

Cheshire East Council

Portfolio Holder Housing Planning and Regeneration

Date of Meeting:	18 th December 2017
Report of:	Director of Planning and Sustainable Development
Subject/Title:	Stapeley and Batherton Neighbourhood Development Plan – Decision to Proceed to Referendum
Portfolio Holder:	Councillor Ainsley Arnold

1. Report Summary

- 1.1. The Stapeley and Batherton Neighbourhood Development Plan (S&BNDP) was submitted to the Council in June 2017 and, following a statutory publicity period, proceeded to Independent Examination. The Examiner's report has now been received and recommends that, subject to some modifications, the Plan should proceed to referendum.
- 1.2. The Council must now consider the recommendations of the Examiner and decide how to proceed.

2. Recommendation

- 2.1. That the Portfolio Holder accepts the Examiner's recommendations to make modifications to the S&BNDP as set out in the Examiner's report (at Appendix 1) and confirms that the S&BNDP will now proceed to referendum in the Stapeley and Batherton Neighbourhood Plan area.

3. Other Options Considered

- 3.1. Not to proceed to referendum – the examiner has found that subject to modification, the plan meets the relevant tests and therefore there is no reason a referendum should not be held.

4. Reasons for Recommendation

- 4.1. The Council is committed to supporting neighbourhood planning in Cheshire East. It has a legal duty to provide advice and assistance on neighbourhood plans, to hold an independent examination on

neighbourhood plans submitted to the Council and to make arrangements for a referendum following a favourable Examiner's Report.

- 4.2. The Council accepts the examiner's recommendations and subject to the modifications set out in the Examiner's Report, the S&BNPD is considered to meet the statutory basic conditions and procedural requirements set out in Schedule 10, paragraph 8, of the Localism Act and as such it can now proceed to referendum.

5. Background/Chronology

- 5.1. The preparation of the Neighbourhood Plan began in 2014 with the submission of the Neighbourhood Area Designation which was approved in October 2014.
- 5.2. The location and extent of the Stapeley and Batherton Neighbourhood Area is shown on the map in Appendix 2.
- 5.3. The final Neighbourhood Plan and its supporting documents were submitted to Cheshire East Council in April 2017.
- 5.4. The supporting documents included:
 - 5.4.1. Plan of the neighbourhood area
 - 5.4.2. Consultation Statement
 - 5.4.3. Basic Conditions Statement
 - 5.4.4. Screening Opinion on the need to undertake Strategic Environmental Assessment
 - 5.4.5. Links to supporting documents and reports
- 5.5. Cheshire East undertook the required publicity between 24.04.17 – 06.06.17. Relevant consultees, residents and other interested parties were provided with information about the submitted Plan and were given the opportunity to submit comments to the Examiner.
- 5.6. The Borough Council appointed Jonathan G King BA(Hons) DipTP MRTPI, to examine whether the Plan meets the necessary basic conditions and legal requirements and recommend whether the plan should proceed to referendum. On reviewing the content of the Plan and the representations received as part of the publication process, he decided not to hold a public hearing.
- 5.7. A copy of the Examiner's Report is provided at Appendix 1. A link to a copy of the Neighbourhood Plan (as submitted to the Council prior to examination) is included at Appendix 3.

- 5.8. The Examiner's Report contains Jonathan's findings on legal and procedural matters and his assessment of the Plan against the Basic Conditions. It recommends that a number of modifications be made to the Plan. These are contained within the body of the Report and summarised in a table at the end.
- 5.9. In addition, minor modifications for the purpose of correcting errors or for clarification are also set out at the end of the Report.
- 5.10. Overall it is concluded that the S&BN DP does comply with the Basic Conditions and other statutory requirements and that, subject to recommended modifications, it can proceed to a referendum.
- 5.11. The Examiner comments that "I appreciate the amount of work that has gone into its production and the obvious care for Stapeley and Batherton which has driven the project."

6. Wards Affected and Local Ward Members

- 6.1. Stapeley and Batherton; Councillor Andrew Marton; Councillor Peter Groves

7. Implications of Recommendation

7.1. Policy Implications

7.1.1. Neighbourhood planning allows communities to establish land-use planning policy to shape new development. This is achieved through the formation of a vision and the development of objectives and policies to achieve this vision. If a neighbourhood plan is supported through a referendum and is 'made' it then forms part of the statutory development plan and becomes, with the adopted Local Plan, the starting point for determining relevant planning applications in that area.

7.1.2. The Stapeley and Batherton Neighbourhood Plan therefore contributes to the Councils corporate objectives to deliver high quality of place within a plan led framework and the strategic objectives of the Local Plan Strategy for Cheshire East.

7.2. Legal Implications

7.2.1. The Neighbourhood Plan is considered to meet the basic conditions and all relevant legal and procedural requirements and this is supported in the Examiner's Report.

7.3. Financial Implications

7.3.1. The referendum is estimated to cost circa £3,000. This will be paid for through government grant and the service's revenue budget.

7.4. Equality Implications

7.4.1. The neighbourhood plan has been prepared in a manner which has been inclusive and open to all to participate in policy making and establish a shared vision for future development in Stapeley and Batherton. The policies proposed are not considered to disadvantage those with protected characteristics.

7.5. Rural Community Implications

7.5.1. Stapeley and Batherton located partly within Nantwich and includes a large rural area to the south of the settlement. Stapeley and Batherton therefore is considerably rural and the S&BNDP addresses a number of rural issues including policies on the open countryside, environment and heritage. The policies in the plan have been developed by the community, with opportunities for the rural community to participate in the plan making process.

7.6. Human Resources Implications

7.6.1. None

7.7. Public Health Implications

7.7.1. Neighbourhood plans are an opportunity to promote public health in the statutory planning framework and the Stapeley and Batherton neighbourhood plan contains policies on amenity and well-being which support physical wellbeing.

7.8. Implications for Children and Young People

7.8.1. Neighbourhood plans are an opportunity to promote the safety, interests and well being of children in the statutory planning framework and the Stapeley and Batherton Neighbourhood Plan introduces policies to protect access to recreation and amenity facilities which support the wellbeing of children.

7.9. Other Implications (Please Specify)

7.9.1. None.

8. Risk Management

8.1. The decision to proceed to referendum and subsequently to 'make' the Neighbourhood Plan is, like all decisions of a public authority, open to challenge by Judicial Review. The risk of any legal challenge to the Plan being successful has been minimised by the thorough and robust way in which it has been prepared and tested.

9. Access to Information/Bibliography

- 9.1. The background papers relating to this report can be inspected by contacting the report writer

10. Contact Information

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Report on the Stapeley & Batherton Neighbourhood Plan 2017-2030

An Examination undertaken for Cheshire East Council with the support of the Stapeley and District Parish Council on the December 2016 submission version of the Plan.

Independent Examiner: Jonathan G King BA(Hons) DipTP MRTPI

Date of Report: 17 November 2017

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Main Findings - Executive Summary

From my examination of the Stapeley & Batherton Neighbourhood 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 Stapeley and District Parish Council;
- The Plan has been prepared for an area properly designated – the Stapeley and District Neighbourhood Area and reference map - as identified on the Designation Map on page 4 of the Plan;
- The Plan specifies the period to which it is to take effect – [2017 - 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

The Stapeley & Batherton Neighbourhood Plan 2016-2030

- 1.1 Stapeley and the smaller parish of Batherton are combined to form Stapeley and District Parish Council, within the area of Cheshire East Council. The defined area for the Neighbourhood Plan covers the extent of both. At its northern end is a small part of the urban area of Nantwich but the remainder is largely rural apart from small-scale mostly residential development. It is crossed by 3 main roads trending roughly south-east to north west: the A529 Broad Lane, which forms the boundary between the 2 parishes and along which the small settlement of Batherton is scattered; the A51 London Road, on which Stapeley lies; and Wybunbury Lane, which joins the A51 at Butt Green. There are only a few minor connections between these roads, including First Dig Lane and Second Dig Lane. The A500, leading from the M6 motorway, enters the area at its north-east corner, where it joins the A51. The established urban area is separated from the rest by a distributor road, Peter Destapeleigh Way, though beyond, the site of the former Stapeley Water Gardens is presently being redeveloped for housing. The topography is largely flat; and the rural area is characterised by open fields bounded by hedgerows and trees.
- 1.2 The Stapeley and District Parish Council commenced preparation of the Neighbourhood Plan (NP or the Plan), first through a Working party in February 2014 and from September 2014 through a Steering Group

comprising Parish Councillors and local residents. The Parish Council is the Qualifying Body (QB) for the neighbourhood area, which includes the whole of the Parish, formally designated by Cheshire East Council (CEC) on 21st October 2014.

The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the Examiner of the Stapeley & Batherton Neighbourhood Plan by CEC, with the agreement of the Stapeley and District Parish Council.
- 1.4 I am a chartered town planner and former government Planning Inspector, a Jersey Planning Inspector and a Professional Member of the Guernsey Planning Appeals Panel. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft 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';
 - 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; and
 - 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 NP 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; and
 - Meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a NP. This requires that it should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007), either alone or in combination with other plans or projects.

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for this part of the CEC area, not including documents relating to excluded minerals and waste development, was at the time of

submission of the NP the *Borough of Crewe and Nantwich Replacement Local Plan* [adopted 2005] (C&NRLP). However, on 27 July 2017, prior to the completion of this report, CEC formally adopted the *Cheshire East Local Plan Strategy* (CELPS), the first of 2 Development Plan Documents (DPDs). CELPS provides the overall vision and planning strategy for development in the borough and contains planning policies intended to ensure that new development addresses the economic, environmental and social needs of the area. It also identifies strategic sites and strategic locations that will accommodate most of the new development needed. The second DPD to be prepared will be the *Site Allocations and Development Management Policies DPD* (SADPD).

- 2.2 CEC has indicated to me that all of the policies of the CELPS must be considered strategic, but also anticipates that the SADPD will contain policies which, though detailed in scope will often have a strategic element to them – for example the approach to Strategic Green Gaps or to conservation areas and heritage assets.
- 2.3 CEC has also advised that, until the SADPD is completed, relevant legacy policies in the C&NRLP which address issues not covered in the CELPS have been saved. CEC has not specifically identified which of these contain strategic elements, but suggests that those policies having a more than local significance, including relating to flooding, Green Gap, settlement boundaries, heritage and landscape, may be considered to have a strategic element built into them.
- 2.4 Against that background, and having regard to the advice in Planning Practice Guidance (PPG) Reference IDs:41-075-20140306 & 41-076-20140306, for the purposes of this examination I take the policies of the CELPS together with the saved policies of the C&NRLP, insofar as they address strategic matters relevant to the NP, as being strategic policies of the development plan for the area.
- 2.5 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The PPG offers guidance on how this policy should be implemented.

Submitted Documents

- 2.6 I have considered all policy, guidance and other reference documents I regard as relevant to the examination, including those submitted which comprise:

- the draft Stapeley & Batherton Neighbourhood Plan 2017 – 2030 and Appendices, December 2016;
- Map Figure 1 of the Plan which identifies the area to which the proposed neighbourhood development plan relates;
- the Consultation Statement, (Version 2.1) March 2017;
- the Basic Conditions Statement (Version 2.1) October 2016;
- all the representations that have been made in accordance with the Regulation 16 consultation;
- the Strategic Environmental Assessment Screening Opinion prepared by CEC; and
- the Parish Council's responses to my questions set out in my letters of 24 July and 14 August 2017¹.

Site Visit

- 2.7 I made an unaccompanied site visit to the Neighbourhood Plan Area on 3rd October 2017 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

- 2.8 This examination has been dealt with by written representations. One Regulation 16 representation indicated a willingness to participate in an oral Hearing if one was to be held, but 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.

Modifications

- 2.9 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. It should be noted that I have made a number of modifications to address issues of inconsistency, duplication and absence of precision in the interests of achieving clarity. PPG Reference ID: 41-041-20140306 sets out that "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."

3. Procedural Compliance and Human Rights

¹ View at: http://cheshireeast.gov.uk/planning/neighbourhood_plans/stapeley-neighbourhood-plan.aspx

Qualifying Body and Neighbourhood Plan Area

- 3.1 The Stapeley & Batherton Neighbourhood Plan has been prepared and submitted for examination by the Stapeley and District Parish Council which is a qualifying body for an area that was designated by CEC on 21 October 2014.
- 3.2 It is the only neighbourhood plan for the area, and does not relate to land outside the designated neighbourhood area.

Plan Period

- 3.3 The Plan does not clearly specify the period to which it is to take effect, though it indicates that it will provide the necessary guidance for the Plan area until 2030. In the interests of clarity, I recommend that the NP be modified by stating the period (2017-2030) clearly on the front cover. **[PM1]**

Neighbourhood Plan Preparation and Consultation

- 3.4 Details of the preparation of the Plan and the consultation undertaken in connection with it is set out in the QB's Consultation Statement (Version 2.1) (March 2017). The initial public consultation exercise took place in October 2014, from which 5 themes emerged, later to form the main topics in the submitted Plan. A second public consultation, including a questionnaire, was undertaken in March 2015. Engagement with a number of property developers, neighbouring Parishes, United Utilities, Cheshire Farms, local healthcare services and schools was also carried out.
- 3.5 In the autumn of 2015, a Housing Needs Assessment and a Wildlife and Habitat Survey were undertaken by independent consultants in order to inform the preparation of the Plan. From August 2015 to March 2016, the Plan policies and supporting documents were prepared, leading to its approval by the QB for Regulation 14 (of the 2012 Regulations) consultation purposes on 21 March 2016.
- 3.6 The Regulation 14 consultation period ran from 30 March to 1 June 2016. The Consultation Statement says that 140 statutory and other consultees, including local landowners, property developers and others were individually contacted, though 157 are listed in the same document. 11 responses were received.
- 3.7 CEC carried out Strategic Environmental Assessment (SEA) screening, reporting to the QB on 20 March 2017 that there was no requirement for an SEA.

