

# **ROLLESTON ON DOVE NEIGHBOURHOOD PLAN 2015-2033**

Rolleston on Dove Neighbourhood Plan Examination  
A Report to East Staffordshire Borough Council

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**Contents**

**1, Summary**

**2, Introduction**

**3, Basic Conditions and Development Plan Status**

**4, Background Documents and the Rolleston on Dove Neighbourhood Area**

**5, Public Consultation**

**6, The Neighbourhood Plan: Introductory Section**

**7, The Neighbourhood Plan: Policies**

**8, The Neighbourhood Plan: Other Matters**

**9, Referendum**

## **1. Summary**

- 1 Subject to the recommendations within this Report, made in respect of enabling the Rolleston on Dove Neighbourhood Plan to meet the basic conditions, I confirm that:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.
  
- 2 Taking the above into account, I find that the Rolleston on Dove Neighbourhood Plan meets the basic conditions<sup>1</sup> and I recommend to East Staffordshire Borough Council that, subject to modifications, it should proceed to Referendum.

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<sup>1</sup> It is confirmed in Chapter 3 of this Report that the Rolleston on Dove Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

## **2. Introduction**

### **The Neighbourhood Plan**

- 3 This Report provides the findings of the examination into the Rolleston on Dove Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Rolleston on Dove Parish Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. Were a Referendum to be held and were more than 50% of votes to be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by East Staffordshire Borough Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Rolleston on Dove Neighbourhood Area.
- 5 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.  
  
*“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development.”*  
(Paragraph 29, National Planning Policy Framework)
- 6 As confirmed in the Introduction to the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Rolleston on Dove Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 7 Section 1 of the Basic Conditions Statement also confirms that the Neighbourhood Plan relates only to the designated Rolleston on Dove Neighbourhood Area and that there is no other neighbourhood plan in place in the Rolleston on Dove Neighbourhood Area.
- 8 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2019<sup>2</sup>) and Planning Practice Guidance (2014, as updated).

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<sup>2</sup> A replacement National Planning Policy Framework was published in July 2018 and revised in 2019. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans, where those plans are submitted on or before the 24<sup>th</sup> January 2019. The Rolleston on Dove Neighbourhood Plan was

Role of the Independent Examiner

- 9 I was appointed by East Staffordshire Borough Council, with the consent of the Qualifying Body, to conduct the examination of the Rolleston on Dove Neighbourhood Plan and to provide this Report.
- 10 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 11 I am a chartered town planner and have seven years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 12 As the Independent Examiner, I must make one of the following recommendations:
  - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 13 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Rolleston on Dove Neighbourhood Area to which the Plan relates.
- 14 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

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submitted to East Staffordshire Borough Council after this date (1<sup>st</sup> March 2019) and consequently, it is appropriate to examine the policies of the Neighbourhood Plan against the most recent version of the National Planning Policy Framework.

### Neighbourhood Plan Period

- 15 A neighbourhood plan must specify the period during which it is to have effect.
- 16 The title of the Neighbourhood Plan provides a clear reference to the plan period, 2015-2033 and page 3 of the Basic Conditions Statement confirms that the plan runs until the end of 2033.
- 17 In addition, the opening sentence of the Neighbourhood Plan states that:  
  
*"The Neighbourhood Development Plan covers the time period 2015 to 2033."*
- 18 Taking the above into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

### Public Hearing

- 19 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 20 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 21 Further to consideration of the information submitted, I determined not to hold a public hearing as part of the examination of the Rolleston on Dove Neighbourhood Plan.
- 22 However, in order to clarify a number of points in respect of the examination, I wrote to the Qualifying Body and to East Staffordshire District Council and this examination has taken the responses received into account.

### **3. Basic Conditions and Development Plan Status**

#### **Basic Conditions**

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*<sup>3</sup> following the Localism Act 2011. Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. 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 neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 24 Regulations 23 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28<sup>th</sup> December 2018, applies to neighbourhood plans:
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations.<sup>4</sup>

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<sup>3</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

<sup>4</sup> *ibid* (same as above).

- 25 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
  - has been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Localism Act);
  - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that:
  - its policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 26 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>5</sup>
- 27 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

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<sup>5</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.

