



**Intelligent Plans**  
and examinations

# **Report on the Darnhall Parish Neighbourhood Plan 2020 – 2030**

**An Examination undertaken for Cheshire West and Chester Council with the support of the Darnhall Parish Council on the June 2020 submission version of the Plan.**

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Date of Report: 1 February 2021

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<sup>1</sup> The Plan's policies vary in the way in which the lettering and numbering is presented. For consistency, this report places a space between all the policy letters and numbers.

## **Main Findings - Executive Summary**

From my examination of the Darnhall Parish Neighbourhood Plan (DPNP/the Plan) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Darnhall Parish Council;
- The Plan has been prepared for an area properly designated – the Parish of Darnhall as shown in Figure A on page 5 of the submitted Plan;
- The Plan specifies the period during which it is to take effect: 2020–2030; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### *Darnhall Parish Neighbourhood Plan 2020–2030*

- 1.1 The Parish of Darnhall, containing the small village of Darnhall, lies within open countryside, immediately to the south and south west of Winsford, the village being about 10 km east of Tarporley. The population of the Parish in 2011 was 232.<sup>2</sup> In addition to Darnhall, the DPNP area comprises a very gently undulating, agricultural landscape of scattered farms, winding lanes, with well-established mixed hedgerows and isolated dwellings.
- 1.2 The process of preparing the DPNP began after a decision by the Darnhall Parish Council (DPC) in January 2016, followed by a Village Assembly in May 2016, with the designation of the Plan area by Cheshire West and Chester Council (CWaCC) in June 2016. A series of events followed from 2017 to 2020, when a Steering Group was formed, explanations of the neighbourhood planning process was given to local residents and various surveys were conducted. The DPNP was submitted to CWaCC in June 2020 and represents over four years work by those involved.

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<sup>2</sup> 2011 Census.

### *The Independent Examiner*

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the DPNP by CWaCC, with the agreement of the DPC.
- 1.4 I am a chartered town planner and former government Planning Inspector and have experience of examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the Plan.

### *The Scope of the Examination*

- 1.5 As the independent examiner, I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the plan meets the Basic Conditions.
  - Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development'; and
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.

- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### *The Basic Conditions*

1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood 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 and not breach European Union (EU) obligations (under retained EU law)<sup>3</sup>; and
- Meet prescribed conditions and comply with prescribed matters.

1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Plan does not breach the requirement of Chapter 8 Part 6 of the Conservation of Habitats and Species Regulations 2017 ('the 2017 Regulations').<sup>4</sup>

## **2. Approach to the Examination**

### *Planning Policy Context*

2.1 The Development Plan for this part of CWaCC, excluding policies relating to minerals and waste development, includes the Cheshire West and Chester Local Plan (CWaCLP). The CWaCLP (Part One) deals with Strategic Policies and was adopted in January 2015. The CWaCLP (Part Two) covers Land Allocations and Detailed Policies and was adopted in July 2019.

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<sup>3</sup> The existing body of environmental regulation is retained in UK law.

<sup>4</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published on 19 February 2019 and all references in this report are to the February 2019 NPPF and its accompanying PPG.

### *Submitted Documents*

2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which include:

- the Darnhall Parish Neighbourhood Plan 2020-2030 (June 2020);
- the map on page 5 of the Plan, which identifies the area to which the proposed Neighbourhood Plan relates;
- the Consultation Statement (June 2020);
- the Basic Conditions Statement (June 2020);
- all the representations that have been made in accordance with the Regulation 16 consultation;
- the Strategic Environmental Assessment, Sustainability Appraisal and Habitats Regulations Assessment Screening Determination prepared by CWaCC (June 2020); and
- the request for additional clarification sought in my letter of 14 December 2020 and the separate responses dated 13 January 2021 from DPC and CWaCC.<sup>5</sup>

### *Site Visit*

2.4 I made an unaccompanied site visit to the DPNP Area on 17 December 2020 to familiarise myself with it and visit relevant locations referenced in the Plan and evidential documents.

