

TARPORLEY NEIGHBOURHOOD PLAN

Tarporley Neighbourhood Plan Examination,
A Report to Cheshire West and Chester Council

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1. Introduction

The Neighbourhood Plan

This Report provides the findings of the examination into the Tarporley Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”

(Paragraph 183, National Planning Policy Framework)

Tarporley Parish Council is the *qualifying body* responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Cheshire West and Chester Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Tarporley Neighbourhood Area.

Role of the Independent Examiner

I was appointed by Cheshire West and Chester Council, with the consent of the qualifying body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.

I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

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

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Tarporley Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the contents of this Report, I am satisfied that all of the above points have been met.

Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The title page of the Neighbourhood Plan states that the plan period is 2010-2030.

The Neighbourhood Plan period is also referred to in Chapter 3, on page 21:

“3.3.1...over the Plan period up to 2030...”

as well as in Policy TH1, on page 59. The 2010 to 2030 plan period relates to that of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015), which plans for the delivery of housing and employment development “...over the period 2010 to 2030...” (Policy STRAT2, page 23).

Taking the above recommendations into account, the Neighbourhood Plan satisfies the relevant requirement in this regard.

Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of the written representations submitted, I confirmed to Cheshire West and Chester Council that I was satisfied that the Tarporley Neighbourhood Plan could be examined without the need for a Public Hearing.

2. Basic Conditions and Development Plan Status

Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ following the Localism Act 2011. In order to meet the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I have examined the Neighbourhood Plan against the basic conditions.

The wording of the basic conditions is the result of careful consideration. Consequently, attempts to simplify or paraphrase them frequently result in incorrect interpretations. This is the case on page 23 of the Neighbourhood Plan - there is no requirement for Neighbourhood Plans to be “*in general conformity with national... policy.*”

I recommend:

- **Page 23, 4.0.2, first line, change to “*Neighbourhood Plans must have regard to national policies and advice and be in general conformity with the strategic policies of the development plan for the area. Consequently, Tarporley Neighbourhood Plan’s Policies have been prepared...*”**

A Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out why, in the Parish Council’s opinion, the Neighbourhood Plan meets the basic conditions.

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal². However, it may, in some limited circumstances, where it is likely to have significant environmental effects, require a Strategic Environmental Assessment. Consequently, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects. This is a process known as a “screening” assessment. An environmental report must be prepared when the screening assessment identifies likely significant effects.

Cheshire West and Chester Council undertook a screening assessment – the “*Strategic environmental Assessment and Habitat Regulations Assessment*” - which was submitted alongside the Neighbourhood Plan and is referred to in both the Neighbourhood Plan and the Basic Conditions Statement.

The screening assessment considered whether or not the contents of the Neighbourhood Plan require a Strategic Environmental Assessment. It concluded that:

“...it is unlikely that there will be any significant environmental effects arising from the Tarporley Neighbourhood Plans (sic) and a Strategic Environmental Assessment is therefore not required.”

The Environment Agency, English Heritage (now, with regards to planning matters, Historic England) and Natural England were consulted as part of the screening process. None of the bodies dissented from the conclusion that the Neighbourhood Plan will not result in any likely significant effects on the environment and that a Strategic Environmental Assessment is not required.

² Paragraph 026, Planning Practice Guidance 2014.

If the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites, then a Habitats Regulations Assessment (HRA) is required. The screening assessment carried out by Cheshire West and Chester Council identifies 14 European designated sites within 15km of the boundaries of the Neighbourhood Area. These comprise Midlands and Mosses Ramsar sites; and Special Areas of Conservation (SACs) at the River Dee and Bala Lake, Oak Mere and West Midlands Mosses.

The screening assessment confirms that each of the sites within 15km of the Neighbourhood Area were assessed at the Local Plan level, as the Cheshire West and Chester Local Plan (2015) has already been through the HRA process. Taking this into account, Cheshire West and Chester Council considered the potential effects of the Neighbourhood Plan over and above those already assessed and concluded that:

“It is considered that as long as the proposed policies of a Neighbourhood Plan do not alter the strategic policy framework assessed in the Local Plan Part One Habitats Regulation Assessment Screening Report then an additional separate full screening exercise on the Neighbourhood Plan will not be required...It is considered that any proposals coming forward in Tarporley in accordance with the Neighbourhood Plan would not result in a likely significant effect on a European site than already identified and assessed through the Local Plan Part One Habitats Assessment Report. A separate full screening report is not required.”

Again, the statutory bodies were consulted and there was no disagreement with the conclusion of Cheshire West and Chester Council.

Further to the above, national guidance establishes that the ultimate responsibility for determining whether or not a draft neighbourhood plan meets European obligations lies with the local authority,

“the local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.” (Planning Practice Guidance 11-031)

Cheshire West and Chester Council carried out the screening process and has not expressed any concerns with regards compatibility with EU regulations.

Taking all of the above into account and in the absence of any substantive evidence to the contrary, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

3. Background Documents and Tarporley Neighbourhood Area

Background Documents

In undertaking this examination, I have considered various information in addition to the Tarporley Neighbourhood Plan. This has included:

- National Planning Policy Framework (The Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- Cheshire West and Chester Local Plan (Part One): Strategic Policies (2015) (Cheshire West and Chester Local Plan)
- Vale Royal Borough Local Plan (Policies retained after 29 January 2015)
- Neighbourhood Plan Proposals Map
- Basic Conditions Statement
- Consultation Statement
- Strategic Environmental Assessment and Habitats Regulation Assessment Screening Determination
- Site Assessment Report and Consideration of the Settlement Boundary
- Planning Policy Assessment and Evidence Base Review
- Protected Local Green Spaces Assessment Proforma

Also:

- Representations received

In addition, I spent an unaccompanied day visiting the Tarporley Neighbourhood Area.

Tarporley Neighbourhood Area

A plan showing the boundary of the Tarporley Neighbourhood Area is provided on page 6 of the Neighbourhood Plan.

Further to an application made by Tarporley Parish Council, Cheshire West and Chester Council approved the designation of Tarporley as a Neighbourhood Area on 27 March 2014.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Tarporley Neighbourhood Plan Consultation

Tarporley Parish Council submitted a Consultation Statement to Cheshire West and Chester Council in line with legislative requirements. As required by the neighbourhood planning *regulations*³, this sets out who was consulted and how, together with the outcome of the consultation. I note that the introductory section to the Neighbourhood Plan also provides a summary of the consultation process.

Further to Tarporley's acceptance as a neighbourhood planning "Front Runner," in March 2012, the Parish Council held a series of meetings to invite public participation. Around 130 people attended the first meeting and at further meetings in April and May, a provisional steering group and a number of theme groups were established. The Steering Group was formalised in June 2012.

