

Yoxall Parish Council

Yoxall Neighbourhood Development Plan 2031

Independent Examiner's Report

By Ann Skippers BSc (Hons) Dip Mgmt (Open) PGC(TLHE)(Open) MRTPI FHEA FRSA AoU

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Summary

I have been appointed as the independent examiner of the Yoxall Neighbourhood Development Plan.

The Yoxall Neighbourhood Development Plan recognises that development will be needed whilst ensuring that new development is appropriate to this historic and rural Parish.

Mention must also be made of the exemplary Basic Conditions Statement that is both systematic in its approach and coverage and I found to be a very helpful and useful document.

Further to consideration of its policies I have recommended a number of modifications to policies in the Plan that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear and consistent.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore delighted to recommend that the Yoxall Neighbourhood Development Plan goes forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers
Ann Skippers Planning
5 May 2015

Ann Skippers Planning is an independent consultancy that provides professional support and training for local authorities, the private sector and community groups and specialises in troubleshooting, appeal work and neighbourhood planning.

W www.annskippers.co.uk
E ann@annskippers.co.uk



1.0 Introduction

This is the report of the independent examiner into the Yoxall Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

Yoxall village is linear in nature extending along the A515 and is situated to the west of the River Swarbourn. From vantage points around the village, it is barely discernible as it nestles in the river valley in the contours of the surrounding countryside. There is extensive tree cover and indeed all of the Parish falls within the National Forest. Long distance and expansive views are gained from the surrounding area. Arable farming is common and large farmsteads are characteristic of the area.

The village has a mixture of older properties, many of which are listed or fall within the Conservation Area, and more modern estates. The existing village offers a number of amenities including a primary school, shops, services and public houses. The A515 is a busy road with some sharp bends, narrowing in places and awkward junctions to side roads. The village is self-contained with very well defined and strong, clear edges. There are important views to the village across the surrounding open countryside.

2.0 Appointment of the independent examiner

I have been appointed by East Staffordshire Borough Council (ESBC) with the agreement of Yoxall Parish Council, to undertake this independent examination.

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty years experience in planning and have worked in the public, private and academic sectors. I therefore have the appropriate qualifications and experience to carry out this independent examination.

3.0 The role of the independent examiner

The examiner is required to check¹ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions² are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two basic conditions in addition to those set out in primary legislation and referred to in the paragraph above. These are:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects, and
- Having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this is not applicable to this examination as it refers to orders).

¹ Set out in paragraph 8 (1) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

² Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case East Staffordshire Borough Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

4.0 Compliance with matters other than the basic conditions

I now check the various matters set out above in section 3.0 of this report.

Qualifying body

Yoxall Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This is also confirmed in the Basic Conditions Statement. This requirement is met.

Plan area

The Plan area is coterminous with the Parish Council administrative boundary. East Staffordshire Borough Council approved the designation of the area on 16 May 2013. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. Illustration 1a on page 2 of the Plan shows the area.

Plan period

The Plan covers a period from November 2014 to December 2031. This is stated on the front cover and confirmed in the Basic Conditions Statement.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also recognised in the Plan

itself in paragraph 1.10 which explains this very well and is again usefully confirmed in the Basic Conditions Statement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. Where I consider a policy or proposal to fall within this category, I have recommended it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but non-land use matters should be clearly identifiable.⁵ Subject to any such recommendations, this requirement can be satisfactorily met.

5.0 The examination process

It is useful to bear in mind that the examination of a neighbourhood plan is very different to the examination of a local plan.

The general rule of thumb is that the examination will take the form of written representations.⁶ However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case.

After consideration of the documentation and all the representations, including a specific request to hold a hearing from JVH Town Planning Consultants Ltd on behalf of Walton Homes Ltd, I decided it was not necessary to hold a hearing. In relation to this specific request the matter raised is addressed elsewhere in this report and particularly in section 7 where I discuss the emerging planning policy context.

I undertook an unaccompanied site visit to Yoxall and its environs on 14 April 2015.

During the course of the examination it was necessary to clarify a number of factual matters and ask for some further factual information. These related to the date the Plan was submitted to ESBC and related requirements under the Neighbourhood Planning (General) (Amendment) Regulations 2015 (discussed later in the report), a copy of the Village Design Statement, the decision notice and site plan for the Leafields Farm site, the Yoxall Conservation Area Appraisal and links to the development plan and emerging local plan.

⁵ Paragraph 004 of Planning Practice Guidance

⁶ Schedule 4B (9) of the Town and Country Planning Act 1990

I would like to record my thanks for the exemplary support and quick responses that the officer at ESBC has given me during the course of the examination.

I have also specifically referred to some representations and sometimes identified the person or organisation making that representation. However, I have not referred to each and every representation in my report. Nevertheless each one has been considered carefully and I reassure everyone that I have taken all the representations received into account during the examination.

Where I recommend modifications in this report they appear in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in ***bold italics***.

6.0 Consultation

The Parish Council has submitted a Consultation Statement (CS) which provides details of who was consulted and how, together with the outcome of that engagement process. A separate Appendix 4.1 is also part of the CS.

As the CS explains the Plan also contains a lot of information about the community engagement process and so both documents need to be read together.

The Parish Council established a Core Group to manage the process together with a Consultation Group to feedback and advise the Core Group. A road map⁷ sets out the details of the main activities that helped to shape the draft Plan. These began with a questionnaire 'home dropped' to all households in Yoxall and ranged from a variety of meetings, workshops and exhibitions over a considerable time period. This was supported by information in Parish magazines and local newspapers, posters and a website. The outcomes of these surveys and events are provided in Appendix C of the Plan.

