

Date of Meeting: 04/12/2013  
Report of: Strategic Planning & Housing Manager  
Subject/Title: Newbold Astbury and Moreton Neighbourhood Area  
Application  
Portfolio Holder: Councillor David Brown

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## **1. Report Summary**

- 1.1 Newbold Astbury Parish Council and Moreton Cum Alcumlow Parish Council have submitted a joint application to designate their respective parishes as a combined neighbourhood area.
- 1.2 The Localism Act 2011 introduced new legal rights enabling communities to plan locally for growth by preparing formal development plan documents (neighbourhood plans) to allocate land for development and prepare policies which apply to the development of land.
- 1.3 Neighbourhood plans must conform to the NPPF, all relevant legislation and the strategic policies held within the Local Plan. The first stage in the process of preparing a neighbourhood plan is the formal designation of the geographic area to which a neighbourhood plan will apply, the neighbourhood area. When considering a neighbourhood area application, local authorities are empowered to exclude land from designation.
- 1.4 Cheshire East Council is required to consider whether designation of the submitted neighbourhood area is desirable. The Council can, with valid reasons, choose to reject all, or part of a proposed neighbourhood area.
- 1.5 In this instance, the proposed neighbourhood area includes land of strategic importance to the Local Plan (related to the proposed Congleton Link road). To remove future potential conflict of interest, it is recommended that the Council excludes this land from designation within the proposed neighbourhood area.
- 1.5 Limited funding for local authorities and for local communities is available from DCLG to support the process.

## **2.0 Decision Requested**

- 2.1 That the Strategic Planning Board gives consideration to the report and to the neighbourhood area application.
- 2.2 That the Strategic Planning Board gives consideration to the reasons to exclude part of the proposed neighbourhood area from designation.
- 2.2 That the Strategic Planning Board recommends that the Portfolio Holder for Strategic Communities rejects the proposed neighbourhood area submitted by Astbury and Moreton Parish Councils.
- 2.3 That the Strategic Planning Board recommends the Portfolio Holder for Strategic Communities approves the Astbury and Moreton Neighbourhood Area as detailed in Appendix 3. Appendix 3 details land proposed for approval as part of the neighbourhood

area (washed over in green) and that for exclusion from the neighbourhood area (hatched in blue).

### **3.0 Reasons for Recommendations**

3.1 Under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, every Local Planning authority must consider valid applications to designate neighbourhood areas for the purposes of neighbourhood planning.

3.2 The Local Planning authority is required to assess whether:

- a valid neighbourhood area application has been submitted;
- whether, under section 61G of the Localism Act 2011, it is desirable to designate the whole of the parish area as a neighbourhood area
- whether it is desirable to maintain existing neighbourhood area boundaries

### **3.3 Validity of the application**

3.4 An application is valid where it meets the criteria for an application as established in Part 2, 5. – (1) of The Neighbourhood Planning (General) Regulations 2012 and provides:

- A map which identifies the area to which the application relates;
- A statement explaining why this area is considered appropriate to be designated as a Neighbourhood Area; and
- A statement that the organisation or body making the application is a relevant body for the purposes of section 61G of the Town and Country Planning Act 1990, as amended by the Localism Act 2011.

3.5 The application submitted by Newbold Astbury and Moreton Parishes (please see Appendices 1 and 3 for further details) satisfies the criteria established above however, an amendment to the submitted application is proposed.

### **3.6 Reasons to Exclude Part of the Proposed Neighbourhood Area**

3.7 Neighbourhood area applications submitted by parish councils may cover an entire parish or more than one single parish. Although a neighbourhood plan must be prepared in general conformity with the strategic priorities of the Local Plan, and be prepared to reflect and positively support such policies, a Local Planning authority can exclude land from any proposed neighbourhood area, particularly where land is identified as of strategic importance to the Local Plan.

3.8 Section 61G(4) of the Localism Act states that, when considering an application, a local authority must have regard to the desirability of designating the whole area of a parish council as a neighbourhood area. Where the Council decide to exclude part of the submitted neighbourhood area, the Council must use its powers of designation to secure that some of the area applied for is designated a neighbourhood area.

3.9 Exclusion places such land outside the influence of future policies and development proposals prepared under a neighbourhood plan, ensuring future development may be assessed only against policies held within the Cheshire East Local Plan.

3.10 The emerging Cheshire East Core Strategy identifies the north west of Newbold Astbury Parish as containing an area of potential strategic significance. An initial corridor of interest has been identified where the proposed route of the Congleton Link Road may link to the junction of the A534 Sandbach Road to Sandy Lane. The strategic value of this area is of such significance to the future delivery of the Cheshire East Local Plan

that consideration should be given to its exclusion from the Astbury and Moreton Neighbourhood Area.

- 3.11 Internal consultation with CEC Highways suggests the area proposed for exclusion is considered reasonable to ensure no future conflict of interest.
- 3.12 The extent of the neighbourhood area requested for designation and the extent of the area recommended for exclusion approval as the Astbury and Moreton Neighbourhood Area (excluding the land identified as being of strategic importance to the Local Plan) is identified in Appendix 3.
- 3.14 Existing neighbourhood area boundaries
- 3.15 No other neighbourhood area boundaries are under consideration.

