

**Higham Ferrers Town Council**

# **Higham Ferrers Neighbourhood Development Plan**

A Report to East Northamptonshire District Council of the  
Independent Examination of the Higham Ferrers  
Neighbourhood Development Plan

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## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Higham Ferrers Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Higham Ferrers Town Council (the Town Council), a qualifying body able to prepare a neighbourhood plan, in respect of the Higham Ferrers Neighbourhood Area which was formally designated by East Northamptonshire District Council (the District Council) on 10 December 2014<sup>2</sup>.
4. Work on the production of the plan has been undertaken through a Neighbourhood Plan Steering Group (the Steering Group) that has been fully supported by the Town Council. The membership of the Steering Group consists of a majority of volunteer community representatives and some Councillors.
5. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Town Council for submission of the plan and accompanying documents to the District Council, which occurred on 11 June 2015. Following publication for consultation<sup>3</sup> East Northamptonshire District Council has submitted the Neighbourhood Plan to me for independent examination.

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<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012)

<sup>2</sup> A Neighbourhood Area had previously been approved on 17 June 2013. This was subsequently amended, to reflect changes to the parish boundary which came into force on 15 October 2014

<sup>3</sup> In accordance with Regulation 16 the Neighbourhood Planning (General) Regulations 2012 (as amended)

## Independent Examination

6. This report sets out the findings of the independent examination into the Neighbourhood Plan.<sup>4</sup> The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.
7. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by the District Council. If 'made' the Neighbourhood Plan will come into force as part of the statutory development plan covering the whole of the Higham Ferrers parish area and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area.
8. I have been appointed by the District Council with the consent of the Town Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Town Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have more than thirty-five years professional planning experience and have held national positions and local authority Chief Planning Officer posts.
9. As independent examiner I am required to produce this report and must recommend either:
  - that the Neighbourhood Plan is submitted to a referendum, or
  - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
  - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements

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<sup>4</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>5</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>6</sup>
11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>7</sup>
12. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

## **Basic conditions and other statutory requirements**

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>8</sup> A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
  - the making of the neighbourhood plan contributes to the achievement of sustainable development,
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>9</sup>

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<sup>5</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>6</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>7</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>10</sup> All of these matters are considered in the later sections of this report titled 'The Neighbourhood Plan taken as a whole' and 'The Neighbourhood Plan policies'.
15. In addition to the basic conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>11</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (as amended) which are made pursuant to the powers given in those sections.
16. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 10 December 2014. The plan area is described in section 1.2 of the Submission Version of the Neighbourhood Plan as incorporating the entire parish of Higham Ferrers. A map of the plan area is included as Figure 1 of the Submission Version plan. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>12</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>13</sup> All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>14</sup> and the Neighbourhood Plan does not provide for the granting of planning permission for any development that is excluded development.<sup>15</sup> I have given careful consideration to policy HF.TC1 of the Neighbourhood Plan in this latter respect. I am able to confirm that I am satisfied that each of these requirements has been met.

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<sup>9</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>10</sup> The Convention rights has the same meaning as in the Human Rights Act 1998

<sup>11</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

<sup>12</sup> Section 38B(1)(c) Planning and Compulsory Purchase Act 2004

<sup>13</sup> Section 38B(2) Planning and Compulsory Purchase Act 2004

<sup>14</sup> Section 38A(2) Planning and Compulsory Purchase Act 2004

<sup>15</sup> Principally winning and working of minerals and associated buildings, waste disposal, and nationally significant infrastructure projects, as set out in Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>16</sup> The front cover of the Submission Version clearly shows the plan period to be 2011 – 2031. This twenty year period is confirmed in the introduction to the plan document and stated as a header to every page.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>17</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan. I have been appointed to examine whether the submitted Neighbourhood Plan meets the basic conditions and Convention rights, and the other statutory requirements.
20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the basic conditions and the other requirements I have identified.<sup>18</sup>

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<sup>16</sup> Section 38B(1)(a) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

<sup>18</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990



## Documents

23. I have given consideration to each of the following documents in so far as they have assisted me in considering whether the Neighbourhood Plan meets the basic conditions and other requirements:

- Higham Ferrers Neighbourhood Plan 2011-2031 Submission Version June 2015
- Higham Ferrers Neighbourhood Plan Equalities Impact Assessment June 2015
- Higham Ferrers Neighbourhood Plan Basic Conditions Statement including appendices June 2015
- Higham Ferrers Neighbourhood Plan Consultation Statement June 2015
- Higham Ferrers Neighbourhood Plan Housing Requirements and Site Allocation June 2015
- Higham Ferrers Neighbourhood Plan Strategic Environmental Assessment Screening Report June 2015 (Appendix 3 to Basic Conditions Statement)
- Higham Ferrers Neighbourhood Plan HRA Screening Report June 2015 (Appendix 4 to Basic Conditions Statement)
- Higham Ferrers Neighbourhood Plan Evidence Base June 2015
- Higham Ferrers Neighbourhood Plan Local Green Space Assessment 2014
- Higham Ferrers Neighbourhood Plan Character Assessment September 2014
- Higham Ferrers Neighbourhood Plan East Northamptonshire Council legal check letter 15 June 2015
- Representations received during the Regulation 16 publicity period
- North Northamptonshire Core Spatial Strategy adopted June 2008
- North Northamptonshire Joint Core Strategy 2011-2031 Pre-Submission Plan Focussed Changes, June 2015 (as submitted, 31 July 2015)
- East Northamptonshire District Local Plan (DLP) adopted 1996 Saved Strategic Policies (GEN3, H4, H16, AG4, AG9, RL3, and RL4)
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Technical Guidance to the National Planning Policy Framework (27 March 2012) [*In this report referred to as the Technical Guidance*]
- Department for Communities and Local Government Permitted development for householders technical guidance (April 2014) [*In this report referred to as the Permitted Development Guidance*]
- Department for Communities and Local Government Planning Practice Guidance web-based resource (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014

- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Localism Act 2011
- Neighbourhood Planning (General) Regulations 2012 [*In this report referred to as the Regulations*]

## Consultation

24. The Consultation Statement demonstrates that a comprehensive and inclusive approach has been adopted in engaging stakeholders and the local community in preparation of the Neighbourhood Plan. I highlight here a number of the key components of the consultation undertaken.