### *Written Representations with or without Public Hearing*

2.5 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. No requests for a hearing session were received.

### *Modifications*

2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

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<sup>5</sup> View at: [Cheshire West and Chester Council - Darnhall Neighbourhood Plan - Publicity Stage](#)

### **3. Procedural Compliance and Human Rights**

#### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The Darnhall Parish Neighbourhood Plan has been prepared and submitted for examination by DPC, which is a qualifying body. The DPNP extends over all the Darnhall Parish. This constitutes the area of the Plan designated by CWaCC on 14 June 2016. The DPNP includes a map on page 5 on which the area of the Plan is delineated.

#### *Plan Period*

- 3.2 The period of the Plan, prominently displayed on the front cover of the document, is between 2020 and 2030. The end date of the period aligns with that of the CWaCLP (Part One) and CWaCLP (Part Two).

#### *Neighbourhood Plan Preparation and Consultation*

- 3.3 The comprehensive Consultation Statement and its accompanying appendices indicates a process of several stages of plan preparation from January 2016 to submission to CWaCC in June 2020. Following the decision to proceed with the Neighbourhood plan at a DPC meeting in January 2016, a Parish Assembly meeting in May 2016 identified various issues. In addition, a DPNP display stand and drop-in was held at the Annual Darnhall Show in July 2017 with an accompanying survey. The issues raised by residents and consultation with CWaCC were used to inform the development of a vision, objectives and policies for the Plan.
- 3.4 A questionnaire survey was developed and delivered to each household in the Parish from 10 November to 22 December 2017. Questionnaires were also posted to businesses and landowners in the Parish with another drop in event being held on 26 November 2017. Further consultation activity included presentations to the DPC and Parish Assembly in May 2018, a display, question and answer drop in and a brief infrastructure survey at the Darnhall Show in July 2018, quarterly updates about the Plan in Parish Council newsletters and notices posted on the Parish Council noticeboard.
- 3.5 The Draft Plan was published for consultation under Regulation 14 of the 2012 Regulations for a period of 6 weeks from 10 February 2020 to 23 March 2020. The Plan was available on the Neighbourhood Plan website. Hard copies of the Plan were also available to be viewed at three local venues. Direct consultation was undertaken with relevant organisations, businesses and others who might have had an interest in the Plan. A drop in question and answer session was held in March, together with a meeting with the Darnhall Estates and a presentation to the local Women's Institute. A total of 28 responses were received, comprising 13 from residents and 15 from stakeholders. A summary of the representations received along with the response of the Steering Group is described in Appendix 1 of the Consultation Statement.

- 3.6 Consultation in accordance with Regulation 16, when the Plan was submitted to CWaCC, was carried out for a period of 7 weeks between 12 October and 30 November 2020. 12 responses were received. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the DPNP, that has had regard to advice in the PPG on plan preparation and is procedurally compliant in accordance with the legal requirements.

#### *Development and Use of Land*

- 3.7 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

#### *Excluded Development*

- 3.8 The Plan does not include provisions and policies for 'excluded development'.

#### *Human Rights*

- 3.9 The Basic Conditions Statement advises that the DPNP has been prepared to ensure that none of the policies infringe on any human rights protected by the Human Rights Act 1998. The Plan does not contain policies or proposals that would infringe the human rights of residents or other stakeholders over and above the existing strategic policies at national and local levels. The Neighbourhood Plan Steering Group and Parish Council has developed the policies and proposals within the Plan in full consultation with the community and wider stakeholders to produce as inclusive a document as possible. In general, the policies and proposals will not have a discriminatory impact on any particular group of individuals. CWaCC has not alleged that Human Rights might be breached. I have considered this matter independently and I have found no reason to disagree with that position.

