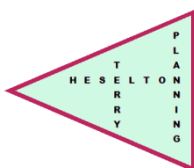


# **Draft Wingerworth Neighbourhood Plan (Submission Version)**

## **Report of the Independent Examination**

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**Independent Examiner**



**Terry Heselton Planning**

**March 2018**



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## **Summary**

I have examined the Wingerworth Neighbourhood Plan as submitted to North East Derbyshire District Council by Wingerworth Parish Council. The examination has been undertaken by written representations.

I conclude that the Neighbourhood Plan meets all of the statutory requirements, including those set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990. However a number of modifications are required to ensure that the Plan meets the four 'Basic Conditions', as defined in Paragraph 8(2) of the Schedule.

Subject to making the modifications set out in my report I recommend that the Wingerworth Neighbourhood Plan proceed to referendum, and that the voting area corresponds with the Wingerworth Neighbourhood Area as designated by North East Derbyshire District Council on 19 March 2015.

## 1.0 Introduction

- 1.1 I have been appointed by North East Derbyshire District Council, with the consent of Wingerworth Parish Council, to examine the Wingerworth Neighbourhood Development Plan and report my findings as an Independent Examiner.
- 1.2 The Wingerworth Neighbourhood Plan (referred to as ‘the Neighbourhood Plan’ or ‘the Plan’) has been produced by Wingerworth Parish Council under the provisions of the Localism Act 2011, which introduced the means for local communities to produce planning policies for their local areas. Wingerworth Parish Council is a qualifying body for leading the preparation of a neighbourhood plan<sup>1</sup>.
- 1.3 The Plan covers the entire rural Parish of Wingerworth situated 3 miles south of Chesterfield at the southern edge of the North East Derbyshire Green Belt. The main settlement Wingerworth is primarily a dormitory village for Chesterfield and other Derbyshire/Nottinghamshire/South Yorkshire towns.
- 1.4 The A61 passes through the eastern part of the Parish separating the main body of Wingerworth village from an area of mixed development comprising residential development, the former Avenue Coking Works industrial site, and some modern offices, including North East Derbyshire District Council Offices.
- 1.5 Wingerworth village contains a mixture of older housing and modern estate developments. In addition to local schools, a church, library and a medical centre/pharmacy it supports three public houses, two local shopping centres catering for day to day needs, and several small businesses. There are also a number of significant open spaces, including several ponds some of which were previously associated with iron smelting and milling.
- 1.6 The Plan focuses on protecting and enhancing the local environment, safeguarding community services, and supporting the local economy while managing proposals for new development in a way that is beneficial to the local community.
- 1.7 My report provides a recommendation as to whether or not the Neighbourhood Plan should proceed to referendum. Were it to go to referendum and achieve more than 50% of votes in favour, then the Neighbourhood Plan would be *made* by North East Derbyshire District Council. The Plan would then be used to determine planning applications and guide planning decisions in the Wingerworth Neighbourhood Area.

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<sup>1</sup> Section 38C of the Planning and Compulsory Purchase Act 2004 and Section 61F of the Town and County Planning Act 1990.

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## 2.0 Scope and Purpose of the Independent Examination

- 2.1 The independent examination of neighbourhood plans is intended to ensure that neighbourhood plans meet four 'Basic Conditions'<sup>2</sup>, together with a number of legal requirements. Neighbourhood plan examinations are narrower in scope than Local Plan examinations and do not consider whether the plan is 'sound'.
- 2.2 A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State', it is appropriate to 'make' the plan,
  - the plan contributes to the achievement of sustainable development,
  - it is in general conformity with the strategic policies of the development plan for the area of the authority (or any part of that area), and
  - it does not breach, and is otherwise compatible with EU obligations
- 2.3 In addition to reviewing the Submission Draft of the Neighbourhood Plan I have considered a number of background documents which are listed in Appendix 1, together with representations submitted by or on behalf of thirteen organisations, as part of the examination.
- 2.4 The general rule is that examination of the issues is undertaken through consideration of written representations, unless the examiner considers that a public hearing is necessary to ensure adequate examination of an issue (or issues) or to ensure that a person has a fair chance to put a case.
- 2.5 In reviewing the Neighbourhood Plan and the accompanying background documents and submitted representations, I have not identified any issues which require a public hearing to be held. I am also of the opinion that all parties have had the opportunity to register their views and put their case forward. I have therefore undertaken the examination through consideration of written representations, supported by an unaccompanied site visit of the Neighbourhood Plan Area.
- 2.6 In undertaking the examination I am also required to check whether:
- the Neighbourhood Plan policies relate to the development and use of land for the designated neighbourhood area<sup>3</sup>;
  - the Neighbourhood Plan meets the requirement to specify the period for which it is to have effect, not to include provision relating to 'excluded development', and not to relate to more than one neighbourhood area<sup>4</sup>,

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<sup>2</sup> Set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990

<sup>3</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004 as amended

<sup>4</sup> Section 38B (1) Planning and Compulsory Purchase Act 2004 as amended

- the Neighbourhood Plan has been prepared for an area that has been properly designated<sup>5</sup> and has been developed and submitted for examination by a qualifying body<sup>6</sup>, and
- adequate arrangements for notice and publicity have been made in connection with the preparation of the Neighbourhood Plan<sup>7</sup>.

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

- that the Neighbourhood Plan is submitted to referendum, on the basis that it meets the 'Basic Conditions' and other legal requirements; or
- that modifications (as recommended in the report) are made to the draft Neighbourhood Plan and that the draft Neighbourhood Plan as modified is submitted to referendum; or
- that the Neighbourhood Plan does not proceed to referendum, on the basis that it does not meet the 'Basic Conditions' and other relevant legal requirements<sup>8</sup>.

2.8 Modifications may only be recommended to ensure that the Neighbourhood Plan meets the 'Basic Conditions', that it is compatible with Convention Rights, or for the purpose of correcting errors.<sup>9</sup>

2.9 If recommending that the Neighbourhood Plan should proceed to referendum, I am required to then consider whether or not the Referendum Area should extend beyond the Wingerworth Neighbourhood Area, and if so what the extended area should be<sup>10</sup>.

2.10 I make my recommendations in this respect in the final section of this report.

### **3.0 Representations**

3.1 Responses were received to the Regulation 16 Publicity from or on behalf of thirteen organisations, namely; Anwyll Land, the Coal Authority, Derbyshire County Council, the Environment Agency, Gladman Developments Ltd, Highways England, Historic England, the National Federation of Gypsy Liaison Groups, Natural England, North East Derbyshire District Council, Rippon Homes, RPS, and Severn Trent Water Ltd.

### **3.2 Derbyshire County Council and North East Derbyshire District**

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<sup>5</sup> Section 61G Town and Country Planning Act 1990 as amended

<sup>6</sup> Section 38C Planning and Compulsory Purchase Act 2004 and Section 61F of the Town and Country Planning Act 1990.

<sup>7</sup> Section 38A (8) Planning and Compulsory Purchase Act 2004 as applied by the Neighbourhood Planning (General) Regulations 2012

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

<sup>9</sup> Paragraph 10(3) Schedule 4B of the Town and Country Planning Act 1990 as amended

<sup>10</sup> Paragraph 10(5) Schedule 4B of the Town and Country Planning Act 1990 as amended

- Council** support the general approach to housing in the Plan although **North East Derbyshire District Council** has concerns about the practicability of certain policies and make a number of suggestions to improve the clarity of others. The County Council suggest two additional policies to address environmental concerns.
- 3.3 In contrast **Anwyl Land, Gladman Developments Ltd, RPS, and Rippon Homes** consider that the housing growth and development limit policies in the Plan do not satisfy the Basic Conditions because they are overly restrictive and based on an as yet undetermined level and spatial distribution of new housing. Other policies which are considered to conflict with national and/or local strategic policy or to be based on inadequate evidence or justification include Policy W5 (Housing Mix), Policy W6 (Affordable Housing) and Policy W18 (Important Views and Vistas).
- 3.4 **RPS** also suggest that there has been a lack of consultation with the business and development sector during the preparation of the Plan and that the SEA/HRA screening reports incorrectly conclude that the Plan is unlikely to have significant environmental effects.
- 3.5 The **Coal Authority** confirms that the Neighbourhood Area lies within a defined coalfield where there are recorded risks from past coal mining activity. No concerns are raised as no allocations for development are proposed in the Plan
- 3.6 **Highways England** support policies in the Plan (specifically Policy W21 and Policy W24) which help to mitigate the number of vehicular trips on the strategic highways network. Attention is also drawn to the potential impact of proposals for strategic development at Wingerworth on Junction 29 of the M1 motorway, although it is acknowledged that these are being brought forward through the emerging Local Plan.
- 3.7 **The National Federation of Gypsy Liaison Groups** consider the Plan should address identified need for Gypsy and Traveller sites in line with national planning policy.
- 3.8 **The Coal Authority, the Environment Agency, Historic England, Natural England, and Severn Trent Water** had no substantive comments to make
- 3.9 Representations concerning the adequacy of publicity and consultation, and representations concerning the SEA/HRA screening reports are considered in Sections 4.0 and 5.0 of my report respectively. Detailed points made on specific issues and policies in the Plan by those submitting representations are considered in Section 6.0.



## **4.0 Compliance with Legal Requirements**

### **(a) The Qualifying Body**

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

### **(b) The Plan Area**

- 4.2 The Neighbourhood Plan relates to the Neighbourhood Area that was designated by North East Derbyshire District Council (NEDDC) on 19 March 2015, following an application by Wingerworth Parish Council submitted on 13 January 2015. The Wingerworth Neighbourhood Area is coterminous with the area covered by Wingerworth Parish Council.
- 4.3 The Neighbourhood Area application and map of the proposed Neighbourhood Area were publicised on the District Council's website and 'Deposit' copies were made available for inspection at District Council offices over a six week period. No responses were received.
- 4.4 I therefore confirm that the requirements for preparing a Neighbourhood Development Plan under section 61G of the Town and Country Planning Act 1990 (as amended) and Regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012 have been complied with.
- 4.5 I am also satisfied that the Plan does not relate to more than one neighbourhood area and there are no other neighbourhood development plans for the designated Neighbourhood Area in accordance with statutory requirements.

### **(c) Policies for the Development and Use of Land**

- 4.6 The Neighbourhood Plan sets out policies in relation to the development and use of land for the defined Neighbourhood Area, which accords with the definition of neighbourhood plans in Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended).

### **(d) Time Period**

- 4.7 A neighbourhood plan must specify the period during which it is to have effect. The Neighbourhood Plan clearly states on its title page that it covers the period 2016 to 2033 and therefore satisfies this requirement.

**(e) Excluded Development**

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

**(f) Publicity and Consultation**

- 4.9 Public consultation on the production of land use plans, including neighbourhood plans, is a legislative requirement. Building effective community engagement into the plan-making process encourages public participation and raises awareness and understanding of the plan's scope and limitations.
- 4.10 I have considered the steps taken to engage with the local community and other stakeholders during preparation of the Neighbourhood Plan with particular regard to content, openness and transparency, as well as the extent to which the Regulatory requirements have been satisfied.
- 4.11 The stages of consultation and engagement, as identified in the Consultation Statement accompanying the 'Submitted Plan', can be summarised as :-
- Initial Publicity/Drop-In Event (June 2015)
  - Consultation on Draft Plan/ Drop-In Event (February 2016)
  - Pre-submission (Regulation 14) consultation on the Draft Plan (August - September 2016)

Initial Publicity/ First Drop-In Event

- 4.12 Preparation of the Neighbourhood Plan began with a staffed exhibition/drop-in event on 29 June 2015 in the Parish Hall. This was intended to raise awareness about the Plan and to obtain suggestions for issues and topics to be covered.
- 4.13 The event was publicised on the Parish Council website and through the Parish newsletter (Wings Magazine) which is distributed to every household in the parish. Posters were also displayed around the Parish including the Parish Hall and Parish Council notice boards.
- 4.14 Over 80 people attended the event and the comments and suggestions made are summarised in the Consultation Statement.

Consultation on Draft Plan/ Second Drop-In Event

- 4.15 In order to help inform the community about progress on the preparation of the Plan and to gain some initial feedback on draft policies and proposals a second drop-in event was held between 16.0 and 20.0 hrs on 17 February 2016. This event followed the format of the previous event and was advertised in the same way. There were over 40 attendees.
- 4.16 A copy of the emerging Neighbourhood Plan was also placed on the

Parish Council website for comment.

Pre-submission (Regulation 14) Consultation

- 4.17 The draft Plan was published for consultation between 7 August and 19 September 2016.
- 4.18 The consultation was publicised through poster displays and notices on Parish Council notice boards, and through the Parish Council website.
- 4.19 Copies of the Plan were also available for inspection at the Parish Office. Details of the consultation bodies and other stakeholders who were specifically consulted on the draft Plan by letter and/or email are provided in the Consultation Statement.
- 4.20 Specific evidence is provided in the Consultation Statement to demonstrate how the Plan and the opportunity to comment on it has been publicised. There is also a well presented summary of the responses to the Draft Plan indicating how the Plan has been amended in response to the comments received.
- 4.21 It has been suggested by RPS as part of their response to the Regulation 16 Publicity that consultation on the Draft Plan was inadequate because of a lack of engagement with the business and development sector.
- 4.22 I have also been forwarded a legal opinion prepared on behalf of a local house builder (Rippon Homes) who feel their interests have been prejudiced through inadequate consultation during the preparation of the Plan, particularly at Regulation 14 stage.