### European Convention on Human Rights (ECHR) Obligations

- 28 Paragraph 6.2 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan notes that an Equalities Impact Assessment has been undertaken and provided. This indicates that the impact of the Neighbourhood Plan on protected characteristics is either neutral or positive..
- 29 Taking this and the information provided into account, I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 30 In the above regard, I also note that information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Various comments were received during the plan-making process and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and resulting changes.

### European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*  
(Planning Practice Guidance<sup>6</sup>)
- 32 This process is often referred to as “*screening*”<sup>7</sup>. If likely environmental effects are identified, an environmental report must be prepared.

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<sup>6</sup> Planning Guidance, Paragraph 027, Ref: 11-027-20150209,.

<sup>7</sup> The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 33 A screening assessment was carried out by East Staffordshire Borough Council. This concluded that the:

*"...Neighbourhood Plan would not have significant environmental effects and, as a result, a Strategic Environmental Assessment of the Plan will not be required."*

- 34 The statutory bodies, Historic England, Natural England and the Environment Agency have been consulted. None of these bodies has raised any concerns in respect of the requirement for the Neighbourhood Plan to meet European obligations.

- 35 In addition to SEA, a Habitats Regulations assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information<sup>8</sup>. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.

- 36 East Staffordshire Borough Council also screened for Habitats Regulations Assessment. It did not find any European site (Special Area of Conservation, Special Protection Area, or Ramsar site) within a critical distance of the Neighbourhood Area and went on to conclude:

*"...that a Habitats Regulations Assessment would not need to be carried out as (the Neighbourhood Area) is not considered to be a large enough plan area or involve any policies which are likely to lead to a level of development significant enough to have a negative impact on a SAC, SPA or Ramsar site. The Habitats Regulations Assessment for the Local Plan has taken into account the impact on all relevant protected sites and the Plan's policies reflect the actions that will need to be taken."*

- 37 The statutory bodies have been consulted and no concerns have been raised by the statutory bodies in respect of the Neighbourhood Plan meeting European obligations.

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<sup>8</sup> Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

- 38 National guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

*“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)”* (Planning Practice Guidance<sup>9</sup>).

- 39 In carrying out the work that it has and in reaching the conclusions that it has, East Staffordshire Borough Council is satisfied that the Neighbourhood Plan is compatible with EU obligations.
- 40 In addition to all of the above, I note that, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta (“People over Wind”)*, the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.
- 41 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.
- 42 The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an *Appropriate Assessment* to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.
- 43 These changes came into force on 28<sup>th</sup> December 2018. This pre-dated the submission of the Neighbourhood Plan and the subsequent consultation period. I am mindful that East Staffordshire Borough Council has taken all of the above into account and that it considers the Neighbourhood Plan to be compatible with European obligations.

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<sup>9</sup> *ibid*, Paragraph 031 Reference ID: 11-031-20150209.

- 44 Taking this, the above and the evidence before me into consideration, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

#### **4. Background Documents and the Rolleston on Dove Neighbourhood Area**

##### Background Documents

- 45 In undertaking this examination, I have considered various information in addition to the Rolleston on Dove Neighbourhood Plan.
- 46 I draw attention to the fact that a replacement version of the National Planning Policy Framework was published in July 2018 and revised in 2019. It is this replacement document that the Neighbourhood Plan must have regard to.
- 47 Information considered as part of this examination has included (but has not been limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2019)
  - Planning Practice Guidance (2014, as updated)
  - Town and Country Planning Act 1990 (as amended)
  - The Localism Act (2011)
  - The Neighbourhood Plan Regulations (2012) (as amended)
  - East Staffordshire Local Plan (2015) (referred to in this Report as the "*Local Plan*")
  - Basic Conditions Statement
  - Consultation Statement
  - Representations received
  - Supporting evidence
- 48 In addition, I spent an unaccompanied day visiting the Rolleston on Dove Neighbourhood Area.

