

Updated Denstone Neighbourhood Development Plan

A report to East Staffordshire Borough Council of the
Independent Examination of the Updated Denstone
Neighbourhood Development Plan

Copy to Denstone Parish Council

Independent Examiner Christopher Collison

Christopher Collison

BA (Hons) MBA MRTPI MIED IHBC

Planning and Management Ltd

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Summary of Main Findings

The Denstone Neighbourhood Plan was made by East Staffordshire Borough Council (the Borough Council) on 23 February 2017. Denstone Parish Council (the Parish Council) decided the made Neighbourhood Plan should be replaced and has prepared the Updated Denstone Neighbourhood Plan. The updated plan, like the previously made plan relates to the whole of Denstone Parish which was designated as a Neighbourhood Area on 5 February 2014.

The Parish and Borough Councils consider the Updated Neighbourhood Plan includes material modifications which change the nature of the made plan. I have determined the Updated Neighbourhood Plan involves material modifications which change the nature of the made plan that require examination and a referendum.

This is the report of the Independent Examination of the Updated Denstone Neighbourhood Development Plan. The Updated Neighbourhood Plan includes policies relating to the development and use of land but does not allocate land for development.

This report finds that subject to specified modifications the Updated Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Updated Neighbourhood Plan should, subject to the specified modifications, proceed to a local referendum based on the plan area.

Neighbourhood Planning and the Neighbourhood Plan

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “neighbourhood planning gives communities the power to develop a shared vision for their area.”
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The whole of Denstone Parish was designated by East Staffordshire Borough Council (the Borough Council) as a Neighbourhood Area on 5 February 2014. Denstone Parish Council (the Parish Council) prepared the Denstone Neighbourhood Plan which was made by East Staffordshire Borough Council on 23 February 2017. Denstone Parish Council decided the made Neighbourhood Plan should be replaced and has prepared the Updated Denstone Neighbourhood Plan for the Neighbourhood Area. The Neighbourhood Plan preparation process has been supported by a Steering Group and consultants Urban Vision Enterprise.
4. The submission draft of the Updated Neighbourhood Plan and accompanying documents were approved by the Parish Council, a qualifying body able to prepare a neighbourhood plan, for submission to the Borough Council. The Borough Council arranged a period of publication between 27 October 2023 and 18 December 2023 and subsequently submitted the Neighbourhood Plan to me for independent examination which commenced on 16 January 2024.
5. The Planning Practice Guidance (the Guidance) states there are 3 types of modification which can be made to a neighbourhood plan. The process will depend on the degree of change which the modification involves:
 - Minor (non-material) modifications to a neighbourhood plan or order are those which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum.
 - Material modifications which do not change the nature of the plan or order would require examination but not a referendum. This might, for example,

entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.

- Material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

6. The Parish and Borough Councils have both expressed opinions, with reasons, that the Updated Neighbourhood Plan includes material modifications which do change the nature of the made plan. I have considered those opinions and the Regulation 16 representations insofar as they are relevant to the decision I must make. I have found the modifications contained in the Updated Neighbourhood Plan will significantly and substantially change the nature of the development plan. I have determined under Paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 that the modifications contained in the proposed Updated Neighbourhood Plan do change the nature of the development plan which the modification proposal would modify. On this basis the Updated Neighbourhood Plan will require independent examination and a referendum. My reasons for the determination I have made are:

- the Updated Neighbourhood Plan includes significant and substantial modification of the wording of several retained policies and deletion of supporting reasoned justification of those policies;
- the Updated Neighbourhood Plan excludes several policies that were included in the Neighbourhood Plan made in 2017, including those relating to rural exception sites; JCB proving grounds at Prestwood; protection and enhancement of archaeological sites; open spaces; and telecommunication installations; and
- the Updated Neighbourhood Plan includes several new policies, or parts of policies, including (but not limited to) the location of new employment space; location of new community facilities; development at Denstone Hall Farm complex; safeguarding employment land; design; and safeguarding the Churnet Valley railway line and former Caldon canal.

7. On 19 January 2024 I advised the Borough and Parish Council of my determination with reasons. The Parish Council has confirmed, on the 23 January 2024, that in the light of my determination it understands a referendum would be required. Following that confirmation, I have undertaken the Independent Examination to consider whether the Updated Neighbourhood Plan meets the Basic Conditions and other requirements. From this point in my report, I refer to the Updated Denstone Neighbourhood Plan as 'the Neighbourhood Plan'.

Independent Examination

8. This report sets out the findings of the independent examination of the Neighbourhood Plan. The report makes recommendations to the Borough Council including a recommendation as to whether the Neighbourhood Plan should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.
9. The Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be considered and can be given significant weight when determining a planning application, in so far as the plan is material to the application.
10. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will replace the made Neighbourhood Plan (2017) in forming part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area unless the Borough Council subsequently decide the Neighbourhood Plan should not be made. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan. Paragraph 12 of the Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.
11. I have been appointed by the Borough Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan.
12. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. As a Chartered Town Planner, I have held national positions and have 35 years' experience at Director or Head of Service level in several local

planning authorities. I have been a panel member of the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) since its inception, and have undertaken the independent examination of neighbourhood plans in every region of England, and in the full range of types of urban and rural areas.

13. As independent examiner, I am required to produce this report and must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

14. I make my recommendation in this respect and in respect to any extension to the referendum area, in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.

15. The Guidance states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.” The examiner can call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. This requires an exercise of judgement on my part. All parties have had the opportunity to state their case and no party has indicated that they have been disadvantaged by a written procedure. Regulation 16 responses clearly set out any representations relevant to my consideration whether the Neighbourhood Plan meets the Basic Conditions and other requirements. Those representations; the level of detail contained within the submitted Neighbourhood Plan and supporting documents; and responses to opportunities I have given for clarification of matters have provided me with the necessary information required for me to conclude the Independent Examination. As I did not consider a hearing necessary, I proceeded based on: examination of the submission and supporting documents; consideration of the written representations, comments, and clarifications; and an unaccompanied visit to the Neighbourhood Area undertaken on 25 January 2024.

16. This report should be read as a whole, and has been produced in an accessible format.

Basic Conditions and other Statutory Requirements

17. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions.” 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 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, EU obligations; and
 - 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 2017.
18. With respect to the penultimate Basic Condition the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for a continuation of primary and subordinate legislation, and other enactments in domestic law. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights, which has the same meaning as in the Human Rights Act 1998. All these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan Policies.’ Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind.
19. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (in sections 38A and 38B themselves; in Schedule 4B to the 1990 Act introduced by section 38A (3); and in the 2012 Regulations made under sections 38A (7) and 38B (4)). I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, including in respect to the Neighbourhood Planning (General) Regulations 2012 as amended (the Regulations) which are made pursuant to the powers given in those sections.
20. The Neighbourhood Plan relates to the area that was designated on 5 February 2014. A map of the Neighbourhood Area is included as Figure 1 of the

Submission Version Plan. The Neighbourhood Plan does not relate to more than one neighbourhood area. The Neighbourhood Plan is intended to replace the made Neighbourhood Plan (2017). All requirements relating to the plan area have been met.

21. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area; and the Neighbourhood Plan does not include provision about excluded development (principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment, and nationally significant infrastructure projects). I can confirm that I am satisfied that each of these requirements has been met.
22. A neighbourhood plan must also meet the requirement to specify the period to which it has effect. The front cover of the Neighbourhood Plan states the Plan period is 2023-2033. The end date is confirmed in sections 1.2 and 1.3 of the Neighbourhood Plan. The made Neighbourhood Plan has an end date of 2031 which is the same end date as the East Staffordshire Local Plan. The updated Neighbourhood Plan has no strategic policy basis for the period 2031 to 2033. Whilst the Updated Neighbourhood Plan can be prepared in advance of the preparation of strategic policies for the period 2031 to 2033 it must set out the rationale for the Neighbourhood Plan policies to apply during that period, and set out the evidence to justify those policies. In the case of housing development for example whether policies that are relevant to housing supply, such as Policy DEN-SD1 Denstone Settlement Boundary and Policy DEN-SD2 Housing, contribute to sustainable development, requires consideration of up-to-date housing need evidence. The Guidance states “Where strategic policies do not already set out a (housing) requirement figure, the National Planning Policy Framework expects an indicative figure to be provided to neighbourhood planning bodies on request. However, if a local planning authority is unable to do this, then the neighbourhood planning body may exceptionally need to determine a housing requirement figure themselves, taking account of relevant policies, the existing and emerging spatial strategy, and characteristics of the neighbourhood area. The neighbourhood planning toolkit on housing needs assessment may be used for this purpose. Neighbourhood planning bodies will need to work proactively with the local planning authority through this process, and the figure will need to be tested at examination of the neighbourhood plan, as neighbourhood plans must be in general conformity with strategic policies of the development plan to meet the ‘basic conditions’” (Paragraph 105 Reference ID: 41-105-20190509). The Updated Neighbourhood Plan does not address housing need in the period 2031 to 2033. I have recommended the Plan period of the Updated Neighbourhood Plan is modified to run to 2031 so that the policies of the Neighbourhood Plan are underpinned by relevant and up-to date evidence that is

adequate and proportionate as required by paragraph 31 of the Framework, and so that the Neighbourhood Plan is in general conformity with the strategic policies of the development plan to meet the basic conditions.

Recommended modification 1:

Modify the front cover and sections 1.2 and 1.3 of the Neighbourhood Plan to state the Plan period runs to 2031

23. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans. It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises because of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements. I must not consider other matters (Planning and Compulsory Purchase Act 2004 Schedule A2 11 (3)).
24. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
25. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have meaning and significance to people living and working in the area.
26. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified. I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

Documents

27. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Denstone Neighbourhood Plan 2023-2033 Submission version V4 September 2023
- Denstone Neighbourhood Plan Basic Conditions Statement September 2023 [In this report referred to as the Basic Conditions Statement]
- Denstone Neighbourhood Development Plan Consultation Statement September 2023 [In this report referred to as the Consultation Statement]
- Draft Denstone Neighbourhood Development Plan Screening Opinion on Strategic Environmental Assessment and Habitats Regulations Assessment June 2023
- Denstone Village Local Green Space Assessment updated August 2023
- East Staffordshire Local Plan 'Planning for Change' adopted 15 October 2015
- Information available on the Borough Council and Parish Council websites
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the Borough and Parish Councils including the initial letter of the Independent Examiner dated 16 January 2024; the determination of the Examiner dated 20 January 2024 and the response of the Parish Council on 23 January 2024; the comments of the Parish Council on a selection of the Regulation 16 representations dated 26 January 2024; the letter of the Independent Examiner dated 29 January 2024 providing all parties an opportunity to comment on the implications for the Independent Examination resulting from the revisions to the Framework in December 2023 and the responses in that respect of the Borough Council, of the Parish Council; and of individuals.
- National Planning Policy Framework 20 December 2023 [In this report referred to as the Framework]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [In this report referred to as the Guidance]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016

- European Union (Withdrawal) Act 2018
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

Consultation

28. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here several key stages of consultation undertaken to illustrate the approach adopted.
29. Part 2.1 of the Consultation Statement states two informal drop-in sessions held in the Village Hall in February 2023 “gave attendees the opportunity to read all the draft plans and to understand the additions to the Plan (for example the additional green space) and also to leave any comments or ideas for inclusion at this stage.” It is also stated the feedback “was all documented and considered and policies were amended where appropriate.” The Consultation Statement also refers to focussed consultation on the additional proposed Local Green Space. It is also stated that “throughout the engagement and preparation of the Plan, Denstone Parish Council together with the Steering Group have kept people informed and engaged via <https://denstonevillage.org.uk/> and social media and community newsletters.”
30. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan between 23 May 2023 and 18 July 2023. The Consultation Statement states every household in the parish was sent a small booklet outlining the Regulation 14 process and detailing drop-in events and how the Plan could be viewed as hard copy at three locations or online on the Parish Council website. The community drop-in events at which Steering Group members were present were held in the Village Hall on a

Saturday lunchtime (3 June 2023) and on a Monday evening (12 June 2023). Comments could be submitted at the drop-in events; submitted online; or posted as hard copy. Section 3.4 of the Consultation Statement lists details of statutory bodies; developers and other businesses; voluntary and community organisations; adjacent Parish Councils and others who were emailed directly. Publicity was also achieved through posters on notice boards, a press release, and via the Parish Council website.

31. A total of 13 responses were received. The Consultation Statement includes, in Section 4, details of the comments received and responses of the Neighbourhood Plan Steering Group. Suggestions have, where considered appropriate, been reflected in changes to the Plan that was submitted by the Parish Council to the Borough Council.
32. The Submission Version of the Neighbourhood Plan was the subject of a Regulation 16 period of publication between 27 October 2023 and 18 December 2023. Publicity was achieved through the Borough Council website where the Neighbourhood Plan and other submission documents could be inspected. 19 representations, including three from different services of Staffordshire County Council, were duly submitted.
33. The representation of the Borough Council has provided general comments, and specific representations regarding each of the policies of the Neighbourhood Plan. This representation includes suggestions for modification of policies to meet the Basic Conditions.
34. The Planning Policy and Enabling service of Staffordshire County Council do not raise any objections. The County Council Flood Risk service suggest additions to Policy DEN-PE4 and retention of the Community Proposal CPDP1 from the made Neighbourhood Plan. The County Council Historic Environment service confirm no further comments.
35. The Environment Agency welcomes the Neighbourhood Plan content relating to flood risk. Natural England; National Highways; the National Forest Company; and the Coal Authority have confirmed no specific comments. National Grid Electricity Transmission; National Gas Transmission; and Sport England have provided general information and have not raised any objections. Croxden Parish Council sent congratulations on the production of the Neighbourhood Plan.
36. The Canal and River Trust express support for the protection of the route of the Uttoxeter Canal in Policy DEN-PE2.

37. The representation of an individual proposes with stated reasons “expanding the Settlement Boundary” to facilitate the development of a house on land at Oak Road.
38. Two individuals request with stated reasons that The Croft, College Road is removed from the list of Non-Designated Heritage Assets. The representation includes a complaint regarding lack of consultation on the Neighbourhood Plan. These individuals also state there has been no consultation, no explanation, and no justification in respect of the inclusion of land at Vinewood Farm within the Settlement Boundary and support in the Neighbourhood Plan for the development of 24 dwellings on that land. It is stated that site is not sustainable and that more appropriate and sustainable sites have been rejected. This representation includes statements relating to potential impact of development at Vinewood Farm on Oliver’s Green, and the working of Elm Farm. The representation refers to documents relating to the Independent Examination of the made Neighbourhood Plan, and supporting documents relating to correspondence between the representors and the Parish Council including Freedom of Information disclosure requests and responses.
39. The representation of an individual objects to use of land at Vinewood Farm for the development of up to 24 dwellings referring to effect on privacy through overlooking; loss of enjoyment of beautiful countryside and wildlife; and several access issues. This representation also refers to loss of property value; possible drainage issues; and the fact the made Neighbourhood Plan “merely quoted 5 dwellings”.
40. The representation of two individuals’ objects to the alignment of the Settlement Boundary to include land at Vinewood Farm stating this gives unfair advantage to the developer/landowner over more suitable and sustainable sites nearer the village centre and school on the grounds those other sites are outside the settlement boundary. The representation refers to the impact of potential development at the Vinewood Farm land on Oliver’s Green, and refers to its remoteness and steep access. This representation includes complaint regarding lack of consultation.
41. The representation of another individual objects to the development of 24 houses, presumed to be at Vinewood Farm, on the grounds there is no evidence of consultation with the landowner regarding willingness to sell for such a development; access and traffic issues; damaging impact on the historic Oliver’s Green; lack of a feasibility study how the number of dwellings can be accommodated on the site; and lack of consideration to siting the dwellings on other suitable sites around the village. This representation also refers to a lack of traffic assessment regarding the proposed further development at Denstone College and Denstone Farm Shop.