- 3.8 The QB then moved to the Regulation 15 stage, followed by CEC's publication of the Plan under Regulation 16 for 6 weeks from 25 April 2017. I learn from CEC's website that "due to a technical error" some statutory consultees may not have been notified at that time. Those affected were contacted directly and were given the opportunity to make representations on the Plan by 1 August 2017. I am satisfied that this remedied any potential prejudice. 6 responses in total were received.
- 3.9 One representation indicated that the landowner concerned had not been individually contacted at the Regulation 16 stage with respect to the identification of land as Local Green Space (LGS). Whilst there is no statutory notification requirement, regard should have been had to the advice in PPG Reference ID: 37-019-20140306 concerning the desirability of engaging with landowners. I reserve this issue to be dealt with later in my report when considering the proposed LGSs. In all other regards, I have no reason to believe that the formal consultations were undertaken other than in accordance with the legal requirements and advice in the PPG on plan preparation and consultation.

Development and Use of Land

- 3.10 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

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

Human Rights

- 3.12 Neither CEC nor any representor has suggested that the Plan breaches Human Rights (within the meaning of the Human Rights Act 1998), and from my independent assessment I see no reason to disagree.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The NP was screened for SEA by CEC, which found that it was unnecessary to undertake SEA. Having read the SEA Screening Opinion, I support this conclusion.
- 4.2 The NP was further screened for Habitats Regulations Assessment (HRA), which also was not triggered.
- 4.3 The site is not in close proximity to a European designated nature site. Natural England agreed with this conclusion at the time CEC carried out its SEA screening. From my independent assessment of this matter, I have no reason to disagree.

Overarching Assessment

- 4.4 Having considered whether the Plan complies with the various legal and procedural requirements it is now necessary to deal with the question of whether it complies with the remaining Basic Conditions (see paragraph 1.8 of this report), particularly the regard it pays to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies.
- 4.5 I test the Plan against the Basic Conditions by considering specific issues of compliance of the Plan's policies which deal with Green Spaces; Habitats and Countryside; Transport and Infrastructure; the Community; Amenities and Well Being and Housing. However, from my reading of the Stapeley Neighbourhood Plan submission document, the Regulation 16 consultation responses, the supporting evidence base documents for the Plan, the responses to my letters of 24 July and 14 August 2017 and having undertaken the site visit, I consider that overall, subject to the detailed modifications I recommend to specific policies below, that individually and collectively the policies in the Plan will contribute to the achievement of sustainable patterns of development and meet the other Basic Conditions.
- 4.6 There are nonetheless numerous issues relating to the Basic Conditions for this examination, throughout the Plan. Principal amongst these are the approach of the Plan to the designation and protection of Open Space, including Local Green Space and views; and the identification of a settlement boundary for Stapeley.

For simplicity and in order to provide context, I propose to consider these and other detailed matters by reference to the individual policies in the order in which they appear in the Plan.

Open Space, Countryside and Landscape policies (Policies GS 1 – GS 4)

- 4.7 Policies GS 1 *Open Space within the Parish* and GS 2 *Green Spaces* together seek to protect designated and undesignated open space. There is a marked degree of overlap between the policies and in the use of terminology which would cause significant confusion when called upon in the context of decision-making. Despite its heading, Policy GS 1 also refers to the protection of areas of “locally important open space” before designating 13 “Local Green Spaces” (LG1-LG13, details of which are provided in Appendix 2) which from the context appear to relate to the type of designation envisaged under paragraph 77 of the National Planning Policy Framework (NPPF). These areas will be protected from development unless very special circumstances exist. Policy GS 2 refers to the protection of “existing green spaces”, which are not individually identified, including “accessible green space” and “recreational open space” in the Parish. The Glossary (Appendix 8) includes within the definition of *Open Space* all spaces of public value, including public landscaped areas, playing fields, parks and play areas and areas of water such as rivers, canals, lakes and reservoirs which may offer opportunities for sport and recreation or act as a visual amenity and a haven for wildlife. The definition in the Glossary of *Green Space* also refers the reader to this definition. The term *Local Green Space* is not defined. The plethora of terms and expressions is a source of considerable uncertainty and confusion.
- 4.8 Further difficulty in both interpretation and implementation is encountered once Policies GS 3 *Landscape Quality, Countryside and Open Views* and GS 4 *Important Views and Vistas* are considered. The terms “view” and “vista” are not defined. To my mind, they are the same thing; and for the sake of simplicity, I shall from now on refer to them as “views”. Both policies refer to the protection of important views and vistas, but in slightly different terms. For example, GS 3 requires that all new development should ensure that “important local views and vistas into, out of and across the settlement” are “maintained and, where possible, enhanced and protected”, whereas GS 4 requires that new development should ensure that “locally important views and vistas are retained and, where possible, enhanced.” Both policies refer to views and vistas identified on the (un-numbered) map and in the lists in Appendix 2. But neither the map nor the other information supplied with it relates to views – only to the designated LGSs. Meanwhile, Policy GS 1 includes within the “areas of locally important open space” some (not individually identified) which are said to “provide open vistas and rural skylines”.
- 4.9 Moreover, GS 3 also seeks to protect “locally important open space” from unnecessary or inappropriate development that complement the rural setting and character of the parishes as a matter of priority. These locally important

open spaces are not identified, nor is it possible to say how the term relates to the same expression employed in GS 1.

- 4.10 Even if it were possible to disentangle the various overlapping expressions, the policy tests applying to them are neither clear nor consistent. For example, the “areas of locally important open space” in GS 1 will be protected unless very special circumstances can be demonstrated”, whereas the “locally important open spaces “in GS 3 “will be protected as a matter of priority from unnecessary or inappropriate development”. Both “very special circumstances” and “inappropriate development” are terms with specific – but very different - meanings with respect to the implementation of Green Belt policy. They should not be used casually and confusingly in the way proposed.
- 4.11 The confusion is compounded by the fact that the 13 Green Spaces designated under GS 1 are shown in the appendix not on maps, but as a series of aerial and other photographs that do not show clearly identifiable areas of land with defined boundaries. Rather they appear to show the splays of views partially encompassing land unrelated to physical features and with no defined termination. Irrespective of the overlap and imprecision of the policy wording, the lack of certainty over the extent of the designated areas alone renders policies GS 1, GS 2 & GS 4 so unclear that a decision maker would be unable to apply them consistently and with confidence when determining planning applications. As a consequence, the designations and consequently the policies fail to have regard to Planning Policy Guidance (Paragraph: 041 Reference ID: 41-041-20140306) concerning the clarity of policies. All, together with the associated designated areas clearly require complete revision. I recommend that Policy GS 1 (other than the Local Green Space Designations, which I consider separately below), the first section of Policy GS 2; the first section of Policy GS 3 and all of Policy GS 4 should be deleted. **[PM2, PM3, PM4, PM5]**
- 4.12 In correspondence, I drew these concerns to the attention of the QB who in turn have put forward a number of suggested modifications to the Plan [in Version 2.3] in order to address them. In brief, the QB suggests:
- altering the title of GS 1 to *Local Green Spaces* to reflect a more focussed approach to these important designations;
 - transferring the designations LG5, 6, 7, 8, 11 & 12 from GS 1 to a new Policy GS 2 *Open Spaces, Important Views and Vistas*, which would also include elements of the submitted policies GS 3 and GS 4. The remaining LGS designations would remain in GS 1.
 - transferring most of the submitted GS 2 text into a new Policy GS 3 *Other Spaces* and transferring wording from the supporting text to explain that

this policy is intended to encompass gardens, small areas of open space within existing developments, allotments, recreational space, open fields, woodlands and pathways.

- deleting Policy GS 4.
- Revising the information in Appendix 2 to show defined areas of land on map bases and providing more detailed assessments by reference to the criteria of NPPF paragraph 77.

4.13 These suggested modifications go a considerable way towards clarifying the difference between designated LGS and what are considered to be important views, and which policies should apply to each. I propose to consider the revised text of each in turn, but should emphasise that it is the Plan as submitted that I am examining, not the revised text, though the latter may provide the basis for some modifications. However, I will start by considering the merits of the individual designations.

Local Green Space designations under proposed revised Policy GS 2

4.14 Paragraph 77 of the NPPF says that the LGS designation will not be appropriate for most green areas or open space. The designation should only be used:

- (a) where the green space is in reasonably close proximity to the community it serves;
- (b) 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
- (c) where the green area concerned is local in character and is not an extensive tract of land.

4.15 The QB has identified the designated spaces by reference to these criteria. The observations for each, included in Appendix 2 to the Plan, have been revised from the originally submitted version.

4.16 So far as criterion (a) is concerned, the NP area is so small and compact that very nearly all land within it may be regarded as being in reasonably close proximity to the local communities, and all are close to the main roads that run through the area. I am satisfied that all of the proposed designated land meets this criterion.

LG1 First Dig Lane / London Road

- 4.17 The land comprises a field fronting the London Road (A51) at its junction with First Dig Lane, together with a footpath alongside (forming part of the Crewe and Nantwich Circular Walk) which is the access to Stapeley Hall Farm located at the far end. The land is not extensive and is certainly local in character. It is reasonably attractive, but not to an extent that sets it apart in terms of visual quality from the local countryside generally, including that in proximity to the circular walking route. Owing to the proximity of the main road and junction, it is not particularly tranquil; and I have seen no evidence to demonstrate that it has any historical or wildlife interest. The footpath has recreational value, but that is in any event protected by its formal status. I do not agree that the land is demonstrably special or holds particular local significance. In my view, it does not meet NPPF criterion (b).

LG2 First Dig Lane

- 4.18 The land comprises a straight length of First Dig Lane running from its junction with London Road. It is a surfaced highway, together with the trees and hedges that border it. It is an attractive lane, the name of which refers to historic salt extraction and is therefore of historical significance which I acknowledge may be special locally. But it cannot properly be described as a green space or a green area. Indeed, most of its surface area is hard paved. The PPG (Reference ID: 37-018-20140306) says that there is no need to designate linear corridors as LGS simply to protect rights of way, which are already protected under other legislation. Any trees which are of particular value could be made subject to Tree Preservation Orders. In my opinion, it does not meet NPPF criterion (b).

LG3 Deadman's Lane

Deadman's Lane is a bridleway that links London Road to Broad Lane. It is attractive, bounded by trees and hedges, rural in character and clearly of recreational and practical value. I also understand that it has high biodiversity interest. Unlike LG2, it is not paved; and it widens briefly at a couple of points where there are ponds. Arguably, it could be described as an area or space, but it is mostly a linear corridor which is not suitable for designation as LGS. Moreover, I note that the whole of the length of the lane has been proposed for designation, whereas the illustrative aerial photograph originally submitted showed only the north-eastern part. I am concerned that the extent of the land appears to go beyond that which was the subject of publicity prior to submission.

LG4 London Road

- 4.19 This land is a flat, roughly square field fronting London Road and bounded by some trees and a large building. It is local in character insofar as it is typical

of the landscape in the NP area, and not extensive. It is crossed by a footpath that links London Road to Wybunbury Lane, but it is not demonstrably special or possessing any particular local significance by reference to the NPPF criteria.

LG9 Batherton Lane

4.20 This large, triangular, flat and largely featureless field, bounded on the west by Batherton Lane, which I understand from the owner is not a public right of way (PROW); to the north by the housing fronting Broad Lane; and on the remaining side by a straight hedge. There is no public access. Batherton Lane is used by walkers, but any views of the land in question are very limited, owing to the intervening hedge. Even if it were a PROW, designation of the land in question would not directly facilitate access to any other area of interest. While it may be typical of much of the local landscape, it is not demonstrably special or possessing any particular local significance by reference to the NPPF criteria.

4.21 I have been told in a representation to the Regulation 16 consultation that there has been no effort by the QB to contact the landowner, contrary to the advice of PPG. The Guidance says (ref ID: 41-047-20140306) that “a qualifying body should be inclusive and open in the preparation of its neighbourhood plan ... and ensure that the wider community ... is kept fully informed of what is being proposed (and) is able to make their views known throughout the process”. However, in this case, I am satisfied that the owners or others with an interest in the land have not been disadvantaged.

LG10 Bishops Wood Gateway

4.22 This land comprises a short stretch of Broad Lane, together with some highway verge on the corner of Bishops Wood, a housing development of suburban character at or near the NP boundary. The highway and verge, dominated by street furniture, is at best of ordinary visual quality or value. Notwithstanding its location and the few small trees planted on it, in my view the land is not demonstrably special or possessing any particular local significance by reference to the NPPF criteria.

LG13 Broad Lane / Mill Lane

4.23 This land comprises 2 triangular areas of largely featureless farmland, bisected by a stretch of Mill Lane at its north-eastern (Broad Lane) end. The triangular shapes appear to relate very approximately to the originally-defined splays representing views, but both have been extended further into the fields. Other than a short length along Mill Lane, these boundaries do not coincide with any features on the ground. Mill Lane provides access to the River Weaver, but designation of the farmland does not affect that. The Crewe and

Nantwich Circular Walk joins Mill lane further to the south-west. It passes close by, but is not accessible from the defined land. I am told by the QB that a “conservation area” has been planted by a local farmer and that this is studied by school groups and others. However, I am not aware of its location or even whether it is on the land. For these reasons, I do not consider the land to be of local significance or to be demonstrably special by reference to NPPF criterion (b). I am also concerned that the extent of the land goes beyond that which was the subject of publicity.

- 4.24 Overall, for the reasons given, I am not satisfied that any of these 7 proposed areas meet the NPPF criteria. Consequently, I do not propose to consider the terms of the policy in any detail, as it would not be applied. Nonetheless, I would observe that the NPPF states that the policy for managing development within a LGS should be consistent with policy for Green Belts. Policy GS 1 (in both original and revised form) says that the designated LGSs will be protected unless very special circumstances can be demonstrated. The “very special circumstances” test does indeed have its origins in Green Belt policy – but it is not the only one. The presumption in Green Belts is against “inappropriate development”, to which the NPPF lists (paragraphs 89 & 90) a number of important exceptions. No exceptions are mentioned in Policy GS 1, meaning that the policy would effectively place an even greater limitation on development that applies even in the Green Belt. It does not have regard to national guidance, and therefore does not meet that Basic Conditions.
- 4.25 Separately, I am concerned about the approach taken by the QB to engaging with landowners potentially affected by the proposed designations. I have been told that all have been consulted, but I have been advised by one landowner in representations that this did not happen.
- 4.26 In the light of the above, I recommend that the designations LG1, 2, 3, 4, 9, 10 & 13 in Policy GS 1 and the material relating to them contained in Appendix 2 should be deleted from the Plan. **[PM6 (part)]**

Proposed revised Policy GS 2

- 4.27 The proposed revised Policy GS 2 combines a number of policy areas in relation to:
- land designated as being an important view or as a locally important open space;
 - development in the countryside, including identifying categories of development that would be acceptable (taken from the submitted Policy GS 3); and

- protection of the quality of the local landscape and the character of the countryside.
- 4.28 The suggested revised policy designates 6 areas as Open Spaces and / or Important Views and Vistas, formerly included in Policy GS1 as LGS. Details of these are provided in a revised Appendix 2. As for which of them is intended to fall into which category, a table identifies (under the heading of “categorisation”) those which have been identified because of a view: LG7, LG8, LG11 & LG12. The remainder (LG5 & LG6) I assume fall into the “Open Spaces” category.