Pre-submission (Regulation 14) consultation took place between 1 November – 13 December 2014. This stage included exhibitions at various locations, leaflets and website presence.

Submission (Regulation 16) consultation was carried out between 16 February – 30 March 2015. This attracted a number of representations which I have taken into account in preparing this report.

The evidence demonstrates that the Plan has emerged as a result of seeking, and taking into account, the views of the community and other bodies.

Some representations including those from the Sport England, the Environment Agency, National Forest and Natural England, whilst supportive of the Plan, indicate that the

⁷ Consultation Statement page 4

Plan could have gone further in some of its commentary and the policies. This is a matter for the Parish Council and I feel sure that these are matters which will be considered should the Plan be reviewed at some point in the future.

Others requested changes,⁸ are not necessary for me to make recommendations on given the role and remit of the examiner.

Some wanted other or different sites to be included. In particular Land at Bond End,⁹ a site at Bondfield Lane¹⁰ and land off Lightwood Road¹¹ were promoted. However, my role is to examine what is before me.

A number of representations offer support for the Plan. Whilst it is often unwise to single out a particular representation it is important to record that English Heritage regard the approach taken by the Plan to be “exemplary in terms of the historic environment” and commends its constructive conservation ethos.

7.0 The basic conditions

National policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹²

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹³

On 6 March 2014, the Government published a suite of planning guidance. This is an online resource available at www.planningguidance.planningportal.gov.uk. The planning guidance contains a wealth of information relating to neighbourhood planning

⁸ For example from ESBC and Staffordshire County Council

⁹ Mill Pond Development c/o Pegasus Planning

¹⁰ JVH Town Planning Consultants Ltd on behalf of Walton Homes Ltd

¹¹ Gladman Developments Ltd

¹² National Planning Policy Framework (2012) paras 14, 16

¹³ National Planning Policy Framework (2012) para 184

and I have had regard to this in preparing this report. This is referred to as Planning Practice Guidance (PPG).

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹⁴

PPG indicates that a policy should be clear and unambiguous¹⁵ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.

The Basic Conditions Statement takes each of the 12 core planning principles in the NPPF and sets out how the Plan has responded to national guidance. It then details each of the sustainability headings in the NPPF and explains how the Plan responds to each of these.¹⁶ It does so in a simple, but clear and effective way leaving me in no doubt that the Plan has had regard to the NPPF. Whilst a representation points out that no mention is made of PPG, I have assessed this during the course of the examination and have made reference to it as appropriate throughout this report and so I am satisfied that the Plan has taken account of national policy and advice.

Sustainable development

A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole¹⁷ constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.¹⁸

The Basic Conditions Statement offers an explanation of how the Plan contributes to the achievement of sustainable development. It does this by mapping the three dimensions of sustainable development with the Plan's strategic aims (Table II)¹⁹ and then setting out the purpose and outcome of each policy in relation to sustainable development (Table III).²⁰ The technique used is exemplary in both its simple approach and comprehensive and proportionate coverage.

¹⁴ *Ibid* para 17

¹⁵ Planning Practice Guidance para 041

¹⁶ Basic Conditions Statement pages 5 - 9

¹⁷ National Planning Policy Framework (2012) para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

¹⁸ *Ibid* para 7

¹⁹ Basic Conditions Statement page 10

²⁰ *Ibid* page 12

The development plan

The relevant development plan consists of the saved policies of the East Staffordshire Local Plan 2006 (LP 2006) and proposals and inset maps. The LP 2006 contains a number of key objectives aimed at finding a balance between pressures for development and a desire to strengthen local economy and promote social well-being. It recognises Burton upon Trent and Uttoxeter as the two urban centres with other main towns and villages building on locational strengths, environmental and regeneration opportunities and developing linkages with their local hinterlands.

The Basic Conditions Statement addresses the development plan appropriately. Again two useful tables map the Plan's strategic aims against the Local Plan objectives²¹ and the Plan's policies in relation to the relevant saved Local Plan policies.²²

Emerging planning policy context

A word here too about the emerging planning policy context. ESBC has prepared a Pre-Submission Local Plan covering the period 2012 – 2031. I refer to this emerging Local Plan as 'LP 2031'. In the LP 2031 Yoxall is classified as a tier 2 local service village described as meeting local needs by providing a more limited range of facilities and services that sustain village life. The LP 2031 amplifies this by explaining that limited development will be accommodated in line with the facilities in each village and their sensitivity to the erosion of their character.

The Plan has been prepared taking the emerging Local Plan into account. This is to be regarded as good practice and is in line with PPG²³, but does not form part of the examination as the relevant basic condition refers only to the need for the Plan to be in general conformity with the saved strategic policies of the development plan i.e. the adopted Local Plan 2006.

Some representations²⁴ contend that the Plan should not proceed and cannot identify either a settlement boundary or a housing figure as the emerging Local Plan 2031 may be subject to change and there are no up to date strategic policies on housing need.

The judicial review challenge submitted by Gladman Developments Ltd²⁵ in respect of the Winslow Neighbourhood Plan is referred to.²⁶ Judgment has been given on this case and confirms that a neighbourhood plan may include policies relating to the use and development of land for housing in the absence of any development plan document setting out strategic housing policies. My role is to examine the Plan in relation to the development plan at the time of the examination rather than any emerging plan and taken with the fact that the Plan does not impose a maximum housing figure or allocate sites, but also extends the settlement boundary, I am

²¹ *Ibid* page 15

²² *Ibid* page 16

²³ Planning Practice Guidance paragraph 009, reference ID 41-009-20140306

²⁴ JVH Town Planning Consultants Ltd on behalf of Walton Homes Ltd

²⁵ Gladman Developments Ltd v Aylesbury Vale District Council [2014] EWHC 4323 (Admin)

²⁶ JVH Town Planning Consultants Ltd on behalf of Walton Homes Ltd

confident that the examination can proceed and moreover can satisfactorily do so without the need for a hearing.