25. Views on the issues that faced Higham Ferrers were first obtained in January 2012 through a well publicised drop-in event. Input from post-it notes was utilised in developing a questionnaire that was hand delivered to every household in May 2012. 823 responses were received.

26. A workshop in July 2012 attended by key stakeholder groups considered main issues and identified important themes for the Neighbourhood Plan. Over 100 residents were registered as attending a drop-in session in February 2013 at which plan themes and possible actions were displayed.

27. A survey questionnaire was delivered to every household in the plan area in August 2013 requesting views and response in respect of a vision and objectives and four proposed strategic options. Letters were also sent to key stakeholders including landowners, shops and other businesses, statutory consultees, community groups and adjoining parish and town councils. Information was made available on a dedicated website and a further drop-in session held. 218 responses were received as well as replies from key agencies and organisations.

28. A Character Assessment Workshop held in May 2014 led to the publication of the Higham Ferrers Character Assessment 2014. A consultation leaflet in July 2014 delivered to every household and shops and other businesses in the plan area, and sent to other key stakeholders, set out emerging policy options and requested indication

of preferences. Again a drop-in session and use of the website assisted in ensuring a satisfactory 200 responses.

29. A Design Survey was undertaken through two community events and engagement with the Business Forum took place in July 2014. Other engagement included meetings with key stakeholders.
30. Pre-submission consultation was held between 16 February and 31 March 2015 and resulted in 47 responses from residents and businesses, and 11 responses from statutory bodies. A full summary of the responses is set out in the Consultation Statement. The main issues raised have been identified and changes as appropriate made to the Neighbourhood Plan.
31. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 consultation, which took place from 3 July to 17 August 2015 inclusive. A total of six responses, including one with no comments, were submitted all of which I have taken into consideration in preparing this report, even though they may not be referred to in whole, or in part.
32. In a representation the Duchy of Lancaster “*supports the general thrust of what appears to be a well-considered and positively prepared draft plan. Having significant land interests in the area we welcome the opportunity to comment on the emerging policies and to consider how our land might help the Town meet its growth needs*”. The Duchy has commented on specific policies. I consider those representations and the representations of other parties that relate to specific policies in the later section of my report when considering the policies concerned.
33. Where other representations relate to the Neighbourhood Plan as a whole I deal with them in the next section of my report.
34. Consultation has clearly exceeded the requirements of the Regulations achieving effective and comprehensive engagement with the local community and other stakeholders who have influenced the content of the Neighbourhood Plan.

## The Neighbourhood Plan taken as a whole

35. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this.

Consideration of Convention rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

36. The Basic Conditions Statement states “*The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act.*” I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>19</sup> I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention.

37. An equalities impact assessment has been undertaken that concludes the Neighbourhood Plan will result in positive impacts on groups with protected characteristics. Those groups are identified as being: older people; young people; mothers to be and with young children; disabled people and those with limited mobility. Whilst the needs of other groups are not explicitly addressed benefits to those groups are identified, including provision for affordable housing, community facilities, and a safer public realm. No negative equality impacts are identified.

38. The objective of EU Directive 2001/42<sup>20</sup> is “*to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of*

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<sup>19</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

<sup>20</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

*plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.*” The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>21</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>22</sup>

39. A Strategic Environmental Assessment (SEA) screening has been prepared by the Steering Group. It is concluded that the Neighbourhood Plan does not require a full SEA to be undertaken. The screening has been subject to satisfactory consultation with the statutory consultation bodies. Natural England has further confirmed during the publicity period that it is satisfied with the contents of the SEA. I am satisfied that the requirements in respect of Strategic Environmental Assessment have been met.

40. The Basic Condition Statement states “*The Neighbourhood Plan Area is adjacent to the Upper Nene Valley Gravel Pits Special Protection Area and Ramsar site. It is a Natura 2000 site which provides protection under the European Communities 1992) Council Directive 92/43/EEC (the Habitats Directive), transposed into UK law by Conservation of Species and Habitat Regulations 2010*”. The Steering Group has carried out a Habitats Regulations Screening which concluded the Neighbourhood Plan would not cause any significant effects which would have a material impact on the Special Protection Area therefore a full Appropriate Assessment was not required. The assessment also concluded no significant effects when the Neighbourhood Plan is considered in combination with other plans and programmes. The necessary statutory consultation has been undertaken. In a representation Natural England has confirmed agreement with the conclusions of the Habitats Regulations Assessment. Unsurprisingly I have not seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site.

41. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

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<sup>21</sup> Defined in Article 2(a) of Directive 2001/42

<sup>22</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

42. I conclude that the Neighbourhood Plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

43. The Guidance<sup>23</sup> states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive):

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).

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

44. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans<sup>24</sup> which requires plans to be “*consistent with national policy*”.