## **4. Compliance with the Basic Conditions**

#### *EU Obligations (under retained EU law)*

- 4.1 The DPNP was screened for Strategic Environmental Assessment (SEA) by CWaCC. The report was submitted with the Plan in accordance with the legal requirement under Regulation 15(e)(i) of the 2012 Regulations. As a result of the SEA screening assessment, the Council found that it is unlikely that there will be any significant environmental effects arising from the Plan and, therefore, an SEA would not be required. Historic England (HE)<sup>6</sup> and Natural England (NE)<sup>7</sup> when consulted, agreed with

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<sup>6</sup> Received on 24 May 2019.

<sup>7</sup> Received on 14 May 2019.



that assessment. The Environment Agency were consulted but stated that they no longer respond to screening opinions<sup>8</sup>.

- 4.2 The DPNP was also screened for Habitats Regulation Assessment by CWaCC who considered that the Plan is unlikely to have an adverse effect on a European site (as defined in Regulation 8 of the 2017 Regulations), alone or in combination with other plans and projects. Accordingly, Appropriate Assessment was not considered to be required. NE agreed with the report's conclusions that the Plan would not be likely to result in a significant effect on any European site, either alone or in combination and, therefore, no further assessment work would be required.
- 4.3 Having read the SEA, Sustainability Appraisal and the HRA Screening Determination, the other information provided, and considered the matter independently, I agree with those conclusions. Therefore, I am satisfied that the DPNP is compatible with EU obligations under retained EU law.

#### *Main Issues*

- 4.4 Having considered whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the remaining Basic Conditions, particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance of all the Plan's policies.
- 4.5 As part of that assessment, I consider whether the policies are sufficiently clear and unambiguous, having regard to advice in the PPG. A neighbourhood plan policy 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.<sup>9</sup>
- 4.6 Accordingly, having regard to the Darnhall Neighbourhood Plan, the consultation responses, other evidence and the site visit, I consider that the main issues in this examination are whether the DPNP policies (i) have regard to national policy and guidance, (ii) are in general conformity with the adopted strategic planning policies and (iii) would contribute to the achievement of sustainable development? I shall assess these issues by considering the policies within the topics in the sequence in which they appear in the Plan.
- 4.7 The Parish Council responded very positively to the constructive representations made by CWaCC at the Regulation 14 consultation stage. CWaCC has submitted equally constructive comments in response to the

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<sup>8</sup> Received on 16 May 2019.

<sup>9</sup> PPG Reference ID: 41-041-20140306.

Regulation 16 consultation which includes suggested improvements to the Plan in addition to criticisms of and support for specific policies. My remit is to assess the Plan against the Basic Conditions and not to consider how it could be improved. Nevertheless, the suggestions by CWaCC are helpful, would assist in removing ambiguity and would clarify the presentation within the Plan, all of which is useful in creating a valuable document which will form part of the Development Plan.

- 4.8 Therefore, to meet the Basic Conditions, I support the format change suggested by CWaCC to clearly relate the explanatory text to the specific policy or policies to which it relates. I recommend this should be implemented in order to achieve clarity and remove ambiguity. **(PM1)** I also recommend correcting a misleading statement in paragraph 1.1 which omits reference to strategic policies in the CWaCLP (Part Two). **(PM2)**

#### *Vision and Objectives*

- 4.9 The vision for Darnhall is described in section 10.0 of the Plan which states that by 2030 *"The local character of the area will be preserved as open countryside maintained through active farming. Its community facilities and open spaces will benefit people both in our own and neighbouring areas. The environment and wildlife will be conserved and it will be a place where local people can safely live, work, play and enjoy a high quality of life"*. The Plan then sets out six objectives, each of which is justified by a short, succinct sentence, and which provide the context for the subsequent eighteen policies.