This also leads on to other representations²⁷ that suggest that the Plan seeks to restrict growth based on a flawed evidence base. I disagree with the premise that the Plan is anti-growth.²⁸ Whilst it may not be as 'pro-growth' as some would like, as I have explained there is nothing in the Plan to prevent further growth and it is entirely appropriate that the Plan indicates the type of development it seeks and considers to be suitable.

The Plan makes numerous references to the emerging LP 2031. However, there is a risk that these emerging policies or proposals may be changed or even deleted in the adopted version of the new Local Plan. By and large I consider that the references are on balance acceptable as the issues are likely to remain and there are no specific references to emerging policies. Where I consider it necessary I have recommended a modification, for example to make the status of the emerging Local Plan clear. However, the Parish Council may like to consider the implications of such references should the emerging Local Plan be revised.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant.

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

A screening exercise has been carried out by ESBC. This screening opinion, dated November 2014, concludes that the Plan is unlikely to have significant environmental effects and that an environmental assessment is not required.

The screening assessment has been considered by Natural England, English Heritage and the Environment Agency. None of these three statutory consultees disagree with the Council's conclusion.

I am therefore satisfied that the Plan does not require a SEA to be carried out.

²⁷ Gladman Developments Ltd

²⁸ *Ibid*

In addition as the Plan was submitted to ESBC on 12 February 2015, new regulations²⁹ effective from 9 February 2015 apply. Where it has been determined that the Plan is unlikely to have significant environmental effects (and therefore does not require an environmental assessment), a statement of reasons for the determination is now needed. I regard the screening opinion from ESBC as fulfilling this requirement and ESBC have confirmed to me by email dated 14 April 2015 that this is also their view.

European Convention on Human Rights (ECHR)

The Basic Conditions Statement helpfully includes information on human rights and once again systematically considers this in a useful table format.³⁰ The Plan has clearly and demonstrably had regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

Habitats Regulations Assessment/other Directives

There are no European sites within the Plan area. However, the Plan area falls within the 13km buffer around the Cannock Chase Special Area of Conservation. ESBC has confirmed that a Habitats Regulations Assessment is not required and the screening opinion is included in the opinion on whether a SEA is required dated November 2014.

I am not aware of any other European Directives which apply to this particular neighbourhood plan and in the absence of any substantive evidence to the contrary, I am satisfied that the Plan is compatible with EU obligations.

8.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. As a reminder, where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan starts off with a contents page. It would be very helpful if page numbers could be added to assist readers with finding their way around the document. Secondly, there are two areas – the Foreword and Attributions – that are notated “to be provided” on the contents page. Depending on the Parish Council’s preference these should be completed or the headings deleted in the post-submission version.

- **Insert page numbers on contents page**

²⁹ Neighbourhood Planning (General) (Amendment) Regulations 2015

³⁰ Basic Conditions Statement page 21 onwards

- **Complete the Foreword and Attributions sections referred to on the contents page or delete these two headings from the contents page**

1 Introduction

This section helpfully sets the scene for the Plan.

In paragraph 1.01, the date of the Localism Act is incorrectly referred to as “2012”. It should be “2011”.

Paragraph 1.03 refers to the Local Plan 2012 – 2031. At the time of writing, this is not the development plan for the area, but an emerging local plan. The status of that plan should be made clear. It would also be useful for the current development plan to be mentioned at this juncture and again in paragraph 1.09.

It is good to see that the Plan will be monitored and a recognition of the dynamism of planning.

Paragraph 1.08 refers to the legal requirements the Plan must adhere to. Whilst the thrust of this paragraph is right, for the sake of correctness and completeness it would be useful for the other basic conditions to be briefly mentioned or at least a recognition that regard to national policy and general conformity with the strategic policies of the development plan are not the only requirements. In addition the phraseology used should reflect that of the basic conditions so that this is correct – this is because national policy and advice covers more than the National Planning Policy Framework and there is no “local” before strategic policies (although I understand what is meant here).

The section includes a very useful and clear diagram (Illustration 1b) together with a brief, but helpful explanation of the main stages of Plan production.

In the interests of clarity and accuracy, the following modifications are recommended:

- **Change date of the Localism Act to “2011” in paragraph 1.01**
- **Check Plan for any other references to the Localism Act that similarly need correcting**
- **Make clear the status of the emerging local plan referred to in paragraph 1.03**
- **Add reference to the current development plan in paragraphs 1.03 and 1.09**
- **Make it clear in paragraph 1.08 that there are a number of basic conditions the Plan must meet including having regard to national policy and advice and general conformity with the strategic policies in the development plan, and use the wording of the basic conditions and**

- **Delete the word “local” before “strategic policies in paragraph 1.08**

2 About Yoxall

This section provides both an interesting and informative narrative on Yoxall. It refers to the Village Design Statement produced in 1993 and included as Appendix A to the Plan. Describing the Parish’s history and characteristics, it refers to listed buildings and includes a useful plan of the Conservation Area in Illustration 2a.