Rolleston on Dove Neighbourhood Area

- 49 Subject to the recommendation below, the boundary of the Rolleston on Dove Neighbourhood Area is identified on Figure 1, on page 4 of the Neighbourhood Plan.
- 50 For clarity, I recommend:
- **Page 4, change title of Figure 1 to “*Neighbourhood Area covered by the Rolleston on Dove...*”**
- 51 East Staffordshire Borough Council formally designated the Rolleston on Dove Neighbourhood Area on 21<sup>st</sup> November 2012.
- 52 This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## 5. Public Consultation

### Introduction

- 53 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 54 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

### Rolleston on Dove Neighbourhood Plan Consultation

- 55 A Consultation Statement was submitted to East Staffordshire Borough Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*<sup>10</sup>.
- 56 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Rolleston on Dove Neighbourhood Area, having regard to Paragraph 29 of the National Planning Policy Framework ("*the Framework*").
- 57 Rolleston on Dove Parish Council established a Neighbourhood Plan Steering Group and commenced community engagement in 2012. The Steering Group undertook public consultation over a period of two years. This resulted in a plan that was submitted for examination, but which, following receipt of the Examiner's Report, Rolleston on Dove Parish Council decided not to pursue.
- 58 Further to an abeyance, a second Steering Group was formed in May 2017, to produce a revised draft plan. This took account of the content of the previously submitted plan and of the consultation that had underpinned it.

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<sup>10</sup> Neighbourhood Planning (General) Regulations 2012.

- 59 The Consultation Statement submitted alongside the Neighbourhood Plan refers to Steering Group meetings and a meeting with an officer from East Staffordshire Borough Council, during the time between August 2017 and May 2018. In May 2018:

*“Local Green Space consultation took place. Each landowner or responsible body were given an individual copy of the local green spaces.”*

- 60 The draft plan was then consulted upon. Consultation was supported by the delivery of leaflet to all households and the plan was made available in various locations across the Neighbourhood Area. An electronic version of the plan was widely available.
- 61 The consultation period resulted in considerable feedback. This was recorded and some changes were made prior to submission of the Neighbourhood Plan for examination.
- 62 The Consultation Report provides evidence to demonstrate that public consultation formed part of the overall plan-making process and consultation on the draft plan was well-publicised.
- 63 Production of the Neighbourhood Plan was relatively unusual, in that a plan was submitted and underwent examination, but was not carried forward to Referendum. Generally, the consultation that was carried out on the subsequently submitted Neighbourhood Plan was minimal, but met statutory requirements.
- 64 Thus, whilst I conclude that the consultation process complied with the neighbourhood planning regulations referred to earlier in this Report, I am mindful that there are some parts of the Neighbourhood Plan that do not appear to have been supported with comprehensive public consultation.
- 65 For example, Local Green Space can become contentious when landowners feel that their views have not been given due consideration. That is the case in respect of two proposed areas of Local Green Space in the Neighbourhood Plan. Whilst effective consultation can provide the opportunity for concerns to be addressed, there is little on the way of detailed evidence to demonstrate that plan-makers have sought to work collaboratively with all landowners in respect of the designation of Local Green Space and this is something I have taken into account during the course of this examination.

## **6. The Neighbourhood Plan – Introductory Section**

- 66 I make a recommendation earlier in this Report in respect of the title to Figure 1.
- 67 The Aims of the Neighbourhood Plan are clear and concise. Whilst the intention of the fourth and fifth Aims set out on page 8 are clear, they go beyond the scope of the Neighbourhood Plan and for precision, I recommend:
- **Page 8, change Aim 4 to *“To mitigate the traffic impacts of development and to support improvements to public parking and to pedestrian and non-motorised vehicular rights of way.”***
  - **Change Aim 5 to *“To provide a supportive land use planning policy framework for residents of, workers in and visitors to, Rolleston on Dove.”***
- 68 The Neighbourhood Plan only applies to the Neighbourhood Area. For accuracy, I recommend:
- **Page 8, Aim 6, delete *“, or elsewhere,”***
- 69 Paragraph 4.22 introduces unnecessary confusion. It does not refer to a site with planning permission. I recommend:
- **Page 12, delete Para 4.22**
- 70 National and local planning policy provides for development in the countryside. An approach based on seeking to prevent all development outside a settlement boundary would therefore fail to meet the basic conditions. Taking this into account, I recommend:
- **Page 14, Para 5.2, delete *“It is envisaged that development will not take place outside of this boundary.”***