#### *Countryside and Environment (Policies CE 1, CE 2, CE 3, CE 4, CE 5 and CE 6)*

- 4.10 Policy CE 1 considers biodiversity. The requirement for a net gain in biodiversity when considering new development as stated in the first and second paragraphs of the policy has regard to national guidance<sup>10</sup> and generally conforms with Policy ENV 4 of the CWaCLP (Part One), subject to the addition of enhancing the ecological network of the borough. **(PM3)** However, the reference to ancient woodlands in the first paragraph does not achieve the appropriate degree of protection sought by national guidance or the strategic policies. I shall recommend creating a new paragraph in the policy which will separate ancient woodlands from habitats, wildlife corridors and local wildlife sites and is derived from the NPPF. **(PM4)**
- 4.11 Policy CE 1 also seeks protection for areas referred to in Figures B, C and D of the Plan. Figure B shows High and Medium Areas of Habitat Distinctiveness. Figure C defines Indicative Wildlife Corridors. Figure D identifies Nature Conservation Sites. The maps were produced by the Cheshire Wildlife Trust (CWT) on behalf of the Parish Council. The report

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<sup>10</sup> NPPF: paragraph 175.

from the CWT is dated November 2017. The maps within it are high resolution versions of the same and each dated 22/06/2018.

- 4.12 In the Regulation 16 consultation response, CWaCC commented that the CWT maps have been superseded by the Ecological Network for Cheshire West and Chester (July 2016) and that the maps at Figures B and C should be deleted. Figure 2 of the Ecological Network includes core areas, wildlife corridors and stepping stones, albeit at a small scale compared to the maps in the DPNP.<sup>11</sup>
- 4.13 However, in subsequent constructive responses to my questions put to DPC and CWaCC, both Councils agreed a replacement map for Figure B which would show the ecological network for the neighbourhood area, a modification which I shall recommend, together with a minor alteration of the title to clarify the origin of "DM 44" and the inclusion of an internet link to the Local Plan interactive map at paragraph 13.18 of the Plan. The other maps show information accurately, at a suitable scale for the Neighbourhood Plan, and should remain, other than the removal of "indicative" from Figure C.
- 4.14 In addition, Appendix 3: Cheshire Wildlife Trust Maps includes Map 2 Ecological Network at page 61 of the Plan, which has been superseded by the Ecological Network for Cheshire West and Chester and the recommended replacement of Figure B above. Therefore, Map 2 should be deleted in order to avoid ambiguity. Given that Figure B would present the ecological network information and that Appendix 3 is for CWT maps, a replacement for Map 2 need not be included. Subject to the recommended modifications, the overall policy would have regard to national guidance<sup>12</sup>, generally conform with Policy ENV 4 of the CWaCLP (Part One) and would meet the Basic Conditions. **(PM5)**
- 4.15 Policy CE 2 seeks to protect and enhance natural habitats. Subject to my recommended alteration of "natural habitats" to "natural assets", the policy would generally conform with Policy ENV 4 of the CWaCLP (Part One) and have regard to national guidance.<sup>13</sup> **(PM6)**
- 4.16 Policy CE 3 aims to safeguard hedgerows, trees and watercourses from new development and seeks the replacement of features by an equivalent or greater amount to that which is lost. The policy would have regard to national guidance<sup>14</sup> and generally conform with Policy ENV 4 of the CWaCLP (Part One) and so meet the Basic Conditions. CWaCC indicated that Policy DM 45 of the CWaCLP (Part Two) requires that the replacement of lost trees should be provided at a ratio of at least two for one. In view of the added comment by CWaCC that Policy DM 45 is non-strategic, there is no need for Policy CE 3 to generally conform with it. Nevertheless, the

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<sup>11</sup> The definitions of wildlife core areas and stepping stones are given in the report Ecological Network for Cheshire West and Chester (July 2016) pp 4-5.

<sup>12</sup> NPPF: paragraph 175.

<sup>13</sup> NPPF: paragraph 175.

<sup>14</sup> NPPF: paragraph 174.