Subsequently, between April and July 2013, a questionnaire was created and distributed to all 1,176 households in the Parish, as well as to local businesses. A return rate of just over 50% of household questionnaires and 67% of business questionnaires provided significant background information, from which key issues emerged.

Reference is made in the Consultation Statement to the plan-making process receiving "*advice from Planning Officers from Cheshire West and Chester Council.*" Planning Guidance requires local planning authorities to be proactive in providing information to communities about neighbourhood planning and to constructively engage with the community throughout the process (Paragraph 009, Neighbourhood Planning, Planning Guidance). There is evidence to demonstrate that Cheshire West and Chester Council were proactive and engaged constructively during the production of the Neighbourhood Plan.

³Neighbourhood Planning (General) Regulations 2012.

An informal public consultation period was held over a period of four weeks during October 2014. A summary leaflet and responses form was delivered to all households and businesses in the Parish and a drop-in event was held at the Community Centre. Nearly a hundred response forms were returned and helped plan-makers to produce the draft plan.

Public consultation on the draft plan took place over a six week period in February and March 2015. Hard copies of the draft plan were available at a wide variety of locations in Tarporley and a flyer, promoting consultation, was distributed to all households and businesses. A drop-in event was held and people and organisations were encouraged to comment by writing, or via email. Information was made available on a dedicated Neighbourhood Plan website.

Further to the above, I note that relevant information relating to plan-making, including minutes and background papers, was readily available, via the dedicated Neighbourhood Plan website, throughout the plan-making process.

Taking everything into consideration, people and organisations were provided with plenty of opportunities to have their say and that views were proactively sought. Consultation was publicised and the reporting process was transparent. A significant volume of evidence has been provided to demonstrate that the Neighbourhood Plan reflects the views of local people.

Taking all of the evidence into account, I am satisfied that the consultation process was comprehensive and robust.

5. The Neighbourhood Plan – Introductory Section

Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in italics.

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. I have also considered the Introductory Section of the Neighbourhood Plan and set out recommendations below that are aimed at making it a clear and user-friendly document.

Introduction

The Neighbourhood Plan is well presented. It includes well thought-out plans and relevant photographs and the Policies are clearly distinctive from the supporting text. It includes a loosely inserted “*Proposals Map.*” Whilst this is a helpful and informative map, it is not referenced in the Contents and is not attached to the Neighbourhood Plan. Consequently, it could easily become separated and I consider that this may be to the detriment of helping the reader understand the Neighbourhood Plan. I recommend:

- **Attach the Proposals Map to the Neighbourhood Plan – either to the inside cover, or within the document itself; and reference it in the Contents**

The Table of Contents is concise and fits onto a single page. Whilst succinct, the Executive Summary is partly out of date. I recommend:

- **Page 4, delete first paragraph and change second paragraph to “*The Neighbourhood Plan includes...*”**
- **Change last paragraph to “*The Neighbourhood Plan will be used to inform decisions...*”**

The List of Policies adds unnecessary information to what is already a long document. I recommend:

- **Delete List of Policies page**

Chapter 1

The first part of Chapter 1 provides an informative overview of Tarporley’s history and characteristics. The diagram on page 11 is useful, but some of the information with regards plan preparation is out of date, leading to unnecessary confusion. I recommend:

- **Diagram page 11, change red box to a blue box and delete the “we are here” reference**
- **Para 1.2.1, line 1, delete “...Submission Draft...”**
- **Para 1.2.8, line 1, delete “...Draft...”**
- **Para 1.2.9, line 1, delete “...Draft...”**
- **Para 1.4.1, line 1, delete “...Draft...” and line 10, delete “...draft...” (retain other Draft references earlier in the paragraph, which are appropriate)**
- **Para 1.5.3, change to “...how *these were considered and used to revise and update the Neighbourhood Plan.*”**
- **Delete Para 1.6**

Chapter 2

Chapter 2 sets out “*Key Planning Issues*” and provides useful background information and some relevant context to the Vision, Objectives and Strategy that follow in Chapter 3.

Chapter 3

Paragraph 3.3.1 refers to a figure of 32 dwellings as being “agreed” with Cheshire West and Chester Council. However, Cheshire West and Chester Council considers there to be a requirement for at least 34 additional dwellings.

Further, Paragraph 3.3.3 refers to “*bringing forward the infrastructure improvements, over and above planning requirements, warranted by the at least 300 additional dwellings.*” This infers that, somehow, a housing land requirement warrants the delivery of infrastructure “*over and above planning requirements.*” There is no evidence to substantiate this assertion and there is nothing to demonstrate that such an approach has regard to national policy or is in general conformity with the strategic policies of the development plan.

I recommend:

- **Para 3.3.1, lines 1, 4 and 9, change “32” to “34”**
- **Para 3.3.1, line 5, change to “...Area for the provision of at least 300 dwellings...”**

- Delete text in paragraph 3.3.3 and replace with ***“The Neighbourhood Plan’s strategy is supportive of appropriate development that delivers significant infrastructure improvements, for example, development that could bring major health benefits, such as the replacement of GP surgeries and/or the hospital beyond the settlement boundary.”***
- Delete paragraph 3.3.4.

The Neighbourhood Plan refers to amendments to Policies. However, it is not unusual that Policies have evolved during the plan-making process and the reference introduces unnecessary confusion. I recommend

- **Para 3.3.5 change first bullet point to *“Policy TH2 provides for flexibility and enabling development.”* Delete rest of first bullet point.**

Paragraph 3.3.6 comprises unnecessary repetition. The Neighbourhood Plan must provide for at least 300 dwellings, as established in Para 3.3.1. I recommend:

- **Delete para 3.3.6**

Paragraph 3.3.7 refers to a wish to undertake a review of the Neighbourhood Plan. However, it bases the trigger for a review on something that has not happened and has no guarantee of happening. As such, it introduces confusion and uncertainty into the Neighbourhood Plan. In the interests of clarity, I recommend:

- **Delete para 3.3.7**

With reference to the above, I consider how the Neighbourhood Plan addresses provision for the delivery of at least 300 dwellings over the plan period later in this Report.

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Chapter 4

The introduction to the Policies section is confusing. The second sentence of Paragraph 4.0.1 states that “*policies will be used to inform development actions...and other development related policies...when not strictly planning policies.*” In contrast to the preceding sentence, this makes little, if any, sense. I recommend:

- **Para 4.0.1, delete third sentence**

A change to Paragraph 4.0.2 is recommended earlier in this Report.