Comments

- 4.23 While it is outside my remit to consider the merits of a potential legal challenge it is part of my role to independently consider whether relevant statutory, regulatory and national planning policy requirements have been satisfied, including the requirements for pre-submission consultation and publicity.
- 4.24 Although I agree there is no evidence of specific engagement with the development/house building sector I note that the list of organisations specifically consulted on the Draft Plan includes Derbyshire, Nottinghamshire and Leicestershire Chamber of Commerce and the Country Land and Business Association who represent the interests of the business community and landowners.
- 4.25 I am also mindful of the fact that there is no prescription as to which organisations, other than Regulation 14 consultation bodies, should be consulted during the preparation of the Plan.
- 4.26 RPS suggest that a policy direction is provided by paragraph 155 of the NPPF which states that 'early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential'.
- 4.27 However paragraph 155 contributes toward NPPF guidance on the preparation of Local Plans. As Local Plans are specifically required to address identified development needs it is logical to expect early

engagement with the development industry.

- 4.28 In comparison neighbourhood plans are not obliged to include proposals for new housing and other forms of development<sup>11</sup>. And as referred to previously there is no prescription on the range of topics to be covered. Since the Wingerworth Neighbourhood Plan does not allocate sites for development, but relies instead on the emerging Local Plan to address future housing/development needs, I do not therefore consider that early and/or targeted consultation with developers and house builders would necessarily have been appropriate.
- 4.29 Neither is it realistic to expect Parish Councils to identify and contact every business, landowner and prospective developer who may have a potential interest in the Plan, however desirable engagement with a broad spectrum of interests may be.
- 4.30 As an established Town Planning Practice I assume RPS are acting for one or more landowners/developers, or have submitted comments (inter alia) with a view to safeguarding potential landowner/developer interests.
- 4.31 While I appreciate that the availability of information on Parish notice boards and through local newsletters favours local organisations, as it is relatively easy to identify where neighbourhood plans are being prepared and to monitor progress through Local Planning Authority and Parish Council websites I do not consider that RPS or their clients have been placed at a disadvantage.
- 4.32 It seems to me that the provision of a dedicated Neighbourhood Plan web page on the Parish Council website to publicise the Plan, is an appropriate and effective way of bringing it 'to the attention of people who live, work or carry on business in the neighbourhood area', including those who may not be based locally. Stakeholders and other interested parties may also identify where neighbourhood plans (including Wingerworth) are being prepared within the NEDDC administrative area, and monitor the progress of those plans on the NEDDC website.

### Conclusions

- 4.33 The Parish Council has taken positive steps to inform and engage with the local community and other stakeholders during the preparation of the Plan using a variety of media to publicise events and keep stakeholders informed of progress, including paper and electronic versions of the Parish newsletter and a dedicated page on its website.
- 4.34 Delegating the preparation of the Plan to a steering group made up of a mixture of Parish Councillors and volunteers from the local community has also ensured that the views of a wide cross section of the community have been taken into account.
- 4.35 I am satisfied that that the arrangements for the Regulation 14 Consultation including pro-actively seeking views of relevant consultation bodies meet the regulatory requirements. The Consultation Statement

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<sup>11</sup> Planning Practice Guidance para 040 Ref ID: 41-040-20160211

also addresses the requirement to summarise and explain how the various issues raised by interested parties at various stages of Plan preparation have been taken into account.

- 4.36 Taking all the above factors into account there is enough evidence to show that the consultation process as a whole was appropriate to the size and nature of the local community and that reasonable steps were taken to publicise and invite comments on the Plan.

#### Regulation 16 Publicity

- 4.37 The Draft Neighbourhood Plan, as amended in response to the consultation, was subsequently submitted to North East Derbyshire District Council in June 2017 together with a number of appendices, a Consultation Statement, and a Basic Conditions statement explaining how the proposed Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990. The submitted Plan incorporates a map identifying the area covered by the Neighbourhood Plan.
- 4.38 North East Derbyshire District Council published details of the Plan on their website, notified interested parties and 'consultation bodies' of its receipt, and provided details as to how and by when representations could be submitted. Copies of the submitted documents were also made available for inspection at the Council's Offices in Wingerworth, at Wingerworth Library and Wingerworth Church Centre, and on-line on the Council's website.
- 4.39 The formal publicity stage for submitting representations covered a six week period between Monday 4 September and Monday 16 October 2017.

#### Conclusions

- 4.40 In the light of the foregoing I am satisfied that the Regulation 16 requirements to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area have been met.

### **5.0 Basic Conditions**

- 5.1 This section of my report considers whether the Neighbourhood Plan taken as a whole has regard to national policies and advice contained in guidance issued by the Secretary of State, whether the plan contributes to the achievement of sustainable development, and whether it is in general conformity with local strategic policy. It also addresses EU obligations. Each of the plan policies is considered in turn in the section of my report that follows this.

### **(a) National Planning Guidance**

- 5.2 National Planning Guidance is set out principally in the National Planning Policy Framework (NPPF) which was published in 2012. At the heart of the NPPF is a presumption in favour of sustainable development<sup>12</sup> which when applied to neighbourhood planning means that neighbourhoods should develop plans which support the strategic development needs set out in Local Plans, and which plan positively to support and shape local development that is outside the strategic elements of the Local Plan.<sup>13</sup>
- 5.3 The NPPF incorporates 12 Core Principles<sup>14</sup> which underpin both plan-making and decision-taking. These are summarised in paragraph 17 of the NPPF and elaborated in the remainder of the NPPF through individual policy topics such as building a strong economy, delivering a wide choice of high quality homes, requiring good design, promoting sustainable transport, and conserving the historic environment.
- 5.4 Included in the 12 Core Principles is a requirement to produce neighbourhood plans which set out a positive vision for the future of the area and which provide a practical framework within which decisions on planning applications can be made.
- 5.5 The NPPF also requires neighbourhood plans to be ‘aligned with the strategic needs and priorities of the wider local area, and to be in general conformity with the strategic policies of the Local Plan (NPPF paragraph 184). To facilitate this, Local Planning Authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans (and neighbourhood development orders) should not promote less development than that set out in the Local Plan or undermine its strategic policies.
- 5.6 It goes on (paragraph 185) that once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict.
- 5.7 More detailed guidance and advice, expanding on the general policies in the NPPF has been available since March 2014 as Planning Practice Guidance. This includes specific guidance as to ‘What evidence is needed to support a neighbourhood plan?’<sup>15</sup>, and ‘How policies should be drafted’<sup>16</sup>, that is “*a policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining*

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<sup>12</sup> National Planning Policy Framework (2012) para 14

<sup>13</sup> National Planning Policy Framework (2012) para 16

<sup>14</sup> National Planning Policy Framework (2012) para 17

<sup>15</sup> Planning Practice Guidance para 040 Ref ID: 41-040-20140306

<sup>16</sup> Planning Practice Guidance para 041 Ref ID: 41-041-20140306

*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”.*

- 5.8 I have had regard to these principles in carrying out the examination, since the manner in which policies are drafted and whether or not they are supported by appropriate evidence is clearly fundamental to determining whether or not individual policies and a plan as a whole satisfies the Basic Conditions.
- 5.9 Less straightforward to determine is whether a policy is distinct, and whether it reflects local circumstances. For example while it is clear that policies in the Wingerworth Neighbourhood Plan are driven by local circumstances and community preferences, to a certain extent some could apply to other, if not all, locations. I have taken the view that the fact that a local community has chosen to include a particular policy, reflects its awareness that the particular issue is of special importance to the locality, and this does not therefore prevent that policy from satisfying the Basic Conditions.
- 5.10 Taken as a whole I conclude that the Neighbourhood Plan has regard to the policies and principles embedded in the NPPF and Planning Practice Guidance. In those instances where individual policies and/or supporting text have been found to be inconsistent with national planning policy I have made specific recommendations to correct this later in the report.

#### **(b) Sustainable Development**

- 5.11 In carrying out the examination I am also required to consider whether the Plan would contribute to the achievement of sustainable development, as described in the NPPF.
- 5.12 There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of interdependent roles, namely:
- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and co-ordinating development requirements, including the provision of infrastructure;
  - **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
  - **an environmental role** – contributing to protecting and enhancing

our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

- 5.13 Although the Neighbourhood Plan does not make specific provision for new development, for example through site allocations, it includes policies to manage development subject to environmental safeguards. Other policies aim to protect green space and local heritage, safeguard biodiversity, secure employment opportunities, and retain and improve local facilities and amenities. These are key aspects of sustainable development, as set out in the NPPF, which states (paragraph 9) that *“Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life, including (but not limited to):*
- *making it easier for jobs to be created in cities, towns and villages;*
  - *moving from a net loss of bio-diversity to achieving net gains for nature;*
  - *replacing poor design with better design;*
  - *improving the conditions in which people live, work, travel and take leisure; and*
  - *widening the choice of high quality homes”.*
- 5.14 Subject to the modifications recommended later in my report I am satisfied that the Neighbourhood Plan is capable of contributing to the achievement of sustainable development.

### **(c) Strategic Local Policy**

- 5.15 Statutory weight is given to neighbourhood development plans that are in general conformity with the strategic policies of the development plan for the local area. Neighbourhood plans are also required to plan positively to support local strategic policies<sup>17</sup>. This ensures neighbourhood plans cannot undermine the overall planning and development strategy for the local area set out in the development plan.
- 5.16 The current development plan comprises:
- Saved policies in the North East Derbyshire Local Plan 2001 – 2011 (adopted November 2005),
  - Saved policies in the Derby and Derbyshire Minerals Local Plan (adopted April 2000, and Amended November 2002), and
  - Saved policies in the Derby and Derbyshire Waste Local Plan (adopted March 2005).
- 5.17 The Minerals and Waste Local Plans would appear to have no direct relevance to the Wingerworth Neighbourhood Area.

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<sup>17</sup> National Planning Policy Framework (2012) para 184



5.18 Policies in the North East Derbyshire Local Plan (NEDLP) were initially saved on adoption for a three year period under the provisions of the Planning and Compulsory Purchase Act 2004 (as amended). A number of policies that remained relevant and compliant with (at the time) national and regional policies were then extended beyond that date by Direction of the Secretary of State on the 26 November 2008. These remain in force until replaced by new development plan policies and are still part of the 'development plan' for the area.

5.19 Local strategic policies relevant to the Neighbourhood area, (including hybrid policies that perform a part development management and part strategic function, are :

- GS1 Sustainable Development
- GS2 Development in the Green Belt
- GS5 Settlement Development Limits
- GS6 New Development in the Countryside
- GS12 Access For All
- NE1 Landscape Character
- NE2 Special Landscape Areas
- NE3 Protecting and Managing Features of Importance to Wild Flora and Flora
- NE5 Other Sites of Importance for Nature Conservation
- E4 Mixed Use Site at the Former Avenue Coking Works, Wingerworth
- E7 Development in New and Existing Employment Areas
- E9 Employment Development in the Countryside
- H3 New Housing Outside Settlement Development |Limits
- H6 Affordable Housing Provision in the Main Settlements
- SH6 Retail Developments in Out of Centre Locations
- SH8 Loss of Local Facilities
- T5 Walking and Cycling
- T9 Car Parking Provision
- R1 Outdoor Recreation Standards
- R2 Formal Recreation Facilities
- R3 Urban Green Space
- CSU3 Protection of Existing Community Facilities

5.20 Although North East Derbyshire District Council is preparing a new Local Plan, which will replace a number of 'saved' NEDLP policies, this is at a relatively early stage of preparation and no weight can be attached to it.

5.21 In assessing whether the Neighbourhood Plan is in general conformity

with strategic policies contained in the Development Plan for the area I have therefore taken the 'saved' policies in the adopted Local Plan as the starting point. In so doing I have taken into account that in accordance with national planning policy less weight may now be attributed to these policies than formerly, and in any case that some policies are now out of date and superseded by national planning policy.

- 5.22 I am also mindful of the fact that although the Neighbourhood Plan is not being tested against policies in the emerging Local Plan the evidence informing the Local Plan, including the most up to date assessment of housing need, is relevant to whether or not the Neighbourhood Plan will contribute toward the achievement of sustainable development.<sup>18</sup>
- 5.23 A number of modifications are necessary for the Neighbourhood Plan to be in general conformity with the above strategic policies. These are set out in the *Comments on the Neighbourhood Plan* section of my report.