45. Lord Goldsmith has provided guidance<sup>25</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does*

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<sup>23</sup> National Planning Policy Guidance paragraph 031 reference ID:11-031-20150209

<sup>24</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

<sup>25</sup> the Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord’s Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

*having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”*

46. The Basic Conditions Statement seeks to demonstrate the Neighbourhood Plan has been prepared with regard to national policies as set out in the Framework. A statement is made as to how the Neighbourhood Plan supports or otherwise positively relates to paragraphs 17 and 184 of the Framework. The approach and policies of the Neighbourhood Plan are shown to reflect the 12 core planning principles set out in the Framework.

47. The Neighbourhood Plan states a vision that has been developed by the Steering Group and refined through consultation with the community. The vision includes four components of:

- A sustainable, vibrant, thriving community
- A community which encourages attractive, high quality development
- A community that is inclusive, and
- An attractive town centre.

Each component is developed through an explanatory sentence. The vision is positively phrased encouraging growth and development and the attraction of new businesses. The vision is appropriate for a neighbourhood plan and has regard for national planning policy.

48. The objectives of the Neighbourhood Plan relating to services; development; town centre; access; method; and design and environment are all consistent with components of the Framework and in particular those aspects relating to building a strong, competitive economy, ensuring the vitality of town centres; delivering a wide choice of high quality homes; conserving and enhancing the historic environment; requiring good design; promoting healthy communities; and promoting sustainable transport.

49. In a representation Northamptonshire County Council Highways has stated *“The NPPF has 12 key principles the following of which relate directly to highways and transportation; public transport to make developments sustainable, promoting sustainable transport, ensuring the vitality of town centres and promoting healthy communities. After careful consideration, Northamptonshire Highways believes that the Neighbourhood Plan has a good broad regard for national policy and guidance”* and *“Northamptonshire Highways is still of the opinion that reference should be made in the Plan’s objectives to public transport links. The objective also only deals with encouraging pedestrian and*

*cycling links within the town boundary....”* In this latter respect I note the policy and the plan objectives already include reference to links beyond the town boundary. Whilst I would have no objection to inclusion of other statements in the Neighbourhood Plan as suggested I have not recommended a modification as they are not necessary to meet the basic conditions.

50. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition *“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”*
51. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.<sup>26</sup> The Guidance states, *“This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”.*
52. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

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<sup>26</sup> Paragraph 14 National Planning Policy Framework 2012



53. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes a table that seeks to demonstrate the economic, social and environmental attributes of each of the Neighbourhood Plan policies. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. In particular I consider the Neighbourhood Plan seeks to:

- Maintain a compact urban form between the A6 and the A45;
- Require at least half of new homes on any new development will be suitable as starter homes or as homes for the elderly;
- Ensure that any future growth at Higham East will meet housing, employment and community facility needs whilst avoiding impacts on environmentally sensitive sites;
- Allocate a significant area of land east of Ferrers School for housing development and ensuring proposals contribute to meeting local housing needs including affordable homes;
- Generate financial contributions that improve provision of community buildings and facilities and avoid loss of viable needed community facilities;
- Safeguard land for expansion of Henry Chichele School;
- Ensure new development is of good quality design;
- Conserve and enhance heritage assets and the natural environment;
- Facilitate access to green infrastructure network and designate twelve areas as Local Green Space;
- Mitigate traffic impact of development proposals, ensure adequate parking facilities and promote sustainable modes of transport;
- Support improved telecommunications; and
- Strengthen the vitality and viability of the town centre commercial area and support public realm improvements.

54. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find that the Neighbourhood Plan, taken as a whole, has regard to national policies and advice contained in guidance issued by the Secretary of State and contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

55. The Framework states that the ambition of the neighbourhood should “support the strategic development needs set out in Local Plans”.<sup>27</sup> “Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. 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 should not promote less development than set out in the Local Plan or undermine its strategic policies”.<sup>28</sup>

56. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”

57. In this independent examination I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The District Council has informed me that the Development Plan applying in the Higham Ferrers neighbourhood area and relevant to the Neighbourhood Plan comprises the North Northamptonshire Core Spatial Strategy (CSS), adopted June 2008, and the East Northamptonshire District Local Plan (DLP), adopted November 1996 (saved policies).

58. As the Core Spatial Strategy and the Local Plan Saved Policies predate the Framework, the Framework takes precedence where there is a conflict. There is no requirement for a neighbourhood plan to include particular types of development and land use policies, nor is

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<sup>27</sup> Paragraph 16 National Planning Policy Framework 2012

<sup>28</sup> Paragraph 184 National Planning Policy Framework 2012

there any requirement for a neighbourhood plan to deal with any particular development and land use issues.

59. In order to satisfy the basic conditions the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The District Council has advised me which policies of the Development Plan are considered to be strategic. Northamptonshire Highways “*considers that the Plan supports Policy 2 Connecting North Northamptonshire with Surrounding Areas and Policy 4 Enhancing Local Connections from the JCS and policy HF.TC3 is in broad conformity with the JCS*” and “*The Plan in a wider sense is supportive of reducing the need to travel and encouraging people to use alternative modes to the private car which is all in line with the objectives of the Northamptonshire Transportation Plan and its daughter documents*”. Whilst there is no requirement for the Neighbourhood Plan to be “in line” with a local transportation plan such alignment represents good practice.
60. The Core Spatial Strategy and the District Local Plan saved policies are soon to be replaced by the North Northamptonshire Joint Core Strategy (JCS) 2011-2031. The latter was submitted to the Secretary of State on 31 July 2015. The emerging Joint Core Strategy is not yet part of the Development Plan and the requirement for the Neighbourhood Plan to be in general conformity with strategic policies does not apply in respect of that emerging plan. Emerging planning policy is subject to change as plan preparation work proceeds.<sup>29</sup> The Guidance states “*Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan*”. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.
61. In considering a now repealed provision that “*a local plan shall be in general conformity with the structure plan*” the Court of Appeal stated “*the adjective ‘general’ is there, “to introduce a degree of flexibility.”*<sup>30</sup> The use of ‘general’ allows for the possibility of conflict. Obviously there must at least be broad consistency, but this gives considerable