Important Views

- 4.29 The policy says with respect to views that all new development will be expected to respect and enhance the setting, views, vistas and local landscape quality and visual amenity of the area ensuring that important local views and vistas into, out of and across the settlement are maintained and, where possible, enhanced and protected from development. I am satisfied that this meets the Basic Conditions.
- 4.30 Although the supporting text to the Green Spaces, Natural Habitats and Countryside policies draws attention to a local character typology identified by the Cheshire Wildlife Trust (Figure 2), I am not aware that the views proposed for formal designation have been subjected to any landscape analysis. The supporting material in Appendix 2 which provides justification for the designations continues to refer to the 3 NPPF paragraph 77 criteria, which are not directly relevant. I consider each in turn.

LG7 Stapeley community’s centre

- 4.31 As shown in the submitted NP, this designation comprised the central section of Peter Destapeleigh Way, the distributor road that runs along the southern edge of the main part of the built-up area of Nantwich, separating it from undeveloped land to the south. It includes a stretch of the road, together with roadside landscape planting both sides. However, as defined on a revised plan it also includes a substantial area of land to the south, just adjoining the eastern part of LG8. The supporting material in the Appendix refers to it as OS (open space). It is largely descriptive and does not analyse its value as a view.

LG8 Peter Destapeleigh Way

- 4.32 This land includes the length of the distributor road to the west of LG7. Again, the land encompassed by the proposed designation comprises the road, together with verges and narrow belts of tree and shrub planting to either side. The road itself is modern, dominated by street furniture and lacks any

significant value as a view. As with LG7, the supporting material describes it as OS and there is no analysis of its value as a view.

LG11 Broad Lane at Maylands Farm

- 4.33 The area covered by LG11 includes a curve in Broad Lane, together with a short row of Scots pine trees around its edge, which I understand are covered by Preservation Orders. The supporting material says that the trees can be viewed from many locations in the Parish, but that does not equate to the land identified forming a view. Rather, they simply amount to a roadside feature.

LG12 Broad Lane

- 4.34 This proposed designation encompasses several fields to the north-east of Broad Lane, extending as far as the rear gardens of houses fronting London Road in the distance - though the houses are to a large extent screened by intervening trees and hedgerows. The QB's claim that it is the only remaining significant rural area left within the NP area could be interpreted as an exaggeration. Nonetheless, it represents possibly the longest view in the NP area from a road; it is typical of the locality and attractive, though the generally flat landscape and the hedge along Broad Lane substantially limits its visual impact and value as a view.
- 4.35 As shown in the submitted NP, this proposed designation encompassed land framed by splays extending from a viewpoint on Broad Lane. The revised plan incorporates at least 2 further fields together with parts of others, possibly doubling the size suggested by the originally proposed area. I have not been provided with any evidence that the landowners of this additional land have been afforded the opportunity to comment.
- 4.36 The Government's PPG (Reference ID: 41-041-20140306) says that a policy in a neighbourhood plan should be supported by appropriate evidence. I conclude that none of the proposed views meets this requirement. I recommend that all should be deleted from Appendix 2. **[PM6 (part)]**. However, in recognition that (undesigned) significant local views may be of value in landscape terms, I propose to keep within the policy a requirement that they should be retained and, where possible, enhanced and protected from development.

Locally important open spaces

- 4.37 The relevant policy test for these proposed designations under proposed revised Policy GS 2, transferred from the submitted Policy GS 3, is that locally important open spaces that complement the rural setting and character of the parishes will be protected as a matter of priority from unnecessary or inappropriate development.

- 4.38 The use of the term “priority” suggests that this element of the Plan applies above all others. The general approach to decision-making concerning development proposals is that the development plan (which will include any made neighbourhood plan) should be read as a whole, and in a balanced way. If priority is to be accorded to a particular policy, it should be justified. But neither the policy nor the supporting text explains how this matter should be approached. Of greater concern is that (unlike for the Green Belt) there is no assistance for the decision-maker regarding the kind of development that should be regarded as appropriate or inappropriate, much less how the test of necessity should be applied. In short, I believe that the policy is so unclear that a decision maker would not be able to apply it with confidence when determining planning applications. I therefore take the view that the Plan has not paid proper regard to the relevant part of the PPG (Reference ID: 41-041-20140306). It follows that the areas proposed as open space should not be designated, but should be removed from Appendix 2. There is no need to consider them individually. **[PM6 (part)]**

Development in the countryside

- 4.39 The proposed revised policy identifies 4 limited circumstances in which development in the countryside would be permissible (taken from submitted policy GS 3). These relate, in very broad terms, to elements in CELPS Policy PG 6 *Open Countryside*. However, PG 6 includes other circumstances, the additional ones being: residential infilling (3)(i); dwellings of exceptional design (3)(i); replacement of existing buildings (3)(iii); extensions to existing dwellings (3)(iv) and development essential for the conservation of a heritage asset (3)(vi). Of these, infilling is addressed under NP Policy H 1.1 and extensions under NP Policy GS 6. Dwellings of exceptional design, replacements and development for conservation purposes are not addressed. By limiting the circumstances as it does, this part of Policy GS 2 is inconsistent with other parts of the Plan, and also not in general conformity with CELPS. It is therefore in breach of the Basic Conditions.

- 4.40 I first consider the 4 identified circumstances in turn:

a) *Development associated with agriculture, forestry or other appropriate rural enterprise where a rural location is necessary and justified.*

- 4.41 PG 6(2) requires the development to be essential for the purposes of agriculture rather than associated with it. PG 6(2) additionally refers to outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, but does not refer to rural enterprises. Rather it uses the expression “other uses appropriate to a rural area”. Proposed revised Policy GS 2 also adds the rider “where a rural location is necessary and justified”. I am not aware of any reason why the NP

should take a more restrictive approach than the CELPS. The approach is not based in clear evidence and therefore it does not meet the Basic Conditions. This could be rectified by a modification either repeating CELPS Policy PG 6(2) or simply indicating that the exception applies to development that is essential to uses appropriate to a rural area in accordance with that policy. In terms of achieving clarity, I favour the latter. **[PM7 (part)]**

b) The small-scale expansion of existing employment sites;

- 4.42 This exception broadly equates to CELPS Policy PG 6(3)(v), but again the description of the development and the related test is different: the latter referring to “development that is essential for the expansion or redevelopment of an existing business”. For the same reason given with respect to (a), I shall recommend a modification to make the two consistent. I shall also refer to the need to comply with the provisions of NP Policy C 2, which relates to similar development. **[PM7 (part)]**

c) The conversion of existing buildings of substantial construction to employment or residential uses;

- 4.43 This exception broadly equates to CELPS Policy PG 6(3)(ii), but is again more restrictive (the latter does not limit the uses), and lacking the criterion relating to “extensive alteration rebuilding or extension”. It also overlaps to a degree with Policies C 2 *New Business* and in particular C 3 *Use of Rural Buildings*. It is not in general conformity with the Local Plan and so does not meet the Basic Conditions. I recommend a modification which brings this exception into line with CELPS. I shall also refer to the need to comply with the provisions of NP Policy C 3, which relates to similar development. **[PM7 (part)]**

d) Rural exception sites.

- 4.44 This exception is broadly in line with CELPS Policies PG 6(3)(i) and SC 6, but again in a different form. The subject matter overlaps with NP Policy H 1.2 with which it is inconsistent and ambiguous and therefore does not have regard to national guidance. I consider the latter policy in another part of this report, where I recommend that it be modified to bring it into general conformity with CELPS. I recommend that a simple cross-reference to H 1.2 would ensure consistency. **[PM7 (part)]**
- 4.45 So far as residential infilling and extensions are concerned, I address these matters under their specific policies. A simple cross-reference to them would ensure internal consistency within the Plan. **[PM7 (part)]**
- 4.46 As for the remaining 3 omitted categories of development are concerned (dwellings of exceptional design, replacements and development for

conservation purposes), in the absence of any evidence to justify their omission these should be included in order to bring a revised policy into general conformity with CELPS. I therefore recommend that the relevant wording of CELPS Policy PG 6 be incorporated. **[PM7 (part)]**

- 4.47 The final element of proposed revised policy expects all new development to respect and enhance the setting of Stapeley and Batherton and the surrounding countryside and to enhance the local landscape quality, wherever possible. Proposals that cause unacceptable harm to the character of the countryside or the valued rural setting of the built-up part of Stapeley that adjoins Nantwich will not be permitted. I consider this element of the policy to have due regard to national guidance and CELPS.
- 4.48 Overall, I recommend the inclusion in the Plan of a new policy (new policy GS 1, titled Landscape and the Countryside to reflect its subject matter), being a modified version of the QB's proposed revised Policy GS 2 taking into account the preceding observations and recommendations. I have also taken the opportunity to revise & combine elements of the text to avoid duplication and in the interests of clarity and effective development management decisions.

Proposed revised Policy GS 3

- 4.49 This revised policy has its origins in submitted Policy GS 2. It seeks to protect and improve the quality of "all existing areas of local green space". This is defined within the policy using the description taken from the submitted supporting text to include *gardens, small areas of open space within existing developments, allotments, recreational space, open fields, woodlands and pathways within the parishes*. The protection would apply unless very special circumstances can be demonstrated, a provision not included in the submitted Policy GS 2.
- 4.50 This revised policy would place an effective embargo on virtually all development on virtually all undeveloped land. For the reasons set out in respect of Policy GS 1, the use of the "very special circumstances" test elevates the degree of protection above that applied to Green Belts. It is in my view entirely disproportionate to extend the same level of protection and restriction over all development to such a wide range of undeveloped land. In my opinion, it does not pay regard to the relevant part of national PPG, which says that proportionate, robust evidence should support the choices made and the approach taken (Reference ID: 41-040-20160211). I have seen no evidence to justify the chosen approach specifically for Stapeley. For the above reasons, I cannot recommend that the proposed revised policy should be included in the Plan.
- 4.51 Instead, I recommend that the originally submitted Policy GS 2 should be modified (and retitled *Open Space*) to require provision of recreational open space and for other publically accessible green space to meet the standards

of CEC; for all existing areas of open and green space that are of significant public benefit or make a significant contribution to the amenity of the Parishes, including public open space in existing developments, allotments and recreational open space to be retained wherever practicable; and to encourage the improvement of existing spaces with a view to creating improved networks. I consider that this would address many of the concerns of the QB; providing general but proportionate protection to green and other valued open spaces in the Plan area; and thus, meeting the Basic Conditions. **[PM8]**

- 4.52 I appreciate that the QB may be disappointed at some of my recommendations so far as the protection of specific areas of land are concerned, but I consider the approach of my proposed modifications should provide an appropriate level of protection for, and control over development likely to affect the local landscape character and the setting of Stapeley, and protect valued open spaces. They permit informed analysis of the value of any individual site in terms of rural character, landscape quality and community value at the time of making a decision on a planning application, and for the impact of proposed development to be judged against the clear tests. Should any of the sites put forward for specific designation but excluded by my recommendations be the subject of development proposals, I consider these policies would provide an appropriate framework for determining acceptability.

Woodland, Trees, Hedgerows, Walls, Boundary Treatment and Paving (Policy GS 5)

- 4.53 This policy is wide ranging and seeks to apply protection from loss or damage to a number of natural and man-made features that contribute to the character and amenity of the Plan area. Its aim is in broad conformity with CELPS Policy SE 5 with respect to natural features. However, that policy is more detailed and far more discriminating, by conferring protection only to woodland, trees and hedgerows that make a “significant contribution” to the amenity, biodiversity, landscape character or historic character of the surrounding area. I agree with CEC that Policy SE 5 is not intended to be a blanket preventative policy. Given that it could be argued that very nearly every tree or hedgerow could contribute in some limited way to the character and amenity of the area, I consider that the policy would be disproportionate in effect. As with a number of other policies I have already considered, I have seen no evidence to justify such a broad application of protection. The policy is therefore contrary to the relevant part of the national PPG. However, it could be corrected by the introduction of the “significant” test.
- 4.54 A further difference between the policies is that whereas Policy SE 5 says that, exceptionally, development that would result in the loss of, or threat to the continued health and life expectancy of such features may be permitted

only where there are clear overriding reasons for doing so and there are no suitable alternatives, GS 5 contains no such criteria. Rather it requires that need for the development should be demonstrated. While need for a development can be a material consideration in the determination of a planning application, it is not generally necessary for it to be demonstrated. The policy is not in general conformity with this aspect of CELPS. However, I am content for the final section of the policy concerning protection of trees from the effects of development to be included.