#### **(d) European Union Obligations**

- 5.24 Local Planning Authorities are legally responsible for deciding whether neighbourhood plan proposals are compatible with EU obligations, including obligations under the Strategic Environmental Assessment (SEA) Directive<sup>19</sup>.
- 5.25 In circumstances where a neighbourhood plan is likely to have significant environmental effects, for example where it includes proposals to allocate land for development, it may require an SEA to be undertaken as part of the preparation process in accordance with the SEA Directive and Environmental Assessment Regulations<sup>20</sup>. Draft neighbourhood plan proposals should therefore be screened to assess whether they are likely to have significant environmental effects<sup>21</sup>. Where significant environmental effects are identified plans should be accompanied by a full SEA report.
- 5.26 The screening assessment of policies contained in the Draft Plan which was carried out on behalf of the Parish Council concludes that the Neighbourhood Plan does not require a full SEA as no significant environmental effects are likely to occur as a result of the implementation of policies contained in the Plan.
- 5.27 A separate Habitats Regulation Assessment screening as to whether a Habitats Regulations Assessment (HRA)<sup>22</sup> was required under the Habitats Directive<sup>23</sup> was also carried out on behalf of the Parish Council.

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<sup>18</sup> Planning Practice Guidance para 009 Ref ID: 41-009-20160211

<sup>19</sup> European Directive 2001/42/EC

<sup>20</sup> Environmental Assessment of Plans and Programmes Regulations 2004

<sup>21</sup> Planning Practice Guidance para 027 Ref ID: 11-027-20150209

<sup>22</sup> in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

<sup>23</sup> European Directive 92/42/EEC

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Although there are no European designated sites within the boundaries of the Neighbourhood Area the screening report examined the impact of the Plan on sites located within 10km of the boundary. This concludes that given the nature of the designations and the scope of the Plan there are no likely significant adverse effects on European sites, and an appropriate assessment of European designated sites is therefore not required in order to progress the Plan further.

- 5.28 The Regulation 16 (a) notice published in connection with the submitted Plan confirms that NEDDC support the findings in the screening reports and have therefore determined that neither a full SEA nor HRA are necessary.
- 5.29 In response to the Regulation 16 Publicity RPS suggest the SEA screening report is flawed as it ignores the potential environmental effects of developing two sites identified in Policy W3 (Housing Growth). The reference in the policy to the fact that 'no further housing sites are identified in the Plan' is considered to demonstrate that the sites are intended to be allocated for development.
- 5.30 However while I agree that the wording of Policy W3 is misleading, (which I address in section 6.0 of my report) when considering the policy and its accompanying justification as a whole, it is clear that the Plan does not allocate land for development.
- 5.31 This conclusion is supported by the Coal Authority who state in their Regulation 16 comments that, although the Neighbourhood Area falls within the defined coalfield, as the Plan does not allocate sites for development they have no specific comments to make. Highways England also acknowledge in their comments that strategic allocations are being brought forward through the emerging Local Plan rather than the Neighbourhood Plan.
- 5.32 I also note that the three statutory consultation bodies (English Heritage, the Environment Agency and Natural England) who were consulted during the preparation of the screening reports agree with the conclusions in the reports and no concerns in relation to the screening process have been raised.
- 5.33 I am therefore satisfied that the screening reports undertaken in accordance with the Regulations, demonstrate that neither a full SEA nor HRA report are required.
- 5.34 Although an equalities impact assessment has not been undertaken the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics and on property rights. And no evidence has been put forward to suggest otherwise.
- 5.35 I conclude that Neighbourhood Plan does not breach, and is otherwise compatible with EU obligations and human rights requirements and therefore satisfies that 'Basic Condition'.

## 6.0 Comments on the Neighbourhood Plan

6.1 The Neighbourhood Plan is considered against the Basic Conditions in this section of my report, particularly whether individual policies and supporting text have regard to national policy, and whether they are in general conformity with local strategic policies. Where modifications are recommended, they are highlighted in **bold print**, with any proposed new wording in *italics*.

### (a) Development Strategy/Overall Approach

6.2 The Plan recognises that the emerging Local Plan will set the agenda for housing numbers and growth. It does not attempt to establish an appropriate level of future housing or employment growth or allocate specific sites for development. Instead it focuses on how proposals for new development will be managed, relying on existing permissions, future Local Plan allocations and future windfall proposals on sustainable sites to cater for future needs. Other housing policies are aimed at securing an appropriate mix of housing types and sizes in new development, including affordable housing.

6.3 The emphasis in the Plan is on protecting and enhancing community facilities, local heritage, green spaces and biodiversity; safeguarding the character of the area, resisting the loss of local employment opportunities; and promoting measures to improve road safety, protect public rights of way and ensure adequate car parking provision.

6.4 In considering whether the Plan's overall approach to accommodating future development needs satisfies the Basic Conditions I have taken into account a number of objections and other representations from the development sector.

6.5 The main issues raised are that the Plan is overly restrictive in its approach to future housing growth, it is insufficiently flexible to respond to changing circumstances and market conditions, it is based on an inadequate/untested level of housing need identified in the emerging Local Plan and it will as a result quickly become out of date.

#### Comments

6.6 Neighbourhood Plans are required to be prepared in conformity with the extant development plan for the area, in this case 'saved' policies in the NEDLP, and not to be tested against policies in an emerging Local Plan<sup>24</sup>. However while a number of 'saved' NEDLP policies continue to provide relevant strategic guidance those policies concerned with the spatial distribution of development are clearly out of time or have been overtaken by changing circumstances.

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<sup>24</sup> Planning Practice Guidance para 009 Ref ID: 41-009-20160211

- 6.7 In circumstances where neighbourhood plans are being prepared in advance of Local Plans and extant development plan policies are out of date, Planning Practice Guidance advocates a collaborative approach to ensure the production of complementary neighbourhood plans and Local Plans.<sup>25</sup>
- 6.8 The regard given in the Neighbourhood Plan to the emerging Local Plan is consistent with this guidance, and NEDDC confirm in their response to the Regulation 16 Publicity that the Plan accurately reflects identified housing need and the proposed distribution of new housing in the emerging Local Plan.
- 6.9 However while it is recognised that the housing requirement may change before adoption of the Local Plan there is no mechanism in the Plan to respond to this possibility. It is therefore questionable whether Policy W3 (Housing Growth), which precludes any additional allocations to those already identified (in the emerging Local plan), provides a practical basis for managing future housing growth, particularly since the policy wording is ambiguous on this point.
- 6.10 It seems to me that some of the concerns raised by the development sector in this respect could be overcome, and greater clarity could be achieved in Policy W3, by specifically acknowledging that the Plan is effectively leaving decisions regarding the scale and distribution of future development to the emerging Local Plan, at the same time removing those policy strands which duplicate emerging Local Plan proposals.
- 6.11 These issues are addressed in my recommended modifications to Policies W1, W2 and W3, which are intended to ensure that the Plan will not undermine the spatial growth strategy in the emerging Local Plan.
- 6.12 Policies in the Plan to create inclusive communities, support the local economy, and sustain local services and facilities, are otherwise consistent with 'saved' NEDLP policies and with Wingerworth's envisaged role in the emerging Local Plan as one of eleven Level 2 Settlements (Settlements with a good level of sustainability) which are expected to be the focus for future housing growth.

### **(b) Scope of the Plan/Omissions**

- 6.13 A number of organisations responding to the Regulation 16 Publicity have commented on the fact that the Plan does not cover issues such as renewable energy/ low carbon technology and light pollution (Derbyshire County Council) or address the need for gypsy and travellers sites (the National Federation of Gypsy Liaison Groups). In addition RPS suggest that the Plan should identify a number of 'reserve sites' in order to provide more flexibility in meeting future housing needs.

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<sup>25</sup> Planning Practice Guidance para 009 Ref ID: 41-009-21040306

Comments

- 6.14 While the Plan may be improved by incorporating some of these suggestions neighbourhood plans are not obliged to contain policies addressing all types of development<sup>26</sup> and there is no prescription in current guidance or legislation about the range of topics that should be covered, or the level of detail. It is also outside my remit to recommend the incorporation of additional policies and proposals or changes to introduce more ambitious targets or objectives, which in any case have not previously been subject to consultation during the preparation of the Plan.
- 6.15 The perceived omissions do not therefore affect the Plan's ability to satisfy the Basic Conditions and the Plan instead concentrates on addressing issues which have been identified as local priorities through consultation with the wider community.
- 6.16 No changes to the Plan are therefore recommended in response to the above representations, although my recommendation(s) in response to comments about the Plan's role in meeting future housing needs indirectly address the 'reserve sites' suggestion promoted by RPS.

**(c) Introductory Chapters**

- 6.17 The Introduction to the Plan explains the role of the community and the evidence gathered during the preparation of the Plan and describes the planning policy context within which it has been prepared.
- 6.18 This is followed by a chapter entitled Wingerworth Parish which briefly describes the history of the area and its demographic and spatial characteristics, highlighting key features and the range of services available locally.
- 6.19 The text (and the Plan as a whole) is supported by a number of photographs, Figures and maps which contribute toward the readability of the plan. There is also a map identifying the Parish boundary.

Comments

- 6.20 These introductory chapters are clearly written and informative. They provide the background to the Plan and help to develop a sense of place.
- 6.21 While it would have been helpful to include a commentary on the key issues emerging during preparation of the Plan and to explain how these have influenced the Plan's overall approach and the inclusion of specific policies, I acknowledge that this is not a prerequisite for satisfying the Basic Conditions.
- 6.22 Similarly, while it would have been more informative to identify specific sites or highlight particular issues by providing captions or titles with the

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<sup>26</sup> Planning Practice Guidance para 040 Ref ID: 41-040-20160211

various photographs in the Plan, the absence of this information does not prevent the Plan satisfying the Basic Conditions.

- 6.23 I therefore make no recommendations in respect of these considerations.
- 6.24 A number of minor changes are required however to future proof and to improve the clarity of the text in a number of places.
- 6.25 First I recommend that references to the remaining stages of the Plan preparation process in Section 1.1 (What happens Next) are updated in the final version of the Plan as some of the content will no longer be relevant. Similar considerations apply to the text of paragraph 5 in Section 1.2 (How the Plan Fits in to the Planning System) concerning the progress of the emerging Local Plan.
- 6.26 Second, a minor change is required to the title of Figure 1 which refers to Wingerworth Parish rather than Wingerworth Neighbourhood Area. While I appreciate that the boundaries are the same the Regulations specifically refer to the designation of a 'neighbourhood area' and require submitted plan proposals to be accompanied by a map identifying the area to which the plan relates.<sup>27</sup> A consequential change is required to the accompanying legend.
- 6.27 Third, the reference to 'highest quality and most sensitive landscapes' in paragraph 3 on page 7 should be qualified, as landscape quality is a relative term depending on whether specific landscapes are considered to be of national, regional or local quality. In the absence of any other information I suggest reference to North East Derbyshire would establish an appropriate context.
- 6.28 Fourth, the reference to the Avenue site in paragraph 5 on page 7 overlooks the fact that there is a longstanding NEDLP allocation on the site which is being carried forward as a strategic proposal in the emerging Local Plan. As drafted it is implied that the site is currently being developed which is not the case. For complete accuracy reference should also be made to the fact that the site is located in the eastern part of the Parish rather than to the east of the Parish.

### **Recommendation 01**

**In Figure 1 change references to 'Wingerworth Parish' to '*Wingerworth Neighbourhood Area*', and change the legend from 'Parish Boundary' to '*Neighbourhood Area Boundary*'.**

### **Recommendation 02**

**Update Section 1.1 (What happens Next) to reflect the previous procedural stages and the status of the Plan at the time the Plan is 'made'.**

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<sup>27</sup> Neighbourhood Planning (General) Regulations 2012, Sections 5 and 15

### **Recommendation 03**

**Update paragraph 5 of section 1.2 (How the Plan Fits in to the Planning System) to reflect the stage reached in the preparation of the Local Plan at the time the Plan is ‘made’.**

### **Recommendation 04**

**In paragraph 3 on page 7 insert ‘in *North East Derbyshire.*’ after ‘most sensitive landscapes’.**

### **Recommendation 05**

**Delete the first sentence In paragraph 5 on page 7 and the first part of the second sentence up to and including ‘transformed into’ and insert ‘*There is also a longstanding mixed use allocation in the eastern part of the Parish on the site of the former Avenue Coking Plant. This is identified as a strategic development site in the emerging Local Plan for*’.**

## **(d) Vision and Objectives**

- 6.29 The overarching vision of the Plan is for Wingerworth to be sustained as a semi-rural, vibrant, integrated and sustainable community within large areas of attractive open and green space’.
- 6.30 The vision is supported by eight aims which are intended to inform the development related policies which follow in the next section of the Plan. It is emphasised that the delivery of the Vision and Aims are dependent on the integration of future development in the Parish.

### Comments

- 6.31 The concise vision and core aims capture the concerns and key issues raised by the local community during the preparation of the Plan. They are relevant to the local area and with one exception are appropriate to land use planning.
- 6.32 A small number of changes are required to ensure that the Plan’s aims fully reflect national planning policy and Planning Practice Guidance, that the meaning is clear and unambiguous and that they relate to land use matters.
- 6.33 First, the reference to ‘Vision and Objectives’ in the Chapter heading and on the Plan’s Contents page contrasts with the reference to ‘aims’ in the text. In order to ensure a more consistent use of terminology I recommend changing all references to ‘aims’ in the Plan to ‘objectives’.
- 6.34 Second, Objective Five refers to meeting local housing needs whereas national planning policy makes it clear that provision for new housing



should be based on 'objectively assessed housing need' across the whole housing market rather than just local housing need. (NPPF paragraph 47 refers). Discrimination in favour of providing housing for local people only would also be at odds with the role of Wingerworth as a main settlement in saved Local Plan policies and as a Level 2 settlement (Settlements with a good level of sustainability) in the emerging Local Plan.