Each section of the Policy chapter ends with a reference to various Local Planning Policies. This is unnecessary and is not necessarily comprehensive. I recommend:

- **Delete the “Local Planning Policies” box at the end of each section**

Economy

Policy TE1 – Additional Business Premises and Employment Opportunities

Policy TE1 sets out a positive approach to employment related development. As such, it has regard to Paragraph 18 of the Framework, which sets out a commitment to securing economic growth, and also to Paragraph 28, which supports economic growth in rural areas.

However, the detailed Criteria introduce a number of vague, undefined requirements that fail to reflect the positive intent of the Policy. Rather, together, they establish something of a confusing, complex barrier for local economic development to seek to negotiate. Such an approach runs contrary to national policy, which is specific in stating:

“Investment in business should not be over-burdened by the combined requirements of policy expectations” (Paragraph 21).

Criterion A) requires all proposals to be consistent with a seven point Vision, without providing any indication of how a development can provide for, say social diversity and cohesion – or why it should need to. In order to *“maintain”* residential amenity, it would be helpful to establish what this currently comprises and the Policy does not do this. As drafted, Criterion B) provides no opportunity for a balanced approach, whereby any possible harm to residential amenity might be considerably outweighed by other material planning benefits. Further, it would serve to prevent existing harm to residential amenity from being reduced or removed.

Open space and green infrastructure are not defined under Criterion C, so it is difficult to understand when, or how, a development would lead to the loss of such. Also, it is not clear why all open space and all green infrastructure, whatever they comprise, need to be protected from any loss. If no open space could be lost, new above-ground development (as opposed to replacement development) could not take place in any form.

Criterion D) does not define what *“adequate parking”* is and it is unclear how Criterion F would work in practice – it states that the development of local employment opportunities will be supported providing that they do not lead to the loss of existing employment or employment premises. This is confusing and it fails to provide decision makers with a clear indication of how to react to a development proposal. In any case, another Policy of the Neighbourhood Plan seeks to protect existing employment premises.

The phrase “*development of employment opportunities*” is different to the development of employment space, or land and as such, its meaning is unclear. Also, the final paragraph of the Policy refers to “*a mix of office and business accommodation,*” which in many circumstances, may amount to the same thing and goes on to require such a “*mix,*” or “*live/work*” units, to be located “*in close proximity*” to “*proposed new residential units.*” Whilst the supporting text refers to the Parish Council’s wish for “*additional workshops and office accommodation*” to be “*within 500m*” of the village centre, no reasoning is provided for a Policy requirement for “*a mix of office and business accommodation*” or “*live/work*” units to be close to housing that does not exist, but might do at some stage in the future.

There is no indication that the above approach has regard to national policy or is in general conformity with the strategic policies of the development plan. Rather, it introduces a restrictive approach that could prevent sustainable development from coming forward.

Taking all of the above into account, I recommend:

- **Delete the text of Policy TE1 and replace with a new Policy TE1 “*The development of new businesses and the expansion of existing businesses in Tarporley will be supported, subject to development respecting local character and residential amenity, and the residual cumulative impacts on highway safety and the local transport network not being severe. The regeneration and small-scale expansion of existing business sites, or the sympathetic conversion of existing buildings, for business and enterprise, will be supported.*”**

The supporting text sets out some of the Parish Council’s aspirations. No changes to the supporting text are proposed. Whilst I make a necessary recommendation with regards the settlement boundary in Policy TH1 below, I note that the above recommendation has regard to national policy, is in general conformity with the strategic policies of the development plan and contributes to the achievement of sustainable development.

Policy TE2 – Protecting Existing Employment Premises – Business and Industrial Developments Falling Within Use Classes B1, B2, B8 or Sui Generis

National policy seeks to prevent the long-term protection of employment sites where there is no reasonable prospect of a site being used for that purpose (Para 22, the Framework). The Neighbourhood Plan provides evidence to demonstrate that local employment is very important to Tarporley and that there is strong demand for local employment space. Furthermore, Policy TE2, in seeking to protect employment space, introduces criteria that would, potentially, allow for a change of use of employment premises after a relatively short period of time.

Taking the above into account, Policy TE2 has regard to national policy. It is also in general conformity with Cheshire West and Chester Local Plan Policy ECON1, which provides protection for employment space, whilst allowing for its reuse if no longer commercially viable.

The term “*sources*” of local employment could relate to non-land use planning matters – for example, an entrepreneur could be described as a source of employment – and is therefore inappropriate for use in Policy TE2.

I recommend:

- **Policy TE2, delete first sentence and change second sentence to “*The re-development or...*”**

Maintaining the Vitality and Viability of the High Street and Tarporley Village Centre

Policy TE3 – Supporting a Range of Goods and Services in the Village Shopping Area

The Framework supports the viability and vitality of shopping areas (Paragraph 23) and promotes:

“the retention and development of local services and community facilities in villages, such as local shops, meetings places, sports venues, cultural buildings, public houses and places of worship” (Paragraph 28)

In supporting proposals for new retail and service facilities and seeking to protect existing shops, Policy TE3 has regard to national policy.

No indication is provided with regards the difference between support and *“particular”* support and resultantly, this part of the first paragraph of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal. Similarly, the absence of a clear, land use planning-based definition of a *“specialist,” “independent”* or *“every day”* retailer, leads to a lack of necessary clarity in the final part of the first paragraph.

Whilst the second paragraph of Policy TE3 is partly reflective of national policy (as above), there is no indication of what uses *“appropriate to the village centre”* comprise. It would add clarity if this part of the Policy made reference to the community facilities mentioned in the supporting text. Furthermore, it is not clear why the Policy refers to retaining 80% of road level retail units or appropriate units and why, for example, 81% retention would provide for sustainable development whilst 79% would not. Also, no indication is provided with regards who will monitor Policy TE3 *“over time”* and on what basis.

With reference to an objection to the Neighbourhood Plan, there is no requirement for it to allocate land for a supermarket. I note that, where appropriate, national policy requires planning authorities to apply a sequential test to planning applications for main town centre uses (Paragraph 24, the Framework).

The third paragraph of Policy TE3 seeks to protect existing retail in Tarporley, as well as the distinctive character of the village centre. This has regard to Paragraphs 28 and 56 of the Framework. With regards this paragraph, Cheshire West and Chester Council has expressed concerns with the reference to allowing development on the *“outskirts”* of the shopping area. The *“outskirts”* is not a defined area and consequently, this part of the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal.

Taking all of the above into account, I recommend:

- Policy TE3, end first paragraph “...be *supported.*” (delete rest of paragraph)
- Change line three in the second paragraph to “...resisted. *At any one time, the majority of ground floor units in Tarporley’s defined shopping area should be within Class A1 retail, or community facility/service use.*” (delete rest of paragraph)
- Change last sentence to “...located *within the defined shopping area and proposals should...*”

Car Parking

Policy TE4 – Car Parking

Cheshire West and Chester Policy STRAT10 supports the provision of car parking in town centres. Whilst I note that it relates to a village centre, Policy TE4 is a supportive Policy that is in general conformity with this. The Policy also has regard to the Framework, which supports the improvement of the “*the quality of parking in town centres*” (Paragraph 40).