- 71 Figure 12 comprises vague and somewhat dated information. It segments the proportion of cars across Europe in 2011 within a number of categories, including mini, small, medium, large, executive, luxury, sports etc. It does not provide information in respect of the size of cars within each category, or what cars might fit into what category.
- 72 Paragraph 5.20 suggests that the Table could be used to inform the size of onsite parking provision. Given the absence of precise, up to date and relevant information, this is not the case. Neither the Figure, nor the Neighbourhood Plan, “ensures” that any garages built are “fit for purpose and capable of accommodating a range of vehicles.” In the absence of detailed information in respect of the “purpose” of garages and the reference to “accommodating a range of vehicles,” this appears as a vague requirement.
- 73 National planning guidance requires neighbourhood planning policies to be unambiguous and precise<sup>11</sup>:

*“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.”*

- 74 Rather than set out clear evidence, Figure 11 appears to detract from the clarity and precision of the Neighbourhood Plan and I recommend:

- **Page 20, delete Paras 5.20, 5.21 and Figure 12**

- 75 East Staffordshire Borough Council has provided evidence to demonstrate that Paragraph 5.24 does not comprise clear and concise information and for clarity, I recommend:

- **Page 21, Para 5.24, change first sentence to “The Parish Council considers that significant new development...” and delete last sentence and replace with “The Parish Council would be supportive of the development of a new GP surgery or satellite surgery in the Neighbourhood Area.”**

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<sup>11</sup> Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

## **7. The Neighbourhood Plan – Neighbourhood Plan Policies**

### **Housing**

#### **Policy H1: Housing Development**

- 76 The Neighbourhood Plan does not allocate land for development and is not required to do so. However, in very general terms, Policy H1 seeks to provide a supportive land use planning policy framework for residential development, with a focus on the settlement of Rolleston on Dove.
- 77 This general approach has regard to the Framework, which seeks to support the government's aim of significantly boosting the supply of homes. However, the detailed wording of Policy H1 results in a Policy that appears unduly restrictive.
- 78 The first part of the Policy requires all residential development to be restricted to the settlement boundary. Such an approach fails to have regard to national policy, which supports various types of residential development in the countryside – for example, Paragraph 77 of the Framework supports the development of rural exception sites and Paragraph 79 goes on to provide for the appropriate development of isolated homes in the countryside.
- 79 The first part of the Policy states that residential development at an allocated site will be "*considered for approval.*" This is unnecessary. The site referred to is already an allocated development site in an adopted plan.
- 80 The first part of the Policy also includes a confusing reference to small-scale infill development. It is not clear whether the Policy requires all development in the Neighbourhood Area to comprise small-scale infill development. Such an approach would conflict with the Policy's support for development within the settlement boundary, which, for example, would include land already allocated for large scale, strategic residential development.

- 81 It is not clear how small-scale development might take place outside the settlement boundary, given that the supporting text refers explicitly to sites being located “*in a built up area*” and “*within a village area.*”
- 82 In response to Examiner's letter seeking clarification on a number of matters, referred to earlier in this Report, the Qualifying Body states that the reference to small scale infill development was aimed at enabling “*the re-use of existing building and development on brownfield land.*” This is not reflected in any way by the wording of Policy H1 and in the absence of any justification, it is not clear why infill development should be limited in this way.
- 83 Further to the above, the second part of Policy H1 sets out restrictive criteria. This requires that no residential development should encroach into the countryside, which together with the earlier requirement for all residential development to be located within the settlement boundary, appears not to have regard to national policy.
- 84 The Policy states that residential development should not involve the loss of high grade agricultural land. This is contrary to the approach set out in national policy, which does not protect high grade agricultural land for its own sake, but establishes that, where:
- “...significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.”* (Footnote 53, page 49, the Framework)
- 85 Policy H1 also includes a vague requirement for residential development to provide for “*adequate infrastructure,*” without establishing what this would comprise, or who would determine it and on what basis. This part of the Policy is not clear and unambiguous, such that it is evident how a decision maker should react to development proposals, having regard to Paragraph 16.
- 86 There is a further vague and somewhat confusing reference to development being directed away from the area “*towards the flood zone*” and this is addressed in the recommendations below.
- 87 Part of the supporting text to Policy H1 appears to suggest that the Neighbourhood Plan somehow sets out the Neighbourhood Area's residential land requirements based on infrastructure capacities and opportunities. This is not something supported by substantive evidence and I note above that the Neighbourhood Plan does not allocate land for development.