- 6.35 Third, Objective Seven is only tenuously related to land use planning, while Objective Eight is wholly concerned with influencing the democratic process rather than the development and use of land.
- 6.36 Fourth the use of italics in Objectives One and Two, which I assume is a typographical error, may create the impression that more weight should be afforded to these objectives although there is no reference to this in the text.

#### **Recommendation 06**

- a) Change all references to 'aims' in the Plan to '*objectives*'.
- b) Replace the italics in Objectives One and Two with normal typeface.
- c) In Objective Five substitute '*identified*' for 'local' after 'integrated into the wider community and meets', and insert '*including local housing needs*' after 'housing needs'.
- d) Delete Objective Eight.

#### **(e) Land Use Policies and Supporting Text**

- 6.37 The land use policies part of the Plan covers seven topics. These are; A Sustainable Wingerworth Parish, Housing Need, Community Facilities and Shops, Employment and Economic Growth, Built Heritage and Design, Natural Environment, and Getting Around.
- 6.38 Individual policies are accompanied by supporting text and justification, which precedes the policy in each case. For ease of reference policies are identified by a solid blue band above each policy heading.

#### Comments

- 6.39 The presentation of policies and the rationale behind each policy is clear and easy to follow, particularly where this is cross referenced to supporting evidence and the issues and community views arising from consultation on the emerging Plan.

#### **4.1 A Sustainable Wingerworth Parish**

- 6.40 **Policy W1 (Wingerworth Settlement Development Limit)** supports sustainable development proposals within the defined settlement limit

boundary and establishes a number of criteria to ensure that new development respects the character of the area, protects local amenity and safeguards trees and hedgerows, garden spaces, and other local features.

Comments

- 6.41 The policy reflects the general intention of national planning policy to promote designs which respond to and make a positive contribution to local character, and create visually attractive and safe environments. These are all key attributes of the economic, social and environmental dimensions of sustainable development.
- 6.42 The policy also generally conforms with principles established in the NEDLP to safeguard local character and the amenities of neighbouring occupiers (Policy GS5 Settlement Development Limits and Policy BE1 General Design Principles), and to ensure new development takes road safety and the needs of all highway users into account (Policy T2 Highway Access and the Impact of New Development).
- 6.43 In responding to the Regulation 16 Publicity a number of developers and house builders express the view that the policy is over restrictive and will constrain further physical growth contrary to sustainable development principles. A more flexible approach is advocated by either redrawing the existing settlement limits or amending the policy wording to facilitate continued development at the urban edge.
- 6.44 Others suggest the existing settlement limits should be updated to reflect recent completions and current planning permissions.
- 6.45 While I understand the concerns raised by the development sector it is made clear in the Plan that the intention is to wait for North East Derbyshire District Council (NEDDC) to review settlement limits through the Local Plan process, and that in the interim period until the Local Plan is adopted proposals will be continue to be considered on the basis of the extant settlement development limit originally approved in 2005. Figure 3, which is not part of the Neighbourhood Plan proposals map, identifies the existing approved settlement limits for information.
- 6.46 This approach, which is supported by NEDDC, has the advantage of ensuring a consistent District wide approach to settlement limits, enabling planned development to be taken into account at the time settlement limits are reviewed, rather than a piecemeal approach.
- 6.47 I also agree with NEDDC that no wording changes are required to reflect future changes to the existing settlement limits through the emerging Local Plan as the policy, as drafted, will provide an appropriate mechanism for considering development proposals following adoption of the Local Plan as well as in the interim period prior to adoption.
- 6.48 I do however have reservations about the practicability and clarity of some of the criteria in the policy and the extent to which others reflect national planning policy.
- In criterion a) no justification is provided for imposing a local needs

requirement and there is no explanation as to how proposals will be assessed. National planning policy makes it clear that provision for new housing should be based on 'objectively assessed housing need' across the whole housing market rather than just local housing need. (NPPF paragraph 47). Neither is there any suggestion in national planning policy that other forms of development, such as employment or leisure uses, should be subject to a local needs test. This criterion should therefore be deleted.

- In criterion b) it is unclear what 'enhance its distinctive character' refers to and the criterion should be qualified by reference to 'the character of the neighbourhood'.
- Criterion c) duplicates part of criterion b)
- As not all proposals for development will affect key visual and ecological features, and there may be instances where the retention of key features is not desirable or practical I recommend that criterion d) be qualified by reference to 'where appropriate' in order to provide a degree of flexibility.
- Criterion g) does not accurately reflect the requirement in national planning policy for development proposals to conserve and where possible enhance the significance of heritage assets<sup>28</sup>
- Criterion h) could preclude most development proposals which affect a garden space being considered acceptable since all development proposals conceivably have some degree of adverse impact on the character of an area or the amenity of neighbouring properties. An alternative approach would be to test whether a proposal has a 'significant effect' or an 'unacceptable adverse impact'. While I appreciate that decision makers would still be required to make a judgement as to whether an impact is considered significant or unacceptable I consider this to be a more realistic approach.
- The requirement in criterion i) for proposals to positively contribute toward addressing crime and anti social behaviour is both unreasonable and unrealistic. I agree with NEDDC that a more achievable objective would be to ensure that proposals do not increase the likelihood of crime and anti social behaviour.
- For consistency reference to 'severe impact' in criterion j) should be changed to 'adverse impact'. While I agree with Rippon Homes that criterion j) is a subjective test because it requires decision makers to make a judgement as to whether a proposal has an unacceptable impact on traffic congestion or pedestrian safety, this is a more flexible and realistic approach than attempting to establish acceptable levels of increased congestion or increased

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<sup>28</sup> National Planning Policy Framework (2012) paras 131 & 132

risk to pedestrian safety. It should also be born in mind that there may be circumstances where any increase in congestion or increased risk to pedestrians would be unacceptable.

- 6.49 I am also mindful of the fact that there is a degree of duplication between Policy W1 and other policies in the Plan, for example in relation to the conservation of heritage assets (Policy W13 and Policy W14), design principles (Policy W15) and safeguarding trees and hedgerows (Policy W17). This is generally not good practice because it can lead to conflicting policies and create confusion for decision makers.
- 6.50 In this instance because Policy W1 is an overarching policy with more detailed guidance on specific topics provided in other policies I am inclined to support the approach taken in the Plan, subject to simplifying criterion b) to reduce the amount of duplication with detailed design considerations in Policy W15 (Design Principles) and deleting criterion g) which as referred to previously is not fully compliant with national planning policy, and conflicts with Polices W13 and W14 (as recommended to be amended)
- 6.51 I also recommend incorporating an explanation in the supporting text about the relationship between Policy W1 and other policies, which also refers to the fact that applications for development will be considered against all relevant policies in the Plan.
- 6.52 A further change is required to remove an inconsistency between the relatively negative policy wording which requires proposals to demonstrate how they satisfy various criteria and the wording in the last paragraph of the supporting text on page 12 which refers to proposals that support sustainable development being 'viewed positively,' in line with national planning policy.

#### **Recommendation 07**

- a) Delete 'can be demonstrated that it' in line 2 of Policy W1
- b) Delete criterion a)
- c) In criterion b) insert 'a' after 'Is of', and replace 'its distinctive character' with '*the character of the area*'
- d) Delete criterion c)
- e) In criterion d) insert '*Where appropriate*' before 'Retains existing important boundaries'
- f) Delete criterion g)
- g) In criterion h) delete 'adversely impacts' and insert '*has an unacceptable adverse impact*'
- h) In criterion i) delete 'Contributes to addressing' and insert '*Will not increase the likelihood of*', and delete 'where relevant'
- i) In criterion j) delete 'severe' and insert '*adverse*'.
- j) Incorporate an explanation in the supporting text about the role of Policy W1 as an overarching policy, with more detailed guidance on specific requirements such as design provided in

**other policies, and clarifying that planning applications will be considered against all relevant policies in the Plan.**

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

6.54 **Policy W2 (Development in the Countryside)** restricts development in the countryside outside the settlement development limit to that which requires a rural location.

Comments

6.55 The policy compliments Policy W1 and reflects the general intention in national planning policy to focus development on the most sustainable locations while supporting development in rural areas where it will enhance or maintain the vitality of rural communities. It also generally conforms with the principle established in 'saved' NEDLP Policy GS6 (New Development in the Countryside) to control development in the countryside.

6.56 As regards the delineation of settlement development limits the same considerations referred to above in relation to Policy W1 apply.

6.57 My only reservation is that by not identifying specific types of development that will be acceptable in the countryside the policy is open to wide interpretation, and will therefore need to rely on definitions of acceptable development provided in saved NEDLP policies and the NPPF. Of course this effectively future proofs Policy W2 against future changes in the NPPF (which are due to be published in Spring 2018), and local strategic policy (through the emerging Local Plan).

6.58 Since there is no definition of development which requires a rural location in national planning policy I also recommend changing the reference in the policy to 'development proposals .....which requires a rural location' to 'development proposals..... which are appropriate in a rural location'.

**Recommendation 08**

**Delete 'requires' in line 3 of Policy W2 and insert '*is appropriate in*'.**

6.59 Subject to the above modification the Policy meets the Basic Conditions.

**4.2 Housing Need**

6.60 **Policy W3 (Housing Growth)** supports the delivery of new housing on sites earmarked for development in the emerging Local Plan, while restricting additional development to small scale windfall sites. **Policy W4 (Windfall Developments)** supports infilling on small sites within the

defined settlement development limit.

- 6.61 Policy W3 is based on the level of housing need and spatial distribution policies in the emerging Local Plan. However while it generally reflects the emerging Local Plan strategy, as referred to previously in my comments on the Plan's Development Strategy/Overall Approach I share concerns raised by the development sector as to whether the policy provides a practical basis for managing future housing growth.
- 6.62 First, the policy wording is open to different interpretation and it is not clear whether the sites identified in the policy are being promoted as allocations or whether the policy is supporting emerging Local Plan proposals. This ambiguity is compounded by reference to the fact that 'No further housing sites are identified by the Plan', although it is not clear which Plan is being referred to, or whether the intention is to resist further allocations. This statement in any case provides no policy direction.
- 6.63 Second, although the supporting text acknowledges that the housing requirement being established through the Local Plan may change there is no mechanism in the policy to respond to this possibility. Neither am I convinced that an early review of the Plan, as suggested in Section 4.2.1 (Housing Growth), would be an appropriate solution since there is no certainty over the timing of such a review, which may in any case simply replicate Local Plan policy.
- 6.64 Third, not only might the housing target change as a result of more up to date evidence but the non delivery of existing permissions or viability issues may necessitate the allocation of additional or alternative sites. It is therefore inappropriate to anticipate which sites may be allocated in the adopted Local Plan.
- 6.65 Fourth, there is no justification for restricting the scale of acceptable windfall development, and no definition of 'small scale' is provided.
- 6.66 Fifth, the policy conflicts with Policy W1 (Wingerworth Settlement Development Limit) and Policy W2 (Development in the Countryside) which do not in principle support development outside settlement development limits whereas there is no such restriction in Policy W3.
- 6.67 I am also mindful of the fact that the supporting text presents a very negative message by emphasising that the community only reluctantly accepts the need to accommodate more housing. This is contrary to national planning policy which includes boosting the supply of housing as one of its key objectives.
- 6.68 There is also no justification in paragraph 10 of section 4.2.1 for regarding the draft Local Plan housing requirement as a maximum figure and no evidence is provided regarding infrastructure/service capacity in this respect. This also contradicts the reference in the policy wording to supporting the 'development of a minimum of 882 dwellings'.
- 6.69 As referred to previously the concerns raised by the development sector could be overcome, and greater clarity could be achieved, by specifically acknowledging that the Plan is effectively leaving decisions regarding the

scale and distribution of future development to the emerging Local Plan, at the same time removing those elements of the Plan which duplicate emerging Local Plan proposals.

- 6.70 I therefore recommend a number of changes to section 4.1.1 and to Policy W3 to address the above points.
- 6.71 Similar considerations apply to Policy W4 (Windfall Sites) which is also the subject of objection on the grounds that there is no justification for restricting infill developments to less than 10 dwellings which would stifle future development opportunities.
- 6.72 As there is a degree of duplication between policy W3 and Policy W4 I recommend that the remaining part of Policy W3 (as recommended to be amended) is combined with Policy W4, subject to removing the references to 'small' sites. Consequential changes are required to section 4.2.2 to clarify that infill developments are a type of 'windfall', to remove the inaccurate explanation that sites of ten dwellings or more may only come forward if they are allocated in a Local Plan, and to correct the cross reference to other policies.
- 6.73 The requirement for infill development to help meet a local need in the second paragraph of section 4.2.2 is also contrary to national planning policy as pointed out by RPS, and should be removed.