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<sup>29</sup> The Joint Core Strategy was submitted to the Planning Inspectorate (on behalf of the Secretary of State) on 31 July 2015. The Local Development Scheme update of April 2015 indicates adoption is intended in early 2016

<sup>30</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

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

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”*

63. My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance. If there were to be a conflict between a policy in a neighbourhood plan and a policy in a local plan the conflict must be resolved in favour of the policy contained in the last of those plans to become part of the Development Plan.<sup>31</sup> The Neighbourhood Plan cannot therefore prejudice the emerging Local Plan in this respect.<sup>32</sup>

64. Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

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<sup>31</sup> Section 38(5) Planning and Compulsory Purchase Act 2004

<sup>32</sup> See paragraph 103 of the Judgement in *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC 1470 (Admin)

## The Neighbourhood Plan policies

65. The Neighbourhood Plan includes 17 policies:

HF.H1 Windfall Sites and Development Infill – Residential

HF.H2 Type of Dwelling

HF.H3 Higham East (Future Growth)

HF.H4 Land East of Ferrers School

HF.CD1 Provision of Community Facilities

HF.CD2 Protection and Enhancement of Community Facilities

HF.CD3 Land to the Rear of Henry Chichele School

HF.DE1 Achieving High Quality Design

HF.DE2 Heritage Assets and their Setting

HF.DE3 Access to Green Infrastructure Network

HF.DE4 Local Green Space

HF.TC1 Chowns Mill Junction Improvements

HF.TC2 Telecommunications

HF.TC3 Access Design for New Developments

HF.TC4 Parking

HF.TCE1 Town Centre Commercial Area

HF. TCE2 Public Realm Improvements

66. The Guidance states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.”* *“Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*

67. *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*
68. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*
69. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.”<sup>33</sup>*
70. If to any extent a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn.

### **Policy HF.H1 Windfall Sites and Development Infill – Residential**

71. This policy seeks to establish conditional support for proposals for residential development on windfall or infill sites.
72. In a representation Northamptonshire County Council Highways has stated *“The Neighbourhood Plan includes the proposed allocation of housing sites, it should be noted that this will be subject to the resolution of any highway safety and access issues at the planning application stage, or as part of a consultation on a Community Right to Build Order”*. Whilst the representation refers specifically to allocations

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<sup>33</sup> See section 38(6) of the Planning and Compulsory Purchase Act 2004.

it would equally apply to proposals for windfall and infill development and is noted.

73. The policy includes three references to its geographic application. Whilst this requires careful reading the meaning is clear and modification is not necessary on that basis. I do however consider use of the term single storey dwellings (as in policy HF.H2) provides greater clarity than the term bungalows that can include rooms set in the roof.

74. It may be an unreasonable burden to require proposers of a development scheme to provide an up to date demonstration of need particularly in the case of a small scale proposal. In some areas the Local Planning Authority or Town Council will maintain an up to date assessment. I recommend the policy should refer to the most up to date demonstration of need.

75. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 9 Distribution and Location of Development and CSS Policy 13 General Sustainable Development Principles.

76. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes; requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to modification this policy meets the basic conditions.

**Recommended Modification 1:**

**In policy HF.H1**

- delete “bungalows” and insert “single storey dwellings” and
- before “up-to-date” delete “an” and insert “the most”

**Policy HF.H2 Type of Dwelling**

77. This policy seeks to specify required types of dwellings within development proposals.

78. A representation proposes the policy should only apply to developments of more than 10 dwellings and that about 50% should be referred to rather than a minimum of 50%. The representation also

proposes the word particular should be deleted in reference to masterplanning and design considerations. I consider the introduction of limitation of application of the policy is not necessary to meet the basic conditions. The policy has regard to the need for consideration of viability as set out in the Framework and already includes provision to accept a scheme justified by design considerations. Modification to refer to “about” rather than minimum of smaller homes would introduce a degree of flexibility but would not establish clear guidance for decision makers. In any case the policy provides for an alternative housing mix under specified circumstances.

79. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 15 Sustainable Housing Provision.
80. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes. This policy meets the basic conditions.

### **Policy HF.H3 Higham East (Future Growth)**

81. This policy sets out eight matters that any future Masterplan for the identified Higham East growth area should consider. These matters are all appropriate in that they seek to shape and direct sustainable development to ensure that local people get the right type of development for their community.
82. The policy makes reference to another future development, namely Rushden East, proposed as a major strategic development site in the draft North Northamptonshire Joint Core Strategy 2011-2031 (submitted 31 July 2015), in two respects. Firstly the policy seeks to establish support for the comprehensive masterplanning for access and infrastructure associated with Rushden East required from the John Clarke roundabout. The Neighbourhood Plan can only include policies that apply entirely within the plan area. I recommend a modification to clarify that this is the case.
83. The second reference to Rushden East is concerned with phasing of that development and development of Higham East. Supporting text makes it clear that consultation with the community indicates that modest growth within the plan area associated with a wider Rushden East urban extension would be supported. There are two difficulties.



Firstly the policy wording refers to “additional land” and the location plan and proposals map use a symbol without any indication of the amount of land potentially involved. The requirement for demonstration of future need arising in Higham Ferrers, that is appropriate in the context of a growth area, provides a limitation. Secondly the policy attempts to ensure development of Higham East follows development of Rushden East (a development that itself is not defined) although it is not entirely clear whether Rushden East must be completed before Higham East commences. The intention is understandable but the construction of a policy is difficult. I recommend a requirement for prior approval of a phasing proposal as part of the co-ordinated masterplanning of the combined growth areas of Rushden East and Higham East.