DPC helpfully commented that they would be content should Policy CE 3 be modified as sought by CWaCC and the specificity would add clarity to the policy. Therefore, I shall recommend it. **(PM7)**

- 4.17 Policy CE 4 supports the principle of dark skies and would generally conform with Policy STRAT 1 of the CWaCLP (Part One), have regard to national guidance<sup>15</sup> and meet the Basic Conditions.
- 4.18 Policy CE 5 seeks to protect the open countryside and farmland setting of the Plan area. A representation challenged the reference to the rural setting of the Parish. However, although the southern edge of the built up area of Winsford lies just beyond the parts of the northern boundary of the Plan area and the density of development becomes semi-rural along the B5074 leading south from the School Green part of Winsford, the landscape setting of Darnhall Parish, taken as a whole, is undoubtedly rural. Accordingly, I have no reason to modify the policy for that reason.
- 4.19 The first paragraph of the policy includes a reference to Policy RCLE 6 which considers renewable energy installations. The requirement to respond positively to local landscape character is unacceptably ambiguous for effective development management and I shall accept the suggestion by the DPC that the sentence should be deleted. **(PM8)**
- 4.20 Similarly, to enable effective development management, the reference in Policy CE 5 b) to new farm buildings should be qualified by those which require planning permission. In addition, not only is the distinction in the policy between new farm buildings and older farmsteads too general, it may unreasonably protect the setting of existing farmsteads whatever their architectural merits and without consideration of the operational needs of agriculture. Therefore, I shall recommend that the "older farmsteads" should be those defined as heritage assets and also the deletion of the reference to the pre-Victorian and timber framed "black and white" farmsteads. **(PM9)**
- 4.21 Policy CE 5 d) seeks to control the adverse impact of equestrian development on the landscape which might include various types of commercial riding establishments from racing stables, studs, livery stables to very simple stable blocks. Most equestrian development requires a rural location and it might have a cumulative impact on the character of the countryside depending on the detail of the site. In order to enable the development to be managed effectively, I shall recommend a succinct rephrasing of the Policy CE 5 d). **(PM10)**
- 4.22 Policy CE 5 e) aims to maintain the character of the narrow, unmarked lanes by resisting improvements such as the additions of kerbs and lighting. Whilst I agree with the supposition that rural character may be eroded by unsympathetic road improvements, I consider this has to be balanced with the need to maintain or improve safety for all highways

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<sup>15</sup> NPPF: paragraph 180.

users, whether drivers, cyclists, riders or pedestrians. Therefore, I shall qualify Clause e) by the inclusion of a reference to road safety. **(PM11)**

- 4.23 The final paragraph of the policy seeks to protect certain features within the landscape. CWaCC sought the inclusion in the policy of a reference to the Weaver Valley Area of Special County Value (ASCV) which occurs in the eastern part of the Plan area. I agree and shall recommend an appropriate phrase to be included in the policy and a reference to the ASCV in the justification. **(PM12)**
- 4.24 Finally, as indicated by CWaCC, Map 1 at Appendix 3 showing the Landscape Character types is drawn by the CWT but based on the Cheshire West and Chester Landscape Strategy 2016, the relevant maps of which for the area are reproduced at Appendix 9. Therefore, to avoid confusion and enable effective development management, I shall recommend the deletion of Map 1 from Appendix 3. **(PM13)** Accordingly, subject to the recommended modifications, Policy CE 5 would have regard to national guidance<sup>16</sup>, would generally conform with Policy ENV 2 of the CWaCLP (Part One) and Policy GBC 2 of the CWaCLP (Part Two) and would meet the Basic Conditions.
- 4.25 Policy CE 6 considers surface water management and has regard to national guidance<sup>17</sup>, generally conforms with Policy ENV 1 of the CWaCLP (Part One) and meets the Basic Conditions.