42. I have read each of the duly made Regulation 16 representations. In preparing this report I have taken into consideration all the duly made representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole in my report. Having regard to *Bewley Homes Plc v Waverley Borough Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Parish and Country Planning Act Schedule 4B paragraph 10(6) where representations raise concerns or state comments or objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations. Alternative policy approaches and additional policy content were relevant considerations in earlier stages of the Neighbourhood Plan preparation process. These matters are only relevant to my role if they are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified.
43. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council submitted comments, dated 26 January 2024, on a selection of the Regulation 16 representations. I have taken those comments into consideration in preparing my report.
44. On 19 December 2023 Government published a revised National Planning Policy Framework (the Framework) and updated it on 20 December 2023. The latest Framework, which replaces the previous version published in September 2023, does not include any transitional arrangements in respect of the Independent Examination of Neighbourhood Plans. I have therefore examined the Updated Denstone Neighbourhood Development Plan in the context of the latest Framework. I provided all interested parties, including the Borough and Parish Councils, with an opportunity, during the two-week period Tuesday 30 January 2024 until noon on Tuesday 13 February 2024, to comment whether the neighbourhood plan meets the Basic Condition that it is appropriate to make the plan having regard to national policies as set out in the latest Framework. In response to the opportunity I had provided, five representations were submitted by: the Borough Council, the Parish Council, and three representations of residents of the Neighbourhood Area. The Borough Council has stated revisions to paragraph 14 and Footnote 62 of the Framework are relevant to the Updated Neighbourhood Plan and whether it has regard to national policy. The Parish Council referred to implications for Local Plan preparation and state “The Neighbourhood Plan meets housing need based on the latest evidence. This is unchanged. We note the change in Paragraph 14 regarding situations where the presumption (at Paragraph 11d) applies. However, this would have no immediate relevance as East Staffordshire Borough Council identified a more than 5-year

housing land supply (Note on 5 Year Land Supply Methodology, 31st March 2022). We note several detailed changes in other chapters. Mainly these have no implication or a slight positive implication in terms of supporting the Neighbourhood Plan Policies. The Neighbourhood Plan has had regard to National Policy, as set out in the Basic Conditions Statement. Our opinion is that the changes to the NPPF do not change this position.” The representation of an individual objects to residential development at Vinewood Farm and states development at Oak Road would be far more sustainable. The representation of two people stated dependence on one site, at Vinewood House Farm, with no other sites called for or assessed results in the Neighbourhood Plan failing to achieve sustainable development. This representation sets out objections to development of land at Vinewood House Farm and includes reference to lack of consultation, explanation, or justification for 24 dwellings from 3. The representation of two other people opposes the plan for 24 dwellings on a single site and refers to increase in traffic problems and blight of outlook over fields. This representation states total opposition “to extending any boundary settlements and or planning for 24 houses on the land around Vine farm” and questions support for Denstone College referring to related and non-related traffic issues. I have taken these additional representations into consideration in preparing my report only so far as they are relevant to the opportunity I had provided, that is, to comment whether the neighbourhood plan meets the Basic Condition that it is appropriate to make the plan having regard to national policies as set out in the latest Framework.

45. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:

- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- b) explains how they were consulted;
- c) summarises the main issues and concerns raised by the persons consulted; and
- d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.

46. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding engagement in plan preparation contained within the Guidance. It is evident the Neighbourhood Plan Steering Group have ensured stakeholders have had full opportunity to influence the general nature, and specific policies, of the

Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

47. This section of my report considers whether the Neighbourhood Plan, taken as a whole, meets EU obligations, habitats, and Human Rights requirements; 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 the plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and 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 2017

48. Section 6.3 of the Basic Conditions Statement states “the draft plan proposal meets human rights requirements,” I have considered the European Convention on Human Rights and in particular Article 6 (fair hearing); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property). The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law. Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. An Equalities Assessment has been prepared and is presented as Appendix 1 of the Basic Conditions Statement. This indicates that the Plan would have positive impacts for people with protected characteristics. From my own examination, the Neighbourhood Plan would appear to have neutral or positive

impacts on groups with protected characteristics as identified in the Equality Act 2010.

49. The objective of EU Directive 2001/42 (transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004) is “to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.” The Neighbourhood Plan falls within the definition of ‘plans and programmes’ (Defined in Article 2(a) of Directive 2001/42) as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result (Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012).
50. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to the Borough Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
51. The Denstone Neighbourhood Plan Screening Opinion on Strategic Environmental Assessment and Habitats Regulations Assessment (June 2023) confirms the statutory environmental bodies have been consulted. The Screening Opinion concludes “As a result of the above, East Staffordshire Borough Council believes that the Neighbourhood Plan would not have significant environmental effects and, as result a Strategic Environmental Assessment of the Plan will not be required.” I have examined the Strategic Environmental Assessment Screening Opinion dated June 2023 and I have no reason to disagree with its conclusion. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
52. The Denstone Neighbourhood Plan Screening Opinion on Strategic Environmental Assessment and Habitats Regulations Assessment (June 2023) states “East Staffordshire Borough Council concludes that a Habitat Regulation Assessment would not need to be carried out as it is not considered that any of the development proposed in the Plan would be likely to have an adverse effect on the nearest European sites (SAC, SPA or Ramsar) due to a combination of the distance from the nearest European site and the relatively small size of any new development resultant from the Neighbourhood Development Plan; none of which is allocated by the plan, and all of which was also assessed as not requiring an HRA when the change to the settlement boundary was made as part

of the 2017 plan.” The Screening Opinion confirms the statutory consultee, Natural England, has been consulted. I am satisfied that the Neighbourhood Plan meets the requirements of the Basic Condition relating to Habitats Regulations.

53. There are several other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
54. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
55. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met for the draft neighbourhood plan to progress. The Borough Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU environmental law obligations (directives and regulations) incorporated into UK domestic law by the European Withdrawal Act 2018 (EUWA):
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
 - when it takes the decision on whether to make the neighbourhood plan (which brings it into legal force).

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

56. I refer initially to the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.” The requirement to determine whether it is appropriate that the plan is made includes the words “having regard to.” This is not the same as compliance, nor is it the same as part of the tests of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy.”

57. Lord Goldsmith has provided guidance (Column GC272 of Lords Hansard, 6 February 2006) that ‘have regard to’ means “such matters should be considered.” The Guidance assists in understanding “appropriate.” In answer to the question “What does having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”
58. The National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied. On 19 December 2023 Government published a revised National Planning Policy Framework (the Framework) and updated it on 20 December 2023. I have, earlier in my report, explained that I have examined the Updated Denstone Neighbourhood Development Plan in the context of the latest Framework, and how I provided all interested parties with an opportunity to comment whether the neighbourhood plan meets the Basic Condition that it is appropriate to make the plan having regard to national policies as set out in the latest Framework. The Planning Practice Guidance was most recently updated, in part, on 20 November 2023. The latest update to the Neighbourhood Planning part of the Planning Practice Guidance was published on 25 September 2020. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance.
59. Section 4 of the Basic Conditions Statement sets out an explanation how the Neighbourhood Plan as a whole, and the policies of the Neighbourhood Plan, has regard to the Framework and the Guidance.
60. Section 2.3 of the Neighbourhood Plan sets out a positive vision statement for Denstone village. Arising from the vision nine aims for the Plan are set out. The vision and aims have informed the development of the 11 policies of the Neighbourhood Plan. It is intended the policies of the Neighbourhood Plan will help achieve the identified aims.
61. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that, except for those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”

62. At the heart of the Framework is a presumption in favour of sustainable development which should be applied in both plan-making and decision-taking. The Guidance states, “This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic, and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced, or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions.”

