations for larger scale residential development is illogical and impractical.
- 6.130 Inspection of the Staffordshire County Council bus timetable and bus routes web pages indicates that the Plan area is well served by bus routes and services which satisfy the frequency criteria in the policy (namely Services 3, 8, 8H, 29, 29A and V3). By my estimation virtually

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<sup>32</sup> Planning Practice Guidance para 040 Ref ID: 41-040-20140306

the whole of the Plan area is within 400 metres of such a bus route although I acknowledge that accurately measuring walking distances from a bus stop would eliminate some additional locations. However while ensuring that new (larger scale) development has good accessibility to public transport is a laudable objective there is no justification in giving this factor overriding importance.

- 6.131 As drafted the policy creates an inflexible mechanism which does not allow other considerations such as proximity to local services and facilities to be taken into account when assessing the sustainability credentials of individual development proposals, or indeed for housing need to be balanced with sustainability objectives.
- 6.132 Third, not only do similar considerations apply to housing developments intended for older people but it is not clear which forms of accommodation fall within the scope of the policy. While I acknowledge that local topography may be a relevant factor to be taken into account when considering the needs of the older and less mobile population, access to bus services and shopping facilities is less relevant in the case of residential care homes and similar institutions. The availability of home delivery and other services is another factor helping to overcome physical barriers to accessing services.

## **Recommendation 12**

### **Delete Policy 12 and supporting text in sub-section 8.2**

- 6.133 **Policy 13 (Cycling and Walking)** aims to ensure that new developments are integrated with the existing network of pedestrian and cycle routes by promoting the provision of bicycle parking facilities and supporting the incorporation of pedestrian footways in schemes in a way which minimises the distances to and from existing pedestrian routes.

#### Comments

- 6.134 Policy 13 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 contributes to the social and environmental aspects of sustainable development.
- 6.135 The policy generally conforms with local strategic policy by supporting new development which facilitates convenient and safe cycling and walking between the site and surrounding areas (ESLP Strategic Policy 1 East Staffordshire Approach to Sustainable Development).
- 6.136 Although the policy is limited in scope this reflects the fact that there are likely to be only limited opportunities in the Parish to attract developments of a large enough scale to secure infrastructural improvements such as additional cycle facilities. While the policy wording is somewhat convoluted, taking the explanation in the accompanying justification into

account at the same time, I am satisfied that the policy provides a reasonable basis to inform future decision making.

- 6.137 The policy therefore meets the Basic Conditions and no modifications are required.
- 6.138 **Policy 14 (Connectivity and the Existing Highway)** is intended to ensure new development does not compromise highway safety by restricting new access points onto main routes, which are defined in the policy, and by requiring the safety of pedestrians, cyclists and other highway users to be taken into account in the design of development. Innovative approaches to reducing traffic speeds are also encouraged.

Comments

- 6.139 The promotion of good designs which prioritise pedestrian and cycle movements and minimise conflicts between different highway users, and the creation of healthy communities with safe and accessible environments are principles embodied in national planning policy. These are all key attributes of the economic, social and environmental elements of sustainable development.
- 6.140 The policy generally conforms with local strategic policy by ensuring development does not cause highway safety issues (ESLP Strategic Policy 1 East Staffordshire Approach to Sustainable Development).
- 6.141 Although the Local Highway Authority is ultimately responsible for highway safety, traffic management and standards regarding access onto the highway, as there does not appear to be any conflict between land use planning and transport/traffic management objectives in this respect, and no comments regarding the policy have been submitted by the Local Highway Authority I am satisfied the policy provides a reasonable basis for controlling development proposals.
- 6.142 The policy therefore meets the Basic Conditions and no modifications are required.

**(e) Local Priorities, Implementation, Monitoring and Review**

**9.1 Local Priorities**

- 6.143 The land use policies are followed by a section concerning local priorities for infrastructure improvements which are intended to be secured through either CIL or S106 Agreements with developers in conjunction with new development. While it is recognised that the scope for securing developer contributions is somewhat limited, owing to the limited nature of development opportunities in the Parish, it is considered important to try and address some of the concerns and aspirations identified by the community during the preparation of the Plan.
- 6.144 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.

- 6.145 Although responsibility for securing developer contributions in conjunction with development proposals rests with East Staffordshire Borough Council rather than the Parish Council the approach outlined in the Plan provides a realistic and flexible basis for ensuring that local priorities can be taken into account in considering future proposals.
- 6.146 The identification of local priorities also complements ESLP Strategic Policy 9 which is concerned with Infrastructure Delivery and Implementation.

### **10.1 Implementation, Monitoring and Review**

- 6.147 The final section of the Plan summarises the Parish Council's approach to monitoring the effectiveness of the Plan by checking the extent to which the Plan policies have been used in determining planning applications. A comprehensive assessment (of the effectiveness of the Plan) is intended to be carried out every five years to help assess whether a full or partial review is required.
- 6.148 Planning Practice Guidance recognises the importance of ensuring that neighbourhood plans are deliverable and the Parish Council are to be commended for their commitment to ongoing monitoring and review of the Plan.
- 6.149 This also satisfies the expectation in ESLP Neighbourhood Policy 1 (Role of Neighbourhood Plans) that neighbourhood plans should include proposals for monitoring the effect of their policies.

## **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 number of modifications the essence of the policies would remain, providing a framework, for managing future development proposals and conserving 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 Winshill Neighbourhood Area.
- 7.4 As the impact of the policies and proposals contained in the Plan, which does not include any land allocations, is likely to have minimal impact on land and communities outside the defined Neighbourhood Area I 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 Referendum based on the Neighbourhood Area as approved by East Staffordshire Borough Council on 24 April 2014.**

## **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 43 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            05 September 2017

**Appendix 1 :**

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

- Submission Version of the Winshill Neighbourhood Plan (January 2017)
- Basic Conditions Statement (February 2017)
- Consultation Statement (April 2017)
- 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)
- East Staffordshire Borough Council Local Plan 2012 -2031 (adopted October 2015)
- East Staffordshire Borough Council Screening Opinion on Strategic Environmental Assessment of the Neighbourhood Plan and Habitats Regulation Assessment (November 2015)
- East Staffordshire Borough Council Parking Standards SPG (December 2004)
- Guidelines for the selection of Sites of County Biological Importance in Staffordshire, Staffordshire Wildlife Trust, 2014
- Ten representations received during the Regulation 16 Publicity period.

I also accessed East Staffordshire Borough Council's planning policy web pages and Staffordshire County Council's bus timetable web pages during the course of the examination.