88 Taking all of the above into account, I recommend:

- **Change the wording of Policy H1 to “(small scale infill development within...) *Residential development should be focused within the Rolleston on Dove settlement boundary (Figure 5, page 15). Development must respect sensitive landscapes and habitats and be located away from areas at highest risk of flooding.*”  
Delete the rest of the Policy**
- **Para 8.1, change to “...establish its housing requirements, *taking into account the Office for National...household projections and an assessment of sites for development...*”**
- **Delete Para 8.3**
- **Change Para 8.4, line three, to “...Development Plan *provide for this. The policies reflect...*”**
- **Replace Para 8.7 with “*It is important that housing growth in Rolleston on Dove over the plan period occurs alongside investment in infrastructure and the capacity of key services.*”**
- **Delete Interpretation section on page 30 and replace with “*The Neighbourhood Plan seeks to ensure that the majority of housing development occurs within the settlement of Rolleston on Dove and is steered away from areas at the highest risk of flooding.*”**

**Policy H2: Housing Mix and Affordable Provision**

89 Paragraph 61 of the Framework requires that:

*"...the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities..."*

90 Policy H2 seeks to encourage the delivery of housing to meet local needs and in this respect, has regard to national policy.

91 However, Paragraph 16 of the Framework requires policies to be:

*"...aspirational but deliverable;"*

92 As set out, Policy H2 requires every development of more than one dwelling to provide smaller dwellings to meet the needs of first time buyers, the elderly and those wishing to downsize. No substantive evidence has been provided to demonstrate that this is a deliverable requirement, or that it would, in all circumstances, be directly reflective of local need. It is also noted that the Policy appears to require a development of two dwellings to provide for three different types of small dwellings.

93 Whilst the Policy goes on to require developers to justify the mix of housing provided based on evidence of housing need, no detailed information is provided in respect of how applicants might do this. The Policy and supporting text is imprecise and vague in this regard.

94 The supporting text is explicit in stating that the Neighbourhood Plan on the Local Plan in respect of the provision of affordable housing. Given this, it is not clear how Policy H2 might justifiably require all affordable housing development to be provided in the Neighbourhood Area *"as an integrated part of the development."* No detail is provided in this regard.

95 In the absence of detailed information, it is not clear why the supporting text references technical housing standards. Government established that technical standards relating to the construction, internal layout or performance of new dwellings should not be progressed within a neighbourhood plan by Written Ministerial Statement in 2015.

96 I recommend:

- **Policy H2, change to “Residential development should provide a balanced mix of house types to meet local need. The provision of smaller dwellings to meet the needs of first time buyers the elderly and those wishing to downsize will be supported.”**
- **Delete first sentence of Interpretation (“Developers will need...applications.”)**
- **Change second para of Interpretation to “Smaller dwellings are considered to be dwellings with one or two bedrooms.”**
- **Delete last sentence of Interpretation “In consideration...superseding that standard.”**

Character and Design

**Policy D1: Green Infrastructure**

97 Paragraph 98 of the Framework states that:

*“Planning policies and decisions should protect and enhance public rights of way.”*

98 Generally, Policy D1 seeks to promote access improvements and in this way, it has regard to national policy.

99 As set out, the Policy requires all development to deliver access to, or contribute to enabling access, to high quality green spaces and environmental assets. There is no substantive evidence to demonstrate that it would be necessary, relevant or reasonable for all development to make such provisions, having regard to Paragraph 56 of the Framework, which states that:

*“Planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to development; and c) fairly and reasonably related in scale and kind to the development.”*

100 Most planning applications relate to small scale proposals, such as householder extensions. Simply adding the phrase *“where this is viable and deliverable”* does not provide for any degree of certainty in respect of Policy H1 comprising a Policy that might be applicable in the Neighbourhood Area. No information has been provided, for example, to indicate what kind of development in the Neighbourhood Area is likely to come forward that would be able to meet the requirements of Policy D1, or of how matters relating to viability and deliverability might be considered.

101 Further to the above, it is not clear upon what basis a Section 106 Agreement would need to prioritise the delivery of the requirements set out in Policy D1, not least given that page 29 the Neighbourhood Plan suggests that the two key infrastructure concerns in the Neighbourhood Area relate to education and health services.