The final sentence of Policy TE4 seeks to apportion weight. It is not the role of the Neighbourhood Plan to apportion planning weight and further, as worded, this part of the Policy makes little sense. In effect, it affords “*greater weight*” to a proposal for, potentially, any type of development, no matter what its dis-benefits might comprise. Such an approach is inappropriate.

I recommend:

- **Policy TE3, delete final sentence**

Tourism

Policy TE5 – Promoting and Supporting Tourism in Tarporley

National policy supports the promotion of sustainable rural tourism and leisure developments (Paragraph 28, the Framework) and Cheshire West and Chester Local Plan Policy ECON3 supports tourism development that is of a suitable scale and type for its location.

Policy TE5 aims to comprise a supportive Policy, but as worded, it sets out criteria that, together, would serve to place a significant barrier before sustainable tourism development. Furthermore, it only supports the “*improvement of the quality and diversity of existing tourist facilities and related development,*” which in itself is a restrictive approach that does not allow for new development.

The Policy would, for example, require all tourist related development to benefit the local community through methods such as providing local employment opportunities and (my emphasis) improving local service provision. It requires all tourism development, wherever feasible, to re-use existing buildings or comprise farm diversification; and not to have any adverse affect on parking or road networks. This latter requirement fails to allow for a balanced approach and does not have regard to Paragraph 32 of the Framework, which states that development should only be prevented on transport grounds where the residual cumulative impacts are severe.

Taking the above into account, I recommend:

- **Policy TE5, delete text and replace with “*The expansion of existing, and development of new, tourism and related facilities will be supported where it is proportionate to its location in scale and type.*”**

Environment and Heritage

Policy TEH1 – Rural Character

Good design is recognised by national policy as comprising

“a key aspect of sustainable development...indivisible from good planning”
(Paragraph 56, The Framework)

and national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework). Also, Cheshire West and Chester Local Plan Policy ENV6 protects local character.

Policy TEH1 recognises the importance of good design and seeks to protect the Neighbourhood Area’s distinctive character. However, as worded, it goes beyond the requirements of national and local policy without justification.

The first paragraph of Policy TEH1 requires development to *“enhance and protect local distinctiveness”* and *“landscape character.”* Even planning policy to protect some of the nation’s most important heritage assets does not require all development to *“enhance”* its surroundings. This is an onerous requirement and there is no evidence to demonstrate that it is either possible or necessary, with regards ensuring sustainable development. The Policy does not meet the basic conditions in this respect.

The second paragraph of the Policy applies to all forms of development, whether the requirements are relevant or not, and this is inappropriate. Also, it is unclear what *“high quality built form detailing”* means or why detailed design is a more relevant consideration in locations adjacent to open countryside than it is elsewhere.

A requirement for all landscaping schemes to protect and enhance wildlife corridors may be irrelevant where development sites do not affect, or are not within, or adjacent to, wildlife corridors. The second part of this third paragraph is also confusing due to references to it applying to *“new build buildings”* and *“any new development proposal.”*

There is no justification provided for preventing development on the *“best and most versatile agricultural land.”* This approach is contrary to national policy, which simply requires areas of poorer quality land to be used in preference to that of a higher quality (Paragraph 112).

The Policy then goes on to require every kind of development to demonstrate consideration of 12 separate criteria. As worded, all of the criteria must be considered – and be demonstrated to have been considered - whether or not they are appropriate or relevant. This is an unduly onerous requirement and places an unnecessary burden on development.

Criterion 1 is unclear as no precise definition is provided of “*where open views across the countryside are already obscured.*” Further, it is not clear what a “*view of infrastructure*” comprises or why, or how, the small-scale planting of broadleaved plants would comprise sustainable development with regards to the Policy context, not least given that the leaves may not be present for much of the year. The blanket protection of “*rural views*” proposed would, if taken to its logical extreme, prevent any development anywhere in the rural area. This would be contrary to national and local planning policy.

Not all juvenile trees are necessarily of value, or necessarily enhance the environment. Criterion 3 should reflect this. No indication of who is going to maintain the trees referred to in Criterion 4 is provided; and it is not clear how, or if, the trees referred to in Criteria 5 can be “*extended*” and why doing so would be directly relevant to every new development.

Further, Criteria 5 seeks to provide blanket protection of various parcels of land from any development. There is no evidence that such an approach has regard to national policy or is in general conformity with the strategic policies of the development plan. There is no evidence to demonstrate that any kind of development in the locations identified will necessarily fail to comprise sustainable development and as such, this part of the Policy may prevent sustainable development from coming forward. Whilst the general approach may help to protect local character to some degree, as worded, Criterion 5 does not meet the basic conditions. I address this below.

The final part of Criterion 9 states “*will be permitted.*” Such an approach runs the risk of pre-determining an application without taking relevant factors – for example, sustainable development benefits – into account. Criterion 10 seeks to prevent kerbs, fencing, signage and lighting. This is an unreasonable and unjustified requirement that could prevent essential development and contravene the requirements of a statutory authority. No evidence is provided to the contrary.

No definition of “*the lanes adjoining new developments*” is provided and it is therefore unclear what Criterion 11 applies to.

Policy TEH1 is an example of a neighbourhood planning policy that seeks to achieve good development, but which tries to address far too many things and in doing so, fails to provide a clear land use planning policy. I recommend:

- **Policy TEH1, change opening paragraph to “*The design and layout of new developments should respect local character and demonstrate, where appropriate, consideration of the Village Design Statement.*”**

- Change second paragraph to *“Development adjoining open countryside should provide a sympathetic transition and where appropriate, landscaping should integrate with wildlife corridors. The provision of features beneficial to wildlife within developments will be supported.”*
- Delete third and fourth paragraphs and change fifth paragraph to *“New development should take the following into account, where appropriate:”*
- Delete Sub-heading A and Criterion 1
- Change Criterion 3 to *“Existing mature trees should be retained and protected...be planted.”*
- Delete Criterion 4 and change Criterion 5 to *“Development proposals should respect the “green roadways/corridors” or...village. These are shown...”*
- Delete last sentence of Criterion 9
- Delete Criteria 10 and 11

The continuation of Policy TEH1 over several pages leads it to appear as an overly-long, confusing and unnecessary Policy. I recommend:

- **Create new *Policy TEH2 – Views*. Delete Sub-heading B (page 45)**

As worded, Criteria 13 requires a wide variety of views into and out of Tarporley to be retained. Not only would such an approach effectively seek to prevent any development from taking place across an extremely wide area, it would be impossible to control. Views change all of the time, dependant upon the time of year and even the weather.