#### **Recommendation 09**

- a) **Delete paragraphs 10 and 11 in section 4.2.1**
- b) **Insert an additional paragraph in section 4.2.1 explaining that as the Plan is relying on the Local Plan to establish the scale and distribution of future housing growth no allocations are proposed, and acknowledging that the housing requirement and sites identified in the emerging Local Plan may change prior to its adoption.**
- c) **Delete the first part of Policy W3 as far as and including '.....identified by the Plan' in line 6**
- d) **Delete 'only' in the last sentence of Policy W3, insert '*on sites allocated in the Local Plan or on infill sites and other windfall sites within the defined Settlement Development Limits*' after 'be supported' and delete 'where it is small scale windfall development'.**
- e) **In the first paragraph in section 4.2.2 replace 'is small' in line 1 with '*includes*', replace 'normally' in line 4 with 'often', and delete the sentence in line 5 beginning ' However, only in exceptional circumstances.....'.**
- f) **In the second paragraph in 4.2.2 delete 'helps meet a local need and' in line 3**
- g) **In the third paragraph in section 4.2.2 replace 'Policies W2 and W4' with '*Policy W2*'.**
- h) **Delete Policy W4**

6.74 Subject to the above modifications Policy W3 meets the Basic Conditions.

6.75 **Policy W5 (Housing Mix)** aims to ensure that new housing developments deliver a mix of housing types and sizes to meet identified local needs, with support given to the provision of smaller dwellings for young families, disabled, young people and older people.

Comments

6.76 Although there is no equivalent policy in the NEDLP the policy reflects the emphasis placed on the creation of 'sustainable, inclusive and mixed communities' in national planning policy<sup>29</sup>. This is one of the key attributes of the social dimension of sustainable development.

6.77 However as drafted the policy wording ignores the requirement in national planning policy for new housing provision to be based on 'objectively assessed housing need' across the whole housing market rather than just local housing need. (NPPF paragraph 47). Discrimination in favour of only providing housing for local people would also be at odds with Wingerworth's role as a (Level 2) settlement with a good level of sustainability which is expected to accommodate significant planned housing growth in the emerging Local Plan.

6.78 My recommended change to address this point also takes into account additional concerns raised by NEDDC and Gladman Developments that in order to fully reflect national planning policy development proposals should also be considered in relation to the most up to date evidence on housing need and viability.

6.79 With regard to the second part of the policy the response to the Regulation 16 Publicity suggests that opinion is divided within the development sector as to whether the provision for smaller dwelling should be seen as a priority or not. In view of the fact that the policy does not preclude the provision of larger dwelling sizes I see nothing wrong in stating a community preference particularly since there is an identified need for smaller dwellings. I do however recommend a change to the policy wording to clarify that the reference to 'supporting proposals for smaller dwellings' is not intended to restrict the provision of larger dwellings.

**Recommendation 10**

- a) **Delete 'specifically taking into account, identified local needs in Wingerworth Parish and other site' in line 2 of Policy W5 and insert, '*taking into account the most up to date assessment of housing need, site characteristics, viability*'**
- b) **Insert '*particularly*' after 'older people will be' in line 5.**

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<sup>29</sup> National Planning Policy Framework (2012) para 50



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

6.81 **Policy W6 ( Affordable Housing)** supports District wide planning policies that require development proposals of 10 or more homes to provide on-site affordable housing to meet identified need. Proposals will be subject to conditions or planning obligations to ensure priority is given to people with a local connection when allocating homes. Where it is not possible or appropriate to build affordable housing on site developments may provide a financial contribution to provide affordable housing elsewhere in the Parish.

Comments

6.82 By encouraging the provision of affordable housing Policy W6 reflects the emphasis in national planning policy of supporting the creation of inclusive and mixed communities, including the needs of particular groups. This is one of the key attributes of the social dimension of sustainable development.

6.83 However the policy conflicts with NEDLP Policy H6 (Affordable Housing Provision in the Main Settlements) by lowering the number of dwellings which trigger the provision of affordable housing from 15 dwellings to 10 dwellings.

6.84 Where policies introduce or amend specific targets, standards, thresholds or 'measurable criteria' it is important that they are supported by 'proportionate and robust evidence' to justify the intention and rationale of the policies in line with Planning Practice Guidance<sup>30</sup>. As no evidence has been put forward to justify the change the policy does not meet the Basic Condition.

6.85 My attention has been drawn by NEDDC, in their comments, that the policy reflects mechanisms and thresholds proposed to be introduced through Policy LC2 (Affordable Housing) in the emerging Local Plan, although the District Council continue to rely on saved NEDLP affordable housing policies in the interim. However it is clearly premature to attach any weight to emerging Local Plan policy which may change prior to adoption of the Plan.

6.86 In any case as drafted the first part of the policy does not provide a practical basis for considering development proposals since it merely indicates support for an as yet un-adopted higher tier policy. As such the policy does not meet the requirement in Planning Practice Guidance for neighbourhood plans to be deliverable<sup>31</sup>.

6.87 I am also mindful of the fact that the remainder of the policy strays into areas beyond the scope of the Neighbourhood Plan that are the responsibility of NEDDC, such as the allocation of affordable homes, and the approval and management of financial contributions in lieu of on-site

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<sup>30</sup> Planning Practice Guidance para 040 Ref ID: 41-040-20140306

<sup>31</sup> Planning Practice Guidance para 005 Ref ID: 41-005-20140306

provision.

- 6.88 For the above reasons I recommend the policy be deleted.
- 6.89 For clarification, while it is not necessary to delete the supporting text in section 4.2.4 this should be amended to ensure an accurate account of the operation of current and proposed higher tier affordable housing policy is provided.

### **Recommendation 11**

**Delete Policy W6 (Affordable Housing) and amend section 4.2.4 to clarify that proposals for new housing are currently determined by NEDDC on the basis of ‘saved’ NEDLP affordable housing policies and explain that these are intended to be replaced by new mechanisms and thresholds for securing affordable housing in the emerging Local Plan.**

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

### **4.3 Community Facilities and Shops**

- 6.91 The Plan recognises the importance of safeguarding existing shops and community facilities and facilities registered as Assets of Community Value, and encourages the provision of new or enhanced facilities, particularly in connection with new development.
- 6.92 **Policy W7 (Shops)** aims to prevent the loss of local retail facilities unless it can be demonstrated that there is no demand for the facility or its continued use is not viable.

#### Comments

- 6.93 By ensuring that established local shops are retained for the benefit of the community the policy reflects the national planning policy objective to help promote healthy and sustainable communities.
- 6.94 It also generally conforms with the provisions of NEDLP Policy SH8 (Loss of Local Facilities) which has similar objectives.
- 6.95 While in my experience 12 months is often considered to be an appropriate time period for testing the retail market it is outside my remit to recommend a longer period, particularly since interested parties would not have had an opportunity to comment on any such change. I therefore make no recommendations in this respect.
- 6.96 I do however agree with NEDDC that the policy wording is ambiguous and should be tightened up to clarify how discussions with the Parish Council are intended to take place in order to inform the decision making process, and to further clarify what is meant by the phrase ‘shopping purposes’.

## Recommendation 12

- a) Replace 'following discussions' with '*including through discussions*' in line 3 of Policy W7,
- b) Replace 'and/or' with 'or' in line 4,
- c) Insert '*for a shop use*' after 'has been actively marketed' in line 5 and delete 'for shopping purposes'.

6.97 Subject to the above modifications Policy W7 meets the Basic Conditions.

6.98 **Policy W8 (Community Facilities)** resists development proposals that result in the loss of specific facilities identified in the policy unless the facility is replaced by equivalent or better provision, or it can be demonstrated that the facility is no longer viable or is no longer required by the community. **Policy W9 (New Shops and Community Facilities)** supports development proposals which enhance the quality and range of shops and community facilities subject to a range of environmental, amenity and transport considerations. **Policy W11 (Assets of Community Value)** supports the listing of Assets of Community Value and encourages development proposals that support their longevity.

### Comments

6.99 The need to guard against the unnecessary loss of services and facilities and to plan positively for the provision of services and facilities which enhance the sustainability of communities are fundamental principles embedded in national planning policy (NPPF paragraph 69). The provision of accessible local services that reflect a community's needs and support its health, social and cultural well-being are key attributes of the social dimension of sustainable development.

6.100 The policies generally conform with principles established in NEDLP Policy SH8 (Loss of Local Facilities) and Policy CSU3 (Protection of Existing Community Facilities). They also reflect evidence gathered in connection with the emerging Local Plan in relation to the role and function of settlements.

6.101 However while the flexible approach to providing facilities at alternative locations, and the inclusion of viability and needs tests in Policy W8 provides a practical framework for considering development proposals, the clarity of the policy could be improved by identifying the sites considered especially important to the community on a proposals map.

6.102 I also agree with NEDDC that it is inappropriate to include four public house premises in the Policy as this may interfere with their commercial operation. Whether or not one (or more) of the premises qualifies as an Asset of Community Value is a separate matter outside the scope of the Neighbourhood Plan.

6.103 A further change to Policy W8 is required to clarify how discussions with the Parish Council are intended to take place in order to inform the

decision making process, consistent with the recommended change to Policy W7 above.

- 6.104 I also recommend deleting the first sentence of Policy W11 and incorporating this in the supporting text, as the intention to support the listing of Assets of Community value (by NEDDC) is aspirational in nature and relates to a proposed action on the part of the Parish Council rather than a policy to control the use or development of land, as is the intention to support the longevity of registered Assets. Consequential changes are required to the second part of the policy in order to ensure this makes sense.
- 6.105 No changes are required to Policy W9 which satisfies the Basic Conditions without modification.

### Recommendation 13

- a) Replace 'after discussions' with '*including through discussions*' in line 3 of Policy W8
- b) Delete 'have been identified as being' in line 6 and insert '*as identified on the Proposals Map are considered to be*',
- c) Delete 'Batemans Mill, Barley Mow, Smithy Pond and the Wingerworth Public Houses' from the list of community facilities identified in the Policy.
- d) Identify the community facilities listed in the policy on a proposals map (or maps) at a scale which clearly identifies building footprints and site boundaries.

### Recommendation 14

- a) Delete the first sentence in Policy W11 and incorporate the proposed Parish Council actions in the supporting text.
- b) Replace 'their' with '*the*' in line 3 and insert '*of a registered Asset of Community Value*' after 'longevity

6.106 Subject to the above modifications Policy W8 and Policy W11 meet the Basic Conditions.

6.107 **Policy W10 (New Shops and Community Facilities in New Major Housing Developments)** requires development proposals for 10 or more dwellings to mitigate the impact they have on local facilities, including taking the cumulative impact of unimplemented schemes into account.

### Comments

6.108 The provision of infrastructure, mitigating the impacts of development and providing services and facilities that reflect a community's needs are fundamental principles embedded in national planning policy and are key attributes of sustainable development.

- 6.109 Policy W10 generally conforms with local strategic policy by ensuring new development contributes toward the provision of sustainable development through the provision of appropriate infrastructure and services (NEDLP Policy GS1 Sustainable Development).
- 6.110 While an opportunity has been lost to increase the effectiveness of the policy by linking it to CIL and Planning Obligation mechanisms it is outside my remit to introduce additional policy requirements, particularly since interested parties would not have had an opportunity to comment on any such change.
- 6.111 My only other reservation concerns the fact that the policy, as drafted, implies that development proposals might be expected to address existing deficiencies in the provision of services and facilities. This was referred to by Rippon Homes in their response to the Regulation 16 Publicity. As this is an unreasonable requirement I therefore recommend that these references are removed from the Policy.
- 6.112 The reference to consultation with the Parish Council in the Policy is also superfluous as the Parish Council is a statutory consultee on planning applications. In any case the arrangements for consultation are outside the control of both the Parish Council and the Neighbourhood Plan.

#### **Recommendation 15**

- a) **Replace 'must address' with '*should take into account*' in line 1 of Policy W10**
- b) **Delete 'following consultation with Wingerworth Parish Council ' in line 5**
- c) **Delete the last sentence of the Policy**

- 6.113 Subject to the above modifications the policy meets the Basic Conditions.

#### **4.4 Employment and Economic Growth**

- 6.114 **Policy W12 (Employment and Economic Growth)** aims to resist the loss of existing employment and business uses unless the site or building is no longer economically viable or no longer suitable for employment use, and subject to actively marketing the premises.

##### Comments

- 6.115 The Policy reflects national planning policy which places significant weight on positively supporting economic growth, one of the key attributes of sustainable development. There is no equivalent NEDLP policy as that part of Policy E7 (Development in New and Existing Employment Areas) which is concerned with maintaining an adequate supply of employment land has been superseded by national planning policy which states that policies should avoid the long term protection of allocated employment

sites where there is no reasonable prospect of sites being used for employment purposes (NPPF paragraph 22).