84. In a representation Natural England has confirmed agreement to the wording of the policy in response to Habitats Regulations Assessment. In another representation Northamptonshire County Council Highways has stated “*The Neighbourhood Plan includes the proposed allocation of housing sites, it should be noted that this will be subject to the resolution of any highway safety and access issues at the planning application stage, or as part of a consultation on a Community Right to Build Order*”. This is noted.
85. In another representation Northamptonshire Highways suggest that the policy “*should make reference to any future Masterplan considering how the site can be best served by public transport, through appropriate road layouts etc in conjunction with the plans at Rushden East. The policy should also make reference to provision of cycling and walking within the development being considered in the Masterplan to meet NTP Strategic Policy 3 (ensure that all new developments are well connected by public transport and walking, cycling and motor vehicle routes and also policy HF.TC3.*” I have recommended a modification to reflect the need to promote sustainable transport identified in the Framework.
86. Northamptonshire Highways has also commented the policy “*makes reference to provision of a safe and high quality link across the A6 between Higham East and land to East of Ferrers School site, the following sentence should be added to align with our strategic policy ‘while retaining the form and function of the A6’.*” Whilst I have no objection to such an amendment I have not recommended a modification as it is not necessary to meet the basic conditions.
87. The Duchy of Lancaster has stated its ownership includes a significant estate east of the A6 from Chown Mills in the north to land forming part of

Rushden East in the south (HF.H3). It also includes site HF.H4 East of Ferrers School. The Duchy supports the allocation of these sites in the Plan and is willing to work with the Council to bring them forward. *“This policy, and the supporting text on page 23, is supported as being in conformity with strategic policies set out in the emerging Joint Core Strategy. The land is a suitable and sustainable area for future growth which received strong support in consultation feedback. It allows proper long term masterplanning linked to proposals at Rushden East. The area indicated falls within the Duchy’s Estate.”*

88. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 4 Enhancing Local Connections; CSS Policy 9 Distribution and Location of Development; and CSS Policy 13 General Sustainable Development Principles.

89. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy does not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. However the policy does properly seek to promote or reinforce local distinctiveness through a strategic green corridor and strategic landscaping. The policy has regard to the components of the Framework concerned with building a strong competitive economy; ensuring the vitality of town centres; supporting a prosperous rural economy; promoting sustainable transport; supporting high quality communications infrastructure; delivering a wide choice of high quality homes; requiring good design; promoting healthy communities; meeting the challenge of climate change and flooding; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to modification this policy meets the basic conditions.

#### **Recommended Modification 2:**

##### **In policy HF.H3**

- **after “roundabout” continue “within the Neighbourhood Plan area”**
- **add an additional bullet point “The need to demonstrate the promotion of sustainable transport through provision for walking and cycling and through provision for public transport penetration” and**
- **delete “without or ahead of Rushden East.” And insert “without prior approval by the Local Planning Authority of a phasing proposal for land within the Neighbourhood Plan area as part of the co-ordinated masterplanning of the**

**combined growth areas of Rushden East and Higham East.”**

#### **Policy HF.H4 Land East of Ferrers School**

90. This policy seeks to establish eight criteria that are to be met in respect of the development of land to the east of Higham Ferrers School for residential purposes. The scale of development proposed is sufficient to justify assessment of local need in the absence of an up to date housing needs survey.
91. In a representation Anglian Water has confirmed no objection to the principle of development on this site and stated *“it is important to note that foul sewerage network enhancements may be required to enable the development of the site”*. In another representation Natural England has confirmed agreement to the wording of the policy in response to Habitats Regulations Assessment. In a further representation Northamptonshire County Council Highways has stated *“The Neighbourhood Plan includes the proposed allocation of housing sites, it should be noted that this will be subject to the resolution of any highway safety and access issues at the planning application stage, or as part of a consultation on a Community Right to Build Order”*. These representations do not necessitate modification of the policy in order to meet the basic conditions.
92. In another representation Northamptonshire County Council Highways has stated *“National and Local Planning Policy makes clear that, whenever possible, development of all kinds should take place in locations that are accessible by a variety of non-car modes and public transport in particular. Planning policy makes clear that locating development in places already well-served by public transport is the optimum way of achieving this. National Guidance set out by the Chartered Institute of Highways and Transportation (Planning for Public Transport in New Development, 1999) sets a threshold of 400m walk as the recommended maximum distance from stops served by regular bus services. Policy HF.H4 which deals with Land East of Ferrers School should therefore also outline that facilities for serving the site by public transport should be met as appropriate.”* I recommend reference is made to public transport in order to reflect national policy and more clearly meet the basic conditions.
93. The Duchy of Lancaster ownership includes this site, the allocation of which it supports as suitable and deliverable. The Duchy is willing to work with the Council to bring the site forward for development. The

Duchy states the policy “*seeks to deliver 50% of homes as 1 and 2 bedroom units. Having a limit of 300 homes may therefore fail to make best use of the site given the large proportion of smaller homes now being sought. Inserting the word ‘approximately’ instead of ‘up to’ provides flexibility for the best design solution to emerge at the applications stage and through engagement with the Town Council.*” I have proposed a modification on the basis that a cap on development does not reflect the presumption in favour of sustainable development set out in the Framework.