*Residential, Commercial and Local Economy (Policies RCLE 1, RCLE 2, RCLE 3, RCLE 4, RCLE 5 and RCLE 6)*

- 4.26 Policy RCLE 1 considers the rural economy and offers support for development described in six separate clauses. However, absent from the policy is a reference to rural tourism which is included in paragraph 14.4 of the justification and the addition of which would enable the policy to generally conform with Policy ECON 3 of the CWaCLP (Part One). The policy would also have regard to national guidance<sup>18</sup> and meet the Basic Conditions. **(PM14)**
- 4.27 Policy RCLE 2 seeks to retain employment sites unless certain circumstances apply. The change of terminology within the policy from "existing use" to "employment use", is necessary to avoid ambiguity and provide the clarity necessary for effective development management. Subject to that recommended modification, the policy would have regard to national guidance<sup>19</sup>, generally confirm with Policy ECON 1 of the CWaCLP (Part One) and would meet the Basic Conditions. **(PM15)**
- 4.28 High quality design in commercial development is the aim of Policy RCLE 3, although the leading phrase in the policy refers more accurately to

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<sup>16</sup> NPPF: paragraph 170.

<sup>17</sup> NPPF: paragraph 163.

<sup>18</sup> NPPF: paragraph 83.

<sup>19</sup> NPPF: paragraph 83.

employment development. Therefore, I shall recommend a correction to the title. Moreover, clause i) of the policy includes a reference to the density of existing adjoining business development, but there may not be any. Furthermore, there may be sound operational reasons why densities may differ. I shall recommend that this clause of the policy includes a short phrase derived from the DPC response of 13 January 2020. The policy would then have regard to national guidance<sup>20</sup>, generally conform with Policy ENV 6 of the CWaCLP (Part One) and would meet the Basic Conditions. **(PM16)**

4.29 Policy RCLE 4 considers residential development and explicitly includes the (i) re-use of existing rural buildings, (ii) the redevelopment of brownfield sites and (iii) a minimum level of enabling development to ensure the viable future of an historic building. CWaCC commented firstly, that the re-use of an existing rural building should include conversion, secondly, that the redevelopment of brownfield sites should include the need to be in sustainable locations and, thirdly, that the policy should include the replacement of existing dwellings. I agree with the comments and the consequent modifications which I will recommend would enable the policy to generally conform with Policy DM 22 of the CWaCLP (Part Two), as well as Policies STRAT 1, STRAT 9 and ENV 5 of the CWaCLP (Part One). **(PM17)** Policy RCLE 4 would also have regard to national guidance<sup>21</sup> and meet the Basic Conditions.

4.30 Policy RCLE 5 deals with design, has regard to national guidance<sup>22</sup> and generally conforms with Policy ENV 6 of the CWaCLP (Part One). Policy RCLE 6 considers installations for renewable energy. The DPNP has requested the addition of a phrase seeking appropriate mitigation, where possible, for wind turbines and I accept that, with the addition, the policy would have regard to national guidance<sup>23</sup> and generally conform with Policy ENV 7 of the CWaCLP (Part One). **(PM18)** Accordingly, Policy RCLE 5 and Policy RCLE 6 meet the Basic Conditions.

#### *Recreation and Social Infrastructure (Policies RSI 1, RSI 2, RSI 3 and RSI 4)*

4.31 Policy RSI 1 supports the retention and improvement of community facilities. The policy has regard to national guidance<sup>24</sup>, generally conforms with Policy STRAT 11 of the CWaCLP (Part One) and meets the Basic Conditions.

4.32 Policy RSI 2 considers heritage assets and seeks to preserve or enhance the assets and their settings. However, the second paragraph of the policy describes the development management test of balancing possible harm of the proposal against the benefits but fails to distinguish between

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<sup>20</sup> NPPF: paragraph 84 & 127.

<sup>21</sup> NPPF: paragraphs 79 & 118.

<sup>22</sup> NPPF: paragraph 127.

<sup>23</sup> NPPF: paragraph 151.

<sup>24</sup> NPPF: paragraph 92.



designated and non-designated heritage assets or recognises the grades of harm.