- 4.55 The requirement of GS 5 for replacement planting where these are lost through development is in line with that of CELPS Policy SE 5 for mitigation, compensation or offsetting. While it is possible by planning condition to require short-term maintenance of planting in order to ensure proper establishment, it would be unreasonable for this to be for the long-term, contrary to the provisions of the NPPF.
- 4.56 As for man-made features: verges, walls, boundary treatment and paving, I recognise that they are capable of making a contribution to the character and amenity of an area; and may be worth protecting from development if that contribution is significant, and / or requiring their reconstruction if damaged by it. I am not aware of any CELPS policy that addresses this matter directly. Nonetheless, I am satisfied that it would be appropriate to include these features within the policy as I propose to amend it. However, it would not be reasonable to require “ongoing care and maintenance” of planting, walls and paving by way of a planning condition.
- 4.57 Policy GS 5 does not meet the Basic Conditions. However, this is correctable by means of a number of modifications, which I shall recommend. [PM9]

Extensions and Alterations to existing buildings in the open countryside (Policy GS 6)

- 4.58 CEC has confirmed that this policy aligns with CELPS Policy SE 1 in relation to design. The QB is happy to accept a modification that replaces the need for extensions and alterations to dwellings to be in traditional materials with one that refers to design features and the use of materials that reflect the rural character of the area, incorporating traditional design and materials where appropriate. I agree that there is no evidential justification for the original requirement; and I adopt CEC’s suggested wording as the basis for a modification incorporating the requirements for non-residential buildings. I also refer to the principles of Policy H 4 *Design*, where relevant, as these may apply equally to non-residential development. [PM10]

Environmental Sustainability of Buildings (Policy GS 7)

- 4.59 This policy gives favourable consideration to various measures intended to improve the sustainability of buildings, including grey water systems, ground source heat pumps and solar panels, subject to the protection of the character of the area. In large measure, the policy duplicates matters addressed under LP Policy H7 *Adapting to Climate Change*, albeit that the latter falls under the heading of housing. I recommend combining the two in order to avoid unnecessary duplication and achieve clarity. It is in line with the general promotion of sustainability in the NPPF and CELPS Policies SE 9 *Energy Efficient Development* and SE 13 *Flood Risk and Water Management*.
- 4.60 CEC has drawn my attention to the Statement of the Secretary of State for Communities and Local Government on 25th March 2015², in which he announced that, from the date of the (then) Deregulation Bill being given Royal Assent (the following day) QBs should not set in their Neighbourhood Plans any additional technical housing standards or requirements. As I read the policy, the encouragement of the “fabric first” approach neither sets a technical housing standard nor a requirement: it is merely an encouragement. Similarly, the features listed in Policy H 7 are simply examples of ways in which environmental performance could be improved. In my view, such general exhortations add little to the thrust of the CELPS policies. They may be included within the expression “new appropriate technologies”; and I recommend accordingly.
- 4.61 In the interests of accuracy, I have omitted reference to conservation areas, as there are none in the NP area. I have retained the element of Policy GS 7 relating to the use of sustainable drainage schemes for wildlife. However, I use the more inclusive expression “nature conservation purposes”. [PM11]

Buffer Zones and Wildlife Corridors (Policy GS 8)

Biodiversity (Policy GS 9)

- 4.62 I consider these policies together as they address similar matters. They seek the protection for wildlife corridors and other areas identified as having high or medium habitat distinctiveness (as shown on Figures 3 and 4 in the Plan which in large measure cover the same areas) from development. In principle, they to some extent reflect CELPS Policy SE 3 *Biodiversity and Geodiversity* and the guidance of the NPPF (paragraphs 109, 114, 117). The QB has suggested alternative wording in response to comments made by CEC to ensure the policies are in general conformity with the detail of Policy SE 3. I have taken these suggestions into account in drawing up a proposed modification which combines the 2 policies under a single heading *Biodiversity*. [PM12]

² View at: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2015-03-25/HCWS488/>

Transport and Infrastructure

General Transport Considerations (Policy T 1)

- 4.63 This policy contains reference to many transport-related matters. I agree with CEC that for ease of use and comprehensibility these topics would be better separated out within the policy, under the following headings.

Information to be supplied with planning applications

- 4.64 With respect to the first 2 parts and paragraph (a) and (c), no evidence has been provided to justify requiring all development (proposals) to identify traffic generation, impacts and mitigation. Many small developments will have little or no impacts; and in those cases, no Traffic Assessment (TA) or Statement would be required by CEC under its Local Requirements. Next, the specific references to the submission of TAs and Travel Plans (TP) should be in accordance with the guidance of the NPPF. Thus, all developments that generate significant amounts of movement should be supported by a TA and should be required to provide a TP. This is different to the NP requirement in respect of all significant (or major) proposed developments. It is an important distinction, as it is possible that some significant developments would not give rise to significant movements. Finally, there is no justification for the requirement in paragraph (a) for TAs to predict traffic and impacts on roads and junctions solely in the Plan area. That would be too limited: there could be consequences elsewhere which should also be addressed. I recommend that these passages should be combined and modified to address these matters.

Traffic generation

- 4.65 Paragraph 34 of the NPPF says that plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However, this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas.
- 4.66 I appreciate the concern of the QB [in the third section and paragraph (b)] to limit traffic, particularly heavy vehicles, in circumstances where it is perceived as already being too heavy. But in my view, it is unreasonable and unrealistic to require that any new development should not add to the number and size of Heavy Goods Vehicles (HGV) using the highway network in the Parish. That would have the effect of preventing many types of employment, retail and agricultural developments which may be necessary for the economy of the area, contrary to the aspirations of CELPS. Moreover, it would have no effect on HGVs originating or completing journeys outside the Parish. It would be an ineffective policy, contrary to PPG.

- 4.67 The requirement of part (b) in relation to the potential for development to give rise to greater than 5% increase in congestion or average journey times is not backed by evidence to show that such an increase would be significant to justify mitigation. For example, where congestion is low or journey times acceptable, they would in most circumstances remain low and acceptable after a 5% increase; and there would be no need for mitigation measures. Moreover, it is unclear from the policy how the increases would be measured. Would they be over a 24 hour period, or just at peak times? The figure of 5% is arbitrary and the option of allowing the Highway Authority to set another figure introduces uncertainty and passes responsibility for planning policy to another body, which is inappropriate. This part of the policy does not have regard to the relevant parts of the PPG relating to the need for evidence and for policies to be capable of effective implementation.
- 4.68 The policy already requires the submission of TAs where significant traffic movement would be generated. The effect of such traffic would be a material consideration to be taken into account, together with all others, when a planning application is being considered, having regard to paragraph 32 of the NPPF, which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 4.69 I recommend modifications to address these matters.

Creation or widening of accesses

- 4.70 This requirement relates to matters of design rather than transport. But it meets the Basic Conditions. I include it as a third element of the policy in unaltered form.

Opportunities for walking and cycling

- 4.71 These matters are effectively covered in Policies T 2, T 3 and T 4 and do not require repetition.

Parking provision

- 4.72 Appendix C of CELPS sets out adopted parking standards for a wide range of land uses. It is unnecessary for these to be repeated in the NP. However, if the QB wishes to include reference to parking, it should be consistent with those standards. The NP requirement for parking to be provided within the site sufficient to accommodate all the vehicles that will be associated with the proposed use may, in some circumstances, be inconsistent with the CELPS standards. The requirement for residential parking to have regard to NP

Policy H7 (actually H6) or the most up to date standards in the adopted plan introduces ambiguity. Moreover, the standards in Policy H6 are significantly greater than those in the CELPS, and I have been given no reason to justify applying a different standard in Stapeley and Batherton.

4.73 The CELPS standards include provision for cycle parking, which subject is covered under Policy T 5. I recommend combining the policies. Thus, I recommend that part (d) of Policy T 1 should be replaced by a simple reference to the application the adopted standards in the CELPS.

4.74 All of the recommended modifications to Policy T 1 are included in my modification. **[PM13]**

Walkable neighbourhoods (Policy T 2)

Pedestrian and cycle routes (Policy T 3)

4.75 Policy T2 requires the design of new development to create and support neighbourhoods so that priority is given to the provision of safe pedestrian and cycling connections throughout the development; to services and facilities such as the town centre, employment areas, schools and public transport facilities. Such routes should be accessible for disabled persons and those with children. It has regard to the sustainability aspirations of the NPPF and is in general conformity with CELPS Policies SD 1 *Sustainable Development in Cheshire East*, SE 1 *Design* and CO 1 *Sustainable Travel and Transport*. It meets the Basic Conditions.

4.76 Policy T 3 seeks all significant residential and commercial development to deliver packages of pedestrian and cycle improvement for the area. It largely respects the aspirations of Policy T 2, but adds that the improvements should be provided by way of “planning obligations or otherwise”.

4.77 These 3 policies address similar matters and would benefit from being combined in order to reduce duplication. I recommend accordingly. **[PM14]**

Footpaths, Cycleways and Bridleways (Policy T 4)

4.78 Policy T 4 encourages the improvement of existing footpaths and bridleways and their extension, in contrast to Policies T 2 and T 3, which relate to such provision in relation to development. However, no specific routes are proposed. It is therefore essentially aspirational. It identifies 7 ways to contribute to its aims. I consider each in turn:

(a) seeks to protect existing public rights of way. However, by requiring that they should not be obstructed, goes beyond the purview of planning: this is a matter covered under other legislation. The reference should be removed.

(b) requires footpaths to be well-lit. While this may be entirely appropriate in some parts of the Plan area, it cannot be justified in the more rural parts where it would be incompatible with the aim of the Plan to preserve the rural character of the locality. I recommend a modification to cover this point.

(c) Though perhaps desirable, there is no justification that new cycle paths should all be linked to the National Cycle network. In many cases it may not be practical, so the policy would be incapable of implementation. I recommend including the rider: “where practicable”.

(d) requires all development to make a financial contribution or direct provision of new infrastructure connected to rights of way and other links. This matter is covered under Policies T 1 / 2. I recommend deletion.

(e) the first part of this section would fit better within the introduction. The remainder sets out a number of criteria intended to make the routes practical and attractive.

(f) requires that proposed footpaths relating to new residential development should be complete before 50% of the new homes are substantially constructed. In my view, this is too prescriptive and could be unreasonable if required by condition, contrary to the advice of PPG (Reference ID 21a-003-20140306). I recommend substitution with a modified wording that would provide flexibility for the local planning authority to reflect the circumstances of the case.

(g) In seeking that planning permission will be refused where new development would have an adverse impact on routes in terms of their safety, directness, attractiveness and convenience, the policy is again insufficiently flexible. For example, it may be possible for mitigation measures to be employed, or the route to be diverted. I recommend a suitable modification.

4.79 All the modifications proposed are within **[PM15]**.

Cycle parking (Policy T 5)

4.80 The requirement for parking facilities to be provided is sustainable. The CELPS parking standards include parking for cycles, though this is not referred to in the policy. I recommend incorporating reference to cycles into Policy T 1, which addresses car parking, and deleting this policy. **[PM16]**

Bus services (Policy T 6)

4.81 This policy looks to new developments to be served “normally” by regular bus service to Nantwich Station and town centre; and where existing routes do not already serve the proposed development area, it expects new development to

fund an expanded service. CELPS Policy CO 1 *Sustainable Travel and Transport* encourages a modal shift from car travel to public transport and promotes the improvement of public transport integration, including the improvement of public transport service levels which it says may involve developers subsidising new bus services or the extension of an existing service to provide additional journeys, or supporting community transport initiatives to enable sustainable access to new development. Policy SD 1 *Sustainable Development in Cheshire East* seeks to ensure that development is accessible by public transport and Policy SD 2 *Sustainable Development Principles* expects residential development to provide access to a range of forms of public transport. Other CELPS policies relating to other forms of development, including business, are similar. It is clear that in principle NP Policy T 6 is in general conformity with the aims of these policies. However, while the use of “normally” may be acceptable where the exceptions are made explicit, this is not the case here. Consequently, the meaning of the policy would be uncertain for decision-makers. Moreover, by applying to all developments, the policy is excessively onerous. The NPPF (paragraph 173) cautions against imposing requirements on development, including infrastructure requirements, that would compromise its viability.

- 4.82 In the light of the foregoing, I conclude that the policy does not meet the Basic Conditions, and I recommend its modification. **[PM 17]**

Improving Air Quality (Policy T 7)

- 4.83 Policy SE12 *Pollution, Land Contamination and Land Instability* of the CELPS sets out the development plan position with respect to pollution, including its effect on air quality. CEC seeks to ensure that all development is located and designed so as not to result in a harmful or cumulative impact on (amongst other things) air quality or on any other pollution which would unacceptably affect natural and built environment, or detrimentally affect amenity or cause harm. Developers will be expected to minimise and mitigate the effects of possible pollution arising directly or indirectly from the development; and where mitigation cannot be provided, development will not normally be permitted.
- 4.84 Development including housing or other environmentally sensitive development will not normally be permitted where existing air pollution levels are unacceptable and there is no reasonable prospect of these being mitigated against. Development should support improvements to air quality, not contradict the Air Quality Strategy (AQS) or Air Quality Action Plan (AQAP) and seek to promote sustainable transport policies.
- 4.85 CEC’s Local Requirements for submission of information with planning applications sets out when an Air Quality Assessment (AQA) would be required. In the case of all development, this is where it is within or

immediately adjacent to an Air Quality Management Area (AQMA). For residential development, an AQA would also be required if the development is for more than 100 dwellings within 100 metres of an AQMA; and for non-residential development if it has more than 300 parking spaces within 500 metres of an Air Quality Management Area. In contrast, NP Policy T 7 sets out a number of air quality assessment, mitigation and monitoring requirements to be applied to all new housing developments greater than 12 units and employment units greater than 500 square metres units. I am not aware of any evidence that justifies this approach, which is not in general conformity with that of CELPS Policy SE 12.

- 4.86 The requirement for mitigation measures to be agreed and implemented within 12 months following completion of the development could be unreasonable if, for example, it were not practically possible to mitigate any harmful effects. This would be contrary to the advice of the PPG concerning the imposition of conditions (Reference ID: 21a-003-20140306).
- 4.87 The policy supports development subject to 4 criteria. Of these, (a) simply requires compliance with Policy SE 12. However, (b) would be inconsistent with that approach, as it requires a demonstration that the traffic impacts of a proposed development would not decrease air quality. The tests in Policy SE 12 are that any impact should not be harmful or unacceptable. Item (c) seeks to improve air quality through such means as encouraging the take up of sustainable transport. But that is already addressed under SE 12 and NP Policies T 1 – T 4, as is item (d).
- 4.88 The remainder of the policy is taken up with detailed requirements for the assessment of impacts which are not identified in the CELPS. First, I consider that any such requirements should apply only where an AQA is required under the terms of CELPS Policy SE 12. It would be too detailed and excessively onerous to apply to all development. Second, a number of the matters proposed to be taken into consideration either do not apply to Stapeley and Batherton (for example, the effect on landscapes having national status), or are uncertain in meaning (for example, “trans-boundary nature effects”) or of uncertain relevance (for example, “special natural characteristics or cultural heritage”). I therefore recommend limiting the list to those matters that will be of relevance in most cases requiring an AQA. This would not prevent the Local Planning Authority from taking other matters having a bearing on Air Quality into account, where appropriate.
- 4.89 As submitted, the policy does not meet the Basic Conditions. I recommend a number of modifications to it in the light of the foregoing. **[PM18]**

Identification of underground utility assets (Policy T 8)

- 4.90 This policy looks to new development to have regard to its impact on underground utilities and infrastructure assets. It is an entirely reasonable and sustainable approach and has the support of CEC. It meets the Basic Conditions.