94. The Duchy also recommends deletion of the first reference to SPA/RAMSAR as this is covered in the final bullet. I consider the two references are complimentary, and in any case a deletion is not necessary to meet the basic conditions. Finally the Duchy requests a change to make it clear that the link across the A6 is a requirement of Higham East rather than this site. I consider the policy wording is acceptable in that the link will in part serve to achieve access from the site to open countryside, and the East of Ferrers School site will need to facilitate the achievement of this link through the internal design and layout of the site.
95. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 4 Enhancing Local Connections; CSS Policy 9 Distribution and Location of Development; and CSS Policy 13 General Sustainable Development Principles. As the adopted Development Plan does not contain a discrete requirement for Higham Ferrers the Neighbourhood Plan has utilised the requirement set out in the emerging Joint Core Strategy where a quantum of housing development is set out as 560 dwellings. Allowance has been made for completions and commitments. The Guidance recognises the potential benefits of sharing information across Neighbourhood Plan and Local Plan preparation processes.
96. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. As recommended to be modified the policy has regard to the components of the Framework concerned with promoting sustainable transport; delivering a wide choice of high quality homes; requiring good design; promoting healthy communities; meeting the challenge of climate change and flooding; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to modification this policy meets the basic conditions.

### **Recommended Modification 3:**

#### **In policy HF.H4**

- **Before “300 houses” delete “up to” and insert “approximately” and**
- **Add a bullet point “Provision for convenient access to public transport”**

### **Policy HF.CD1 Provision of Community Facilities**

97. This policy seeks timely delivery of infrastructure and facilities so that new development provides for a balanced and sustainable community.

98. In a representation Natural England has confirmed agreement to the wording of the policy in response to Habitats Regulations Assessment.

99. In another representation Northamptonshire Highways state the policy *“outlines the local infrastructure priorities for receiving developer contributions. For CIL in a wider context it should be noted that no mechanism currently exists for prioritising infrastructure needs across different public services and allocating funds to priority projects. The County Council is working with East Northamptonshire Council and other Local Planning Authorities to progress the CIL, part of which will be developing a robust mechanism and establishing appropriate governance arrangements to oversee the prioritisation of infrastructure across different services”*.

100. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 5 Green Infrastructure and CSS Policy 6 Infrastructure Delivery and Developer Contributions.

101. The policy should recognise the intention of national policy that development should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. I have recommended a modification in this respect.

102. The policy identifies, subject to future revisions, a list of projects to be prioritised for utilisation of contributions for local community facilities. Prioritisation for deployment of financial contributions does not constitute a policy for the development and use of land. The Guidance states *“Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be*

*included in a neighbourhood plan, but actions dealing with non land use matters should be clearly identifiable. For example, set out in a companion document or annex.”* I recommend this approach should be followed. The second part of the policy should be deleted and should be registered as a statement of community intent through inclusion in the non-statutory Section 7 Community Action Plan Proposals.

103. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting sustainable transport; promoting healthy communities; and meeting the challenge of climate change and flooding. Subject to modification this policy meets the basic conditions.

#### **Recommended Modification 4:**

##### **In policy HF.CD1**

- **before “Financial” insert “Subject to viability testing”**
- **Delete the second paragraph and list of projects which should be transferred to the non-statutory Section 7 Community Action Plan Proposals**

#### **Policy HF.CD2 Protection and Enhancement of Community Facilities**

104. This policy seeks to establish conditional support for new or improved community facilities and resist unjustified loss.

105. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 13 (f) General Sustainable Development Principles.

106. The policy has regard to the components of the Framework concerned with promoting healthy communities. This policy meets the basic conditions.

#### **Policy HF.CD3 Land to the Rear of Henry Chichele School**

107. This policy seeks to safeguard land to provide for the future expansion of the Henry Chichele School. The policy includes the statement “in the ownership of the Town Council”. Ownership of land can change throughout the plan period and in any case ownership is not a material consideration in the safeguarding of land and I therefore recommend a modification on this basis.

108. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 6 Infrastructure Delivery and Developer Contributions.

109. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to modification this policy meets the basic conditions.

**Recommended modification 5:**

**In policy HF.CD3 delete “in the ownership of the Town Council”**

### **Policy HF.DE1 Achieving High Quality Design**

110. This policy seeks to establish that new development should be of high quality design and must preserve and enhance the settlement of Higham Ferrers.

111. In a representation Anglian Water welcomes the reference to sustainable drainage systems (SuDs) as forming part of high quality design.

112. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 13 (h i l m n o q) General Sustainable Development Principles.

113. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy does not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. However the policy does properly seek to promote or reinforce local distinctiveness. The policy has regard to the components of the Framework concerned with requiring good design. This policy meets the basic conditions.

### **Policy HF.DE2 Heritage Assets and their Setting**

114. This policy seeks to establish that new development must conserve or enhance the designated and non-designated heritage assets of the Parish and their setting. The policy provides clarity for decision makers through identification of buildings and sites that are not nationally listed but are judged to be of “*architectural significance, local distinctiveness and character, and historic importance*”.

115. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 13 General Sustainable Development Principles (h i).

116. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with requiring good design and conserving and enhancing the historic environment subject to the inclusion of reference to the need for a balanced judgement in respect of proposals that have any effect on a non-designated heritage asset. Subject to modification this policy meets the basic conditions.

**Recommended Modification 6:**

**In policy HF.DE2 add a final sentence “Where proposals have any effect on a non-designated heritage asset a balanced judgement will be applied having regard to the scale of any harm or loss and the significance of the heritage asset”**

**Policy HF.DE3 Access to Green Infrastructure Network**

117. This policy seeks establish that new development is expected to contribute towards and facilitate access to the green infrastructure network and sets out conditions for support.

118. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 5 Green Infrastructure and CSS Policy 13 General Sustainable Development Principles (g o).

119. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting healthy communities and sustainable transport; and conserving and enhancing the natural environment. This policy meets the basic conditions.