63. The Framework states there are three dimensions to sustainable development: economic, social, and environmental. Section 3 of the Basic Conditions Statement sets out a statement that the whole Neighbourhood Plan and the policies of the plan, help to achieve sustainable development. No negative impacts are identified.

64. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

65. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality to protect, and where possible enhance, important environmental features of the Neighbourhood Area. The Neighbourhood Plan also seeks to support social well-being with respect to supporting community facilities and local services. The Neighbourhood Plan also seeks to maintain the economic rationale of the area. I consider the Neighbourhood Plan as recommended to be modified seeks to:

- Establish that development will be conditionally supported within the Denstone Settlement Boundary;
- Establish support for housing development of stated characteristics in appropriate locations;

- Establish conditional support for employment development and development of community facilities;
- Establish conditional support for development at Denstone College;
- Establish design criteria for development;
- Establish policy approaches for development affecting heritage assets;
- Ensure development is appropriate to the natural environment and landscape;
- Ensure development does not increase flood risk;
- Designate or redesignate Local Green Spaces;
- Establish conditional support for local renewable and low carbon energy schemes; and
- Establish that development should facilitate efficient transport and active travel.

66. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether 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)

67. The Framework states neighbourhood plans should “support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.” Plans should make explicit which policies are strategic policies. “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies.”

68. In this independent examination, I am required to consider whether 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 Borough Council has confirmed the Development Plan applying in the Neighbourhood Area comprises:

- East Staffordshire Local Plan (October 2015)
- Denstone Neighbourhood Plan (as made February 2017)
- Minerals Local Plan for Staffordshire (February 2017)

- Waste Local Plan for Staffordshire and Stoke-on-Trent (March 2013)
The Minerals and Waste Plans are not relevant to the Independent Examination of the Neighbourhood Plan.

69. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.” The Borough Council has advised me what are currently regarded by the Local Planning Authority as Local Plan strategic policies, namely those Local Plan policies with a prefix SP. For clarity the Borough Council has confirmed the non-strategic policies in the Local Plan are the Detailed Policies (with prefix DP) DP1 to DP12. I have noted Local Plan Policy NP1 states that for the purposes of meeting the basic condition, the Borough Council consider the following Local Plan policies to be strategic: P1; SP1; SP2; SP3; SP4; SP5; SP8; SP13; SP14; SP16; SP17; SP18; SP20; and SP32. I have proceeded with my independent examination of the Neighbourhood Plan on the basis that the Development Plan strategic policies are as listed in the Index of Strategic Policies on page 69 of the Local Plan, namely, the Strategic Policies (with prefix SP) in the Local Plan namely policies SP1 to SP35 in addition to policy Principle1 (P1) and Neighbourhood Policy 1 (NP1). I have undertaken this Independent Examination based on consideration whether 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).

70. In considering a now-repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there to introduce a degree of flexibility” (Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31). The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited.

71. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;

- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

72. Consideration as to whether 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) has been addressed through examination of the plan as a whole and each of the plan policies below. I have taken into consideration the text and Table in Section 5 of the Basic Conditions Statement that seeks to demonstrate how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies. Subject to the modifications I have recommended, I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan Policies

73. The Neighbourhood Plan includes eleven policies as follows:

- Policy DEN-SD1: Denstone Settlement Boundary
- Policy DEN-SD2: Housing
- Policy DEN-SD3: Employment and Community Facilities
- Policy DEN-SD4: Denstone College
- Policy DEN-PE1: Design
- Policy DEN-PE2: Heritage
- Policy DEN-PE3: Natural Environment and Landscape
- Policy DEN-PE4: Flooding and Surface Water
- Policy DEN-LG1: Local Green Space
- Policy DEN-ET1: Local Renewable Energy
- Policy DEN-ET2: Transport and Active Travel

74. Paragraph 29 of the Framework states “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, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the

strategic policies for the area, or undermine those strategic policies.” Footnote 16 of the Framework states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”

75. Paragraph 15 of the Framework states “The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social, and environmental priorities; and a platform for local people to shape their surroundings.”
76. Paragraph 16 of the Framework states “Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”
77. The Guidance states “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.”
78. “While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan.”
79. A neighbourhood plan should contain policies for the development and use of land. “This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be

determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”

80. “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.” “A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”
81. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have examined each policy in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

Policy DEN-SD1: Denstone Settlement Boundary

82. This policy seeks to establish conditional support for development within the defined settlement boundary and seeks to ensure development preserves or enhances the rural landscape setting of Denstone including separation with surrounding villages.
83. The Borough Council state “Paragraphs 8 and 11 of the planning rationale (pages 17 and 18) refer to a 0.81-hectare site south of Vinewood Farm, Marlpit Lane (SHELAA reference 95). Despite Section 2.5 of the Plan stating that the Plan does not undertake site allocations, the 2017 Denstone Neighbourhood Plan purposely extended the settlement boundary, including land south of Vinewood Farm. Paragraphs 8 and 11 of the revised Plan say that the land remains within the settlement boundary, is currently available, has an indicative capacity of 24 units, and is an important site as it makes a significant contribution to delivering any potential need or growth across the Neighbourhood Area in the Plan period. In light of this, it could be interpreted that the revised Neighbourhood Plan appears to be proposing / allocating the site for housing. Neighbourhood plans can, of course, allocate sites for development, including housing. However, PPG on Neighbourhood Planning makes clear that a qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. In light of the above, it is considered that the parish’s intended purpose for the land south of Vinewood Farm needs to be made clear and, if

necessary, supported by appropriate evidence including, amongst other factors, that suitable access would be achievable.”

84. In response to the opportunity I provided, to comment on revisions to the Framework in December 2023 the Borough Council stated “Paragraph 14 of the revised NPPF increases the level of protection afforded to neighbourhood plans in circumstances where a Local Plan is deemed out of date, from two to five years post adoption, provided that the Neighbourhood Plan contains policies and at least one housing allocation to meet its identified housing requirement.”
85. I have earlier in my report referred to the representations of individuals that object to the inclusion of land south of Vinewood Farm within the Settlement Boundary and its potential future development for housing, and to the representation of another individual that the settlement boundary should be extended at Oak Road.
86. The Parish Council has commented “The amendment of the settlement boundary was made in the previous ‘made’ Neighbourhood Plan. This included Land South of Vinewood Farm within the boundary. The emerging Neighbourhood Plan maintains the settlement boundary from the 2017 Plan. It does not make any additional site allocations. Unfortunately, the Local Planning Authority’s publicity materials for Regulation 16 suggested that additional sites were been allocated. This was raised with the Local Planning Authority which issued corrections to landowners and to some of their materials. This has led to misunderstandings, reflected in some of the other Regulation 16 representations. We don’t understand the Local Planning Authority’s response to Regulation 16 regarding site allocations. The Local Planning Authority is aware that the settlement boundary is being maintained and that the inclusion of this site was tested through the examination on the previous plan.”
87. Section 2.5 of the Neighbourhood Plan states “The Plan does not undertake housing site allocations, leaving this to the East Staffordshire adopted Local Plan. However, it does cater for the small-scale level of growth identified through policies DEN-SD1 Settlement Boundary and DEN-SD2 Housing. These set out sustainable locations for housing growth and include sufficient capacity to deliver the growth strategy in the Plan period.” I have noted Local Plan Policy SP4 identified a minimum development requirement of 20 dwellings and that on page 17 of the Neighbourhood Plan it is stated “There have been 20 (dwellings) delivered to date either through completions or extant permissions.” The Borough Council has confirmed net housing completions in the Neighbourhood Area since the beginning of the Local Plan period to 31 March 2023 amount to 20 units, and at that date permissions would deliver a further net 8 units. The minimum Local Plan housing requirement has been met.