Community

Existing and New Facilities (Policy C 1)

- 4.91 This policy supports the retention, continued use, refurbishment and improvement of community buildings together with shops and public houses. It also supports the provision of new facilities, provided that there are no significant harmful effects on the amenities of residents and other neighbouring uses. This is in general conformity with a number of CELPS policies, notably EG 1, and paragraphs 28 and 70 of the NPPF and has the support of CEC. When proposals would result in the loss of a community facility, the requirement for a demonstration to be made that the existing use is no longer viable is reasonable. This Policy meets the Basic Conditions.
- 4.92 I note that the subjects of “Community Facilities” and the provision of “Community Infrastructure” are addressed under Policies AWB 4 and AWB 5. The 3 policies could be usefully combined, in the interests of completeness, comprehensibility and ease of implementation. However, this does not affect compliance with the Basic Conditions.

New Business (Policy C 2)

- 4.93 Encouragement for the re-use of existing buildings generally is provided in a number of CELPS policies, including PG 6(3)(ii) *Open Countryside* and SD 1 *Sustainable Development in Cheshire East*; and is promoted by the NPPF (paragraph 17), in the interests of sustainability. However, the requirement in NP Policy C 2 that support for such development will be lent only where it can be demonstrated that it will positively benefit the local economy and provide the opportunity for local employment and training goes further. The QB’s desire to assist the local economy, employment and training is laudable but, as worded, the policy is over-restrictive and inconsistent with NP Policy GS 3 as proposed and NP Policy GS 1(c) as I propose it in modification PM7. In order to take account of the QB’s aspirations, I propose to modify the wording to the effect that support is given for such development particularly where it is demonstrated that the development would benefit the local economy, employment and training. As recommended to be modified, this Policy would meet the Basic Conditions. **[PM19]**

Use of Rural Buildings (Policy C 3)

- 4.94 This policy overlaps directly with Policy GS 3(b) & (c) [GS 1(c) as I propose it in modifications [PM 7] and with parking requirements also dealt with elsewhere. I have incorporated its key elements, insofar as they meet the Basic Conditions, into these other policies; and recommend that this policy should be deleted. **[PM20]**

Scale, Design and Amenities (Policy C 4)

- 4.95 This policy meets the Basic Conditions, though it overlaps with other policies in the NP related to design matters, notably H 4, the principles of which are similar, but relating to housing development. There is also some overlap with submitted Policy GS 5. Part (e) related to impact on the highway network, is covered by Policy T 1 as proposed to be modified. I recommend a modification to take these matters into account. **[PM21]**

Amenities and Well Being

Accessible GP practices (Policy AWB 1)

- 4.96 Paragraph 70 of the NPPF says that planning policies should plan positively for the provision of community facilities, though it is silent on the specific subject of GPs practices in rural areas. CELPS Policy IN 2 *Developer Contributions* provide the basis for developers to contribute to the provision of physical, social, public realm, economic and green infrastructure – presently through the use of agreements under Section 106 of the 1990 Act but, once a charging schedule under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) ('the CIL Regulations') is in place, principally under that system. The supporting text identifies medical facilities as a suitable type of infrastructure that may be considered for funding through CIL. In principle, the aspiration is in general conformity with Policy IN 2.
- 4.97 I would acknowledge that, ideally, in the interests of sustainability and access, all new residential development should be conveniently located with respect to a GP practice. But, especially in rural areas, it may be unrealistic to expect everyone to live within 2km of one.
- 4.98 Contributions by way of S.106 must meet the tests of Regulation 122 of the CIL Regulations (Limitations on use of planning obligations). They should be:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

- 4.99 If any proposed obligation met these tests, it could be possible for medical facilities to be funded by way of S.106 (subject to pooling restrictions in Regulation 123). However, there is no evidential basis of which I am aware that would support the approach of NP Policy AWB 1 with respect to the threshold of developments of 15 dwellings or the distance of 2 km.
- 4.100 I recommend substituting the policy with more general wording that seeks contributions from housing developments towards the provision of local medical facilities to serve future occupiers, subject to the provisions of the CIL Regulations and those of CELPS Policy IN 2. That would allow each proposal to be considered on its merits. **[PM22]**

Services for the elderly, disabled and for mental health (Policy AWB 2)

- 4.101 This policy lends support to the provision of specialist care for the elderly, the physically and learning disabled and mental health services. It is in line with the CELPS and the NPPF, both of which support the provision of community facilities. It meets the Basic Conditions.

Provide for the sports needs of residents (Policy AWB 3)

- 4.102 This policy encourages contributions towards sporting facilities in line with CEC's sporting strategy. Although it duplicates a number of matters covered more specifically by other policies, it meets the Basic Conditions.

Community Facilities (Policy AWB 4)

- 4.103 The term "community facilities" is defined in the glossary as facilities providing for the health, welfare, social, educational, spiritual, leisure and cultural needs of the community. This overlaps with the use of "Community Infrastructure" in Policy AWB 5, described as the basic facilities, services and installations needed for the functioning of a community or society, including community buildings and halls, leisure facilities, cultural facilities, education services, and healthcare facilities. It is unclear to me why 2 similar terms are differentiated. In my view, it can only lead to confusion and uncertainty in the application of the policies. I recommend, to achieve clarity, that a single term "community facilities" is used; and the policies combined.
- 4.104 Policy AWB 4 supports such provision and sets out a number of criteria. However, it does not identify any particular uses or sites for them, and so is largely aspirational. With respect to the criteria, I consider it too restrictive for facilities to be limited to those identified during the NP consultation processes. Other priorities could emerge during the Plan period. While it may often be

desirable for some kinds of facility to be flexible in terms of the people it is intended to serve, it is unreasonable to require that all should be for all age groups. A nursery would be a case in point. However, criterion (d) seeks flexibility in design to allow a number of uses, which addresses the point. Criteria (b) and (d), requiring the facilities to be in “suitable locations” and of “appropriate scale” provides the decision-taker with no assistance. Similarly, the requirement to “take account of existing provision in the town” provides little assistance, as its meaning is unclear. Criterion (c) promotes sustainability; the requirements for the protection of amenities of residents and neighbouring uses; and for facilities to be accessible to all are compatible with CELPS and other policies of the NP.

- 4.105 As submitted the policy does not meet the Basic Conditions. However, I recommend a reduced and revised wording which will overcome its shortcomings while retaining most of the QB’s aspirations, thereby meeting the Basic conditions.

Community Infrastructure (Policy AWB 5)

- 4.106 The supporting text to the AWB section of the NP indicates that anecdotal evidence and the perceptions of the community are that facilities (such as doctors, dentists, chemists, post offices and indoor and outdoor sports facilities) are very stretched, but goes on to say that statistics show that there is capacity at these local services in Nantwich. Sports facilities are addressed by Policy AWB 3; and while the Plan wishes to support the local schools, it states clearly that it “has no policies for the school sites in this plan”.
- 4.107 The second and third parts of the policy refers to community infrastructure priorities (or projects) identified in the Neighbourhood Delivery Plan. The term “The Delivery Plan (Appendix 6)” is also referenced in the supporting text as being the means of addressing “some of the actions”, though such actions are unspecified. The term “Delivery Plan” is undefined in the glossary, but Appendix 6 to the Plan includes a list of projects to be carried forward into it. On the basis of that description, the appendix would appear not to be the Delivery Plan itself, but a precursor to it.
- 4.108 The glossary does include the term “Delivery Strategy”, which may or may not be the same thing as the Delivery Plan. It is defined as a document accompanying the NP that sets out a strategy for delivering and monitoring its policies. It is said to include infrastructure and initiatives associated with the Plan area and is described as a live document that will be updated throughout the Plan period. Of the projects listed in Appendix 6, only “new central recreation area” fits clearly within the types of things contemplated by the above definitions of “community infrastructure” and “community facilities”. The “availability and accessibility of health services” may also be considered

to be covered, but this overlaps with Policy AWB 1 *Accessible GP Practices*, which is unhelpful to the practical implementation of the Plan.

- 4.109 I find the policy and its justification confusing and unclear as to its scope. The use of similar, overlapping terms concerning delivery makes interpretation difficult and the overlap with other policies militates against effective understanding and implementation. This is contrary to the urgings of the PPG (Reference ID: 41-041-20140306). Further, though the supporting text suggests need for additional community facilities / infrastructure, it acknowledges that there is no evidence to support the assertion. This too is contrary to PPG (Reference ID: 41-040-20160211), concerning the need for robust evidence for the approach taken.
- 4.110 Against this background, the policy first looks to all development “to address the impacts and benefits it will have on community infrastructure and how any impacts can be mitigated.” The meaning is not clear, and so I consider that insufficient regard has been had to the relevant PPG (Reference ID: 41-041-20140306) that says that policy should be clear and unambiguous. As the remaining parts of the policy are concerned with financial contributions and/or direct provision of infrastructure, I have assumed it to mean that, when development proposals are being considered, the consequences for the provision of community infrastructure will be taken into account and (by implication) financial contributions towards and / or direct provision of such infrastructure will be sought. On the assumption that this is the true intention of the wording, this may be made clear in a modification which I recommend. The second and third parts of the policy do not explicitly require financial contributions to be made by developers, but appear to anticipate it. The position may be clarified by referring to the Provisions of the CIL Regulations.
- 4.111 As submitted, the policy does not meet the Basic Conditions. However, I am satisfied that the modifications I recommend should properly reflect the purpose of the policy in an acceptable form in order to comply with the Basic Conditions. **[PM23]**

Communications Infrastructure Policy (Policy AWB 6)

- 4.112 This Policy supports electronic communications networks and high speed broadband together with improved connectivity. It has regard to national guidance on the subject, and is in general conformity with CELPS Policy CO 3 *Digital Connections*, which it largely duplicates. Smaller telecommunications masts and much equipment mounted on existing buildings do not require planning permission. Nonetheless, for those that do, the requirements of the policy are in line with the NPPF. As for requiring a “connectivity statement” in relation to applications for residential development, this term is not defined either in the policy, the supporting text or in the glossary. In the absence of any certainty over what it should comprise, this would render implementation

of the policy uncertain, contrary to PPG. I shall delete reference to it. The final section of the policy, which refers to the means of ensuring fibre broadband connections may be made to more than one provider is unclear as to its requirements. I recommend an alternative wording of a more general nature, and extend its scope to business premises as well as residential.

[PM24]

Housing

Introduction

4.113 As part of its overall housing strategy for the District, CEC has sought to establish an Objectively Assessed Need for housing based on the geography and needs of the whole of Cheshire East. This need has been distributed to specific locations, taking into account a wide range of local issues, constraint, opportunities and land availability. In essence, the housing needs arising in each parish were gathered together, and then allocations distributed to meet these collective needs in a sustainable manner. The outcome in the adopted CELPS has been the allocation of 2050 new homes to Nantwich, to be delivered through a series of existing commitments and an allocated (and consented) site at Kingsley Fields, north west of Nantwich for 1100 homes. The base target of 2050 attributed to the town has been met and exceeded providing further flexibility and ensuring that in total 2182 new homes will be delivered across the plan period. This supply addresses the need of the whole settlement, including that arising within the urban area of Stapeley. There is no identified requirement for further allocations in Nantwich, or in Stapeley and Batherton parish.

4.114 In support of the Neighbourhood Plan, the QB has commissioned a "Housing Needs Assessment". CEC considers the housing needs section of the report to be broadly consistent with its own recommended methodology to assess housing need; and considers it a useful starting point to understand specific local need. The demographic and tenure/type specific data included later in the report is also regarded as useful. However, CEC regards the section addressing future needs to be more problematic; and whilst the "bottom up" approach is not necessarily inappropriate, the report makes no attempt to understand the local planning context which is regarded as a severe limitation. This is acknowledged in the report itself. Its author recognises that there is a lack of data, so that the projection for the area does not build in possible differences about fertility, mortality or migration. The available data is limited and often lacks the detail needed for projections. It does not take into account migration between the area and the rest of Cheshire East. It

recognises that projections for small areas are hampered by limitations of data and methods; and the projection does not take into account policies that might affect the future rate of population growth.

- 4.115 Understanding and meeting local need is an approach supported by the CEC, particularly in locations that do not have an allocated level of development via the CELPS. However, this is not the case in Stapeley and Batherton. By treating Stapeley and Batherton Parish as a place in isolation in this report, rather than as part of the wider settlement of Nantwich with its rural hinterland, the QB's housing needs assessment gives the impression that there is a need to deliver a further 493 homes in the parish. This is not the case, as this need is accounted for and met by allocations in Nantwich and at committed sites within Stapeley and Batherton. This is not explained within the assessment or within the NP itself. Against this background, CEC has no expectation that further housing is needed in this location and the NP is under no obligation to plan for such levels of development. Indeed, such levels of development in this location could be considered to be out of general conformity with the strategic approach of the CELPS.
- 4.116 The NP does not allocate any specific sites for housing, nor does it identify a need to provide for any particular level of provision. CEC has stated that, in view of existing commitments and an allocated (and consented site) there is no requirement for further allocations in Nantwich, or in Stapeley and Batherton parishes.