**Policy HF.DE4 Local Green Space**

120. This policy seeks designate 12 areas as Local Green Space and states that play equipment would be acceptable on these sites where appropriate. A map of each proposed designated area, at sufficient scale to identify boundaries, is included in the Submission Plan at Appendix 3 although some maps unhelpfully include parts of more



than one proposed area. I refer to this issue in the Annex to my report. The implication of Local Green Space designation is that new development is ruled out other than in very special circumstances.

121. The Framework states *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.”*

122. In respect to all of the twelve areas intended for designation as Local Green Space I find the Local Green Space designation is being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designation is not capable of enduring beyond the end of the plan period. The intended designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.

123. The Framework states that: *“Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.*

I find that in respect of each of the twelve intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves; and the green area is local in character; and is not an extensive tract of land.

124. The Neighbourhood Plan sets out the justification for the designations which primarily relates to their importance in establishing

the character of the area. The Local Green Space Assessment document 2014 contained within the Neighbourhood Plan evidence base sets out information that confirms why those identified areas are of particular significance to and valued by the local community. The approach adopted utilising a standard form ensures that the necessary information is consistently available for each proposed designation. This approach is an example of very good practice. I conclude the areas are all demonstrably special to a local community and hold a particular local significance.

125. The ability to designate Local Green Space was not available at the time of preparation of the Development Plan. This policy has regard to the components of the Framework concerned with promoting healthy communities; and conserving and enhancing the natural environment. This policy meets the basic conditions.

#### **Policy HF.TC1 Chowns Mill Junction Improvements**

126. This policy seeks to ensure that development proposals that have a traffic impact on the strategic highway network, and specifically on the Chowns Mill junction, mitigate their impact on the highway network.
127. In a representation Highways England has stated the Neighbourhood Plan includes some out of date information relating to the Chowns Mill improvements although no details have been supplied. Whilst I would support the updating of information should details be made available by Highways England I have not recommended any modification of the Neighbourhood Plan on this basis as that would not be necessary to meet the basic conditions.
128. The Neighbourhood Plan at section 4.4.1 describes the A45 and the A6 bypass as strategic routes. The A6 previously formed part of the trunk road network, but is now the responsibility of the County Council. The A45 between M1 Junction 15 and the A14 is a trunk road which is the responsibility of the Highways Agency. The Chowns Mill Junction includes part of the A45 trunk road lying within the neighbourhood area. On this basis a policy providing for the granting of planning permission for the improvement of the Chowns Mill junction or any other improvement scheme to the A45 within the neighbourhood plan area would constitute a Highways Nationally Significant Infrastructure Project and would be excluded development for the purposes of neighbourhood planning. The policy however refers to mitigation of impact but does not specify how this should be

achieved. As mitigation does not necessarily require any works to the trunk road, including junction improvement, the policy is not excluded from eligibility to be a policy of the Neighbourhood Plan.

129. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 2 Connecting North Northamptonshire with Surrounding Areas. The Framework would not envisage refusal of planning permission unless the residual cumulative impact of development are severe. I recommend modification of the policy so that it meets the basic conditions.

**Recommended modification 7:**

**In Policy HF.TC1**

**Continue “unless it is clearly demonstrated through a Transport Assessment that the proposal will not severely adversely affect highway safety or residential amenity”**

**Policy HF.TC2 Telecommunications**

130. This policy seeks establish conditional support for proposals that increase the access and delivery of super-fast broadband services and communication networks. The policy requires demonstration that multi-provider use can be made of ducting linking properties to connection chambers on the public highway. This latter requirement does not cut across normal commercial arrangements between service providers.
131. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 6 Infrastructure Delivery and Developer Contributions.
132. The policy has regard to the components of the Framework concerned with supporting high quality communications infrastructure. This policy meets the basic conditions.

**Policy HF.TC3 Access Design for New Developments**

133. This policy requires new developments to provide safe and convenient routes for walking, cycling and disabled users that connect to other developments and to key destinations.

134. In a representation Northamptonshire County Council Highways has stated this policy *“aligns with national policy and guidance as well as local policies such as the JCS”*.
135. The requirement to connect towards rather than to other developments and key destinations would be more proportionate in terms of the approach of the Framework whereby development should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. Requirements for public transport enhancements should also be subject to viability testing. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 2 Connecting North Northamptonshire with Surrounding Areas and CSS Policy 4 Enhancing Local Connections.
136. The policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to modification this policy meets the basic conditions.

**Recommended Modification 8:**

**In policy HF.TC3**

- **Delete “to other developments and to” and insert “towards other developments and towards” and**
- **After “services and” insert “,subject to viability testing in accordance with paragraph 173 of the Framework,”**

**Policy HF.TC4 Parking**

137. This policy seeks to require new development to provide sufficient on and off-street parking. Rear parking courts must be clearly visible from properties served and built to Secured by Design standards.
138. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 13 General Sustainable Development Principles (d n).
139. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with requiring good design and promoting healthy communities. This policy meets the basic conditions.

## **Policy HF.TCE1 Town Centre Commercial Area**

140. This policy seeks to encourage proposals within the town centre commercial area that diversify and enhance the vitality and viability of the town centre subject to specified criteria. The policy specifies circumstances where a change of use of A1 premises within the primary shopping frontage to other main town centre uses will be permitted.
141. The use of the phrase “jobs accessible to the local community” does not assist decision makers nor does the phrase “on the approach to”. A policy must provide decision makers with sufficient clarity to enable consistent application. I propose modifications in these respects. Whilst I have recommended a “visible from” test in respect of the relationship between A5 units and the named education premises I would find an alternative mechanism based on distances, or areas defined on a map, to be equally acceptable.
142. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 12 Distribution of Retail Development and CSS Policy 13 General Sustainable Development Principles (c d e j n).
143. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with building a strong competitive economy; ensuring the vitality of town centres; promoting sustainable transport; promoting healthy communities; and conserving and enhancing the historic environment. Subject to modification this policy meets the basic conditions.