88. The Neighbourhood Plan, on page 17, refers to the East Staffordshire Strategic Housing Land Availability Assessment (SHLAA) 2021 Update as follows
“Denstone is identified as a category 2 village. There are several sites considered within the SHLAA. The site reference 95 known as ‘Land south of Vinewood Farm, Marlpit Lane, Denstone’ is identified as 0.81 hectares with a potential yield of up to 24 units. This site remains within the settlement boundary and is currently available. This is an important site within the Neighbourhood Area as it makes a significant contribution to delivering any potential need or growth across the Neighbourhood Area in the Plan period. All the other sites considered are outside of Denstone settlement boundary and are not strategic allocations in the adopted Local Plan.”
89. The Borough Council refer to Map 1 of the Neighbourhood Plan and state
“Settlement boundaries are a policy tool which establish and contain built-up areas. A settlement boundary is a line drawn on a plan around a town or village which reflects its built form. The purpose of a settlement boundary is to clearly define where there is a presumption in favour of development within the boundary. Areas outside settlement boundaries are considered open countryside and a different, more restrictive planning policy applies. Neighbourhood Plan 1 in the ESLP states that whilst Policy SP2 seeks to locate new development within existing settlements, Neighbourhood Plans have the ability to add settlement boundaries to existing settlements (those listed in SP2), or extend existing settlement boundaries. Additional or extended settlement boundaries should, however, be clearly justified. The 2017 Denstone Neighbourhood Plan extended the Denstone settlement boundary. The evidence which supported this has not been published for the review of the Local Plan. It is noted that there were requests by other landowners in the Regulation 14 consultation to extend the boundary to include their land. It is considered that the methodology and approach to establishing settlement boundaries should be consistent and transparent.”
90. The Settlement Boundary indicates a physical limit to development over the plan period and will guide development to sustainable solutions. A Settlement Boundary for Denstone village was established in the Local Plan. Policy Neighbourhood Plan 1 in the Local Plan provides for Neighbourhood Plans to extend settlement boundaries. The made Neighbourhood Plan did extend the Denstone Settlement Boundary and is therefore established within the development plan. The Updated Neighbourhood Plan does not propose any alteration to that boundary nor does it propose to change the primary purpose of the Settlement Boundary which is to define an area within which development proposals will be conditionally supported. Subject to my earlier recommended

modification the Neighbourhood Plan will not relate to any additional period beyond the plan period of the made Neighbourhood Plan. There is no requirement for the Neighbourhood Plan to review or modify the Settlement Boundary. It is beyond my role to consider whether any alternative alignment of the Settlement Boundary, including in the vicinity of Vinewood Farm or Oak Road or elsewhere, would offer a more sustainable solution. I agree with the Borough Council that the Neighbourhood Plan could be interpreted as proposing/allocating the site south of Vinewood Farm for housing development. This is inappropriate and misleading. The Neighbourhood Plan has been prepared on the basis that it does not undertake housing site allocations, leaving that to the Local Plan. The comments included in the text of pages 17 and 18 of the Neighbourhood Plan relating to land south of Vinewood Farm are not sufficiently evidenced in terms of site assessment including viability, nor are they based on necessary processes relating to the identification and appraisal of housing site options and selection from those options. I have recommended modifications of text on pages 17 and 18 of the Neighbourhood Plan in this respect so that the policy, when read with the supporting text, has sufficient regard for national policy and is clearly written and unambiguous as required by paragraph 16 of the Framework.

91. It is confusing and unnecessary for the policy to refer to two other policies of the Neighbourhood Plan, particularly as three policies are named in the Interpretation, as well as other unidentified policies. I have recommended a modification so that those references are deleted, and similarly I have not taken up the suggestion of the Borough Council that other parts of the Development Plan are referred to. Cross-referencing is unnecessary as the Development Plan should be read as a whole. Part 2 of Policy DEN-SD1 is unnecessary. I have recommended a modification to delete part 2 as: it is imprecise and does not provide a basis for the determination of development proposals; protecting and enhancing the rural landscape is addressed by Policy DEN-PE3; and focussing development within the settlement boundary will, by definition, maintain the separation of Denstone from surrounding settlements. I have also recommended in the interests of clarity that reference should be to the Figure number to be consistent with other references to Figures in the Neighbourhood Plan, and that misleading text on Figure 4 should be removed. I have recommended modification in these respects so that the policy avoids unnecessary duplication of policies and so that the policy is clearly written and unambiguous as required by paragraph 16 of the Framework.

92. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Strategic Policy SP2. The policy serves a clear

purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

93. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 2:

Replace Policy DEN-SD1 with “Proposals for development within the Denstone Settlement Boundary (see Figure 4) will be supported.”

Delete “Denstone Neighbourhood Plan Inset Map 1” from Figure 4

Continue the Interpretation with “This policy should also be read alongside Policy SP2 of the East Staffordshire Local Plan.”

On page 17 of the Neighbourhood Plan, in the paragraph under the heading East Staffordshire Strategic Housing Land Availability Assessment (SHLAA) 2021 Update, delete the text after the first two sentences.

On page 18 of the Neighbourhood Plan in the first paragraph delete the text after the word “boundary”.

Policy DEN-SD2: Housing

94. This policy seeks to establish locations where new housing will be supported; that it should be of a mix of sizes and types to meet latest evidence of local need; that it should include specified amenities; and that new housing and extensions to housing, should have no significant adverse impact on the amenity of adjacent or nearby properties.
95. In the context of paragraph 62, paragraph 63 of the Framework states the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.
96. Part 1b) of the policy should be deleted as it is imprecise, and is not in general conformity with Strategic Policy SP2 as the named settlements should be treated as open countryside where development will only be permitted in specified exceptional circumstances. Whilst part 1c) of the policy duplicates part 1a) of the policy in respect of brownfield sites within the Denstone Settlement Boundary I

have not recommended a modification as sufficient clarity is provided. Part 1d) of the policy should have greater regard for the Framework. I have recommended the clarity of part 1e) of the policy should be improved but retain the word “buildings” as that is integral to the intention of the policy. I have also recommended the fourth paragraph of the Interpretation presented beneath the policy should acknowledge the other circumstances set out in paragraph 84 the Framework where new homes in the open countryside may be supported.

97. I have recommended part 2 of the policy should clarify it relates to new market housing developments and recognise that it may be possible to demonstrate a mix of sizes and types of accommodation may not be appropriate in a small-scale development or due to viability considerations. I have recommended a modification in this respect so that the policy has sufficient regard for those parts of the Framework that state policies should not undermine deliverability and that requirements should fairly and reasonably relate in scale and kind to the development.

98. The focus of part 3 of the policy is principally on amenities and whilst they could be dealt with in Policy DEN-PE1 that is not necessary to meet the basic conditions. I consider there is advantage in terms of clarity by keeping those housing related matters in Policy DEN-SD2. Secure cycle storage may not always be appropriate or possible and part 3d) is imprecise and does not provide a basis for the determination of development proposals. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these. The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: “From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout, or performance of new dwellings”. The second paragraph of the Interpretation presented below the policy seeks to introduce policy which it may not. I have recommended modifications of the policy and Interpretation in these respects so that the policy is clearly written and unambiguous and that requirements should fairly and reasonably relate in scale and kind to the development as required by national policy.

99. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Strategic Policy SP16. The policy serves a

clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

100. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 3:

In Policy DEN-SD2

- **delete part 1b)**
- **replace part 1d) with “re-use redundant or disused buildings and enhance their immediate setting;”**
- **replace part 1e) with “sensitive conversion of buildings that are heritage assets in a manner appropriate to their significance”**
- **commence part 2 with “Except where it is demonstrated due to the small scale of development or viability considerations not to be appropriate new market”**
- **in part 3b) after “storage” insert “where possible”**
- **delete part 3d)**

In the Interpretation presented beneath the policy:

- **delete the second and fifth paragraphs**
- **extend the fourth paragraph to acknowledge the other circumstances set out in paragraph 84 the Framework where new homes in the open countryside may be supported.**

Policy DEN-SD3: Employment and Community Facilities

101. This policy seeks to establish locations where employment space and community facilities will be supported and establish criteria for support of loss of these uses. The policy also seeks to establish criteria for support of new community facilities and in respect of specified development of the Denstone Hall Farm complex.