- 102 Paragraph 44 of the Framework limits requests for supporting information to that which is relevant, necessary and material to the application in question. Given this, it is unclear why Policy D1 requires all planning applications to be supported by an assessment of the level of informal outdoor space that should be delivered.
- 103 Further to the above, the Neighbourhood Plan provides no indication of what outdoor space requirements might be. This is a matter addressed, appropriately, by the Local Plan, in part by Strategic Policy 32 "*Outdoor Sports and Open Spaces Policy*."
- 104 The phrase "*it is desirable to*" is vague and fails to provide a land use planning policy requirement that provides a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework. Further, in the absence of detail, this part of the Policy is vague in its reference to "*green elements that form part of the overall kinetic and spatial experience*" of the Neighbourhood Area.
- 105 The Policy also includes a vague requirement for "*on site contributions to open space and green infrastructure*" regardless of the relevant tests referred to above.
- 106 No indication of how new development might enhance river floodplains is provided; and there is no substantive evidence to demonstrate that such a requirement meets the tests set out in Paragraph 56 of the Framework.
- 107 Policy D2 refers to culverting. There is no need to repeat the content of Policies as the development plan should be considered as a whole.
- 108 Taking all of the above into account, I recommend:
- **Change wording of Policy D1 to "*The protection and enhancement of existing public rights of way and the development of new public rights of way will be supported. The enhancement of river floodplains and habitats will be supported.*"**
  - **Delete Interpretation (which provides no additional, supporting information)**

## **Policy D2: Design of Development**

109 National planning policy recognises that:

*“Good design is a key aspect of sustainable development, creating better places in which to live and work and helps make development acceptable to communities.”* (Paragraph 124, the Framework)

110 Local Plan Strategic Policy SP24 (*“High Quality Design”*) seeks to ensure that development makes a positive contribution to the area.

111 Policy D2 supports high quality design and in this way, it is in general conformity with the Local Plan and has regard to national policy.

112 As worded, the Policy sets out a list of requirements for all development, although there is no evidence to demonstrate that all of the requirements of the Policy will be relevant, necessary or material to all development and this is a factor addressed by the recommendations below.

113 There are parts of the Policy that could be more succinct and precise, having regard to national planning guidance and part of the supporting text appears as a policy requirement, which it is not.

114 Taking the above into account, I recommend:

- **Policy D2, change second sentence to “In order to achieve this, *development should:*”**
- **Change second bullet point to “...massing, *spacing, set-back from street frontages and materials;*”**
- **Correct indentation of bullets 7 and 8 (should be same as other bullet points)**
- **Delete ninth bullet point re: materials (noting change to second bullet point)**
- **Delete second paragraph on page 36 (“The policy...layout”), which is not the case (for example, why would the policy apply to an application for an ATM ?)**
- **Delete penultimate paragraph, which reads as a policy requirement, which it is not**

**Policy D3: Public Realm and Car Parking**

- 115 As set out, Policy D3 places a requirement upon all forms of development, when its provisions only relate to large schemes requiring roads and/or car parking. This is a factor addressed in the recommendations below.
- 116 No detailed information is provided in respect of how parking space should be proportionate to the size of a property and further, this part of Policy D3 fails to provide for circumstances where car parking provision might be provided outside the curtilage of a property – for example, shared parking facilities or specified courtyard parking.
- 117 No detailed information is provided in respect of what a garage suitable for a range of vehicles might comprise; or why residential development should, in all cases, provide garages instead of, or additional to, parking spaces.
- 118 East Staffordshire Borough Council Parking Standards Supplementary Planning Document (2017) provides detail and clarity in respect of car parking. Rather than add further detail or clarity in this regard, the Neighbourhood Plan appears ambiguous and confusing.
- 119 Part of the Interpretation reads as a policy requirement, which it is not.
- 120 I recommend:
- **Policy D3, change wording of first line to “*Development involving the provision of roads and or/car parking should demonstrate high standards of urban design by:*”**
  - **Delete third and fourth bullet points and replace with “*Responding positively to the advice provided in the East Staffordshire Borough Council Parking Standards Supplementary Planning Document (2017);*”**
  - **Delete Interpretation**

**Policy D4: High Speed Connectivity**

121 Chapter 10 of the Framework, "*Supporting high quality communications,*" recognises that advanced, high quality and reliable communications infrastructure is essential to economic growth and social well-being. This is not simply limited to internet access, but requires planning policies to:

*"...support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections."* (Paragraph 112, the Framework)

122 Generally, Policy D4 supports the expansion of high quality communications and has regard to national policy. As worded, the Policy is limited to internet connectivity and there is no information to indicate what forms of development might "*impact negatively on the functionality*" of communications infrastructure.