### **Recommended Modification 9:**

#### **In policy HF.TCE1**

- **delete “accessible to the local community” and**
- **delete “on the approach to” in both instances and replace both with “visible from” and**
- **clarify which criteria are referred to in the final bullet point**

## **Policy HF. TCE2 Public Realm Improvements**

144. This policy seeks to support proposals that assist the delivery of public realm improvements around the Market Square and a range of measures within highways that facilitate better access to the town centre.

145. The policy is in general conformity with the strategic policies contained in the Development Plan and in particular CSS Policy 4 Enhancing Local Connections and CSS Policy 13 General Sustainable Development Principles (c d e j n).

146. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with building a strong competitive economy; ensuring the vitality of town centres; promoting sustainable transport; requiring good design; promoting healthy communities; and conserving and enhancing the historic environment. This policy meets the basic conditions.

## Summary and Referendum

147. I have recommended the following modifications to the Submission Version Plan:

### **Recommended Modification 1:**

#### **In policy HF.H1**

- **delete “bungalows” and insert “single storey dwellings” and**
- **before “up-to-date” delete “an” and insert “the most”**

### **Recommended Modification 2:**

#### **In policy HF.H3**

- **after “roundabout” continue “within the Neighbourhood Plan area”**
- **add an additional bullet point “The need to demonstrate the promotion of sustainable transport through provision for walking and cycling and through provision for public transport penetration” and**
- **delete “without or ahead of Rushden East.” And insert “without prior approval by the Local Planning Authority of a phasing proposal for land within the Neighbourhood Plan area as part of the co-ordinated masterplanning of the combined growth areas of Rushden East and Higham East.”**

**Recommended Modification 3:**

**In policy HF.H4**

- Before “300 houses” delete “up to” and insert “approximately” and
- Add a bullet point “Provision for convenient access to public transport”

**Recommended Modification 4:**

**In policy HF.CD1**

- before “Financial” insert “Subject to viability testing”
- Delete the second paragraph and list of projects which should be transferred to the non-statutory Section 7 Community Action Plan Proposals

**Recommended modification 5:**

**In policy HF.CD3 delete “in the ownership of the Town Council”**

**Recommended Modification 6:**

**In policy HF.DE2 add a final sentence “Where proposals have any effect on a non-designated heritage asset a balanced judgement will be applied having regard to the scale of any harm or loss and the significance of the heritage asset”**

**Recommended modification 7:**

**In Policy HF.TC1**

**Continue “unless it is clearly demonstrated through a Transport Assessment that the proposal will not severely adversely affect highway safety or residential amenity”**

**Recommended Modification 8:**

**In policy HF.TC3**

- Delete “to other developments and to” and insert “towards other developments and towards” and
- After “services and” insert “,subject to viability testing in accordance with paragraph 173 of the Framework,”

**Recommended Modification 9:**

**In policy HF.TCE1**

- delete “accessible to the local community” and
- delete “on the approach to” in both instances and replace both with “visible from” and
- clarify which criteria are referred to in the final bullet point

148. I also make the following recommendation in the Annex below.

**Recommended modification 10:  
Identified errors that are typographical in nature or arising from updates should be corrected. Modification of general text will be necessary to achieve consistency with the modified policies**

149. I am satisfied that the Neighbourhood Plan<sup>34</sup>:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the basic conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>35</sup>

**I recommend to East Northamptonshire District Council that the Higham Ferrers Neighbourhood Development Plan for the plan**

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<sup>34</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

<sup>35</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007



**period up to 2031 should, subject to the modifications I have put forward, be submitted to referendum.**

150. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>36</sup> I have seen nothing to suggest the referendum area should be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by the District Council as a Neighbourhood Area on 10 December 2014.**

#### Annex: Minor Corrections to the Neighbourhood Plan

I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>37</sup> The Neighbourhood Plan has been produced to a high standard of accuracy and presentation however it includes a small number of errors that are typographical in nature or arising from updates. I recommend these are corrected as follows:

Several policies refer to various geographical areas including “within the town” “of the Parish” “throughout the Parish” “to be built in Higham Ferrers”. A standard editorial approach would assist clarity. Indeed unless policies apply to a specific sub area there is no need to refer to a geographical area in that they apply to the neighbourhood area as a whole. This is not a matter requiring modification to meet the basic conditions.

A map of each proposed Local Green Space designated area, at sufficient scale to identify boundaries, is included in the Submission Plan at Appendix 3. Some maps include parts of more than one proposed area. It would assist understanding if each map related to one proposed designation only.

The Proposals Map (Figure 8) does not make clear the spatial boundaries of relevant features or references for example the properties included in the town centre commercial area; the primary shopping frontage; and the land reserved for expansion of Henry Chichele School. Inset maps may provide a solution to the achievement of clarity.

The Proposals Map includes the term “Ferrers School Allocation”. This is an ambiguous term and should be amended to “Land East of Ferrers School”

The terms ROW and Flood Zone 3 used on the Proposals Map should be defined in Appendix 1

A bullet point symbol is missing in policy HF.TC2

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<sup>36</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>37</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

The map of the Saffron Road Recreation Ground in Appendix 3 should include the reference number 3 in its heading.

A number of consequential modifications to the general text of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

**Recommended modification 10:  
Identified errors that are typographical in nature or arising from updates should be corrected. Modification of general text will be necessary to achieve consistency with the modified policies**

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15 September 2015  
REPORT ENDS