In addition to the above, whilst I acknowledge that the significant background work undertaken provides a good indication of some important views into and out of the village, there is no evidence to demonstrate that a slight change to any of these views would comprise unsustainable development; and there is no evidence to demonstrate that the onerous requirements of Criteria 13 have regard to national policy, or are in general conformity with the strategic policies of the development plan.

The second part of Criteria 13 refers to *“adverse impacts on visual links to the countryside.”* These are undefined and consequently, this part of the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal. I recommend:

- **New Policy TEH2, delete Criteria 13 and replace with “Development must respect important views into and out of the village. These views are identified on Map 5 “Key Viewpoints” below and listed in the Appendices.”**

Criterion 14 designates Local Green Space. Taking the above into account, I recommend:

- **Replace Criteria 14 with new Policy TEH3 – Local Green Space and delete “C Green Spaces”**

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Para 77)

Consequently, when designating Local Green Space, plan-makers must clearly demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

The new Policy TEH3 seeks to designate nine areas of Local Green Space. However, the wording of Criterion 14 fails to have regard to national policy, which does not suggest that existing green spaces *“must be retained.”*

Map 6 is inappropriately small scale to identify each area of Local Green Space and this is addressed in the recommendations below. The Appendices and supporting information to the Neighbourhood Plan set out why each proposed Local Green Space meets the requirements of the Framework. In this regard, I am also mindful that the Neighbourhood Plan has emerged through robust consultation. Taking all of this information into account, I am satisfied that the designation of each of the nine areas of Local Green Space proposed meets the basic conditions.

I recommend:

- **Policy TEH3, delete Criterion 14 and replace with “*Local Green Space is designated at the nine sites shown on Map 6 and supporting plans. These are listed in the Appendices. Development of Local Green Space is not permitted, other than in very special circumstances.*”**
- **Create a new set of plans clearly showing the precise boundaries of each Local Green Space on an OS Base**

Criterion 15 simply refers to a map and suggests that all new development must provide open green space. This is an onerous requirement that would not be relevant for most development. I recommend:

- **Delete Criterion 15 and delete Map 7**

Criterion 16 is a vague requirement. No indication is provided as to how and when new allotment spaces must be made available. Consequently, Criterion 16 does not provide a decision maker with a clear indication of how to respond to a development proposal. I recommend:

- **Delete Criterion 16**
- **NB, the above recommendations will require the subsequent Policy Numbering to be changed. For clarity, the Policy numbering below follows that in the Submission version of the Neighbourhood Plan**

Policy TEH2 – Settlement Pattern

Together, national and local strategic planning policies protect local character. The general thrust of Policy TEH2 has regard to, and is in general conformity, with this approach and reflects the strong local support for protecting Tarporley’s distinctive local character.

Criterion A refers to Conservation Areas. Chapter 12 of the Framework recognises heritage assets as irreplaceable and clearly establishes how they should be conserved in a manner appropriate to their significance. Cheshire West and Chester Local Plan Policy ENV5 affords local protection that reflects the national policy approach.

Criterion A sets out a different approach to that of national and local strategic policy. In seeking to require all development affecting the Conservation Area to enhance the Conservation Area, it goes significantly further than either national or local policy. No justification is provided for this approach, which does not meet the basic conditions. Further, the Conservation Area is established and there is no need for the reference for it to *“be retained.”*

The second Criterion of Policy TEH2 seeks to limit each individual development to no more than 20 dwellings. This is a highly restrictive approach. Whilst I acknowledge that there is a general local desire for smaller developments, representations have been presented to demonstrate that developments of more than 20 dwellings could potentially come forward in the Neighbourhood Area in a sustainable manner, whereby they deliver local infrastructure alongside housing.

In the above regard, I am mindful that, as submitted, the Neighbourhood Plan fails to provide certainty with regards meeting its housing land requirement. Whilst I consider this in more detail under Policy TH1, below, it is clear that limiting any residential development to no more than 20 dwellings comprises a significant constraint that is, in itself, a contributing factor to this uncertainty.

Paragraph 184 of the Framework is unambiguous. It states:

“Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.”

Placing a limit on the number of dwellings that might come forward on any one site when there is considerable uncertainty that the Neighbourhood Plan will deliver sufficient houses to meet an established, up to date requirement, is inappropriate. Given this, I am also mindful that there is no substantive evidence to demonstrate that any development of more than 20 dwellings will fail to contribute to the achievement of sustainable development in Tarporley. The assertion that some of Tarporley's character is derived from most development being relatively small-scale may be true, but does not, in itself mean that a development of, say 25 dwellings would fail to comprise sustainable development.

Further to the above, there is no evidence to demonstrate that comprising more than 20 dwellings automatically means that development will be "*uniform*." Design can comprise an entirely different matter to quantity and there are examples, throughout the country, of detailed design policies in neighbourhood and district-wide plans, that control the type of development that can come forward.

No substantive evidence is provided to demonstrate why a "*small cluster*" of housing – which is, itself, undefined in Policy TEH2 – promotes a sense of community.

Criterion D does not define "*vehicular exit routes*." There is no clarity with regards how long such "*routes*" might be. I note that the Criterion does not prevent such routes from exiting onto the High Street. Criterion D gives no consideration to vehicular access into developments. Neither Criterion C nor Criterion D provide a decision maker with a clear indication of how to react to a development proposal.

The final Criterion seeks to impose a blanket ban on the development of a dwelling in any garden of less than 0.12 ha, or in any garden within the Conservation Area. No substantive evidence is provided to demonstrate why, say, the building of a dwelling in a garden of 0.13 ha may comprise sustainable development, but one in a garden of 0.11ha would not. I find that the approach may prevent sustainable development from coming forward and there is no evidence to the contrary. I also note that the approach would prevent residential development in some gardens, but not other forms of development and no reasoning is provided with regards why residential development is singled out in this way.

Neither national nor local strategic planning policy places a blanket ban on residential development in gardens of any size. However, policies do exist to protect residential amenity and local character, as well as to provide for, say, enabling development to safeguard heritage assets in an appropriate manner. Criterion E fails to do this, provides little in the way of justification and does not meet the basic conditions.

Taking all of the above into account, Policy TEH2 does not meet the basic conditions. I recommend:

- **Delete Policy TEH2 and paragraphs 4.214 and 4.215**

Policy TEH3 – Design

As established earlier in this Report, Paragraph 56 of the Framework recognises good design as *“a key aspect of sustainable development...indivisible from good planning.”* In addition, Cheshire West and Chester Local Plan Policy ENV6 promotes high quality design.