123 No information is provided to demonstrate that the requirement for all housing and commercial development to meet the provisions of the Policy meets the tests set out in Paragraph 56 of the Framework. For example, most residential planning applications comprise householder applications for extensions.

124 Further, much of the supporting text reads as though it comprises a policy requirement, which it does not.

125 I recommend:

- **Policy D4, change wording to: "*The expansion of electronic communications networks, including next generation mobile technology and full fibre broadband connections, will be supported. Use of existing infrastructure is encouraged and where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate.*"**
- **Interpretation, delete third and fourth paragraphs ("New development...sufficient.")**

**Policy D5: Traffic and Transport**

- 126 Policy D5 requires all development to provide sustainable transport provision. There is no evidence to demonstrate that this is something that development in the Neighbourhood Area might deliver, having regard to Paragraph 56 of the Framework.
- 127 Whilst the Policy fails to appropriately provide for sustainable patterns of movement, but simply requires development to achieve things without any evidence to demonstrate deliverability, Chapter 9 of the Framework promotes sustainable transport and I recommend:
- **Delete Policy D5 and replace with *“Sustainable transport provision, including the provision of convenient links to public transport and public rights of way; affording priority to pedestrian and cycle movements; and the provision of cycle storage will be supported.”***
  - **Delete Interpretation and replace with *“The Neighbourhood Plan seeks to support the promotion of walking, cycling and public transport.”***

**Policy OS1: Protection of Views of Local Importance**

128 Policy OS1 requires development that may affect two views to ensure that the views are enhanced. Further, the supporting text to Policy OS1 states that it is very important to protect the views from housing or changes in agriculture. Essentially, the Policy seeks to prevent residential development or "*significant changes in agriculture*" within the area of the views.

129 Neither national nor local policy simply prevents residential development in the countryside. Policy OS1 and its supporting information is clear in its intent to prevent residential development. This is contrary to national policy.

130 The Neighbourhood Plan seeks to justify Policy OS1 by reference to the attractiveness of views. However, there is no substantive evidence to demonstrate that any form of residential development would necessarily result in development that is not sustainable. Consequently, Policy OS1 does not contribute to the achievement of sustainable development.

131 It is noted that the views identified are locally regarded and I recommend:

- **Policy OS1, change text to "*Development must respect local character, taking into account important views. The following views...27724.*" Delete last sentence**
- **Page 40, delete last sentence of supporting text ("It is...agriculture.")**
- **Page 41, delete last sentence of Para 7.14, ("The village...system.")**
- **Page 42, delete Interpretation**

**Policy OS2: Local Green Space**

- 132 Policy OS2 does not follow on directly from Policy OS1. This is confusing and is a matter that is addressed in the recommendations below.
- 133 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 99 of the Framework states that:
- “The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”*
- 134 The Framework requires policies for managing of development within a Local Green Space to be consistent with those for Green Belts (Paragraph 101, the Framework). A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.
- 135 Given the importance of the designation, it is appropriate that areas of Local Green Space are clearly identified in the Neighbourhood Plan itself and I make a recommendation in this regard, below.
- 136 The designation of land for Local Green Space must meet the tests set out in Paragraph 100 of the Framework.
- 137 These are that the green space is in reasonably close proximity to the community it serves; that it is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and that it is local in character and is not an extensive tract of land.
- 138 Generally, the Neighbourhood Plan identifies areas of land that are demonstrably special to the local community and hold a particular local significance. However, two proposed designations, LGS5 and LGS12, have been objected to by members of the local community.