- 6.116 In my view the pre-conditions in the policy for allowing non employment uses are consistent paragraph 22 of the NPPF which indicates that the long term protection of employment sites should be avoided where there is no reasonable prospect of the site being used for that purpose.
- 6.117 While the introduction of a 6 month marketing requirement goes beyond the requirements set out in the NPPF as there is no prescription in national planning policy or extant local strategic policy as to how to establish viability or demand for premises testing the market for a period of time seems a reasonable way of establishing whether there is any demand.
- 6.118 On the basis of practice elsewhere and current market conditions I agree with NEDDC that 12 months would seem a more realistic period of time to undertake marketing than the 6 months specified in the policy. However as interested parties have not had an opportunity to comment on this alternative approach, which would also result in marketing being undertaken over a different period of time to that required to market retail premises and community facilities I therefore make no recommendation in this respect.
- 6.119 NEDDC also suggest that a more detailed explanation of the phrase ‘has been actively marketed’ should be included in the policy wording and that in order to avoid unintentional restrictions on premises with ancillary employment uses, such as residential premises that are used for ‘home working’ the scope of the policy should be qualified.
- 6.120 While the meaning of the phrase ‘has been actively marketed’ seems self explanatory I agree that for the avoidance of doubt a more detailed explanation could be provided in the supporting text. The exclusion of ancillary employment uses would also ensure that the policy provides a more practical basis for managing future development proposals.
- 6.121 I also recommend changing ‘a significant adverse effect’ in line 1 of the policy to ‘an unacceptable adverse effect’ in order to ensure consistent phraseology throughout the Plan.
- 6.122 The reference to consultation with the Parish Council in the Policy is also superfluous as the Parish Council is a statutory consultee on planning applications. In any case the arrangements for consultation are outside the control of both the Parish Council and the Neighbourhood Plan.

### **Recommendation 16**

- a) Replace ‘a significant’ with ‘an unacceptable’ in line 1 of Policy W12**
- b) Insert ‘mainly’ after ‘a site or building’ in line 2**
- c) Delete ‘following consultation with the Parish Council’ in line 3**
- d) Incorporate an explanation in the supporting text that ‘actively**

**marketed’ means that all reasonable steps have been taken to let or sell the site or premises for employment purposes for a period of at least 6 months.**

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

#### **4.5 Built Heritage and Design**

- 6.124 The heritage policies are intended to preserve the heritage significance of designated and non designated heritage assets. A third policy is concerned with the design of new development.
- 6.125 **Policy W13 (Listed Buildings and Scheduled Monuments)** supports proposals which enhance the conservation, longevity and appreciation of Listed Buildings or Scheduled Monuments.
- 6.126 **Policy W14 (Non Designated Heritage Assets)** is intended to ensure that proposals for development affecting a non designated heritage asset or its setting are sensitively designed to conserve and where possible enhance its significance and setting. The policy also supports the inclusion of non designated heritage assets in a ‘Local List’ to be prepared by North East Derbyshire District Council.

#### Comments

- 6.127 National planning policy recognises the importance of sustaining and enhancing heritage assets so that they can contribute toward the quality of the built environment and toward the quality of life that can be enjoyed by this and future generations, two of the key aspects of sustainable development.
- 6.128 Although national planning policy confers a greater level of protection on designated heritage assets the management of other heritage assets which do not qualify for conservation area or listed building status (designated assets), as referred to in Policy W14, is also an important element of the heritage protection system.
- 6.129 However as drafted the policies are not fully in line with national planning policy and contain elements of ambiguity.
- 6.130 For example while Policy W14 requires development proposals to conserve and where possible enhance the significance and setting of non designated heritage assets there is no such requirement in Policy W13 which has a much less ambitious objective of supporting proposals which ‘enhance the conservation, longevity and appreciation of listed buildings and scheduled monuments’. The omission of a reference to conserving and enhancing designated heritage assets in Policy W13 is also at odds with saved NEDLP Policies BE7, BE8 and BE9 regarding the protection of listed buildings.
- 6.131 Modification is therefore required to clarify that the level of protection afforded to heritage assets should be appropriate to their significance. This can be achieved by combining the policies while retaining the

reference in Policy W13 to supporting proposals which enhance the longevity and appreciation of designated heritage assets,

- 6.132 A consequential cross reference is required in the supporting text to explain that proposals affecting designated heritage assets are required to be considered on the basis of whether development would 'lead to substantial harm' to the significance of the asset (NPPF paragraph 133) and that in considering the effect of a proposal on the significance of a non designated asset decision makers are required to balance the scale of any harm or loss with the significance of the heritage asset.
- 6.133 I also recommend deleting the first and third sentences of Policy W14, and incorporating the text in the supporting text, as the intention to support the preparation of a 'Local List' by North East Derbyshire District Council is aspirational in nature and relates to a proposed action on the part of the Parish Council rather than a policy to control the use or development of land.
- 6.134 A number of minor corrections are also required in order to improve the clarity of the supporting text, tables and figures.
- 6.135 First, the second paragraph in section 4.5.1 should be deleted since, as pointed out by Derbyshire County Council, the statement that there are no buildings at risk is erroneous as Historic England's Heritage at Risk Register only includes Grade I and Grade II\* buildings, and Grade II listed places of worship.
- 6.136 Second, Figure 4 should be cross referenced to Table 1 and the text should clarify that the buildings and structures identified relate to those currently listed, since the policy would also apply to any buildings listed in the future.
- 6.137 Third, while I appreciate that Figure 4 is included for information only it is not very legible. In order to ensure that individual buildings and structures are more easily identifiable it should be enlarged and individual buildings and structures should be numbered to correspond with the numbering in Table 1.
- 6.138 Fourth, the legend (of Figure 4) should refer to Grade I, Grade II and Grade II\* listed buildings rather than Type I, Type II and Type II\*.

#### **Recommendation 17**

- a) **Delete the first and third sentences in Policy W14**
- b) **Combine the remaining part of Policy W14 with Policy W13 to create a new Policy entitled '*Heritage Assets*' as follows '*Development proposals, including renovations or other alterations, must be sensitively designed to preserve and where possible enhance the significance of the heritage asset affected by the development in a manner appropriate to its significance. Proposals which enhance the longevity and appreciation of listed buildings and scheduled monuments will be particularly supported.*'**



- c) **Incorporate a cross reference in the supporting text to explain that proposals affecting designated heritage assets are required to be considered on the basis of whether development would ‘lead to substantial harm’ to the significance of the asset, as referred to in paragraph 133 of the NPPF, and that in considering the effect of a proposal on the significance of a non designated asset decision makers are required to balance the scale of any harm or loss with the significance of the heritage asset.**
- d) **Replace the second sentence in section 4.5.1 with ‘*Currently designated heritage assets in the Parish are listed in Table 1 and identified in Figure 4*’**
- e) **Delete paragraph 2 in section 4.5.1**
- f) **Number individual buildings and structures listed in Table 1, identify them in figure 4 using the same numbering, and enlarge Figure 4 so it is more legible**
- g) **Replace the references to Type I, Type II and Type II\* listed buildings in Figure 4 with reference to ‘*Grade I, Grade II and Grade II\* listed buildings*’.**

6.139 Subject to the above modifications the policy meets the Basic Conditions.

6.140 **Policy W15 (Design Principles)** aims to ensure that development proposals respect local character and take into account the amenity of neighbouring occupiers. Where appropriate new development is expected to provide safe and attractive public and private spaces including spaces that are accessible for all especially the growing older population. The policy also requires development proposals to have regard to a number of detailed design principles.

Comments

6.141 Securing high quality design which integrates with local character, avoids creating unacceptable adverse impacts on neighbouring properties helps create safe and accessible environments for all, and reduces opportunities for crime and anti social behaviour are key principles in national planning policy. The policy will ensure that future development contributes to the social and environmental dimensions of sustainable development.

6.142 Policy W15 also reflects and expands on the general design principles established in NEDLP Policy GS1 (Sustainable Development) and Policy BE1 (General Design Principles)

6.143 However as drafted the policy wording is confusing and repetitious and I have reservations over its ability to provide a practical mechanism for managing development proposals.

6.144 For example, a number of considerations referred to in the first part of the policy (but not all) such as the scale and massing of development are

repeated in the detailed design considerations set out in the second part of the policy. There are also numerous overlapping references to local distinctiveness and local character throughout the policy.

- 6.145 My recommended modifications are intended to simplify and strengthen the policy wording, to eliminate duplication and to correct a number of grammatical errors, particularly those created by the structure of the second part of the policy. In addition as the policy heading refers to 'design principles' there is no need to repeat this in the policy wording.
- 6.146 Further modification is recommended in order to future proof the requirement in the policy for proposals to have regard to published guidance on layout and design by referring to the latest guidance which is relevant to the local area rather than the current 'Guide to Layout and design' which may be superseded. This point was referred to by Gladman Developments in their representations.

### Recommendation 18

- a) **Delete the first sentence in Policy W15 and incorporate the second and third sentences from the first paragraph of the policy as individual criteria in the second part of the policy (see below)**
- b) **Delete 'have regard to the following design principles' at the end of the first sentence in the second part of the policy**
- c) **Delete 'should' at the beginning of criterion a) and replace 'distinctiveness, development proposals should show clearly how the general character, layout' with '*character and show how the layout, materials*'**
- d) **Delete 'should' at the beginning of criterion b) and insert '*density, massing, height*' after 'be of a scale'**
- e) **Delete 'should generally' at the beginning of criterion c)**
- f) **Delete 'buildings and extensions to existing buildings should' at the beginning of criterion d)**
- g) **Delete 'It should' at the beginning of the second sentence in the first paragraph of the policy and insert the remainder of the sentence as a new criterion after criterion d)**
- h) **Delete 'development proposals should' after 'Where appropriate' in the third sentence in the first paragraph of the policy and insert the remainder of the sentence as a new criterion**
- i) **Delete 'Successful Places: A Guide to Sustainable Housing Layout and Design' in criterion e) after 'Have regard to' and insert '*the most up to date approved guidance on layout and design relevant to North East Derbyshire*'.**

- 6.147 Subject to the above modifications Policy W15 meets the Basic Conditions.

#### 4.6 Natural Environment

- 6.148 The natural environment policies focus on protecting biodiversity, trees and hedgerows, important views and vistas and areas of green space within the Parish. Another policy is intended to avoid the coalescence of Wingerworth village with surrounding communities.
- 6.149 **Policy W16 (Biodiversity)** encourages development proposals which conserve and enhance biodiversity, and which promote the restoration and recreational use of locally important wildlife sites. Development proposals that cannot avoid, adequately mitigate or compensate for the loss of a site with recognised biodiversity value will not be permitted. A further policy strand requires suitable site surveys to be undertaken where proposals may affect protected species.

#### Comments

- 6.150 Policy W16 has regard to national policy by seeking to conserve and enhance the natural environment, particularly biodiversity. This is consistent with the environmental dimension of sustainable development, which includes the objective of 'moving from a net loss of biodiversity to achieving net gains for nature' (NPPF paragraph 9).
- 6.151 However while the policy generally conforms with the principles established in NEDLP Policies NE3 (Protecting and Managing Features of Importance to Wild Flora and Fauna), NE4 (Sites of National Importance for Nature Conservation), and NE5 (Other sites of Importance for Nature Conservation) I am not convinced it provides an effective mechanism for considering development proposals or for securing biodiversity objectives.
- 6.152 For example as drafted the policy wording is confusing and repetitious with the policy intention to 'conserve and enhance' biodiversity is also referred to as the 'preservation of biodiversity' and the 'protection of biodiversity'. The intention to 'encourage' the conservation and enhancement of biodiversity in the first part of the policy is also a relatively weak aspiration in comparison with the requirement in the third sentence for proposals to avoid or mitigate the loss of biodiversity.
- 6.153 In addition parts of the policy add nothing to existing national planning policy and legislation. For example the third sentence repeats virtually word for word one of the principles established in paragraph 118 (bullet point one) of the NPPF which local planning authorities must take into account when determining planning applications.
- 6.154 Neither does the policy adequately reflect the distinction made in national planning policy between the hierarchy of international, national and locally designated wildlife sites, and the desirability of protecting individual sites in a way that is commensurate with their status (NPPF paragraph 113). In any case the reference to nationally identified sites in line 9 is superfluous since there are no nationally significant sites within the Neighbourhood Area.
- 6.155 My recommended modifications are intended to rationalise the policy and strengthen the policy wording, eliminate duplication and reduce the

amount of repetition of national planning policy and legislation.

### Recommendation 19

- a) In line one of Policy W16 replace 'that' with '*should*', replace 'or' with '*and*', insert '*including locally important UK Biodiversity Action Plan priority sites and habitats, ecological networks and Local Wildlife Sites*' after 'enhance biodiversity', and delete the remainder of the first sentence.
- b) In line three replace 'should' with '*that*', replace 'preservation' with '*the*', replace 'and recreation' with '*and/or recreational use of biodiversity sites*', delete 'locally important priority sites and habitats, ecological networks (including Local Wildlife Sites and )' and insert '*or*', and replace 'where applicable' with '*will be supported*'
- c) Replace the third sentence with '*Where adverse impacts on locally important biodiversity sites cannot be avoided proposals that do not mitigate, or as a last resort, compensate for the loss of biodiversity value will not be permitted*'.
- d) Delete the fourth sentence in Policy W16 and incorporate the text in the accompanying justification.

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

6.157 **Policy W17 (Trees and Hedgerows)** aims to ensure that new development retains existing trees, hedgerow and woodland of good arboricultural, ecological and amenity value and that trees and hedges are integrated into the design of development. Where tree removal is justified compensatory on site or replacement planting will be required, or off site if this is not possible.

#### Comments

6.158 The retention of established trees, hedgerows and woodland and new planting, contributes toward biodiversity, local amenity, and health and well being objectives in national planning policy. The policy is also consistent with NEDLP Policy NE7 (Protection of Trees and Hedgerows).