- 4.33 National guidance is that substantial public benefits are only required in the event of substantial harm to a designated heritage asset.<sup>25</sup> Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.<sup>26</sup> When considering the effect of a proposal on a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.<sup>27</sup>
- 4.34 I shall recommend amending the policy using a phrase derived from the second paragraph of Policy ENV 5 of the CWaCLP (Part One) in order to ensure that Policy RSI 2 has regard to national guidance, rather than try to capture in the modification all the nuances contained within paragraphs 195–197 of NPPF. **(PM19)** The policy would then have regard to national guidance, generally conform with the local strategic policies and meet the Basic Conditions.
- 4.35 Policy RSI 3 seeks to promote access to the countryside through the protection, maintenance and enhancement of the Public Rights of Way (PROW) network and the safety of users of rural roads and lanes. The policy has regard to national guidance<sup>28</sup>, generally conforms with Policy SOC 5 of the CWaCLP (Part One) and meets the Basic Conditions.
- 4.36 Policy RSI 4 seeks funding for the implementation for two projects; a new footpath and a new cycleway, each of which is shown on Figure G of the Plan. CWaCC suggested that the policy implies that contributions for funding might be sought from development proposals not related to either project in scale or type and which would therefore be unreasonable. I agree. The projects could be listed as aspirations in another part of the Plan, such as under community facilities, or included in the Parish Delivery Plan shown at Appendix 6. However, by rephrasing the policy to remove the inappropriate references to contributions from new development, but still leaving that method open as a possibility, the resulting flexibility would enable the objectives of the Plan for the two projects to be achieved. **(PM20)** The policy would then have regard to national guidance<sup>29</sup>, generally conform with Policy STRAT 11 of the CWaCLP (Part One) and meet the Basic Conditions.

#### *Transport and Communications Policies (TC 1 and TC 2)*

- 4.37 Policy TC 1 supports the development of advanced high quality communications infrastructure. The policy has regard to national

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<sup>25</sup> NPPF: paragraph 195.

<sup>26</sup> NPPF: paragraph 196.

<sup>27</sup> NPPF: paragraph 197.

<sup>28</sup> NPPF: paragraph 104.

<sup>29</sup> NPPF: paragraphs 54–56.

guidance<sup>30</sup> and generally conforms with Policy ECON 1 of the CWaCLP (Part One). Policy TC 2 seeks to avoid the creation of unacceptable impacts on local road networks caused by new development. This policy also has regard to national guidance<sup>31</sup> and generally conforms with Policy STRAT 10 of the CWaCLP (Part One). Policy TC 1 and Policy TC 2 meet the Basic Conditions.

### *Overview*

4.38 Accordingly, on the evidence before me, with the recommended modifications, I consider that the policies within the DPNP are in general conformity with the strategic policies of the CWaCLP (Parts One and Two), have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

## **5. Conclusions**

### *Summary*

5.1 The DPNP has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the DPNP, and the evidence documents submitted with it.

5.2 I have made recommendations to modify a number of policies to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### *The Referendum and its Area*

5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The DPNP, as recommended to be modified, has no policy or proposal which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

### *Concluding Comments*

5.4 The Parish Council is to be congratulated for its efforts in producing a clear and relatively concise Plan which is well supported by the accompanying documentation. It is very informative and I enjoyed reading it. The close co-operation between the Parish Council and the

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<sup>30</sup> NPPF: paragraph 112.

<sup>31</sup> NPPF: paragraphs 102 & 109.



CWaCC was evident and is commendable. Incorporating the modifications I have recommended, the DPNP will make a positive contribution to the Development Plan for the area and should enable the rural character and appearance of Darnhall to be maintained whilst enabling sustainable development to proceed.