Generally, Policy TEH3 promotes good design, having regard to national policy and in general conformity with local strategic policies. However, the General Principle of requiring *“reduction of visual impact”* appears to impose a blanket requirement on all development in a manner that could prevent a strikingly beautiful or an exceptional building from ever being built in Tarporley. Some of the greatest buildings in the world have significant visual impacts, without which, they would not comprise great buildings. No evidence is provided to demonstrate that, in all cases, reducing visual impact amounts to good design and contributes to the achievement of sustainable development.

Whilst I acknowledge the desire to keep light pollution to a minimum, the provision of street lighting is not a matter controlled by the Neighbourhood Plan. Also, it is unclear why *“a mix of uses”* is encouraged for every development. Most proposals for development in the Neighbourhood Area will be for a single use – whether a household extension, an advertisement, a few houses or a business extension. Further, the Policy already refers to the detailed Village Design Statement in its introduction. To then introduce matters of detail, such as the degree of a roof pitch, as *“General Principles”* is unnecessary and to some considerable degree, contrary to Paragraph 59 of the Framework, which states:

“...design policies should avoid unnecessary prescription or detail.”

Criterion E encourages a mix of housing types, having regard to national policy’s requirement for the delivery of a wide choice of high quality homes (Chapter 6, the Framework). However, encouraging a mix of tenures on all residential sites fails to recognise that for many small-scale housing developments, there will be no requirement for a mix of tenure.

Criterion G is unusual in that it states that non-traditional housing will be acceptable, but then seeks to place an exceptionally onerous requirement upon any non-traditional design. Further, the Criterion fails to define what a *“traditional”* design is – thus failing to provide appropriate clarity – and seeks to impose the exceptional national policy requirement for new isolated houses in the countryside, as set out in Paragraph 55 of the Framework, onto any dwelling that is not *“traditional”* – whether in the countryside or the urban area. No detailed justification is provided for such an approach.

Criterion H sets out a requirement that relates to the construction process. This is something controlled by non-neighbourhood planning regulations. Criterion I's reference to the planting of small trees is unusual, in that trees grow, so whilst even the smallest garden space might have room for the planting of a small tree, doing so could well be inappropriate. It is therefore unclear what this part of the Criterion is intending to achieve. I note that Criteria K is more vague than existing heritage policy and Criteria L is prescriptive on some matters but silent on others.

Taking everything into consideration, I recommend:

- **Policy TEH3, delete "General Principles" and Criteria A, B, C and D**
- **Change opening sentence to "*New residential development will be required to demonstrate consideration of the following design principles and the detailed guidance contained within the Village Design Statement:*"**
- **Criterion E, delete "and to provide a mix of tenures."**
- **Criterion G, delete second sentence**
- **Criterion H, delete first sentence**
- **Criterion I, delete "...and be of sufficient...planted."**
- **Delete Criteria K and L (and sub-title above)**

Policy TEH4 – Protecting Heritage Assets

National policy recognises that heritage assets are irreplaceable. Chapter 12 of the Framework, “*Conserving and enhancing the built environment,*” sets out the national policy approach to the appropriate conservation of heritage assets.

Policy TEH4 has regard to national policy. It recognises the importance of heritage assets and seeks to protect them in a manner appropriate to their significance. I note that some development may not impact on a heritage asset or its setting and recommend:

- **Policy TEH4, second line, change to “...significance. *Development* should seek...”**

Subject to the above, Policy TEH4 contributes to the achievement of sustainable development and meets the basic conditions. No further changes are recommended.

Housing

Policy TH1 – Supporting New Development within the Settlement Boundary

Cheshire West and Chester Local Plan Policy STRAT8 establishes a requirement for at least 300 dwellings in Tarporley. Taking into account delivery and commitments, Cheshire West and Chester Council is satisfied that there is a minimum requirement for at least 34 dwellings in Tarporley, if the Neighbourhood Plan is to provide for at least 300 dwellings over the duration of the plan period, as required by Policy STRAT8.

However, the Neighbourhood Plan does not provide certainty that even this minimum requirement can be delivered between now and 2030. Instead, the Neighbourhood Plan seeks to establish a settlement boundary without providing any evidence that the minimum residential development requirement can be met within it. It allocates one small site (the Royal British Legion) for development, without any likelihood of that site providing for at least 34 dwellings, or anywhere close to that number.

The supporting text to Policy TH1 suggests that around 36 dwellings should come forward as “*small scale windfall proposals*.” However, the Neighbourhood Plan provides no certainty that this will be the case. Simply projecting past windfall rates into the future might provide some general indication, but does not equate to the same thing as providing for certainty. Nor does it comprise compelling evidence that there are plentiful sites with a strong likelihood of coming forward for housing development over the plan period, such that there can be little, if any doubt, that at least 34 new dwellings will be developed within the proposed settlement boundary.

Policy TH1 does state that development “*may be permitted*’ outside the settlement boundary, but only where these are “*over and above 300 houses*.” Given that there is no certainty that 300 houses can even be provided within the settlement boundary – notwithstanding that the 300 figure for Tarporley is a minimum requirement – this part of the Policy is fundamentally flawed. If only, say, 280 dwellings could be developed within the proposed settlement boundary, then this subsequent part of the Policy would not arise.

Further to the above, Policy TH1 goes on to require any “*proposals over and above 300 houses*” to provide a “*significant community benefit*” and be brought forward under a community right to build order or neighbourhood development order. This places additional onerous requirements on top of a fundamentally flawed approach.

Given the above, Policy TH1 is not in general conformity with Cheshire West and Chester Local Plan Policy STRAT8, but, I find, undermines it. In this regard, it is necessary and relevant to repeat Paragraph 184 of the Framework:

“Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.”

Policy TH1 fails to contribute to the achievement of sustainable development. It does not have regard to national policy and it is not in general conformity with the strategic policies of the development plan. It does not meet the basic conditions.

Taking the above into account, I recommend:

- **Delete Policy TH1 and paragraphs 4.3.9 - 4.3.16 inclusive**
- **Delete settlement boundary from Maps (NB, for clarity, this does not mean that development can take place anywhere in the Neighbourhood Area – the existing development plan policies are unaffected)**

Clearly the above recommendation has a major impact on the content of the Neighbourhood Plan. However, were the Policy to remain in the Neighbourhood Plan, then the document could not progress to Referendum. There are no simple modifications that can be made to Policy TH1 in order for it to meet the basic conditions.

Independent Examination of a Neighbourhood Plan is an entirely different process, underpinned by entirely different legislation, to say the examination of a District-wide Local Plan. The Independent Examiner must simply assess the Neighbourhood Plan against the basic conditions.