The section goes on to describe the landscape and its many features including the river valleys and ancient forest. It explains that Yoxall falls within the National Forest. Paragraph 2.13 refers to the National Forest Plan (2004 – 14). ESBC have indicated that there might be a new strategy in the representation and this is in fact confirmed by the National Forest. The National Forest also point that not all of the Parish is within the Forest. These points should be changed in the interests of accuracy. A character analysis has been carried out as part of the evidence gathered for the Plan and is included as Appendix B.

A variety of services and facilities are then described ranging from open spaces and schools to retail and other outlets.

Paragraph 2.27 seems to be incomplete. ESBC have suggested additional words in their representation that I include below for completeness.

The final part of this section offers a summary of the engagement carried out as part of the Plan’s evolution. I have discussed this as part of an earlier section in my report.

The section ends with a succinct summary of the main issues identified through the evolution of the Plan.

- **Add at the start of paragraph 2.13 “*Much of Yoxall Parish...*”**
- **Change reference to the National Forest Plan (2004 – 14) in paragraph 2.13 to “*National Forest Strategy 2012 -24*”**
- **Delete the words “a Methodist” and replace with the words “*Woodmill Methodist Church*” to the end of paragraph 2.27**

3 The Future of Yoxall

At the start of this section there are a number of paragraphs that refer to the next stages of the process. These will need to be amended and updated for the next and final versions of the Plan.

Paragraph 3.02 refers to “strategic local policy”. This is not reflective of the relevant basic condition and should be amended in the interests of accuracy.

Paragraph 3.09 states that the Plan must be in “general conformity” with the emerging Local Plan. As previously explained this is not the case and as a result this paragraph should be amended to correct this.

Paragraph 3.11 refers to the emerging Local Plan and a figure of 40 dwellings over the Plan period. It explains that the Plan allocates a site to accommodate this figure. This may be misleading given that the emerging Local Plan may be subject to change prior to its adoption and this Plan does not allocate any sites, but rather enlarges the settlement boundary to allow for further development. I do not find anything in this paragraph, or for that matter in the Plan overall, that imposes a maximum figure for housing development. However, to remove any possibility of misinterpretation I suggest that the last two sentences are deleted and replaced by suitable wording that recognises the Plan has emerged as a result of close working between the Parish and Borough Councils.

A succinct and clearly articulated vision is included in paragraph 3.13. It states:

“In 2031 Yoxall will be a village with a historic rural character, a good range of high quality homes and community facilities fulfilling local needs, a convenient local service centre with a network of safe pedestrian routes, and a variety of locally based employment opportunities.”

A series of eight strategic aims with a number of underlying objectives for each aim designed to achieve the vision are then set out. All eight are well written and thought through. I note that Natural England in its representation particularly supports Strategic Aim 7. There are however one or two minor points that need modification and I set these out below.

The issue with references to the emerging Local Plan has already been set out. As a result it would be preferable to revise objective 1A to reflect this position.

Strategic Aim 8 refers to small business development. Paragraph 3.30 explains that the purpose of this aim is to allow a “limited amount of new employment development”. It is not clear why this type of development should necessarily be limited. The NPPF emphasises the need to proactively drive and support sustainable economic development³¹ and it seems to me that the inclusion of the word “limited” does not have sufficient regard to this core planning principle in national policy. The word should therefore be deleted.

The following modifications are therefore recommended:

- **Amend and update paragraphs 3.01 and 3.03 as necessary**

³¹ National Planning Policy Framework (2012) para 17

- **Change bullet point 3 in paragraph 3.02 to read “...general conformity with the strategic policies contained in the development plan for the area”**
- **Amend paragraph 3.09 to make it clear that the Plan has taken account of the emerging Local Plan 2012 – 2031, but that it only needs to be in general conformity with the saved strategic policies of the Local Plan 2006**
- **In paragraph 3.11 add the word “emerging” after the first “The”**
- **Delete the last two sentences in paragraph 3.11 and insert “Yoxall Neighbourhood Plan group have worked closely with ESBC and the development allowance indicated in the emerging Local Plan has been used as a basis for considering housing in the Neighbourhood Plan” or similar**
- **Reword objective 1A to read “To deliver the amount of housing required by East Staffordshire Borough Council’s strategic housing policies”**
- **Delete the phrase “a limited amount of” from paragraph 3.30**

4 Options for Future Development

Options for development and the process of evaluation and selection of sites are discussed in this section. Paragraph 4.02 makes reference to the emerging Local Plan and erroneously indicates that the Plan “must make provision” for the strategic housing growth allocation in the emerging LP 2031. This should be corrected.

Illustration 4a identifies three potential sites for housing development that were identified in the ESBC’s Strategic Housing Land Availability Assessment (SHLAA). The section goes on to explain how the sites were evaluated and the preferred option selected. Further information is given in Appendix D.

Although one of the three sites assessed has now been given planning permission and has therefore been included in a revised settlement boundary, the Plan does not allocate sites. There is therefore now no need for this section in the Plan and it does not add anything to its contents. It should therefore be deleted or could be added to Appendix D which I feel also adds little to the Plan’s content and could also be deleted.

- **Correct paragraph 4.02 by substituting the word “has” for “must” in the first sentence**
- **Either delete or move this section in its entirety to Appendix D**

5 Policies for Yoxall

Introductory paragraphs explain how the policies were developed and refer to the Community Infrastructure Levy (CIL). A representation from ESBC points out that there is still some uncertainty about whether CIL will be introduced and suggests a slight change in wording to reflect this. In the interests of accuracy, I suggest this is amended. The policies then follow and are clearly distinguishable as they appear in a purplish coloured box. Each policy is preceded by a context and rationale explanation which includes a reference to the relevant strategic aims that the policy will help to achieve, and then is followed by information on how the policy will be applied.