*Andrew Mead*

Examiner

## Appendix: Modifications

Proposed modification no. (PM)	Page no./ other reference	Modification
PM1	All Policies	Write the justification and evidence under the policy box to which it relates rather than at the end of each chapter.
PM2	Paragraph 1.1	Add to the final sentence: “... the strategic policies of the Cheshire West and Chester Local Plan (Part One) <b>and the Cheshire West and Chester Local Plan (Part Two)</b> and have regard to ...”.
PM3	Policy CE 1	Add to the first sentence: “... biodiversity resources <b>and where it enhances the ecological network of the borough.</b> ”
PM4	Policy CE 1	Amend second sentence to: <b>“The habitats and the wildlife corridor network shown at Figures B and C, and local wildlife sites shown at Figure D, shall be protected ...”.</b>  Add new second paragraph: <b>“Development which would result in the loss of or damage to ancient woodlands shown at Figure E will only be supported if there are wholly exceptional reasons and a suitable compensation strategy exists.”</b>
PM5	Policy CE 1	Replace the existing Figure B with the Figure B attached to the CWaCC response to the examiner of 13 January 2021 <sup>32</sup> with the title of <b>“Figure B: Eco-network within Darnhall Neighbourhood Plan area based on Policy DM 44 of the Local Plan (Part Two).”</b>  Delete Appendix 3: Map 2.

<sup>32</sup> View at: <http://consult.cheshirewestandchester.gov.uk/file/5786515>  
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		<p>Add internet link to the Local Plan interactive map to paragraph 13.18.</p> <p>Amend title of Figure C to: <b>"Wildlife Corridors"</b>.</p>
PM6	Policy CE 2	<p>Amend heading to: "Natural <b>Assets</b>".</p> <p>Amend text to:  "... enhance all natural <b>assets</b> ... "</p>
PM7	Policy CE 3	<p>Amend fourth sentence to:  "... replacement provision must be <b>at a ratio of at least two new trees for each tree</b> which is lost."</p>
PM8	Policy CE 5	Delete the second sentence.
PM9	Policy CE 5 b)	<p>Amend text to:  "Seek to ensure that, <b>where planning permission is required</b>, new farm buildings do not threaten the settings of the older farmsteads <b>which are heritage assets, unless there are convincing operational reasons for such a location.</b>"</p>
PM10	Policy CE 5 d)	<p>Amend text to:  "Ensure <b>that the cumulative impact of equestrian development does not significantly harm</b> the rural character of the area."</p>
PM11	Policy CE 5 e)	<p>Add to final sentence:  "... landscape, <b>unless there are overriding reasons of highway safety.</b>"</p>
PM12	Policy CE 5	<p>Amend final paragraph to:  "... looking east <b>and the special landscape character and scenic value of the Weaver Valley Area of Special County Value (ASCV)</b> should be protected."</p> <p>Include a reference to the Weaver Valley ASCV in paragraph 13.3.</p>
PM13	Appendix 3	Delete Map 1: Landscape Character Types.

PM14	Policy RCLE 1 a)	Amend text to: “... forestry, <b>equestrian enterprises and rural tourism</b> where ...”.
PM15	Policy RCLE 2	Amend text to: “... demonstrated that the <b>employment</b> use is no longer viable ...”.
PM16	Policy RCLE 3	Amend heading to “ <b>Employment</b> Development Scale, Design and Amenity”.  Amend i) to: “ <b>is in keeping with its surroundings and appropriate to its location, having regard to size, height, scale, mass, materials and access.</b> ”
PM17	Policy RCLE 4	First bullet point. Amend to: “Re-use <b>or conversion</b> of existing rural buildings ... are in accordance with <b>Policy DM 22 of the Local Plan (Part Two)</b> ”.  Second bullet point. Amend to: “Redevelopment of brownfield sites <b>in sustainable locations and replacement of existing dwellings</b> subject to criteria listed in Policies DM 1, DM 19 and DM <b>21</b> of the Local Plan (Part Two).”
PM18	Policy RCLE 6	Add at the end of the Wind Turbine section: “ <b>Any negative visual impact should, where possible, be mitigated through siting, layout, design, landscaping and planting.</b> ”
PM19	Policy RSI 2	Amend the second paragraph to: “Proposals for development must take into account the scale of possible harm or loss and the significance of any heritage asset. <b>The degree of protection afforded to a heritage asset should reflect its position within the hierarchy of designations.</b> Measures should be put in place, etc...” .

PM20	Policy RSI 4	Amend first sentence to: <b>“Where funding opportunities arise, either from new development or from other sources, contributions towards or the delivery of the projects listed below and shown on Figure G will be supported.”</b>
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