6.159 My only reservation is that the final sentence of the Policy provides an observation rather than a policy direction. I therefore recommend that this part of the policy be incorporated in the supporting text as guidance, particularly since no evidence or information is provided regarding the location of individual trees or groups of trees.

6.160 I also agree with NEDDC that the reference to 'Where trees are to be felled' in the policy is an inappropriate expression and should be replaced with more precise terminology.

## Recommendation 20

- a) Replace 'Where trees are to be felled' in line 6 of Policy W17 with '*Where the loss of trees is unavoidable*'
- b) Delete the last sentence and incorporate this guidance in the supporting text.

6.161 Subject to the above modifications Policy W20 meets the Basic Conditions.

6.162 **Policy W18 (Important Views and Vistas)** aims to protect, and where possible enhance, important views and vistas of surrounding rural landscapes. These are identified through written description in the Policy and diagrammatically in Figure 7. Supporting evidence is presented in a separate Appendix (B).

### Comments

- 6.163 By requiring development to take account of important views and vistas the policy will contribute toward a high quality built environment and the quality of life of residents – key attributes of sustainable development.
- 6.164 Policy W18 also generally conforms with principles established in NEDLP Policy GS1 (Sustainable Development) by preserving or enhancing the environment of North East Derbyshire and by protecting and conserving the quality of the area's natural assets (and their settings).
- 6.165 In considering whether this policy satisfies the Basic Conditions I have taken into account concerns raised by Gladman Developments, Anwyl Land and NEDDC.
- 6.166 Gladman Developments consider that inadequate evidence has been provided in Appendix B to demonstrate why the identified views are important or valued by the local community. It is suggested that the absence of information about the physical attributes of specific views will hinder decision maker's ability to make objective decisions, particularly as it is considered the Plan is attributing significance to particular views principally on the basis of community support.
- 6.167 While I agree that evidence of strong community support for a particular policy is not necessarily sufficient justification for that policy in itself, in this instance I am satisfied, subject to the reservations described below, that the selection of important views is based on a process of analysis and elimination (as described in Appendix B) and is proportionate and sufficiently robust to justify the choices made. This is particularly the case with those views looking north toward Chesterfield and west/south west toward the Special Landscape Area identified in the NEDLP, which are self evidently justified because of the special characteristics of the townscapes / landscapes being viewed.
- 6.168 However on the evidence of my site inspection I do have reservations about the inclusion in the policy of those views identified diagrammatically

on the map in Appendix B on page 67 (and in Figure 7) as View 2, View 4 and View 6.

- 6.169 In relation to View 2, I note that the close proximity of dwellings to each other at the western end of Chartwell Avenue effectively precludes all but the merest glimpses of countryside beyond those properties from the public highway. In my judgement it is not appropriate to safeguard a view unless it is visible from a public highway or other publicly accessible location. Otherwise the policy is likely to benefit individual occupiers, bearing in mind there is no entitlement to a view, rather than the wider public interest. Similar considerations apply to the countryside west of Longedge Road (View 6) since Longedge Road is at a lower level than the adjacent land which also has a residential frontage with no public access.
- 6.170 With regard to View 4, I consider the inclusion of woodland views to the east of Davids Drive (which is not referred to by name in either the policy or supporting evidence) is equally inappropriate since the views are restricted to glimpses of dense woodland between (and above) residential properties with no opportunities for wider landscape views. In any case as there is no land that may potentially be affected by future development proposals between the existing residential properties and the woodland to the rear of these properties the protection of this 'view' is superfluous.
- 6.171 I am otherwise satisfied that the views identified are important to the character and setting of Wingerworth although I agree with NEDDC that the legibility of the map at Figure 7 should be improved and the views identified should be referred to as indicative.
- 6.172 For clarification the same considerations described above in relation to countryside views from the western end of Chartwell Avenue (View 2) do not apply to the northward looking views at the eastern end of Chartwell Avenue (View 3) because of topographical differences plus the fact that the height and spacing between properties, which are mostly bungalows at this location, creates numerous opportunities for long distance views beyond.
- 6.173 In considering whether the policy provides a practical framework for decision making I am mindful of the fact that the scope of the policy is limited to ensuring that new development takes account of the visual significance of important views, rather than to constrain development. In other words where development is otherwise acceptable in principle it should be appropriately designed to take wider landscape features into account and potentially creating new views and vistas.
- 6.174 This point is recognised by both Gladman Developments and NEDDC in their comments, and I agree with the suggestion made by NEDDC that the reference to 'respecting views and vistas' in the policy wording should be expanded to clarify that development will be required to take account of their visual significance as well as to ensure that the visual impact is controlled. I also agree with NEDDC that it is not reasonable to expect development proposals to enhance existing views and vistas.

- 6.175 I have recommended modifications to the policy, the map at Figure 7 and the map on page 67 in Appendix B to reflect the above considerations.
- 6.176 Consequential changes are required to the second part of the policy, the supporting text and Appendix B. There are also a number of inaccuracies in the descriptions of views and vistas provided in both the Policy wording and Appendix B.
- 6.177 For example Hill Top Road is incorrectly referred to as Hill Top Lane in the first bullet point in the policy, and as Langer Lane in Reference 1 in Appendix B.
- 6.178 I also agree with Anwyl Land that the inclusion of photographic evidence in Appendix B (Reference 4) should be based on views available from a public highway or other publicly accessible location rather than views from private gardens (Reference 4) for the reasons stated above.
- 6.179 Consequently the diagrammatic view identified at the junction of Birkin Lane and Nethermoor Road in Figure 7 and on the map in Appendix B (View 7) should be repositioned since as pointed out by Anwyl Land views of open countryside are blocked by development at this specific location. In addition the fourth bullet point which erroneously refers to Nethermoor Lane should more accurately refer to the section of Nethermoor Road between Birkin lane and Nethermoor Farm in order to clarify that the policy applies to development affecting views along this section of road.
- 6.180 These issues may be resolved by simplifying the descriptions provided in the policy wording and incorporating the wording in the supporting text, particularly since much of this descriptive material is superfluous to the operation of the policy.

### **Recommendation 21**

- a) **Replace 'respect, and where possible, enhance the open' with '*take account of the visual significance of the important*' in line 1 of Policy W18**
- b) **Replace 'identified' with '*listed*' in line 2**
- c) **Insert '*and ensure that the impact of development on these views and vistas is carefully controlled*' after 'in Figure 7' in line 2**
- d) **Replace the bullet points in the second part of the policy with the following**
  1. ***'180 degree views south west from the junction of Swathwick Lane with Hill Top Road***
  2. ***Views north along Chartwell Avenue***
  3. ***Views north from Longedge Lane***
  4. ***Views south along Nethermoor Road from its junction with Birkin Lane as far as Nethermoor farm'***
- e) **Incorporate the deleted text (from the four bullet points) into the supporting text, except for the reference to views west of Longedge Lane and 'as you enter the village from the A61**

**(one of the main gateways into the village)' in bullet point three**

- f) Reposition the diagrammatic arrow representing View 7 on the map in Appendix B on page 67 to a position on Nethermoor Road where there are unobstructed views of the countryside to the south and replace the photograph in Reference 4 with an appropriate photograph**
- g) Delete View 2, View 4 and View 6 from the map in Appendix B on page 67, renumber the remaining views and replace 'Proposed Important Views and Vistas' in the legend with '*Indicative Important Views and Vistas*'**
- h) Make consequential changes to Appendix B removing references to specific views and deleting photographs as appropriate**
- i) Make consequential changes to Figure 7 and enlarge Figure 7**

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

6.182 **Policy W19 (Local Green Spaces)** aims to protect a number of green areas and open spaces in the Parish which have particular local significance, by ruling out development other than in very special circumstances.

6.183 Ten sites, comprising three playing fields, two recreations grounds, two play areas, church grounds/churchyard, a wildlife site and Wingerworth Lido are identified for special recognition and protection.

6.184 Additional information and justification for each of the sites is provided in supporting evidence in Appendix C.

#### Comments

6.185 The objective of protecting locally significant open spaces generally conforms with NEDLP Policy CS1 (Sustainable Development) which emphasises the importance of maintaining or improving the quality of life of communities and preserving or enhancing the environment of North East Derbyshire. It also generally accords with NEDLP Policy R3 which safeguards designated urban green space in individual settlements, and NEDLP Policy NE2 which safeguards Wildlife Sites. However it does not conform with NEDLP Policy R2 which has a more flexible approach to safeguarding formal recreation space (see below).

6.186 While the desirability of identifying and protecting Local Green Space is recognised in national planning policy this is subject to meeting stringent conditions set out in paragraph 77 of the NPPF and the supporting Planning Practice Guidance on Local Green Space designation.

6.187 The three conditions which must all be satisfied are;

- that the green space is in reasonably close proximity to the community it serves



- the green area is demonstrably special to a local community and holds a particular local significance, and
- it is local in character and not an extensive tract of land.

6.188 In considering whether the policy and individual designations satisfy the NPPF paragraph 77 conditions and other NPPF and Planning Practice Guidance requirements I have taken into account comments made by NEDDC in response to the Regulation 16 Publicity. I have also visited each of the sites and reviewed the additional information and justification for each of the proposed areas of Local Green Space presented in the supporting evidence in Appendix C of the Plan.

#### NPPF Paragraph 77 Conditions

6.189 Based on the analysis presented in Appendix C and my own observations I am satisfied that all of the sites satisfy the first and third criteria. While it is a moot point as to what constitutes a site that is local in character it is apparent that all of the sites primarily serve the local community, and although NEDDC suggest the ‘test’ of extensiveness has not been applied it is self evident that none of the sites are extensive in nature particularly in comparison with the scale of the built up area.

6.190 However although the analysis describes why individual sites are considered to be locally significant, and whether they have recreational value, historic or other significance, as referred to in the NPPF, that does not necessarily demonstrate why an area holds particular local significance or is demonstrably special to the local community.

6.191 Bearing in mind that national planning policy suggests that Local Green Space designation will not be appropriate for most green areas or open space it seems to me that there is much less of a case for including playing fields or play areas in comparison with spaces such as Wingerworth Lido.

#### Duplication with Extant Policy

6.192 I am also mindful of the fact that all ten sites are already protected through Green Belt and extant development plan designations, or a combination of both. For example,

- one site (identified as site 3 in Appendix 3) falls within the designated North East Derbyshire Green Belt and is afforded a high level of protection through NEDLP Policy GS2 (Development in the Green Belt)
- seven sites, comprising recreation grounds (site 1 and part of site 7), playing fields (sites 3, 4 and 6), and play areas (sites 9 and 10), are identified as Formal Recreation Space by NEDLP Policy R2.
- three sites (sites 5 and 8 and part of site 7) are safeguarded as urban green space, by NEDLP Policy R3 and
- two sites (sites 2 and 8) are designated as Derbyshire Wildlife Sites by NEDLP Policy NE5 (Other sites of Importance for Nature Conservation)

6.193 Not only does this duplicate extant development plan policies but it

conflicts with Planning Practice Guidance<sup>32</sup> on Local Green Space designation which suggests that where land is already protected by another designation consideration should be given as to whether any additional local benefit would be gained by designation as Local Green Space.

- 6.194 In particular as no specific reasons have been put forward, such as whether 'appropriate' forms of development in the Green Belt might harm the character of the proposed Local Green Space, there does not appear to be any justification for an extra level of protection for site 3.
- 6.195 The same principle applies to sites 1, 3, 4, 6, 9 and 10, and part of site 7 which are protected by NEDLP Policy R2 (Formal Recreation Facilities), where no justification is advanced as to why a stricter level of protection is justified.
- 6.196 In my estimation Local Green Space policy is not necessarily the most appropriate way to protect recreation open space since (unlike NEDLP Policy R2) the policy does not recognise that there may be circumstances where future development may be desirable, for example where there may be overall community benefits such as allowing partial development on a site to secure funding for enhancement of the remainder or where alternative provision of equivalent or enhanced standard elsewhere is preferable.
- 6.197 While I acknowledge the desire to recognise the importance of local green space in the Plan is a laudable aspiration, since the proposed areas of Local Green Space do not fully comply with the designation criteria in national planning policy and with the accompanying Planning Practice Guidance, and/or have not been adequately justified, I have to recommend the policy be deleted in order to meet the Basic Conditions.
- 6.198 Parts of the accompanying text may be retained as this highlights the importance of green spaces to the local community. However a number of changes are required in order to remove those elements of the text (and supporting Figure 8 and Appendix C) that are directly linked to Policy W19. I also recommend incorporating some additional text in order to explain why the Plan does not contain a specific policy to safeguard important green spaces.