- **Replace the words “is introducing” with “*may introduce*” in paragraph 5.03**

Policy H1 Development Inside Yoxall Settlement Boundary

This policy firstly defines a new settlement boundary for Yoxall which is shown clearly on Illustration 5a on page 20 of the Plan.

Paragraph 5.04 refers to this as the “new Settlement Boundary Exception” and explains that development will not be permitted outside the boundary unless it meets Policies H1 and H2. The word “exception” used in this way could be confusing and I suspect that this is in fact a typographical error and the word should be “extension”. I have assumed this to be the case and recommended a modification to this end.

The new settlement boundary follows the existing settlement boundary defined in the Local Plan 2006, but includes a site known as Leafields Farm. The supporting text indicates that permission has been granted for 40 dwellings on this site. It therefore seems sensible to me to include this site within the amended boundary.

Secondly, Policy H1 caps the number of dwellings on small infill or redevelopment sites within the settlement boundary to three. There is however no explanation or justification as to why this maximum is put forward. This may well prevent the effective use of previously developed land and sustainable solutions coming forward.

Thirdly, the policy states that it expects the total number of dwellings to come through as windfalls over the Plan period to be around 20. By their very nature windfall sites are those that come forward unexpectedly (as the definition in the NPPF confirms). So it is difficult to understand the purpose of such a statement, but nevertheless it does act as an indicator for windfalls within the settlement boundary. As the policy does not impose a maximum number, I cannot see any harm in retaining it as an expectation.

Whilst some representations³² consider that other sites should be included within the settlement boundary and that it is risky to direct development to within the settlement

³² Mill Pond Development c/o Pegasus Planning

boundary, the Plan does not impose a maximum figure for housing and does not allocate sites for housing development as I have already indicated. Rather it provides a framework for assessing applications to ensure that the special and particular qualities and issues of concern to the community can be properly addressed. It is noted that Strategic Aim 1 expressly refers to the strategic growth requirement and overall the Plan recognises its role in contributing to this need.

Policy H1 therefore defines a new (larger) settlement boundary and clearly aims to direct new development to within the settlement boundary which is broadly in line with the general thrust of national policy and the LP 2006 which prioritises development on previously developed land before greenfield sites. However, it sets an unacceptable and unexplained cap on development numbers on small infill and redevelopment sites which does not assist in achieving sustainable development or sufficiently reflect national policy and guidance. Given the other policies in the Plan I consider that there are sufficient safeguards to ensure that development of an unacceptable nature can be resisted. The policy should therefore be amended to reflect this concern.

The following modifications are therefore recommended:

- **Correct paragraph 5.04 by substituting the first use of the word “ exception” with “*extension*”**
- **Amend Policy H1 so that it reads:**

“The Yoxall Settlement Boundary is shown in Illustration 5a.

Appropriate new housing development will be permitted on infill or redevelopment sites inside the Settlement Boundary provided it complies with the other policies of this Plan.

The total number of dwellings provided on windfall sites inside the Yoxall Settlement Boundary is expected to be around 20 new dwellings over the plan period (to 2031).”

Policy H2 Development Outside Yoxall Settlement Boundary

Whilst the policy is titled “development” it only seems to permit affordable housing as exception sites. There are however many other types of development such as extensions and replacement dwellings or development that supports economic growth through the growth and expansion of businesses that can be acceptable outside settlement boundaries within rural or countryside areas. Therefore in the interests of clarity, the title of the policy should reflect what it covers.

The supporting text explains that a limited amount of small scale housing growth on small infill or redevelopment sites outside the settlement boundary will be permitted

and this policy provides the five criteria against which such applications will be considered.

Paragraph 5.10 refers to the emerging Local Plan and windfall development. Paragraph 5.12 explains the purpose of the policy is “to allow a degree of flexibility in the provision of new housing in Yoxall and to place a numerical limit on the amount of new housing development that will be permitted outside the Settlement Boundary over the plan period.” These statements seem to me to be contradictory. It is not appropriate to impose a numerical limit on the amount of new housing as this does not reflect the NPPF³³ which indicates that housing development should be planned to reflect local needs. I note however that Policy H2 does not in fact contain any numerical limit. It is necessary to ensure the supporting text reflects this.

Turning now to the criteria, criterion a) restricts any development to affordable housing. This is in line with LP 2006 Policy H13, but the NPPF³⁴ makes it clear that market housing might facilitate the provision of significant additional affordable housing to meet local needs. A Housing Survey at Appendix C indicates the need for some affordable housing. This criterion therefore needs amendment to reflect national policy and in recommending this modification I have taken my lead from the glossary definition of rural exception sites in the NPPF.

Criterion b) requires the development to make a positive contribution to environmental sustainability. It is not clear to me what this means or would be needed in order to demonstrate compliance. Furthermore it refers to environmental sustainability when national policy and advice is clear that sustainable development consists of three dimensions (economic, social and environmental).³⁵ This criterion therefore seems to take a narrower approach that has not been justified or explained and coupled with the lack of clarity in how this requirement might be met, means that it should be deleted in order to take account of national policy and advice.

The third criterion c) is clear and succinct, but requires development to “enhance” the character and appearance of the area. Whilst this is laudable in that it seeks rightly to improve the quality of the area, development that preserves the existing character or appearance is also usually acceptable. Therefore it should be modified to reflect this.

Criterion d) is succinct and encourages the reuse of vacant or redundant historic buildings where appropriate.