I recognise that the above recommendation will come as a disappointment to plan-makers who, together, have devoted thousands of hours to bringing forward the Neighbourhood Plan. However, the legislation is clear, as is national and local strategic planning policy. Policy TH1 does not meet the basic conditions and in this case, there is no easy or simple remedy through the examination process.

Notwithstanding this, the other Policies of the Neighbourhood Plan, subject to the recommendations of this Report, add a significant layer of development control policies that can greatly benefit the Neighbourhood Area. The deletion of Policy TH1 does not, in itself, mean that the Neighbourhood Plan fails to achieve many important local aspirations.

Further, the second part of the Cheshire West and Chester Local Plan is still emerging and there will be opportunities for neighbourhood plan-makers to influence the Policies of that document. To engage in this process with the strength of a made Neighbourhood Plan in the background could be to the significant benefit of the local community.

Policy TH1/1 Site Allocation – Royal British Legion Site, Tarporley

Policy TH1/1 allocates land at the Royal British Legion Site for development. As worded, the Policy is unclear in its requirements. It requires an “*appropriate mix*” but does not state what this is. Further, it states that “*consideration should be given*” to “*a possible expansion*” of the local school. The requirement to afford “*consideration*” to something that may or may not happen at some time in the future is vague and does not provide for clarity. However, I acknowledge the evidence regarding the community function of the site, in providing for parking and access.

I note that the allocation shown on Map 1 appears to exclude a small area of the car park to the east of the site.

A representation has been received stating that the allocation should include a much larger area of land. However, this wider area largely comprises a bowling green and allotments and these comprise areas of land that are demonstrably special to the local community in their present form. I consider Tarporley’s overall housing requirement elsewhere in this Report and having regard to the recommendations made, I am satisfied that not allocating the bowling green and allotments as development land does not lead the Neighbourhood Plan to fail to meet the basic conditions.

The site the subject of this Policy is brownfield and its allocation has regard to Paragraph 17 of the Framework, which encourages the use of land by reusing land that has been previously developed, provided that it is not of high environmental value. Taking this into account, whilst it is not incumbent upon a neighbourhood plan to allocate all brownfield sites, I find that in this case, and subject to the recommendations below, the allocation meets the basic conditions:

- **Policy TH1/1, delete second sentence and bullet points. Replace with “*The development of housing will be supported, subject to there being no loss in the number of spaces provided by the existing car park and safe access to local facilities being maintained.*”**
- **Map 1, ensure that the allocated site incorporates the whole of the car park, up to its eastern boundary with the allotments.**

Policy TH2 – Scale of New Housing Development

The first part of Policy TH2 repeats part of Policy TH1 and refers to limiting development sites to 20 dwellings. I refer to this elsewhere in this Report.

The second part of the Policy presents an unusual approach, whereby no development of 5 or more dwellings “*will be permitted*” next to any previous development until 5 years after “*occupation of the last dwelling on the adjacent site.*” No substantive evidence has been presented to demonstrate that this approach is necessary to protect Tarporley’s attractive qualities.

The approach set out does not have regard to national policy and is not in general conformity with local strategic policy. Furthermore and fundamentally, it could stifle sustainable growth by actively preventing sustainable development from coming forward in a timely manner. There is no substantive evidence to the contrary. Consequently, Policy TH2 is in severe conflict with national planning policy, which is founded upon the principles of sustainable growth.

In addition to the above, I am mindful that the above approach could severely compromise the Neighbourhood Plan’s ability to ensure the delivery of the local housing requirement.

Taking the above into account, I recommend:

- **Delete Policy TH2 and paragraphs 4.3.33 – 4.3.35 inclusive**

Policy TH3 – Housing Mix and Densities

The first sentence of Policy TH3 comprises an unnecessary reference to another policy in another document. The second paragraph of the Policy does not make any sense. It states that, in order to facilitate the inclusion of a proportion of 1 to 2 bedroomed properties, developments of 5 or more dwellings should have an average internal floor area of 130 square metres.

The above approach would allow for the development of say, ten four bedroomed dwellings of 130 square metres each. It would allow for the development of a ten dwelling scheme comprising six three-bedroomed dwellings of 100 square metres each, two four bedroomed dwellings of 130 square metres each and two five-bedroomed dwellings of 220 square metres each. In either case, it would not facilitate the provision of 1 and 2 bedroomed properties. I note that Cheshire West and Chester Local Plan Policy SOC3 already promotes the provision of a balanced mix of housing.

The final part of Policy TH3 seeks to limit the density of any greenfield housing to no more than 25 dwellings per hectare. Such a “blanket” approach fails to take into account relevant factors, such as prevailing local character. In addition, it would appear to severely conflict with the Neighbourhood Plan’s own references to a local community desire for new residential development to provide for smaller homes. Further, no detailed justification for the approach is provided, such as substantive evidence to demonstrate that any development at densities above 25 dwellings per hectare would necessarily fail to comprise sustainable development.

Taking all of the above into account, I recommend:

- **Delete Policy TH3 and paragraphs 4.3.36 - 4.3.38 inclusive**

Policy TH4 – Affordable Housing

National policy aims to “...widen opportunities for home ownership...” and meet the “...needs of different groups in the community...” (Paragraph 50, Neighbourhood Plan) and Cheshire West and Chester Local Plan Policy SOC1 requires the provision of affordable housing on appropriate sites.

The first paragraph of Policy TH4 simply repeats part of Policy SOC1. The second paragraph provides for local need and the third paragraph promotes provision alongside market housing. With regards local need, I am mindful of Cheshire West and Chester Council’s reference to timescales and suggest a modification in this regard below.

The fourth paragraph of the Policy seeks to control rental levels. This is not a land use planning matter that the Neighbourhood Plan can control. The Policy goes on to include a vague reference to taking “*viability issues*” into account, but provides no clarity in this regard, and refers to matters that the Neighbourhood Plan does not control, such as the imposition of conditions.

I recommend:

- **Policy TH4, delete first paragraph**
- **End Policy at the end of the third paragraph (delete remaining text “In relation...planning permission.”)**
- **Table 1, opening sentence, add “*During the first 16 week period the Affordable...who, in the first instance:*”**

Policy TH5 – Housing for Older People

Policy TH5 promotes elderly accommodation, having regard to Paragraph 50 of the Framework, which supports the provision of housing for older people.