Settlement Boundary (Policy H5)

- 4.117 Policy H5 as submitted states that it “establishes the key spatial priority for the NP, within which context all other policies are based”. In view of its perceived importance (and because it is critical to the application of related other policies), I address it first in this section.
- 4.118 There is no settlement boundary for Stapeley and Batherton defined in the existing development plan. Policy H5 refers to the NP proposing a settlement boundary in order to focus development “on sites within or immediately adjacent to Stapeley whilst protecting the surrounding open spaces and countryside”. The boundary is said to be “based upon the existing defined settlement boundary in the Crewe and Nantwich Plan 2005” (set in saved Policy RES.2 of the C&NRLP), and as shown on NP Figure 8. However, Figure 8 simply shows that part of the Nantwich Settlement boundary that lies within the NP area and the boundary of the NP area itself.
- 4.119 For these and other reasons I find Policy H5 wholly confusing. It sets out 3 purposes for the settlement boundary. Purpose (a) seeks to direct future housing, economic and community related development in the NP area to the “existing settlement”, to enhance its role as a resilient and sustainable community and to protect the surrounding open spaces and countryside.

Purpose (b) is to contain the spread of “the settlement”, by reinforcing its core area and maintaining an effective and coherent built-up rural edge; and (c) states that proposals for housing development outside “the settlement” boundary will only be granted where they comply with the criteria set out in Housing Policy H 2, or in exceptional circumstances.

- 4.120 I requested clarification on the extent of the proposed settlement boundary from the QB. From its responses, which unfortunately are far from clear, and on the basis that it was described as the settlement boundary for Stapeley and Batherton, I initially assumed that the proposed settlement boundary was intended to enclose those settlements in the NP area apart from that lying within the Nantwich settlement boundary. But this appears to have been wholly wrong, not least because of confusion over the meaning of the terms “settlement” and “settlement boundary”. Notwithstanding the initial statement that “development will be focussed on sites within or immediately adjacent to Stapeley”, the context demands that “the (existing) settlement” in (a) and (b) must actually refer to Nantwich; and “outside the Settlement Boundary” in (c) must refer to land outside Nantwich and within the remaining, largely more rural land in the remainder of the NP area including Stapeley. So “the settlement” cannot logically refer to any settlement other than Nantwich, because the purpose of the defined settlement boundary is to direct development to Nantwich and cannot possibly contain the spread of any other settlement. It is incapable of focussing development on to sites in or adjacent to Stapeley as stated in the Plan. In effect, therefore, the policy is not defining a settlement boundary for Stapeley and Batherton. Rather it is doing no more than repeating the existing boundary for Nantwich.
- 4.121 The QB has, since submission, put forward a revised Figure 8 and has stated that “the proposed settlement boundary is the perimeter of an area highlighted blue” on that figure. In another response to comments from CEC, it says that it is suggesting a new settlement boundary which takes account of recent development commitments. That appears to be the blue land, which lies entirely within the existing defined Nantwich settlement boundary. It cannot be possible to have a defined settlement boundary for Nantwich and then identify part of that area as being enclosed by a separate settlement boundary for Stapeley and Batherton.
- 4.122 As noted in paragraph 2.9 above, the PPG (Reference ID 41-041-20140306) says that 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. Regrettably, the reverse is true with this policy.
- 4.123 Insofar as I understand the policy, I think its intention is to concentrate (focus) development within the Nantwich settlement boundary. I therefore propose to modify the wording to make this clear and consistent with other policies in the

Plan. In drawing up the modified policy I have taken account of revised wording put to me by the QB, which refers to the application of CELPS policy PG 6. However, I have deleted much which is largely repetitious. I have also deleted the final paragraph which refers to moving the boundary to take account of new development. Such ad hoc changes to a boundary set in the development plan would not be appropriate. Changes to the boundary should be contemplated only through formal revision. The QB would be content to see this latter change. There is no need to alter the title of Figure 8, as that already refers to the Nantwich Settlement boundary. **[PM33]**

Scale of Housing Development Policy H 1

4.124 Policy H 1 lends support in principle to new development provided that it is small scale; in character with Stapeley and Batherton; delivered over the period of the Plan and falling within a number of categories (H 1.1 – H 1.5). Small scale is not defined, other than indirectly through some of the individual categories. What may be considered small scale on one site may not be on another. In practice, the appropriate scale of any development will depend on its design and location, matters addressed in Policy H 4 *Design*. I consider that reference to scale in this policy only serves to introduce uncertainty. In my view, there is no justification for limiting the scale of all housing development in all parts of the NP area. In that context, I recommend changing the title of the policy to *Housing development*.

4.125 The requirement for development to be in character with Stapeley and Batherton is a design policy, which is covered by Policy H 4, and is unnecessary repetition. The Policy also requires development to be delivered over the period of the Plan. I consider that to be both impractical and unreasonable. For example, it may not be possible to implement a planning permission granted during, but towards the end of the Plan period. The requirement to complete development in a particular timescale is also likely to be unenforceable in most circumstances.

4.126 The tests contained in the introduction to Policy H 1 are largely unjustified and consequently do not meet the Basic Conditions. I propose to modify it by removing them in order to satisfy the Basic Conditions. **[PM25]**

H 1.1 Infill development

4.127 This policy defines infilling and limits it to within the settlement boundary. In view of the uncertainty over the relevance of the settlement boundary (see discussion under Policy H 5) this could be an error. Saved Policy RES.2 of the C&NRLP provides general support for development within the Nantwich settlement boundary, subject to other provisions of policies. However, it is clear from CELPS Policy PG 6 *Open Countryside* that there is also the opportunity for limited infilling in villages, or the infill of a small gap with one or

two dwellings in an otherwise built up frontage elsewhere, as an exception to the presumption against development other than that appropriate to a rural area. The limitation of infilling to within the settlement boundary is therefore not in general conformity and so this Policy as submitted fails the Basic Conditions.

- 4.128 I propose a modification which corrects this. I also take the opportunity to correct the description of infill development in the policy and in the glossary to make it consistent with that used in CELPS Policy PG 6 *Open Countryside*. The requirement for infill development to be in character and scale duplicates the general provisions of Policy H4 *Design*; and is unnecessary. **[PM26, PM36]**

H 1.2 Rural Exception Sites

- 4.129 H 1.2 supports sites of up to 10 houses to meet local needs and in character with adjoining developments on sites within or adjoining the settlement boundary of Stapeley and Batherton, with the aim of enhancing their role as sustainable settlements whilst protecting the surrounding countryside.
- 4.130 The policy generally conforms with the principle of CELPS Policy SC 6 *Rural Exceptions Housing for Local Needs*, inasmuch as that also refers to rural exception sites of up to 10 dwellings. But the latter policy also includes substantially more criteria, including a number relating to NP Policy H 2 *Housing to Meet Local Housing Needs*. So far as the criteria of H 1.2 are concerned, the term “local needs” is not defined either in the policy or in The Glossary (Appendix 8). CELPS Policy SC 6 refers to “local identified affordable housing need”, which is more precise. The locational requirements do not generally conform with those in SC 6, which are broader in scope to include sites adjoining Local Service Centres, and Other Settlements; be close to existing employment and existing or proposed services and facilities, including public transport, educational and health facilities and retail services. The requirement in H 1.2 for rural exception sites to be within or immediately adjoining the settlement boundary of Stapeley & Batherton – by which, having regard to the discussion concerning Policy H 5 above I assume means the Nantwich settlement boundary - is over restrictive and inconsistent. The requirement for the development to be in character with adjoining developments duplicates criterion 2 of Policy SC 6 and NP Policy H 4 *Design*.
- 4.131 In the interests of simplicity and consistency, both internal to the NP and to CELPS, I proposed to modify H 1.2 to refer to the provisions of NP Policy H 2 and CELPS Policy SC6. **[PM27]**

H 1.3 - Brownfield within the parish

- 4.132 The support given by H 1.3 to the redevelopment of previously developed (brownfield) land for housing is in line with the NPPF (paragraph 111) and the CELPS. However, neither gives precedence for its use for employment over use for housing as H 1.3 indicates. Indeed, CELPS (paragraph 7.4) states that priority will be given to previously-developed, vacant, derelict or under-used land for housing; and Policy RES.2 draws specific attention to such land in making windfall contributions to total housing provision. No local case has been made out for taking a different approach. Moreover, even if a case had been made out, there is no indication as to how the proposed policy test of unsuitability or incapability for employment use could be applied in practice. The policy as submitted is not in general conformity with strategic development plan policy, but could be modified by removing reference to the implied preference for using previously-developed land for employment purposes.
- 4.133 The reference in the policy to brownfield sites being encouraged “to meet the Housing Needs Assessment of Stapeley and Batherton” is somewhat misleading with respect to the amount of housing required (as indicated in the introduction to this section). It would be the housing needs – principally particular needs such as for affordable housing - that the redevelopment would be encouraged to meet. This may be simply corrected by way of a modification. [PM28]

H 1.4 - Redundant Buildings

- 4.134 This policy supports the re-use, conversion and adaptation of suitable rural buildings to meet “the objectively assessed Housing Needs Assessment”. As above, it would be more correct to refer to “the housing needs of Stapeley and Batherton”. The policy conforms broadly with CELPS Policy PG 6 *Open Countryside*. Some of the criteria are the same: that redundant buildings should be permanent and substantial. However, H 1.4 adds “structurally sound”, while PG 6 includes the requirement that the buildings should not require extensive alteration, rebuilding or extension. In the interests of consistency, it would be advisable for the criteria to be consistent; and I recommend accordingly, which will provide clarity for development management purposes. The criterion that the re-use etc. should lead to an enhancement of the character of the area is justified by reference to CELP PG 6(5), which says that particular attention should be paid to design and landscape character so the appearance of the Cheshire East Countryside is preserved and enhanced.
- 4.135 H 1.4 includes 3 additional criteria (a) – (c). Requirement (a) that the proposed use should be “appropriate to its location” provides no indication of what matters should be taken into account when considering the question of appropriateness. However, I am satisfied that this is covered by Policy H 4 *Design*, which amongst other things equates good design with development

responding to and integrating with local surroundings and context as well as built environment. Requirement (b) that the works should respect the local character of the surrounding buildings and local area is equally addressed by Policy H 4. Criterion (c) requires the local highway network to be capable of accommodating the traffic generated by the proposed use and that adequate car parking should be provided within the site. These matters are also addressed in other policies of the Plan: in Policy T 1 *General Transport Considerations* and H 6 *Car Parking on New Development*. All three criteria are therefore redundant.

4.136 I recommend that H 1.4 should be modified to address these various matters.
[PM29]

H 1.5 - Greenfield Development

4.137 This policy says that to meet the Objectively Assessed Housing Need (OAHN), a maximum of 10 new houses will be permitted on any one available and deliverable greenfield site immediately adjacent to the existing settlements of Stapeley and Batherton; and that such developments should not be co-located with other housing development unless there are demonstrable sustainable benefits from so doing.

4.138 Having regard to my earlier discussion concerning the settlement boundary (Policy H 5), the expression “immediately adjacent to the existing settlements of Stapeley and Batherton” I assume is intended to mean “adjacent to the existing built-up area of Nantwich”. There is no defined settlement boundary for Stapeley and Batherton and, in view of their scattered nature, no obvious way of identifying what locations could be described as being adjacent to these settlements. In my view, subject to other considerations, locations adjacent to the Nantwich boundary would be sustainable and in line with the underlying aim to focus development in that locality (Policy H 5).

4.139 I also assume the policy intends that no more than 10 dwellings should be permitted on any one site rather than restricting the number of sites to one. But, whichever, interpretation is placed upon the wording, the fact remains that the OAHN has already been met in Nantwich and CELPS identifies no further requirement. I am not aware that the figure of 10 houses as a maximum has been justified by any evidence specific to Stapeley. As indicated in PPG (Reference ID: 23b-031-20161116), there are specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought – amongst which is from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area). The proposed limitation would rule out the provision of affordable housing on a greenfield site, which might be one of the few types of housing that might in practice be needed.

- 4.140 I agree with CEC that to limit the number of dwellings to a maximum of 10 could, in some circumstances, fail to contribute to sustainability objectives. For reasons of viability it could prevent developments making contributions to other sustainability objectives, not only to affordable housing, but also highways, open space, education and so forth. It could fail to make the most efficient or effective use of land. The presumption against “co-location” – which I take to mean placing one development next to another – may also militate against sustainability.
- 4.141 Overall, I take the view that the policy fails to promote sustainability in some respects and is to a significant extent unjustified and therefore does not meet the Basic Conditions. Insofar as it directs development to locations adjacent to the present built-up area, it does no more than duplicate Policy H 5. I recommend its deletion. [PM30]

Housing to meet Local Housing Needs (Policy H 2)

- 4.142 This policy does not identify provision of housing to meet local needs or any sites where it might be accommodated. But it does acknowledge that some may be required, by reference to the Parish Housing Needs Assessment or any more up-to-date review of need in the future. CELPS Policy SC 6 *Rural Exceptions Housing for Local Needs* includes the requirement that proposals for rural exceptions housing schemes must be supported by an up-to-date Housing Needs Survey that identifies the need for such provision within the parish. The footnote indicates that CEC has up to date Housing Needs Surveys for many rural areas. However, there isn't one for Stapeley and Batherton. It adds that, where a survey does not exist, the applicant must conduct a survey.
- 4.143 As indicated in the introduction to this section, the QB has commissioned a “Housing Needs Assessment” in support of the NP. For the reasons set out in the introduction, I have considerable doubts about its value as a guide in the context of planning policy. In view of the author's cautionary observations about the limitations of the assessment, and bearing in mind that it was carried out in January 2016, prior to the adoption of CELPS, I do not believe that it would provide a reliable basis on which to conclude on the amount of housing required to meet local needs. It would be for CEC to decide, in the context of any future planning applications, whether it should rely on it. If not, CELPS provides the basis on which to require the submission of a Housing Needs Survey. I propose to modify the section accordingly to reflect this.
- 4.144 Policy H 2 requires occupiers of local needs housing should have a local connection, but lacks the detailed criteria included in CELPS Policy SC 6. In order to avoid any potential for inconsistency or uncertainty, I recommend substituting a simple reference to that policy to achieve clarity.