The last criterion e) requires demonstration that the proposed development is “of a scale commensurate with the size of the settlement.” Whilst I suspect this reflects a criteria in emerging LP 2031 Strategic Policy 18, it is not clear what this means or what is needed to demonstrate compliance with this criterion and therefore it should be deleted. Other policies in the Plan will ensure that the development takes account of the rural and historic setting of Yoxall.

³³ National Planning Policy Framework (2012) para 54

³⁴ *Ibid*

³⁵ National Planning Policy Framework (2012) paras 6 and 7

There have been a number of representations³⁶ requesting deletion of this policy or various amendments. Where these have made the policy more positively worded in line with national policy and guidance, I have recommended changes below.

In order for Policy H2 to meet the basic conditions, the following modifications are recommended:

- **Retitle the policy “*Housing Development Outside the Yoxall Settlement Boundary*”**
- **Delete the words “...and to place a numerical limit on the amount of new housing development that will be permitted outside the Settlement Boundary over the plan period.” In paragraph 5.12**
- **Delete the word “only” from the second sentence in the policy**
- **Amend criterion a) to read “*the development is on a small site and would provide affordable housing for evidenced local need. Small numbers of market homes may be permitted where this is essential to enable the delivery of affordable units, and*”**
- **Delete criterion b) and renumber subsequent criteria**
- **Insert the words “*preserves or*” after “the development...” and before “...enhances” in criterion c)**
- **Delete criterion e)**

Policy D1 Protecting and Enhancing the Historic Rural Character of Yoxall

The policy seeks to protect, complement or enhance the historic rural character of Yoxall village and its hinterland. It makes reference to the Village Design Statement and the Character Analysis included as Appendices A and B respectively. ESBC have helpfully suggested that reference should also be made to the Yoxall Conservation Area Appraisal and I agree that for the sake of completeness and providing a practical framework that this would be useful.

The second part of the policy requires applicants to demonstrate how a proposal will protect, complement or enhance “their historic setting” with reference to the scale, density and materials proposed and the landscape setting and associated views of the village. I find the phrase “their historic setting” a little odd given the premise of the policy and suggest this is changed to “historic and rural setting” for the sake of

³⁶ Representations from Gladman Developments Ltd, JVH Town Planning Consultants Ltd, Millpond Development and ESBC

consistency with the supporting text and policy title. It would also be useful to include 'form' in criterion a) as ESBC suggest for the sake of completeness.

Otherwise, this policy chimes with national policy and advice in seeking to ensure that new development makes a positive contribution to local character and distinctiveness.

With regard to the supporting text, paragraphs 5.17 and 5.18 refer to traditional farmsteads and the contribution they make to the historic and rural character of the Parish. Reference is made to the Historic Farmsteads Survey (2009) and the Staffordshire Traditional Farmsteads Guidance document. I note from the list of references on page 31 of the Plan that this latter document is unpublished, but a representation from Staffordshire County Council summarised in the Consultation Statement indicates that the guidance is due to be finalised shortly. I understand that in fact the guidance has now been published. I suggest that some amendment is necessary to paragraph 5.17 in the interests of clarity and accuracy.

The last sentence of paragraph 5.18 which reads "Should a policy relating to traditional farmsteads be identified it is advised that reference should be made to the above guidance" does not make sense to me and should be clarified or deleted.

I note paragraph 5.22 seems to peter out. Given that I understand the guidance has now been published, this paragraph would benefit from some revision to reflect this and to finish off the sentence.

Therefore in the interests of completeness, clarity, consistency and accuracy the following modifications are recommended:

- **Add "*Yoxall Conservation Area Appraisal*" at the end of the first paragraph of Policy D1 and make consequential amendments to the supporting text**
- **Change "their historic setting" in the policy to "*the historic and rural setting of the Parish*"**
- **Add "*and form*" after "...the scale.." to criterion a)**
- **Reword paragraph 5.17 to read "*Traditional farmsteads make a considerable and important contribution to the historic rural character of the Parish. Staffordshire County Council and English Heritage have produced Farmsteads Guidance for East Staffordshire, providing advice on identifying the historic character of traditional farmsteads and guidance on the first principles for sensitive conservation.*" or similar**
- **Consequently, delete the final sentence in paragraph 5.18**
- **Revise paragraph 5.22 to reflect current position in line with suggested modifications about the farmsteads guidance and paragraphs 5.17 and 5.18 by adding a reference to the published guidance and add at the end the words**

“are essential reading in delivering appropriate development and protecting our historic rural landscape.” or similar

- **Consequential amendment needed to reference to the farmsteads guidance on page 31 of the Plan**

Policy D2 Design of New Development

The supporting text refers to Building for Life 12. This is an industry standard that has been endorsed by the Government. The Plan has taken some of the ideas and design criteria in the Building for Life 12 standard and incorporated them into Policy D2. I consider this to be an appropriate approach.

The policy refers to “new development in Yoxall”. Given that the village and the Parish are both called Yoxall, I consider that whilst there might be some overlap with Policy D1, the policy is meant to apply to all new development in the Parish rather than Yoxall village. If this is the case then the words “in Yoxall” should be deleted from the policy for the avoidance of any doubt. A further amendment will then be the deletion of the word “urban’ from criterion 15 which reads rather oddly anyway given the nature of the village.

Whilst the policy is long with 16 criteria, all of them seek to secure the high quality design sought by one of the core planning principles in the NPPF.