## **Recommendation 22**

- a) Delete Policy W19**
- b) Delete paragraph 5 in section 4.6.4**
- c) Insert '(as shown in Figure 8)' after 'several local green spaces' in paragraph 6**
- d) Replace 'and fulfil the criteria for designation. Those sites that qualified under the criteria are outlined with justification in the accompanying Local Green Spaces Report at Appendix C', in paragraph 6 with 'As these are already protected through a**

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<sup>32</sup> Planning Practice Guidance para 011 Ref ID: 37-011-20140306

***combination of green belt and extant Local Plan designations (which are being carried forward through the emerging Local Plan) it is not necessary to provide an additional layer of protection through this Plan.'***

- e) **Change the title and legend of Figure 8 to 'Locally Important Green Spaces and Recreation Areas'**
- f) **Delete Appendix C.**

6.199 **Policy W20 (Local Settlement Gaps)** supports the proposed designation of 'Local Settlement Gaps' in the emerging Local Plan in order to maintain the visual and physical separation between Wingerworth and surrounding communities. Development proposals which would erode the settlement separation and identity of the area will not be supported

Comments

6.200 Policy W20 has regard to national planning policy by responding to local character and history and aiming to reinforce a strong sense of place. This is consistent with the environmental dimension of sustainable development.

6.201 However while the aim of preventing coalescence is a reasonable aspiration in its own right the introduction of a blanket restriction on development would effectively pre-empt decisions about the future scale and location of development to be made through the Local Plan process. Since the Plan is relying on the emerging Local Plan to address identified housing need including allocating land for future development it follows that the Neighbourhood Plan must be sufficiently flexible to support that process, and not introduce undue restrictions.

6.202 While I note that NEDDC support the overall approach to Settlement Gaps in the Plan in my judgement it is not appropriate to refer in the Policy wording 'to supporting the proposed designation of Settlement Gaps in the emerging Local Plan' as there is no certainty that this proposal will proceed to adoption. In any case as this is a statement of intent on the part of the Parish Council rather than a policy direction to inform the decision making process, the existing reference in the supporting text adequately addresses this point, without further reference in the policy.

6.203 Neither is it clear whether the map identifying proposed Local Plan Settlement Gaps in Figure 8 is included for information purposes or whether it is intended to support the decision making process, as is implied in the final sentence of the policy, and which for the reasons stated above is inappropriate. Again there is no certainty that the currently proposed Settlement Gap boundaries in the draft Local Plan will be adopted without amendment.

6.204 In order to future proof the policy I therefore recommend the removal of references to the emerging Local Plan in the policy wording and the deletion of the accompanying map in Figure 10.

- 6.205 Consequential changes are required to maintain the readability of the policy wording, and the supporting text should also clarify that detailed boundaries will be established through the emerging Local Plan.
- 6.206 Further amendment is required to correct an error in the second paragraph on page 40 which should refer to Figure 9 rather than Figure 7.

### Recommendation 23

- a) Delete 'the Plan supports the proposed designation in the North East Derbyshire Local Plan of Local Settlement Gaps in the south of the Parish' in line 2 of Policy W20, delete 'the' after 'would erode' in line 5, insert '*the*' after 'settlement separation and', and replace 'this area' with '*individual settlements*'.
  - b) Replace 'Figure 7' in the second paragraph on page 40 with '*Figure 9*'
  - c) Replace 'the surrounding settlement' in paragraph 6 on page 40 with '*surrounding communities, and the delineation of detailed boundaries in the Local Plan*'
  - d) Delete 'The Local Settlement Gaps are shown in Figure 8.' in paragraph 6 on page 40, delete Figure 10 and renumber the remaining 'Figures' in the Plan.
- 6.207 Subject to the above modifications Policy W20 meets the Basic Conditions.

### 4.7 Getting Around

- 6.208 **Policy W21 (Highway Safety)** requires development proposals to demonstrate that any traffic generation and parking impact associated with the development does not have an unacceptably severe direct or cumulative impact on congestion, or the safety of road users, including pedestrians
- 6.209 **Policy W22 (Highway Safety: the A61)** encourages the provision of measures in development proposals to improve on-street parking and pedestrian safety and movement, especially along the A61. A second policy strand outlines the Parish Council's commitment to work with other agencies and third parties to introduce traffic management measures.

#### Comments

- 6.210 The minimisation of conflict between different highway users, and the creation of healthy communities with safe and accessible environments are principles embodied in national planning policy. These are all key attributes of the economic, social and environmental elements of sustainable development.

- 6.211 The policies generally conform with local strategic policy by promoting development that improves the quality of life (NEDLP Policy GS1 Sustainable Development), avoids adverse impacts on the existing road network and the environment (NEDLP Policy T2 Highway Access and the Impact of Development) and/or promote measures which reduce congestion and improve road safety for all highway users (NEDLP Policy T3 Traffic Management).
- 6.212 Although the Local Highway Authority is ultimately responsible for highway safety and traffic management, as there does not appear to be any conflict between land use planning and transport/traffic management objectives in this respect, and no comments regarding the policies have been submitted by the Local Highway Authority I am satisfied both policy W21 and Policy W22 meet the Basic Conditions subject to
- deleting the first paragraph in Policy W22 and incorporating the text in the supporting text, as the intention to promote the introduction of traffic management measures is aspirational in nature and relates to a proposed action on the part of the Parish Council rather than a policy to control the use or development of land,
  - removing the superfluous reference to consultation with the Parish Council in Policy W21 as the Parish Council is a statutory consultee on planning applications. In any case the arrangements for consultation are outside the control of both the Parish Council and the Neighbourhood Plan, and
  - replacing the reference to an ‘unacceptably severe impact’ in Policy W21 with an ‘unacceptable adverse impact’ in order to ensure consistent phraseology throughout the Plan
- 6.213 There is also a typographical error in the last line of Policy W21, and a number of factual inaccuracies in subsection 4.7.1. As pointed out by Rippon Homes it would be more accurate to refer to the A61 as ‘dissecting’ rather than ‘bisecting’ the Parish. Derbyshire County Council also highlight the fact that road traffic incidents are reported to Derbyshire Constabulary rather than the Department of Transport, plus the fact that Derbyshire Local Transport Plan is not a ‘study’ and it does not identify the A61 as one of the worst congestion points in the County.
- 6.214 In considering whether or not Policy W21 meets the Basic Conditions I have taken into account representations submitted by Rippon Homes who object to the Policy on the grounds that it introduces a subjective test as to whether a development proposal has an ‘unacceptably severe’ impact on traffic congestion or road safety. However as explained previously the wording is intended to acknowledge the need, when considering proposals, for a value judgement to be made concerning the relative significance of any such impact, taking into account previous experience and the particular circumstances and nature of the proposal.
- 6.215 In my judgement this is a more flexible and realistic approach than attempting to establish ‘acceptable levels’ of increased congestion or

increased risk to pedestrian safety, particularly since there may be circumstances where any increase in congestion or increased risk to pedestrians would be unacceptable. The policy is also consistent with the approach taken to avoiding adverse impacts in saved NEDLP Policy T2 (Highway Access and the Impact of New Development).

#### **Recommendation 24**

- a) **Delete ‘following consultation with Wingerworth Parish Council’ in line 2 of Policy W21**
- b) **Replace ‘unacceptably severe’ with ‘*unacceptable adverse*’ in line 4**
- c) **Replace ‘equestrian’ with ‘*equestrian*’ in line 5**
- d) **Replace ‘Department of Transport’ with Derbyshire Constabulary’ in the first paragraph of 4.7.1**
- e) **Replace ‘bisects’ with ‘*dissects*’ in the second paragraph of 4.7.1**
- f) **Delete the fourth sentence in the second paragraph in 4.7.1**

#### **Recommendation 25**

##### **Delete the first paragraph in Policy W22**

6.216 Subject to the above modifications Policy W21 and Policy W22 meet the Basic Conditions.

6.217 **Policy W23 (Car Parking)** requires development proposals to incorporate adequate car parking. Proposals that would result in an overall reduction in car parking provision will only be supported where the loss of parking does not have a severe adverse effect on parking provision and road safety in the nearby area or replacement parking is provided on-site or nearby.

##### Comments

6.218 Although the Policy is intended to address legitimate local concerns about the impact of development on existing on-street and off-street parking, as it is not accompanied by an explanation as to what constitutes ‘adequate’ parking, in the form of car parking standards for example, it does not provide a practical framework for decision making. In any case specific evidence would be required to justify any departure from the car parking standards most recently established through the NEDLP (Policy T9 Car Parking Provision) which are set out in Appendix 4 of the NEDLP.

6.219 I also agree with NEDDC that as development proposals are expected to comply with the requirements of NEDLP Policy T9 the second part of the Policy has the potential to undermine that policy, and it therefore does not satisfy the Basic Conditions.

## **Recommendation 26**

### **Delete Policy W23 and section 4.7.2.**

- 6.220 **Policy W24 (Enhancement of Footpaths, Cycleways and Bridleways)** supports the improvement or expansion of the existing network of footpaths, cycleways and bridleways. Priority is given to joining up the existing network and the creation or improvement of links between the main residential areas and the Avenue Strategic Site and/or community facilities such as schools, shops and health facilities, and surrounding towns and villages including Chesterfield Town Centre.
- 6.221 Another policy strand requires proposals to protect the existing network.
- Comments
- 6.222 The policy has regard to national planning policy by promoting pedestrian and cycle movements as an alternative to the motor car, which also supports the creation of healthy, inclusive communities. Maximising non car based transport contributes to the social and environmental aspects of sustainable development.
- 6.223 The policy generally conforms with local strategic policy by supporting proposals which improve opportunities for walking and cycling (NEDLP Policy T5 Walking and Cycling).
- 6.224 By restricting the scope of the policy to a broad expression of support I feel an opportunity has been lost to secure the expansion of the existing network of walking and cycling routes in conjunction with future developments. However it is outside my remit to recommend changes to introduce more ambitious targets or objectives to the Plan.
- 6.225 I do however recommend minor changes to clarify that the scope of the Policy includes safeguarding the future public rights of way network as well as the existing network, as suggested by NEDDC, and that future residential development should also benefit from the provision of new or improved footpath and cycleway links.
- 6.226 While it is not appropriate to refer to the Avenue Strategic Site in the Policy (as identified in the emerging Local Plan), as there is no certainty as to when or whether this proposal will form part of an adopted Plan, a more general reference to development on the eastern side of the A61 could be made instead.
- 6.227 As drafted the first part of the Policy does not make sense as it is not clear what is being referred to in the phrase 'priority should be given to those that'. I therefore suggest incorporating reference to 'measures' to improve the readability of the sentence.

## **Recommendation 27**

- a) Replace 'those' with 'measures' in line 3 of Policy W24**
- b) Replace 'the main residential areas and the Avenue Strategic**

- Site' in line 4 with 'existing and future residential areas and development on the eastern side of the A61,'**  
**c) Insert '(and future)' after 'to protect the existing' in line10**

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

**f) Monitoring and Review**

6.229 The land use policies are followed by a section summarising the Parish Council's approach to monitoring the effectiveness of the policies and measures contained in the Plan and collecting other relevant data at Parish level. This will be carried out annually. A full review of the Plan is intended to be carried out every five years or to coincide with future reviews of the North East Derbyshire Local Plan.

6.330 Planning Practice Guidance recognises the importance of ensuring that neighbourhood plans are deliverable and the Parish Council are to be commended for their commitment to ongoing monitoring and review of the Plan.

**7.0 Conclusions and Formal Recommendations**

Referendum

7.1 I consider the Neighbourhood Plan meets the relevant legal requirements and subject to the modifications recommended in my report it is capable of satisfying the four 'Basic Conditions'.

7.2 Although there are a number of modifications the essence of the policies would remain, providing a framework, for managing future development proposals and conserving and enhancing the local environment.

**I therefore recommend that the Neighbourhood Plan should, subject to the recommended modifications, proceed to Referendum.**

Voting Area

7.3 I am also required to consider whether the Referendum Area should be extended beyond the Wingerworth Neighbourhood Area.

7.4 As the impact of the policies and proposals contained in the Plan, which does not include any land allocations, is likely to have minimal impact on land and communities outside the defined Neighbourhood Area I consider the Neighbourhood Area to be appropriate. No evidence has been submitted to suggest that this is not the case.



**I therefore recommend that the Neighbourhood Plan should proceed to Referendum based on the Neighbourhood Area as approved by North East Derbyshire District Council on 19 March 2015.**

## **Declaration**

In submitting this report I confirm that

- I am independent of the qualifying body and the Local Authority.
- I do not have any interest in any land that may be affected by the Plan and
- I possess appropriate qualifications and planning and development experience, comprising 43 years experience in development management, planning policy, conservation and implementation gained across the public, private, and community sectors.

Examiner     Terry Raymond Heselton BA (Hons), DiP TP, MRTPI

Dated            23 March 2018

**Appendix 1 :**

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

- Submission Version of the Wingerworth Neighbourhood Plan and Appendices (July 2017)
- Basic Conditions Statement
- Consultation Statement (July 2017)
- National Planning Policy Framework
- National Planning Practice Guidance
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning (General ) Regulations (2012) (as amended)
- The Environmental Assessment of Plans and Programmes Regulations (2004)
- 'Saved' policies in the North East Derbyshire District Council Local Plan 2001 - 2011 (adopted November 2005)
- Consultation Draft North East Derbyshire Local Plan 2011 - 2033 (February 2017)
- North East Derbyshire District Council Strategic Environmental Assessment Screening and Habitats Regulation Assessment Screening Report (April 2017)
- Thirteen representations received during the Regulation 16 Publicity period.

I also accessed North East Derbyshire District Council's planning policy web pages and Wingerworth Parish Council web pages during the course of the examination.