- 4.145 A further requirement is that vacant affordable housing should be made available for occupation by people who meet the local housing need criteria for a period of 6 months. It is unclear from the wording, but this appears to suggest that, after that time, it may be offered subject to different criteria. The limitation does not appear in the CELPS Policy SC 6 which says that occupancy will in perpetuity be restricted to a person in housing need and resident or working in the relevant parish, or who has other strong links with the relevant locality in line with the community connection criteria as set out by Cheshire Homechoice. NP Policy H 2 is clearly inconsistent with this.
- 4.146 The policy applies the same criteria to essential agricultural dwellings, adding that the occupiers should be employed or last employed in agriculture. That is reasonable, but does not go far enough. The usual condition, in fairness, normally also relates to occupation by a widow or widower of such a person, and to any resident dependants. That wording is used in the still current relevant model condition of Circular 11/95 *The use of conditions in planning permissions*.³
- 4.147 The final part of the policy requires the inclusion in all new housing development of low-cost market housing and starter homes in addition to any affordable housing to contribute to a mixed and balanced community. The wording has its origin in paragraph 50 of the NPPF, but misrepresents it. That says that in order to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should, amongst other things, plan for a mix of housing. It does not require all individual developments to include a specified mix. In any event the policy seeks affordable housing within larger developments to be “pepperpotted” within them, consistent with CELPS Policy SC 5, which uses the more formal “dispersed throughout the site”; and LP Policy H 3 requires a tenure mix for affordable homes to be agreed with the Local Planning Authority. I consider the aims of the NPPF to be met by this combination; and proposed to delete this section.
- 4.148 I recommend a number of modifications to this policy to reflect these various considerations in order to meet the Basic Conditions. **[PM31]**

Tenure Mix (Policy H 3)

- 4.149 The first part of the policy – which states that proposals for affordable homes in the Parish must be of a tenure, size and type to help meet the locally identified housing need and contribute to the creation of mixed, balanced and inclusive communities where people can live independently longer, directly repeats CELPS Policy SC 5(3). This is unnecessary duplication but in this

³ View at: <https://www.gov.uk/government/publications/the-use-of-conditions-in-planning-permissions-circular-11-1995>

instance not so as to undermine its clarity. CELPS says that the Council will seek a balance of housing that best meets local needs and the characteristics of the site – currently 65% affordable or social rent housing and 35% intermediate affordable housing, but the headline percentages and the tenure split may be refined by the Council as the plan progresses. The requirement in NP Policy H 3 for the tenure mix to be agreed with the Local Planning authority, having regard to the most up-to-date local housing assessment, is in general conformity.

Design (Policy H 4)

- 4.150 This policy supports good design and identifies 11 elements (a - k). The underlying intent has regard to the NPPF approach to design and some of the principles of CELPS Policy SE 1, but the details do not always do so. In particular, I have in mind that the NPPF says that design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.
- 4.151 I address each element of the policy briefly, identifying my main areas of concern. (a) (complementarity with surroundings) and (c) (lighting), are broadly acceptable. However (b) relates to residential amenity of neighbours rather than design. Though design has an influence on amenity, “disturbance” is not a design feature. The matter is in any event covered by (g). (d) (landscaping) refers to it being complementary with the rural character of the area, but not all of the area is rural, so this is not appropriate. (e) (garden space) – this is highly prescriptive, for example by requiring the space to be commensurate with the prevailing pattern of development in the locality, whereas the introductory requirement is that development should respond to and integrate with its surroundings, thereby allowing for variation in garden sizes. This is inconsistent. (f) provision of housing that meets the changing needs of its occupiers over time is sensible – but some of the other more prescriptive requirements militate against this kind of flexibility, contrary to CELPS Policy SC 4. (g) repeats much of what is in the introductory passage. Reference to conservation areas is redundant as there are none, however, I recommend making reference to “heritage assets”, in common with Policy C4, a similar policy dealing with employment development. (h) (building materials) is also too prescriptive in the context of a general need for development to respond and integrate with its surroundings. (i) (sustainable design) is welcome, but is unnecessary as it duplicates what is already included in NP Policies GS 7 and H 7, which I recommend should be combined (PM11). (j) (streetscape etc.) I assume that “external amenity space” refers to incidental open space rather than personal or garden space. Parking is already addressed under Policy T 1. (k) (density) the proposed density of 18 – 20 houses per hectare is very low. Residential density

specification is unnecessarily restrictive and inconsistent with the general policy (a) for development to respond to and integrate with its surroundings. It may also be inappropriate for affordable housing or housing for particular groups, such as elderly persons. The reference to parking appears out of place, and there is no Policy H 8.

- 4.152 I set out a revised Policy H 4 in my proposed modifications, taking account of the foregoing and integrating paragraph H 4.1. **[PM32]**

Car Parking on New Development (Policy H 6)

- 4.153 The requirements of Policy H 6 are not in general conformity with the CEC's adopted standards as included in the CELPS and there is no justification for departing from these. In any event the number of car spaces required, particularly for larger houses, is unsustainable with the potential to encourage greater levels of car use which in turn is inconsistent with other policies in the NP, for example in relation to air quality and limitations on traffic. Car parking is addressed under Policy T 1. This Policy does not meet the Basic Conditions and is redundant. I recommend its deletion. **[PM34]**

Adapting to climate change (Policy H 7)

- 4.154 This policy looks to new development to achieve the highest standards of sustainable development; and is in general conformity with CELPS Policy SE 8. It relates to the same or very similar matters as NP Policy GS 7 *Environmental Sustainability of buildings*. In the interests of avoiding duplication and to make implementation easier, I have combined the 2 policies. **[PM35]**

Other Matters

Supporting text

- 4.155 The Neighbourhood Plan includes supporting text, including a foreword; a section covering the scope of the Plan; a section on the History of Stapeley; a Vision and Aims. The policies are accompanied by sections variously entitled Justification and Evidence; Justification; Community Feedback; and Community Responses. Sometimes they relate to just one policy, and at others to a group of policies. It is not always obvious to which policies these sections relate; and some policies do not appear to have any accompanying text. Certain documents are listed, sometimes under the heading of "Supporting Documents" and sometimes under "Community Feedback". In view of my proposed modifications, unavoidably some of the text will no longer relate directly to the policy wording; or may have become redundant. I make no specific recommendations for its revision. However, I urge the QB to

revisit the text in order to provide a meaningful and useful context for the policies.

Appendices

- 4.156 A number of my observations concern the use of terms in the Plan, some of which are unclear, imprecise or duplicate others. In addition to specific recommended modifications, I also recommend that the glossary (Appendix 8) is reviewed to delete redundant terms and to address my concerns so as to make their use unambiguous. **[PM36]**

Plans

- 4.157 A number of the maps (figures) reproduced in the NP, notably those provided by the Cheshire Wildlife Trust are difficult to read. I recommend that all maps included in the Plan should be reproduced either to a quality or at a scale that enables the reader to understand clearly what they are intending to convey. **[PM37]**

Deletions

- 4.158 The deletion of a number of policies from the Plan that I have recommended will of necessity require the renumbering of many of the remainder and of some references in the policies as recommended to be modified. I include a modification to make these corrections⁴. **[PM38]**

5. Conclusions

Summary

- a. The Stapeley & Batherton Neighbourhood Plan 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 for all the responses made following consultation on the neighbourhood plan, and the evidence documents submitted with it.
- b. I have made recommendations to modify a number of policies and text 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

⁴ Paragraph 10(3)(e) of Schedule 4B to the 1990 Act provides for the recommending of modifications for the purpose of correcting errors.

- c. I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Stapeley and Batherton Neighbourhood Plan as modified has no policy or proposals 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.
- d. Finally, I would like to say that I recognise that the preparation of a Neighbourhood Plan is no easy task, the more so when undertaken by those who may be doing it for the first time. Notwithstanding the considerable number of modifications, I am recommending, I appreciate the amount of work that has gone into its production and the obvious care for Stapeley and Batherton which has driven the project.

Jonathan G King

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Front cover	Add plan period: 2017-2030
PM2	Policy GS 1	Delete all except list of designated Local Green Spaces.
PM3	GS 2	Delete first section
PM4	GS 3	Delete first section
PM5	GS 4	Delete all
PM6	Appendix 2 Unnumbered plan page 7 Photographs and associated tables	Delete Delete
PM7	Policy GS 1	<p>Substitute Policy GS 1, as follows:</p> <p><i>Policy GS 1 – Landscape and the Countryside</i></p> <p><i>All new development should respect and enhance the setting of Stapeley and Batherton and the surrounding countryside and local landscape quality and visual amenity of the area.</i></p> <p><i>Proposals that cause unacceptable harm to the character of the countryside or the rural setting of the built-up part of Stapeley that adjoins Nantwich will not be permitted.</i></p> <p><i>Significant local views into, out of and across the settlement should be retained and, where possible, enhanced and protected from development.</i></p> <p><i>New development in the countryside will be permitted in the following limited circumstances:</i></p> <p><i>a) Development essential for the purposes of uses appropriate to a rural area in line with CELPS Policy PG 6(2);</i></p> <p><i>b) Development that is essential for the expansion or redevelopment of an existing</i></p>

		<p>business consistent with the provisions of Policy C 2;</p> <p>c) The re-use of existing rural buildings where the building is permanent, substantial and would not require extensive alteration, rebuilding or extension, consistent with the provisions of Policy C 3;</p> <p>d) Rural exception sites, consistent with the provisions of H 1.2 and Policy H 2;</p> <p>e) Infilling, consistent with the provisions of Policy H 1.1;</p> <p>f) Residential and non-residential extensions, consistent with the provisions of Policy GS 6;</p> <p>g) Dwellings which are exceptional in design and sustainable development terms;</p> <p>h) the replacement of existing buildings (including dwellings) by new buildings not materially larger than the buildings they replace; and</p> <p>i) development essential for the conservation and enhancement of a heritage asset.</p>
PM8	Policy GS 2	<p>Substitute Policy GS 2 as follows:</p> <p>Policy GS 2 - Open Space</p> <p>All development shall pay regard to the desirability of retaining existing areas of open and green space, including public open space in existing developments, allotments and recreational open space that are of significant public benefit or make a significant contribution to the amenity of the Parishes. Such spaces will be retained wherever practicable.</p> <p>Opportunities will be encouraged to improve such existing spaces and to link them to any new spaces that are created and to address gaps in existing networks by the creation of new rights of way.</p> <p>New developments will include or contribute to the provision of recreational open space for use by the residents of the Parish in line with the standards</p>

		<p><i>set by Cheshire East Council.</i></p> <p><i>Any new publically accessible green space should meet or exceed CEC's standards for green, sport, and play space and allotments.</i></p>
PM9	Policy GS 5	<p>Substitute the following:</p> <p><u>Policy GS 5 - Woodland, Trees, Hedgerows, Walls, Boundary Treatment and Paving</u></p> <p><i>All new developments should seek to protect local woodland, trees, wide verges, means of enclosure, including hedgerows and walls, and paving from loss or damage where they contribute significantly to the character and amenity of the plan area.</i></p> <p><i>New buildings, structures or hard surfaces must be located a sufficient distance away from significant existing trees within or adjacent to the site to protect them from damage during construction in accordance with BS5837 (or any updated, equivalent standard).</i></p> <p><i>Where loss or damage to significant trees, means of enclosure or paving is unavoidable, development shall where practicable provide for appropriate replacement planting or the reconstruction of the walls and paving on the site. Replacement trees and hedges should be subject to a requirement for maintenance to ensure proper establishment.</i></p>
PM10	Policy GS 6	<p>Substitute the following:</p> <p><u>Policy GS 6 - Extensions and Alterations to existing buildings in the open countryside</u></p> <p><i>Proposed extensions and/or alterations to existing dwellings and non-residential buildings in the open countryside should have regard to the principles of Policy H 4, where relevant, reflect the rural character of the area and incorporate traditional design features and materials where appropriate to the local context.</i></p>
PM11	Policy GS 7	<p>Substitute the following:</p> <p><u>Policy GS 7 - Environmental Sustainability of buildings and adapting to climate change</u></p> <p><i>New developments should seek to achieve the highest standards of sustainable development by incorporating, where practicable, features that improve environmental performance, including the</i></p>

		<p><i>use of new appropriate technologies.</i></p> <p><i>Where sustainable drainage systems are employed, they should where practicable be used for nature conservation purposes. These may include features such as ponds, swales and permeable paving designed as part of the development and to reflect the rural character of the area.</i></p>
PM12	Policies GS 8 & GS 9	<p>Substitute and combine policies as follows:</p> <p><i>Policy GS 8 - Biodiversity</i></p> <p><i>Development proposals which are likely to have a significant adverse impact on a local wildlife corridor or on an area of high or medium habitat distinctiveness, as indicated on Figures 3 and 4, will not be permitted except where the reasons for or benefits of the proposed development outweigh the impact of the development. Where any adverse ecological impacts are likely to occur, developers will be encouraged to include mitigation measures as part of the proposal. Opportunities to enhance existing features to increase the biodiversity of the plan area should be taken where practicable.</i></p>
PM13	Policy T1	<p>Delete the first 3 and the fifth paragraphs.</p> <p>Delete paragraph (b)</p> <p>Substitute for paragraphs (a), (c) & (d):</p> <p><i>(a) All proposed developments that are likely to generate significant amounts of movement should be supported by a Traffic Assessment. The Traffic Assessment should demonstrate predicted levels of traffic generated by the development and the impacts of this on key roads and junctions within the plan area and the wider road network; on all road users including motor vehicles, cyclists and pedestrians; and on road safety, parking and congestion. Where significant effects are predicted, the assessment shall consider mitigation measures.</i></p> <p><i>(b) All proposed developments that are likely to generate significant amounts of movement should provide a Travel Plan in accordance with the relevant policies of the Cheshire East Local Plan Strategy.</i></p>