The LP 2006 also emphasises the importance of achieving a high quality built environment and supports the production of guides so that development can reflect the special characteristics of the area. The use of the Village Design Statement and Character Appraisal appended to the Plan reflect that stance. LP 2006 Policy BE1 supports high quality design and a positive response to the context of the site with nine criteria to consider. Policy D2 generally conforms to this LP 2006 policy, but updates it and emphasises those factors important locally. LP 2006 Policy H6 requires a Design Statement to be submitted.

However, the policy is a little inflexible in places and may be unduly onerous adversely affecting the viability and deliverability of development. In particular it requires new connections (criterion 2), housing suitable for older people (criterion 5) and materials that match used in historic buildings or surfaces (criterion 15). The need for flexibility is rightly recognised in the Plan itself in paragraph 5.26. Therefore these criteria should be modified to better reflect national policy and advice and to help achieve sustainable development.

The policy itself requires a design and access statement or equivalent. Yet the supporting text at paragraph 5.27 only refers to a design and access statement. In the interests of consistency, the text should be amended to reflect the greater flexibility of the policy which would take precedence anyway.

In addition the policy applies to all new development and it may be that not all criteria are relevant for development of a small domestic extension for example or an advertisement. Nevertheless design is clearly of paramount concern to the community and given that the policy requires at the very least a statement of how the matters set out in policy have been considered, there is an opportunity for applicants to demonstrate successfully why certain criteria are not relevant or appropriate to their proposal and therefore sufficient flexibility exists in the policy.

In order to meet the basic conditions all of the following modifications are recommended:

- **Delete the words “in Yoxall” from the first sentence of the policy**
- **Delete the word “urban’ from criterion 1**
- **Add “*and taking any opportunities for*” after “...and” and before “...creating new ones” in criterion 2**
- **Add “*as appropriate*” at the end of “...including housing suitable for older persons” in criterion 5**
- **Reword criterion 15 to read “*use materials appropriate to the development’s context*”**
- **Amend paragraph 5.27 so it reflects the requirements of the policy by adding “*or otherwise in writing*” after “...Design and Access Statement”**

Policy T1 Traffic Assessments

This policy seeks to ensure that the traffic effects of new development are considered and do not exacerbate existing traffic issues that have been identified as problematic. These include high traffic figures on the A515 and the physical constraints of the A515 as it passes through Yoxall village and junctions.

The policy requires a traffic assessment to be submitted for developments of more than three dwellings or 100 square metres of non-residential floor space “in or in the vicinity of existing known traffic hazards”. Two questions arise from this: why the thresholds in the policy and how do we know where or what the hazards are?

On the first question, there is no explanation or justification for the thresholds in the Plan. Yet it is clear that the policy tries to ensure that new development should not in itself cause or add to the existing identified problems. The NPPF indicates all developments that generate significant amounts of movement should be supported by

either a transport statement or a transport assessment.³⁷ Both of these terms are defined in the NPPF's glossary.

Based on local circumstances and the evidence presented, it is appropriate for the policy to remain, but the wording should be revised to better reflect the stance of the NPPF, include all development that might affect the situation and also provide details of measures that will be undertaken to deal with any impacts rather than just a description of its impacts as the policy currently requires. In addition paragraph 5.35 seeks improved connectivity as part of this policy.

On the latter question, Illustration 5b on page 26 of the Plan identifies the location of traffic hazards, but the scale of the figure is not readable easily at A4 size. In any case the locations may change over the lifetime of the Plan. Therefore in order to provide a more practical framework, the illustration should be made larger and remain as part of the supporting, informative text rather than be referred to in the policy.

Consequential changes will need to be made to the supporting text and title of the policy.

The following modifications are therefore recommended:

- **Reword the policy as follows:**

“Development proposals in Yoxall village that would generate a significant amount of movement or would potentially affect a known and evidenced traffic hazard must be supported by a Transport Statement or Assessment as appropriate. The Statement or Assessment will set out details of the transport issues relating to the development including the measures to be taken to deal with the anticipated transport impacts of the scheme and take any opportunities as appropriate for improving the pedestrian and cycle connectivity.”

- **Include Illustration 5b at a much larger and readable size**
- **Change the words “Traffic Assessment” in paragraphs 5.34 and 5.35 to “*transport assessment or statement*” to align with the reworded policy**
- **Undertake consequential amendments to the supporting text in paragraphs 5.29 to 5.35 inclusive as necessary**
- **Retitle policy “*Transport Considerations*” or similar**

³⁷ National Planning Policy Framework (2012) para 32

Policy RE1 Flood Risk

Policy RE1 requires all planning applications in Yoxall to be accompanied by a flood risk statement. The supporting text explains that the River Swarbourn is close to the village of Yoxall and Illustration 5a on page 20 of the Plan helpfully shows the river and its flood zones. It is clear from the Plan that this is something that the community is very concerned about and that there is some local evidence that indicates actual events have exceeded more widely available data.

There is little doubt that consideration of flood risk will proactively help to meet one of the challenges of climate change. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.³⁸ It advocates a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property.³⁹ The NPPF sets out the circumstances in which a site-specific flood risk assessment will be required.⁴⁰ PPG advises that the general approach and requirements for site-specific flood risk assessments should be applied to developments in areas at risk from flooding.

Whilst usually I would consider that policies of this nature should align fully with the prescriptive requirements of national policy, I note that the Environment Agency has supported this policy. Therefore whilst changes are recommended to bring the policy more in line with national policy, I have also recognised local circumstances.