102. Paragraph 88 of the Framework states planning policies should enable the sustainable growth of all types of business in rural areas both through conversion of existing buildings and well-designed new buildings; enable diversification of agricultural businesses; enable sustainable rural tourism and leisure developments which respect the character of the countryside; and enable the retention and development of accessible local services and community facilities. Paragraph 89 of the Framework states “Planning policies and decisions should

recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”

103. Subject to my recommended modification: that part 1c should have greater regard for national policy in relation to local business needs; that part 3 of the policy should include reference to impact on local roads; and part 3 of the policy should apply to employment development also, I am satisfied parts 1 to 4 of Policy DEN-SD3 have sufficient regard for national policy. The cross referencing to other Neighbourhood Plan policies in part 3 is unnecessary and confusing as the Neighbourhood Plan, and wider Development Plan, should be read as a whole. I have recommended those cross references are deleted. It is beyond my role to recommend extension of the criteria to other matters beyond significant adverse impact on local roads, which would include road safety considerations such as access, as these are not necessary to meet the basic conditions. Having regard to paragraph 97c) of the Framework part 5 of the policy is appropriate in that it seeks to guard against the unnecessary loss of employment and valued facilities and services. Part 5 of the policy does however include a typographical error and the imprecise term “within easy walking distance”, and is not in general conformity with Local Plan Policies SP14 and SP22 not least through being more permissive of loss. I have recommended part 5 of the policy is deleted. I have recommended references to the Use Classes in parts 1 and 2 of the policy are deleted as these are subject to frequent change. I am satisfied the terms “employment space” and “community facilities” provide sufficient clarity for determination of development proposals and that identification of all relevant sites is unnecessary and undesirable as the policy is to apply throughout the plan period including to any new space or facilities. I have recommended the adoption of the same approach as in Policy DEN-SD2 with respect to reference to buildings that are heritage assets. I have made these recommended modifications so that the policy has sufficient regard for national policy, including being clearly written and unambiguous as required by paragraph 16 of the Framework, and is in general conformity with the strategic policies of the development plan.

104. I have considered the representation of the Borough Council, including with respect to Local Plan policies SP8, SP14 and SP22, and find Policy DEN-SD3 is

in general conformity with those strategic policies. I find development at Denstone Hall Farm as supported by parts 1 and 4 of Policy DEN-SD3, outside but adjacent to the Denstone Settlement Boundary would respectively provide accessible community facilities close to the existing settlement or support an existing business or new business appropriate in the countryside. The need for a traffic assessment relating to Denstone Hall Farm, as referred to in the representation of an individual, is a matter to be considered at the time of any development proposals

105. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

106. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy DEN-SD3

- **in part 1 delete “(Use Class E)”**
- **continue part 1c with “that are physically well-related to existing settlements”**
- **in part 2 delete “(Class E, F1 and F2)”**
- **in part 3 after “create” insert “employment space or”**
- **continue part 3b with “or local roads”**
- **in part 3c delete “, also meeting the requirements of Policy DEN-PE2”**
- **in part 3d delete “, also having regard to Policies DEN-PE2 and DEN-PE3”**
- **delete part 5**

In the Interpretation:

- **include reference to Local Plan Policies SP14 and SP22**
- **revise the third paragraph to reflect the scope of the term “community facilities” as set out in paragraph 97a of the Framework.**

Policy DEN-SD4: Denstone College

107. This policy seeks to establish conditional support for development of the Denstone College campus for educational purposes.
108. The criteria included within Local Plan Policy SP8 have the effect of clarifying the matters referred to in part 1a of Policy DEN-SD4. It is not necessary for the policy to refer to Local Plan Policy SP8 as the Development Plan should be read as a whole, although I have recommended that policy is referred to in the Interpretation. It is confusing and unnecessary for the policy to refer to one other policy of the Neighbourhood Plan as the Neighbourhood Plan should be read as a whole. I have recommended that reference is deleted. I am satisfied the other parts of the policy provide a clear basis for the assessment of development proposals relating to Denstone College and have sufficient regard for national policy, including with respect to promoting sustainable transport, achieving well-designed and beautiful places, and conserving and enhancing the natural and historic environments. I am content part c of the policy relates to character. It is not necessary to map landscape features, tree belts or heritage assets within the Denstone College site to meet the basic conditions. The need for a traffic assessment relating to Denstone College, as referred to in the representation of an individual, is a matter to be considered at the time of any development proposals.
109. Subject to the recommended modification the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Strategic Policy SP8. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
110. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy, subject to the recommended modification, is appropriate to be included in a 'made' neighbourhood plan and will meet the Basic Conditions.

Recommended modification 5:

In Policy DEN-SD4 delete “, meeting the requirements of Policy DEN-ET2”

In the Interpretation add “The policy should be read in conjunction with Local Plan Strategic Policy SP8 which sets out the circumstances in which development outside the settlement boundary may be supported.”

Policy DEN-PE1: Design

111. This policy seeks to establish design principles for development proposals.
112. Paragraph 132 of the Framework states “Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.” That paragraph states design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area’s defining characteristics. Policies should be clear about design expectations and how these will be tested.
113. Paragraph 135 of the Framework states “Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”
114. Paragraph 157 of the Framework states the planning system should support the transition to a low carbon future. Paragraph 124 of the Framework sets out factors that should be considered in ensuring planning policies support development that makes efficient use of land. I am satisfied the provisions of Policy DEN-PE1 have sufficient regard for national policy.
115. I have recommended a modification to clarify the intention of the policy is that development should achieve natural surveillance and overlooking of streets and public spaces. I have made this recommended modification so that the policy has sufficient regard for national policy, including being clearly written and unambiguous as required by paragraph 16 of the Framework. I do not consider any of the other terms used in the policy are so deficient in terms of clarity to fail

the basic conditions. I agree with the Borough and Parish Councils that illustrations of local styles would be helpful but these are not necessary to meet the basic conditions.

116. The policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

117. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 6:
In Policy DEN-PE1 continue part 6 with “of streets and public spaces”**

Policy DEN-PE2: Heritage

118. This policy seeks to establish principles for the assessment of development proposals affecting heritage assets.

119. I have earlier in my report referred to a representation of two individuals that a property should be removed from the list of non-designated heritage assets identified in the Interpretation to the policy. The Borough Council has set out its understanding of the status of the list of properties identified in the Interpretation to Policy DEN-PE2 and the process for designation of properties as non-designated heritage assets by the Borough Council.

120. The Guidance refers to advice on local lists published on Historic England's website (Paragraph: 040 Reference ID: 18a-040-20190723 Revision date 23 07 2019). Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018) states “Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their suitability for addition to the local planning authority's heritage list

assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them.” It is appropriate for a local community to use the Neighbourhood Plan preparation process to identify heritage assets that are locally valued. A list of assets is presented in the Interpretation to Policy DEN-PE2 but no selection criteria are currently stated. I have recommended a modification to part 5 of Policy DEN-PE2 to establish an approach to development proposals affecting non-designated heritage assets. The listing of non-designated heritage assets by the Borough Council is a separate process to Neighbourhood Plan preparation. I have recommended the Interpretation should be modified to include an explanation of the process for listing of non-designated heritage assets by the Borough Council.

121. The Borough Council has stated part 1 of the policy is in general conformity with Local Plan Policy SP8 but has stated the detailed requirements of the policy will not be appropriate in all cases. With respect to part 2 of the policy the Borough Council state there should be recognition that development should seek to protect and enhance the wider historic landscape but it may not be appropriate to prevent change.
122. The term “preserves or enhance” in part 1 of the policy does not have sufficient regard for the balanced approach of national policy relating to heritage assets which should be conserved in a manner appropriate to their significance. The term “preserve or enhance and cause no significant harm to” in part 2 of the policy does not have sufficient regard for the approach of national policy to historic landscape features and to trees and hedgerows. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework. Whilst desirable it is not necessary to list or map farmsteads and agricultural buildings relevant to part 1 of the policy to meet the basic conditions so long as reference is made to the ‘Guidance on Traditional Farmsteads in East Staffordshire document’ in the Interpretation.
123. I have considered whether there is overlap between part 3 of the policy and designation LGS-A in Policy DEN-LG1. I am content the protection afforded by the two policies is different but complimentary however I have recommended the identification of the railway line should be more precise as required by paragraph 16 of the Framework. I have recommended inclusion of a reference to Figure 7 in part 4 of the policy and am satisfied the support of the Canal and River Trust in its representation provides sufficient justification for that part of the policy.

124. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
125. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

In Policy DEN-PE2

- **replace part 1 before the colon with “Redevelopment, alteration or extension of historic farmsteads and agricultural buildings should be sensitive to their historic character, materials, and form. Proposals should demonstrate consideration of”**
- **replace part 2 with “Development proposals must demonstrate regard for field patterns; ridge and furrow landscapes; field ponds; and not harm ancient or veteran trees. Proposals should wherever possible avoid harm to other trees and to historic hedgerows.”**
- **replace part 3 with “Development must not encroach on or harm the significance of the historic Churnet Valley Railway line and station remains.”**
- **in part 4 after “Canal” insert “identified on Figure 7”**
- **replace part 5 with “To be supported proposals which affect a non-designated heritage asset (a building or structure on the Local List following adoption by East Staffordshire Borough Council) must demonstrate regard to the scale of any harm or loss and the significance of the heritage asset’s historical and architectural interest and setting.”**

In the Interpretation replace the text “Non-designated heritage assets include:” with “The following buildings have been identified as locally valued heritage assets. It will be necessary for selection criteria to be established and the list of assets to be reviewed against those criteria. Those buildings meeting the criteria will be submitted to East Staffordshire Borough Council for consideration to be included in the list of non-designated heritage assets prepared by that Council.”

Policy DEN-PE3: Natural Environment and Landscape

126. This policy seeks to establish a policy approach to ensure development has appropriate regard for identified elements of the natural environment and landscape.
127. In response to the opportunity I provided, to comment on revisions to the Framework in December 2023, the Borough Council stated in the light of revisions to Footnote 62 of the Framework part 3 of the policy should include some flexibility.
128. Paragraph 185 of the Framework sets out how plans should protect and enhance biodiversity and states plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. Substantial parts of Schedule 7A of the Town and Country Planning Act 1990 (Biodiversity Net Gain in England) came into force on 12 February 2024. Paragraph 186 of the Framework states, if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
129. The reference in Part 1 of the policy to protection of the area's landscapes and biodiversity does not have sufficient regard for paragraph 180 of the Framework which requires planning policies to contribute to and enhance the natural and local environment. The requirement in Part 1 of the policy to protect trees does not have sufficient regard for national policy as set out in paragraphs 136, 180 and 186 of the Framework. Part 2 of the policy does not have sufficient regard for paragraph 180d) of the Framework which requires planning policies to provide net gains for biodiversity and does not adequately reflect the sequential approach set out in paragraph 186a) of the Framework. Part 3 of the policy does not have sufficient regard for the approach to best and most versatile agricultural land set out in paragraph 180b) and Footnote 62 of the Framework. All the measures identified in part 4 of the policy may not be appropriate in respect of every development proposal. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is clearly written and unambiguous as required by paragraph 16 of the Framework. I do not consider it necessary for the policy to identify specific sites in all respects to meet the basic conditions. Despite the relevance of Local Plan Policy SP2 I consider part 5 of the policy serves a purpose by providing an additional level of detail, particularly in the context of my recommended modification of Policy DEN-SD1.

130. Part 6 of the policy refers to views. Paragraph 180 of the Framework refers to protection of valued landscapes. To be valued, a landscape needs to be more than popular with residents in the locality but must demonstrate physical attributes beyond “ordinary” (Stroud District Council vs. SSCLG [2015] EWHC 488 (Admin) and Forest of Dean DC v. SSCLG [2016] EWHC2429 (Admin)). Policy DEN-PE3 is seeking to identify valued landscapes and is seeking to ensure development proposals are sensitive to significant aspects of the environmental and aesthetic character of the selected views. The term “take account of” is appropriate in this context. I am satisfied Appendix 1 of the Neighbourhood Plan, supported by evidence on the Parish Council website, identifies visible characteristics that justify a policy approach to prevent significant harm to the identified views as valued landscapes. I have recommended a modification so that the policy refers to Appendix 1 of the Neighbourhood Plan in the interests of clarity. I am satisfied sustainable development, through careful consideration to siting and design, or other mitigation measures, may be shown to not significantly adversely affect the identified views. As planning policy must operate in the public interest, I have recommended a modification to clarify the viewpoint locations referred to in the policy are freely accessible to the public. The penultimate paragraph of the Interpretation seeks to introduce an element of policy which it may not. I have recommended a modification to delete that paragraph. Figures 8 and 9 should be referred to in the policy. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is clearly written and unambiguous as required by paragraph 16 of the Framework.

131. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

132. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 8:

In Policy DEN-PE3

- **in part 1 replace “protect” with “contribute to”; and after “Floodplain” insert “(see Figure 8)”; and after “woodland” insert “(see Figure 9 for woodland areas)”**

- **replace part 2 with “To be supported development should achieve biodiversity gain and avoid habitat damage. Where harm cannot be avoided this should be adequately mitigated, or as a last resort compensated for.”**
- **in part 3 replace “not lead to” with “avoid”**
- **in part 4 after “including” insert “where appropriate”**
- **in part 6 after “account of” replace “views” with “, and not significantly harm, views from locations that are freely accessible to members of the public”**
- **continue part 6 with “(identified in Appendix 1 of the Neighbourhood Plan)”**

Delete the penultimate paragraph from the Interpretation.

Policy DEN-PE4: Flooding and Surface Water

133. This policy seeks to establish that development should not increase off-site flood risk, including in combination with other developments, where there are existing problems with flooding identified on Plans 02 and 03. The policy also seeks to establish that development should include measures to manage surface water and minimise impacts, including through stated means.

134. Paragraphs 165-167 of the Framework state that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk and all plans should apply a sequential, risk-based approach to the location of development.

135. The Borough Council state “In general, it is considered that the principle of DEN-PE4(1) is in general conformity with, but weaker than, the strategic policy SP27 (Climate Change, Water Body Management and Flooding) in the Local Plan. Given that conflicts in policies must be resolved in favour of the policy which is contained in the last document to become part of the development plan, it considered that DEN-PE4(1) is unnecessary and could be deleted.” The significance of flooding to the local community and the introduction of an additional level of detail to strategic policy confirms that part 1 of the policy serves a useful purpose. I have recommended the Interpretation should make specific reference to the relevant Local Plan Policy SP27. I am satisfied the reference to the SuDS handbook in the Interpretation is sufficient. I have also recommended reference should be to the Figure numbers in the interests of clarity and to be consistent with other references to Figures in the Neighbourhood Plan. I have recommended a modification in these respects so that the policy has sufficient

regard for national policy and is clearly written and unambiguous as required by paragraph 16 of the Framework.

136. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

137. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 9:
In Policy DEN-PE4**

- **commence the policy before part 1 with “To be supported:”**
- **in part 1 replace “Plans 02 and 03” with “Figures 10 and 11”**

Continue the first paragraph of the Interpretation with “Policy DEN-PE4 complements, and should be read alongside, Local Plan Policy SP27”

Policy DEN-LG1: Local Green Space

138. This policy seeks to designate three Local Green Spaces and establish a basis for determination of development proposals affecting them.