		<p>(c) Parking provision for cars and cycles on all developments should have regard to the standards set out in the Cheshire East Local Plan Strategy.</p> <p>Transfer the fourth section to a new paragraph (d).</p>
PM14	<p>Policies</p> <p>T 2</p> <p>T 3</p>	<p>Substitute the following:</p> <p>T 2 Pedestrian and cycle routes</p> <p>Where practicable, new development should be designed to create and support:</p> <p>(a) walkable and cycleable neighbourhoods where priority is given to the safe pedestrian and cycling connections throughout the development; and</p> <p>(b) walkable and cycleable routes to services and facilities such as the town centre, employment areas, schools and public transport facilities.</p> <p>Such routes should aim to keep road crossings and changes in level to a minimum; and cycle routes should avoid unnecessary gradients. Routes should normally be accessible for those with wheelchairs, frames, buggies or other mobility aids.</p> <p>I Subject to the provisions of the Community Infrastructure Levy Regulations 2010 (as amended), new or improved pedestrian and cycle routes will be sought in relation to significant development directly or by means of financial contributions.</p>
PM15	Policy T 4	<p>Policy T 4 - Footpaths Cycleways and Bridleways</p> <p>The development of new footpaths and bridleways within the plan area will be encouraged, as well as the creation of, and improvements to existing cycle paths, footpaths and bridleways. Where practicable, they should seek to create links between existing footpaths and circular routes within the plan area.</p> <p>In so doing, regard should be had to the following:</p> <p>a) existing public rights of way (PROW)</p>

		<p><i>must be protected in terms of safety, directness, attractiveness and convenience;</i></p> <p><i>b) new footpaths and cycleways should be designed to encourage a feeling of safety, incorporating, where appropriate to the character of the locality, suitable lighting;</i></p> <p><i>c) proposals should seek, where possible, to create cycle paths so as to provide safe and effective routes across and through the plan area. New and existing cycle tracks should where practicable be linked with the National Cycle Network;</i></p> <p><i>d) delete</i></p> <p><i>e) the construction and appearance of new paths, tracks or links should be appropriate to the area, suitable for the intensity of use and sensitive to the character of the locality and the surrounding areas;</i></p> <p><i>f) all proposed footpaths relating to new residential development should be constructed and completed in accordance with an agreed timetable relative to the construction of the dwellings; and</i></p> <p><i>g) where new development would have a significant adverse impact on these routes in terms of their safety, directness, attractiveness and convenience, consideration should be given to undertaking mitigation measures, including where practicable, diversion or alternative provision. Where satisfactory mitigation of significant adverse effects cannot be achieved, planning permission should be refused.</i></p>
PM16	Policy T 5	Delete
PM17	Policy T6	<p>Delete paragraph a) of the policy and amend paragraph b) to read:</p> <p><i>Bus stops provided as a consequence of new</i></p>

		<i>development shall be of an appropriate design and shall be “all weather” providing real time information where appropriate.</i>
PM18	Policy T 7	<p>Substitute</p> <p><i>Policy T 7 – Improving Air Quality</i></p> <p><i>In order to protect air quality, development proposals will be supported only where they comply with the requirements of Policy SE12 of the Cheshire East Local Plan Strategy.</i></p> <p><i>Without prejudice to any other requirements of the Development Plan, where development proposals are required to be accompanied by an Air Quality Assessment, it should contain details of the following:</i></p> <ul style="list-style-type: none"> <i>(a) evidence of existing pollutants, including oxides of sulphur and nitrogen, and particulates such as PM10 measured at locations and at times agreed by the Local Planning Authority;</i> <i>(b) the likely output of pollutants arising directly or indirectly from the proposed development;</i> <i>(c) the magnitude, probability, duration, and frequency of any effects on air quality;</i> <i>(d) the likely consequences of any such effects on individuals, the natural and built environment, and amenity; and</i> <i>(e) mitigation measures to address any effects identified.</i>
PM19	Policy C 2	<p>Revise as follows:</p> <p>Policy C 2 – New Business</p> <p>Proposals which extend existing, or promote new, small scale employment opportunities within existing buildings, or groups of buildings, in the plan area will be supported where it can be demonstrated <i>particularly</i> that the development will positively benefit the local economy and provides the opportunity for local employment and training.</p> <p>Any proposal should not have an adverse impact upon</p>

		the character and appearance of the locality or the amenity of adjoining properties.
PM20	Policy C 3	Delete
PM21	Policy C 4	<p>Substitute the following:</p> <p>Policy C 4 – Scale, Design and Amenity</p> <p><i>All new employment development must demonstrate good quality design. This means responding to and integrating with local surroundings and landscape context as well as the built environment and heritage assets. Planning permission will not be granted for development of poor design that fails to take the opportunities available for improving local character and quality of the plan area and the way it functions.</i></p> <p><i>Development should have regard to the principles of Policy H 4 and T 1, where relevant to employment development.</i></p>
PM22	Policy AWB 1	<p>Substitute with:</p> <p>Policy AWB 1 - Accessible GP practices</p> <p><i>Financial contributions will be sought from housing developments towards the provision of local medical facilities to serve future occupiers, subject to the provisions of the Community Infrastructure Regulations 2010 (as amended) and those of Policy IN 2 of the Cheshire East Local Plan Strategy.</i></p>
PM23	Policies AWB 4 AWB 5	<p>Combine and substitute with:</p> <p><i>Proposals for new uses, buildings or land for public or community use, that reflect the needs of the community should be:</i></p> <ul style="list-style-type: none"> <i>a) sited in locations convenient for prospective users and accessible by means of a choice of sustainable transport options;</i> <i>b) flexible in design to enable multiple uses throughout the day; and</i> <i>c) accessible to all.</i> <p><i>Proposals for the provision of new community facilities meeting these criteria will be supported provided that the proposals would not have significant harmful impacts on the amenities of</i></p>

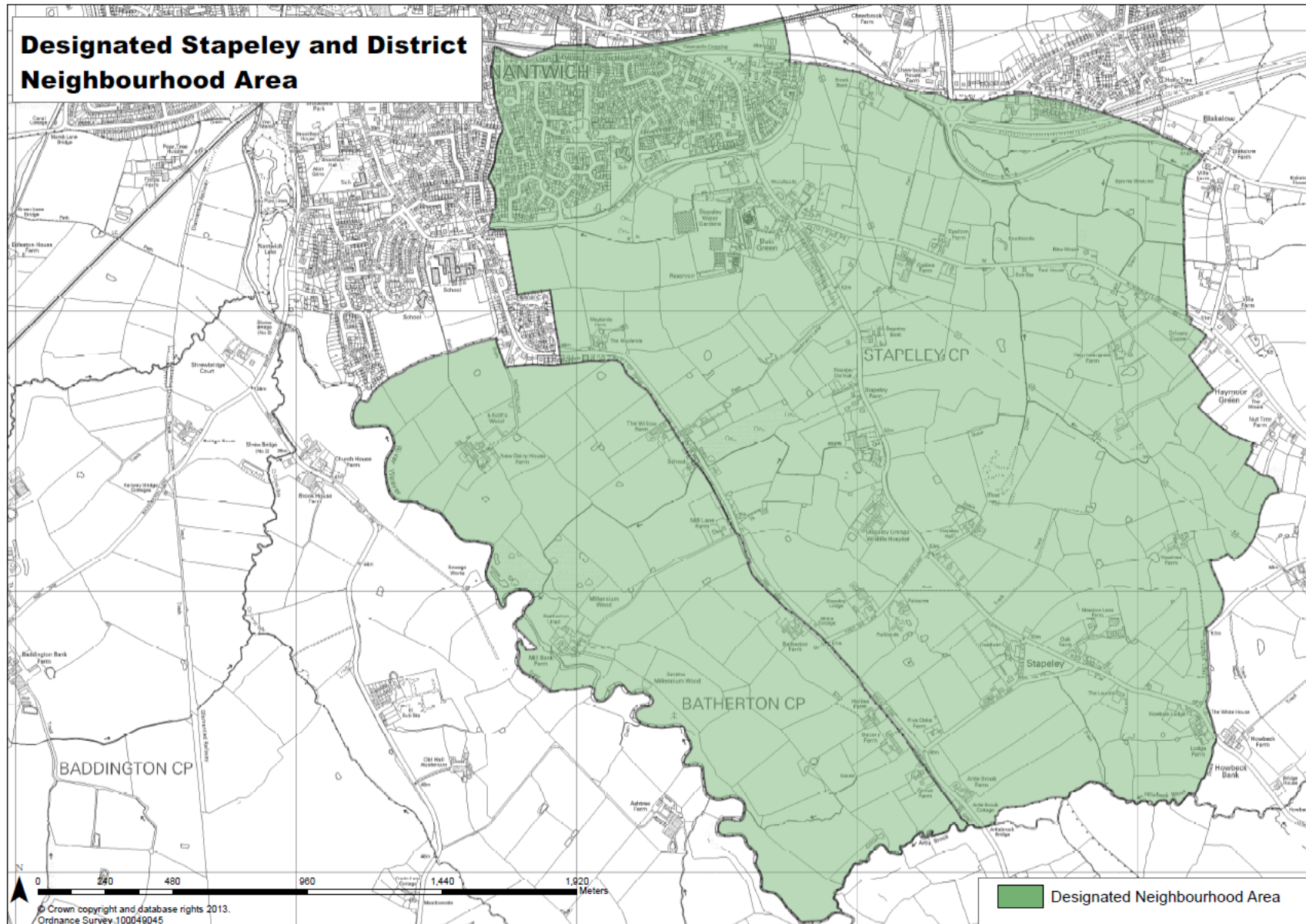
		<p><i>residents or on other neighbouring uses.</i></p> <p><i>All new development will be expected to address the impacts and benefits it will have on the need for community facilities.</i></p> <p><i>Priority will be given to the provision of community facilities identified in any Neighbourhood Delivery Plan that may be drawn up.</i></p> <p><i>Subject to the provisions of the Community Infrastructure Levy Regulations 2010 (as amended), financial contributions and / or direct provision of community facilities will be sought.</i></p>
PM24	AWB 6	<p>Replace the second section with:</p> <p><i>Proposals for new residential and commercial development should be accompanied by details of the means of connection to fibre broadband, including sufficient flexibility to accommodate the needs of more than one service provider.</i></p>
PM25	Policy H 1 Introduction	<p>Substitute the following:</p> <p><i>Policy H 1 – Housing Development</i></p> <p><i>New housing development within the following categories will be supported in principle:</i></p>
PM26	H 1.1	<p>Substitute the following:</p> <p><u><i>H 1.1 Infill Development</i></u></p> <p><i>Limited infilling in villages or the infill of a small gap with one or two dwellings in an otherwise built up frontage elsewhere.</i></p> <p>Revise definition in the glossary consistent with this wording.</p>
PM27	H 1.2	<p>Substitute the following:</p> <p><u><i>H 1.2 Rural Exception Sites</i></u></p> <p><i>Sites of up to 10 houses to meet local needs in accordance with the provisions of Policy H 2 and CELPS Policy SC 6.</i></p>
PM28	H 1.3	<p>Substitute the following:</p> <p><u><i>H 1.3 Brownfield within the Parishes</i></u></p> <p><i>The redevelopment of brownfield sites within the plan area will be encouraged, to meet the housing needs of Stapeley and Batherton.</i></p>

PM29	H 1.4	<p>Substitute the following:</p> <p><u>H 1.4 Redundant Buildings</u></p> <p><i>In the Open Countryside, the re-use, conversion and adaptation of permanent and substantial rural buildings to meet the housing needs of Stapeley and Batherton will be supported where this would not require extensive alteration, rebuilding or extension and where it would lead to an enhancement of the character of the area.</i></p>
PM30	H 1.5	Delete
PM31	Policy H 2	<p>Substitute the following:</p> <p><i>Policy H 2 Housing to meet Local Housing needs</i></p> <p><i>Development that meets housing need supported by an up-to-date Housing Needs Survey that identifies the need for such a provision within the parishes will be permitted subject to planning conditions and/or planning obligations consistent with the provisions of Cheshire East Local Plan Strategy Policy SC 6.</i></p> <p><i>In the case of essential agricultural dwellings the same criteria shall apply. The occupants will be limited to those employed or last employed in agriculture and to the widow or widower of such a person, and to any resident dependants.</i></p> <p><i>Within any new development the affordable housing provided shall be dispersed throughout the site and not grouped together.</i></p>
PM32	Policy H 4	<p>Substitute the following:</p> <p><i>Policy H 4 – Design</i></p> <p><i>All new housing proposals within the plan area must demonstrate good quality design. This means responding to and integrating with local surroundings and landscape context as well as the built environment including heritage assets. Planning permission will not be granted for development of poor design that fails to take the opportunities available for improving local character and quality of the plan area and the way it functions.</i></p> <p><i>All new residential development should be accompanied by a Design and Access Statement and demonstrate a high quality of design, which should:</i></p>

		<p><i>(a) complement the size, height, scale, mass, rural skyline, materials, layout, access and density of existing development in the plan area;</i></p> <p><i>(b) provide a good standard of amenity for existing and future occupiers of the proposed development, at the same time ensuring that the amenities of neighbouring properties will not be adversely affected;</i></p> <p><i>(c) provide adequate street lighting to enhance house security, pedestrian safety and the safety of road users;</i></p> <p><i>(d) provide appropriate landscaping which complements and enhances the character of the local area;</i></p> <p><i>(e) provide adequate private amenity space to serve the need of future occupiers;</i></p> <p><i>(f) provide for the changing needs and life-styles of the future occupiers;</i></p> <p><i>(g) employ good quality materials which are sympathetic to the context and create or maintain a sense of place; and</i></p> <p><i>(h) ensure a high quality streetscape within housing layouts, including the provision of refuse and recycling storage; sufficient incidental open space; and conveniently located dog bins.</i></p>
PM33	Policy H 5	<p>Substitute the following:</p> <p><i>Policy H 5 – Settlement Boundary</i></p> <p><i>Subject to the provisions of other policies in the Neighbourhood Plan, the focus for development will be on sites within or immediately adjacent to the Nantwich Settlement Boundary, with the aim of enhancing its role as a sustainable settlement whilst protecting the surrounding countryside.</i></p> <p><i>Outside the settlement boundary any development is subject to the Cheshire East Local Plan Strategy Countryside Policy PG 6 and other relevant policies of this Plan.</i></p>
PM34	Policy H 6	Delete
PM35	Policy H 7	Combine with Policy GS 7.
PM36	Appendix	Review glossary of terms in the light of comments made in the report.

PM37	Figures	Reproduce so that they are capable of being read clearly.
PM38	Whole plan	Renumber policies and references to policy numbers to take account of deletions / combinations.

Appendix 2: Neighbourhood Area



Appendix 3: Stapeley and Batherton Neighbourhood Plan

[Link to Regulation 15 Neighbourhood Development Plan](#)