Although sustainable urban drainage systems (SuDs) are encouraged in the supporting text, they are not specifically mentioned in the policy. A Written Ministerial Statement (WMS)⁴¹ advises that from 6 April 2015, policy and decisions on major development should ensure that SuDs are put in place where appropriate. The wording in the Plan is compatible with the WMS, but would be strengthened and take more account of national policy and advice if this was included in the policy itself.

The following modifications are therefore recommended:

- **Reword Policy RE1 as follows:**

***“Development should not increase flood risk. Planning applications for development within the Plan area must be accompanied by a site-specific flood risk assessment in line with the requirements of national policy and advice, but may also be required on a site by site basis based on locally available evidence. All proposals must demonstrate that flood risk will not be increased elsewhere and that the proposed development is appropriately flood resilient and resistant.*”**

³⁸ National Planning Policy Framework (2012) para 100

³⁹ *Ibid*

⁴⁰ *Ibid para 103*

⁴¹ Written Ministerial Statement 18 December 2014

Information accompanying the application should demonstrate how any mitigation measures will be satisfactorily integrated into the design and layout of the development.

The use of sustainable urban drainage systems and permeable surfaces will be encouraged where appropriate.”

Policy RE2 Green Infrastructure

This policy is aimed at enhancing the open space network allowing new uses to come forward on these areas where there is community benefit, improving access, protecting and enhancing biodiversity, retaining and encouraging native planting and lastly referring to National Forest guidelines for planting. The supporting text adds further explanation adding that a significant part of the Parish falls within the National Forest.

The policy takes account of national policy and advice and is reflective of the development plan and will help to achieve sustainable development. It therefore meets the basic conditions.

I note that Natural England particularly commend the Parish on this policy in their representation.

There are two typographical errors that are easily corrected and these are the **only modifications recommended:**

- **“he” should read “the” in the penultimate paragraph of the policy**
- **the Strategic Aim referred to in paragraph 5.45 should be number “7” rather than number 3**

Policy CF1 Improvement of Public Car Parking Facilities

This is a short policy that reflects feedback from the community during the engagement undertaken on the Plan. It puts down a marker that public car parking facilities are sought near to the village shops, parish hall and primary school. ESBC has suggested a sentence is added to the end of the policy that reads “with safe and direct pedestrian access”. This would accord with the basic conditions as it is appropriate to improve the quality of car parking in the village to make it convenient, safe and secure and this provision will help to support a prosperous rural economy.

The following modification is therefore recommended:

- Add at the end of the policy *“with safe and direct pedestrian and, where appropriate, cycle access to these village amenities”*.

Policy E1 Supporting Local Employment

Policy E1 supports the expansion of existing businesses and the development of new enterprises subject to three criteria.

The first criterion relates to the effect of any such proposal on amenity and traffic grounds and is clearly worded.

The second relates to the impact on the natural and built environment and because of its wording it is very open-ended and it would be difficult for an applicant to know how to meet this criterion. It therefore does not accord with the basic conditions as it does not provide the practical framework sought by the NPPF. Impacts arising from the functional and operational sides of any proposal are covered in the first criterion. Therefore I consider that the second criterion is directed at the effects arising from its context in terms of scale and impact on the rural and historic built and landscape character of the Parish.

The third encourages the re-use of vacant or historic buildings as part of the development. My reading of this is that if any historic buildings exist on a particular site then the opportunity to re-use them as part of the proposal should be taken.

A second element of the policy requires a Connectivity Statement that sets out how the development will help achieve fibre optic connections to be submitted. The supporting text has identified how important internet connectivity is and the wording of this element of the policy is flexible enough to ensure this issue is considered and opportunities are taken where appropriate. It would however be helpful if a definition or some further information was included in the supporting text as to the Connectivity Statement.

The LP 2006 commits to improving the prosperity of the Borough and job opportunities. In particular LP 2006 Policies CSP4 seek urban and rural regeneration and Policy BE15 deals with the conversion of rural buildings. Policy E1 is in general conformity with these development plan policies.

In order to meet the basic conditions, the following modifications are suggested:

- Reword criterion b) as follows:

“it would have an acceptable impact on the character and scale of the village and its rural hinterland and landscape; and,”

- **Undertake any consequential amendments as necessary**
- **Add a short section outlining what a Connectivity Statement is and what it should consist of in the supporting text**

Appendices

Appendix A contains a copy of the Village Design Statement. This is useful and integral to the Plan, but the copying appears to have cropped off some of the detail on some pages. This should be remedied in the next version of the Plan going forward.

I have already suggested that Appendix D is superfluous to the content of the Plan and it would in my view be preferable to delete it, but this is not essential to meet the basic conditions and so is a matter for the Parish Council.

- **Ensure that the Village Design Statement in Appendix A has been reproduced in full**
- **Consider deleting Appendix D in its entirety (with section 4 of the Plan if that section is moved here)**

9.0 Conclusions and Recommendations

I am satisfied that the Yoxall Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore delighted to recommend to East Staffordshire Borough Council that, subject to the modifications proposed in this report, the Yoxall Neighbourhood Development Plan should proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Yoxall Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Yoxall Neighbourhood Plan area as approved by East Staffordshire Borough Council on 16 May 2013.

Ann Skippers
Ann Skippers Planning
5 May 2015

Appendix List of Documents

Neighbourhood Development Plan 2031 submission version

Yoxall NDP 2031 Basic Conditions Statement dated February 2015

Yoxall NDP Consultation Statement r1 dated February 2015 and (separate) Appendix 4.1

ESBC Screening Opinion on SEA and Habitat Regulations Assessment dated November 2014

East Staffordshire Local Plan 2006

East Staffordshire Local Plan 2012 – 2031 Submission version