The second part of the Policy is unclear, as it refers to “*suitable locations*” but does not state what these are, and no definition of what “*supported in principle*” means is provided. I recommend:

- **Policy TH5, delete second sentence and change first sentence to “*New housing, including nursing homes and older persons accommodation, which is designed..schemes.*”**

Improving Facilities and Connections

Policy TIFC1 – Provision and Protection of Facilities and Services

The Framework recognises that community facilities play an important role in the health of communities and Paragraph 70 states that plans should “*guard against the unnecessary loss of valued facilities and services.*”

The first part of Policy TIFC1 could have unforeseen consequences. It effectively states that any development is supported so long as it provides community facilities, meets the needs of the population and is appropriate in scale and design. For the purpose of emphasis, I note that a nuclear power station or a major urban extension could potentially meet these requirements. My recommendations below are aimed at reflecting the supportive context for community facilities in Tarporley.

The second part of Policy TIFC1 seeks to protect community facilities. As worded, it would not allow for the change of use of a facility or service that simply isn't viable. Further, it is unclear how “*a village need*” would be determined – on what basis and who by. I also note that the wording states “*will not be permitted*” and have commented re: the use of such wording earlier in this Report.

I recommend:

- **Policy TIFC1, delete first paragraph and three bullet points and replace with “*The provision of new community facilities and services will be supported, subject to respecting residential amenity and local character.*”**
- **Change second paragraph to “*The change of use of existing facilities to other uses or redevelopment will only be supported where it can be demonstrated that:*”**
- **Change Criterion 2, to “*The proposal is accessible...*”**
- **Delete and replace Criterion 3 with “*For private commercial facilities, it can be demonstrated, further to twelve months pro-active marketing, that the use is no longer viable.*”**

Policy TIFC2 – Community Leisure Facility

Chapter 8 of the Framework, “*Promoting healthy communities,*” prevents sports and recreational buildings and land from being built on unless specific criteria are met.

Similarly to Policy TIFC1, the wording of Policy TIFC2 could have unintended consequences. Generally, the Policy has regard to national policy and meets the basic conditions. I note that it may not be possible to meet the needs of the future population of all ages and that no clarity is provided with regards what may be appropriate in terms of scale and design.

I recommend:

- **Policy TIFC2, delete and replace text with “*The provision of new multi-purpose sport and recreation facilities with access for all members of the community will be supported subject to it respecting local character and residential amenity.*”**

Policy TIFC3 – Relocation of Existing Facilities

Policy TIFC3 is a positive Policy that is supportive of improved community facilities. Generally, it contributes to the achievement of sustainable development and by encouraging the use of a Neighbourhood Development Order or a Community Right to Build Order, it sets out a creative approach to delivering development that might otherwise be considered inappropriate in the countryside.

Criterion B requires any new facility to provide improved accessibility. However, it may be that a new facility outside the village centre could, in some ways, be less accessible because it is no longer central.

The final Criterion does not have regard to Paragraph 204 of the Framework, which requires planning obligations to be necessary, directly related to the development and fairly and reasonably related in scale. Policy TIFC3 does not refer to any specific development, site or use. I recommend:

- **Policy TIFC3, delete “...to suitable locations outside the settlement boundary...”**
- **Delete Criterion A and Criterion F**
- **Change ending of Criterion B to “...facilities *and services; and*” (delete “...and accessibility;”)**

Traffic, Parking and Accessibility

Policy TIFC4 – Transportation, Car Parking and Accessibility

Paragraph 32 of the Framework states that:

“All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment.”

The first part of Policy TIFC4 has regard to this. However, the Policy goes on to require any development of ten or more dwellings to provide for mitigation and the implementation of improvements. No evidence is provided to demonstrate that this approach has regard to national policy or is in general conformity with local strategic policy. It seeks to set a low threshold and as such, it places a significant burden on what could be relatively minor development proposals. No evidence has been submitted to demonstrate that such a requirement is achievable or viable, or that failing to meet it would necessarily result in a proposal failing to comprise a sustainable development.

The second paragraph, as worded, could have unintended consequences. The final part of the Policy imposes onerous requirements without any evidence to demonstrate that they are achievable, relevant, necessary or related to all development. Criterion E is not in general conformity with Cheshire West and Chester’s parking standards and no substantive evidence is provided to justify failure to meet the basic conditions in this regard. Taking the above into account, I recommend:

- **Policy TIFC4, delete third sentence “For residential...Tarpoley.”**
- **Delete second paragraph and delete Criterion E**
- **Change sentence above Criteria A-C to “*The provision of the following, as part of new development, will be supported:*”**
- **Change Criterion A to “*Safe...materials, designed to provide...cars. Pathways should be...wheelchairs and change Criterion B to “Cycle racks along the High Street.”***
- **Criterion C, change end to “*...fields with new paths.*”**
- **Change Criterion D to “*The creation of new footpaths that link to existing footpaths, roadways and/or the village centre.*”**

Policy TIFC5 – Communications Infrastructure

Chapter 5 of the Framework supports the provision of high quality communications infrastructure. Generally, Policy TIC5 has regard to this.

As worded, the first part of the Policy applies to all development. However, no evidence is provided to demonstrate that it would be appropriate, viable or reasonable for all development to make provision for high speed broadband. The requirement would simply not be applicable to many development proposals. Furthermore, no clarity is provided with regards what “*latest communication network technologies*” comprise.

By requiring the design and siting of communications infrastructure not to “*impact*” on various features, the second part of the Policy goes well beyond the detailed approach to ensuring that the nation has advanced, high quality communications infrastructure essential for sustainable economic growth. The broad-brush approach proposed fails to have regard to carefully worded national policy and consequently, could prevent sustainable development from coming forward.

Taking the above into account, I recommend:

- **Policy TIFC5, delete all text. Replace with “*The development of advanced high quality communications infrastructure, including high speed broadband, will be supported, subject to: i) development being kept to a minimum consistent with the efficient operation of the network; ii) any development being sympathetic to its surroundings and camouflaged where appropriate.*”**

7. Summary

I have recommended a number of modifications further to consideration of the Tarporley Neighbourhood Plan against the basic conditions.

Subject to these modifications, the Tarporley Neighbourhood Plan

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.

Taking the above into account, I find that the Tarporley Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

8. Referendum

I recommend to Cheshire West and Chester Council that, subject to the modifications proposed, the **Tarporley Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

Neighbourhood Plan Area - I am required to consider whether the Referendum Area should be extended beyond the Tarporley Neighbourhood Area.

In April 2015, the Tarporley Parish Council boundary area was subject to a minor change. This added an area that included around 25 properties. This minor change does not affect the designated Neighbourhood Area, but is located immediately adjacent to it.

Taking the above into account, I consider it sensible and logical to extend the Referendum Area to include the whole of the area that falls within the Parish Council boundaries.

Consequently, I recommend that the Plan should proceed to a Referendum based on the Tarporley Parish Council Area. This will include the whole of the Neighbourhood Area approved by Cheshire West and Chester Council on 27 March 2014, plus the area referred to above.

Nigel McGurk, February 2016
Erimax – Land, Planning and Communities

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