139. Two of the areas referred to in the policy, namely 'LGS-A The linear walkway on the route of the former Churnet Valley Railway Line' and 'LGS-B Oliver's Green, off College Road' were designated as Local Green Space in the made Neighbourhood Plan. Paragraph 105 of the Framework states "Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period." In respect of each of the areas proposed for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being updated. The Local Green Space Assessment, updated August 2023, explains the intention to "carry forward" LGS-A and LGS-B into the updated Neighbourhood Plan. LGS-A and LGS-B were designated as Local Green Space in the made Neighbourhood Plan and there is no requirement that they should be reviewed. However, their review and designation in Policy DEN-LG1 has sufficient regard for national policy and their inclusion in a complete list of Local Green Spaces in Policy DEN-LGS1 will assist users of the updated

Neighbourhood Plan. I have examined the suitability of their redesignation. Area reference LGS-C Denstone Meadow is proposed as an additional Local Green Space and I have assessed the suitability of that designation also.

140. Paragraph 105 in the Framework states the designation of land as Local Green Space through Neighbourhood Plans allows communities to identify and protect green areas of particular importance to them. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on Figures 12 and 13. I am satisfied the areas of land proposed for designation as Local Green Spaces have been adequately identified. I am also satisfied the designations are consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs, and other essential services. I have seen nothing to suggest the designations are incapable of enduring beyond the end of the plan period.

141. Paragraph 106 of the Framework states “The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) 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 c) local in character and is not an extensive tract of land.” I have visited the areas of land proposed for designation as LGS and find that in respect of each of the proposed Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land. The Local Green Space Assessment, updated August 2023, includes evidence that confirms each of the sites proposed for designation is demonstrably special and of significance to a local community. I find that the areas of land proposed to be designated as Local Green Space are suitable for designation and have regard for paragraphs 105-107 of the Framework concerned with the identification and designation of Local Green Space.

142. I have considered the representation of the Borough Council regarding part 2 of the policy and the comment of the Parish Council regarding that representation. Paragraph 107 of the Framework states “Policies for managing development within a Local Green Space should be consistent with those for Green Belts”. Paragraphs 152 to 156 of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. Part 2 of Policy DEN-LG1 seeks to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification,

which it may not. (R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number C1/2020/0812). I have recommended a modification so that part 2 of the policy has sufficient regard for national policy. I have recommended the Interpretation is modified to reflect national policy.

143. The policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

144. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy, as recommended to be modified, is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 10:

In Policy DEN-LG1 replace part 2 with “Proposals for development within the designated Local Green Spaces listed above will be managed in accordance with national policy for Green Belts.”

Replace the Interpretation with “Paragraphs 152 to 156 of the National Planning Policy Framework set out statements regarding the determination of development proposals in Green Belt areas. Where development proposals are found to be not inappropriate in Green Belt areas the proposed scheme will be considered in the context of the National Planning Policy Framework and the Development Plan as a whole.”

Policy DEN-ET1: Local Renewable Energy

145. This policy seeks to establish conditional support for local renewable and low carbon energy schemes.

146. Paragraphs 160 to 164 of the Framework set out national policy relevant to renewable energy. Footnote 58 of the Framework states “Except for applications for the repowering and life-extension of existing wind turbines, a planning application for wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan or a supplementary planning document; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.” The Guidance states

“Suitable areas for wind energy development will need to have been allocated clearly in a Local or Neighbourhood Plan. Maps showing the wind resource as favourable to wind turbines or similar will not be sufficient.” (Paragraph: 032 Reference ID: 5-032-150618 Revision date: 18 06 2015).

147. Policy DEN-ET1 is capable of being interpreted as identifying the entire Neighbourhood Area as being suitable for wind turbines subject to the criteria included in the policy. I am not satisfied sufficient evidence has been presented to support this conclusion. The Guidance states “Proportionate, robust evidence should support the choices made and the approach taken.” The policy does not meet the Basic Conditions. I have recommended a modification so that the policy has sufficient regard for national policy.
148. Subject to a modification to the Interpretation referring to cumulative impacts the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
149. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy, as recommended to be modified, is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 11:

In Policy DEN-ET1 after “schemes” insert “(except wind energy development involving one or more turbines)” and delete “flicker,”

In the second paragraph of the Interpretation after “impacts” insert “arising from the proposed scheme, both alone and in combination with other relevant schemes,”

Policy DEN-ET2: Transport and Active Travel

150. This policy seeks to ensure development likely to generate additional journeys should meet stated transport and travel related requirements proportionate to the scale and nature of the scheme
151. Paragraph 115 of the Framework requires that “development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network

would be severe. Paragraph 108 of the Framework states transport issues should be considered from the earliest stages of plan-making so that the potential impacts of development on transport networks can be addressed and opportunities to promote walking, cycling and public transport use are identified and pursued. Paragraph 104 of the Framework states planning policies should protect and enhance public rights of way. Paragraph 110d) of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks with supporting facilities such as cycle parking. I am satisfied the policy has sufficient regard for national policy in these respects.

152. Local PPlan Policy SP35 encourages the use of sustainable modes of transport by requiring developments which are likely to have an impact on the wider highway infrastructure to be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed. I have recommended a modification to the Interpretation in this respect. The term “balanced transport provision” is imprecise. The reference to Policy DEN-PE6 in part 2 of the policy would require correction, however I have recommended the reference is deleted as it is confusing and unnecessary for the policy to refer to another policy as the Neighbourhood Plan should be read as a whole. The policy should recognise secure cycle parking may not be possible in respect of all development proposals. Parts 4 and 6 require modification to achieve clarity. The final paragraph of the Interpretation does not relate to the policy. I have made these recommended modifications so that the policy has sufficient regard for national policy, including being clearly written and unambiguous as required by paragraph 16 of the Framework, and is in general conformity with the strategic policies of the development plan.

153. Whilst the suggestions of the Borough Council for weblinks would assist readers of the Neighbourhood Plan they are not necessary to meet the basic conditions and I am therefore unable to recommend modifications in those respects. The Parish Council considers the term “movement” is open to misinterpretation. Although this term is used in the relevant part of the Framework, I have explained its use in my recommended modification.

154. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

155. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy, as recommended to be modified, is

appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 12:

In Policy DEN-ET2

- in part 1 replace “a balanced transport provision, including sustainable options and opportunities for” with “infrastructure provision and measures to facilitate”
- in part 2 delete “also meeting the requirements of Policy DEN-PE6”
- continue part 3 with “where provision can be accommodated”
- in part 4 after “impacts” insert “on,”
- in part 6 delete “complement the rural context and”

In the Interpretation:

- replace the second paragraph with “The National Planning Policy Framework states all development proposals that will generate significant amounts of movement (vehicular or non-vehicular travel) should be supported by a Transport Statement or Transport Assessment.”
- in the third paragraph replace “(2017)” with “SPD (September 2020)”
- delete the final paragraph

Conclusion and Referendum

I have recommended 12 modifications to the Submission Version Plan. I recommend an additional modification in the Annex to my report. The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them. I am satisfied that the Neighbourhood Plan is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990, and meets the Basic Conditions:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the 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);
- does not breach, and is otherwise compatible with, EU obligations; and
- 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 2017.

I recommend to the Borough Council that the Updated Denstone Neighbourhood Development Plan for the plan period up to 2031 should, subject to the modifications I have put forward, be submitted to referendum.

I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension. I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area.” I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by the Borough Council as a Neighbourhood Area on 5 February 2014.

Annex: Minor Corrections to the Neighbourhood Plan

I have only recommended modifications and corrections to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Supporting text must be adjusted to achieve consistency with the modified policies.

I recommend these modifications, and any adjustments to text or illustrations that become evidently required, are made so that the Neighbourhood Plan has sufficient regard for national policy and guidance being “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

Recommended modification 13:

Modify policy text where this becomes evidently required to achieve clarity or correct errors. Modify policy Interpretation sections, general text, figures, and images, and supporting documents to achieve consistency with the modified policies, and to achieve updates and correct identified errors.

The Borough Council has submitted other comments that could valuably be incorporated in the Neighbourhood Plan. I would have no objection to such additions but I am unable to recommend modification in those respects as they are not necessary to meet the Basic Conditions:

Chris Collison
Planning and Management Ltd
20 February 2024
REPORT END