- 139 During my site visit, I noted that site LGS5 is largely screened by trees. Further, little has been provided in the way of detailed evidence to show how the site meets the tests set out in the Framework. I am also mindful that part of the site itself comprises previously developed land and that conditions have been discharged on a planning permission for development<sup>12</sup>.
- 140 Also during my site visit, I observed that site LGS12, whilst it contains some trees, appears little different to many areas around Rolleston on Dove. The supporting text to Policy OS2 considers the site to be special because of the presence of fruit trees. However, there is no requirement for the landowner to retain these trees on the site – and there would be no requirement to do so, were the site to comprise a Local Green Space.
- 141 I note earlier in this Report that there is an absence of detailed evidence to demonstrate that consultation in respect of areas of Local Green Space was comprehensive. In respect of sites LGS5 and LGS12, there is, for example, little to demonstrate that the views of the landowners have been duly considered. In these cases, the landowners have made relevant points in respect of whether or not the proposed designations meet the relevant tests. These points have not been addressed by plan-makers, leading to my recommendations below.
- 142 As above, national policy is clear in stating that policies for managing development within areas of Local Green Space should be consistent with those for Green Belts. The wording of Policy OS2 (and the Interpretation) fails to have regard to this.
- 143 I recommend:
- **Move Policy OS2 to follow on directly from Policy OS1. Move the supporting information on pages 49 – 55 to follow on directly from Policy OS2. Move Paras 8.33-8.40 inclusive to follow on directly from this supporting information.**
  - **Change the wording of Policy OS2 to *“The sites listed below and identified on the plans following this Policy are designated as Local Green Space. The management of development within areas of Local Green Space will be consistent with that for Green Belts.”***
  - **Delete LGS5 and LGS 12**

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<sup>12</sup> Ref: CU/20638/003.

- **Re-draw the boundary of LGS7 so that it appears precise and clear**
- **Delete Interpretation, which is not relevant to the Policy**

## Natural Environment

### Policy NE1: Flood Risk

144 Paragraph 155 of the Framework states that:

*“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”*

145 Generally, Policy NE1 seeks to prevent flooding and in this respect, it has regard to national policy.

146 Mitigation of flooding may not be relevant to all new development and as set out, Policy NE1 appears as a general wish-list, rather than comprise precise requirements supported by a clear rationale.

147 The Environment Agency has provided some helpful information in respect of managing flood risk and taking this and the above into account, I recommend:

- **Policy NE1, change to: *“Development should be directed away from areas at the highest risk of flooding and should not increase flood risk elsewhere. The creation of space for water by restoring floodplains and contributing towards blue and green infrastructure will be supported. The provision of sustainable drainage systems to reduce run off and manage surface water will be supported.”***
- **Delete the first two sentences of the Interpretation, which do not relate directly to the Policy**

**Policy NE2: Natural Environment**

148 In Chapter 15, *“Conserving and enhancing the natural environment,”* the Framework states that planning policies should contribute to and enhance the natural and local environment by:

*“...minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures...”* (Paragraph 170, the Framework)

149 Whilst, in the absence of detail, it is not clear why or how all development might meet the requirements of the Policy, generally, Policy NE2 seeks to provide a supportive framework for biodiversity and in this way, it has regard to national policy.

150 I recommend:

- **Policy NE2, change to *“Development should protect and enhance the natural environment and biodiversity of the Neighbourhood Area, which includes: LIST OF BULLET POINTS HERE”***
- **Delete Interpretation, which does not relate directly to the Policy and replace with *“The Policy seeks to ensure that development contributes to and enhances the natural and local environment.”***

**8. The Neighbourhood Plan: Other Matters**

151 The recommendations made in this Report will also have a subsequent impact on Contents, including Policy, paragraph and page numbering.

152 I recommend:

- **Update the Contents and where necessary, Policy, paragraph and page numbering, to take into account the recommendations contained in this Report**

## 9. Referendum

- 153 I recommend to East Staffordshire Borough Council that, subject to the recommended modifications, **the Rolleston-on-Dove Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

- 154 I am required to consider whether the Referendum Area should be extended beyond the Rolleston-on-Dove Neighbourhood Area.
- 155 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 156 Consequently, I recommend that the Plan should proceed to a Referendum based on the Rolleston-on-Dove Neighbourhood Area approved by East Staffordshire Borough Council on the 21<sup>st</sup> November 2012.

**Nigel McGurk, July 2019**  
**Erimax – Land, Planning and Communities**