#### **4.0 Wards Affected**

- 4.1 Odd Rode Ward

#### **5.0 Local Ward Members**

- 5.1 Cllrs Rhoda Bailey and Cllr Andrew Barratt

#### **6.0 Policy Implications**

- 6.1 The designation of Newbold Astbury and Moreton Parishes as a single neighbourhood area will enable Newbold Astbury Parish Council and Moreton cum Alcumlow Parish Council to prepare a joint neighbourhood plan for this area. Any neighbourhood plan must be prepared in accordance with the strategic priorities and policies identified in the emerging Cheshire East Local Plan and be positively prepared to address the social, economic and environmental needs of the designated area.
- 6.2 The exclusion of land considered to be strategically important to the Local Plan will ensure that no future policy or development conflict can arise between the aims of the Cheshire East Local Plan and any future neighbourhood plan for Astbury and Moreton, particularly in relation to the delivery of the proposed Congleton Link Road.

#### **7.0 Financial Implications**

- 7.1 The designation of a neighbourhood area for Newbold Astbury and Moreton will not incur direct costs to the Council in itself, however this application, and future applications, will require input and time from officers both in the Spatial Planning team and from other services.
- 7.2 At a later stage direct costs will be incurred as the Council is required to hold an independent examination of the proposed neighbourhood plan and a referendum on the plan. Under the Neighbourhood Planning (General) Regulations 2012, the costs of this examination and referendum are required to be met by the Council. The more applications the Council receives to undertake neighbourhood planning, the greater the implications of these costs to the Council.
- 7.3 Funding from DCLG is available to reflect costs incurred. A maximum of up to £30,000 (non ring-fenced) per plan is available and payable in three stages:
- £5,000 upon designation of a Neighbourhood Area,
  - £5,000 upon publication of the plan prior to examination; and
  - £20,000 upon successful completion of the examination

- 7.4 DCLG have also made up to £7,000 directly available to communities preparing neighbourhood plans via Locality.
- 7.5 There are also implications for future revenue collection from the Community Infrastructure Levy (CIL), a charge levied on new development after the adoption of a CIL charging schedule by the Local Planning authority.
- 7.6 The CIL Regulations 2013 require local authorities to pass on 15% of CIL collected within the boundary of a local council (i.e. Town or Parish Council), to the local council. The 15% will apply across the whole of the area administered by the local council whether or not they have an adopted neighbourhood plan and is capped at £100 per dwelling built.
- 7.7 Within neighbourhood areas with an adopted neighbourhood plan, CIL payments from the Local Planning authority to the local council are required to rise to 25%. This proportion of CIL is payable where development takes place within a designated neighbourhood area and is uncapped.
- 7.8 The body preparing a neighbourhood plan can, where they wish to do so, enter into an agreement with the Local Planning authority to return all, or part of any funds received via the CIL; a local authority can also exclude sites of strategic importance from proposed neighbourhood areas.

## **8.0 Legal Implications**

- 8.1 Chapter 3 of the Localism Act 2011 (sections 116 to 121), in force since 15 November 2011, introduced the concept of Neighbourhood Planning. It made substantial amendments to the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 and provided that any qualifying body (including a Parish Council) is entitled to initiate a process for the purpose of requiring a Local Planning authority in England to make a Neighbourhood Development Order.
- 8.2 Such an order would grant planning permission in relation to a particular neighbourhood area as specified in the order, for development as specified in it, or for development of any class specified in the order.
- 8.3 A “neighbourhood area” can be an area within the Local Planning authority’s area; power to designate as such is only exercisable where a relevant body (including a Parish Council) has applied to the Local Planning authority, and the LPA is determining the application; the legislation includes some restriction on this power in Section 61G (5). Schedule 4B of the Town and Country Planning Act 1990 (as inserted by the Localism Act) sets out a detailed process for the making of neighbourhood development orders, including a process for submitting any draft for independent examination, and, on the making of an order, a referendum.
- 8.4 The Secretary of State has made the Neighbourhood Planning (General) Regulations 2012 under powers conferred by the 1990 and 2004 Acts, and these Regulations, which came into force on 6 April 2012, make further detailed provision on this subject.

## **9.0 Risk Management**

- 9.1 The Council has a statutory duty to consider neighbourhood area applications and decide whether to designate neighbourhood areas. Failure to discharge this duty will put the Council at risk of failing to meet its statutory requirements.

- 9.2 Increased applications to designate neighbourhood areas and prepare neighbourhood plans will divert resources from the Spatial Planning Team.
- 9.3 There are also time and cost implications for other services required to support the process, particularly for the Electoral Team in supporting any referendum.
- 9.4 Whilst the power to exclude part of a proposed neighbourhood area from designation is supported by existing legislation and case law (see Daws Hill Neighbourhood Forum vs Wycombe District Council 13.03.2013) this option does invite the possibility that Astbury and Moreton Parish Councils may decide to legally challenge this position.

## **10.0 Background and Options**

- 10.1 This application to designate Astbury and Moreton Neighbourhood Area was considered by Strategic Planning Board on 6<sup>th</sup> November 2013 and deferred to reconsider the area of land proposed for exclusion from the neighbourhood area.
- 10.2 Further to the report considered on the 6<sup>th</sup> November this revised report proposes a reduced area to be excluded. This reduced area of land does not contain any residential dwellings and therefore enables all parishioners within the proposed neighbourhood area to meaningfully participate in the production of a neighbourhood plan which will affect future development within Astbury and Moreton parishes.
- 10.3 Consultation with Cheshire East Highways supports the revised area proposed for exclusion from the neighbourhood area
- 10.4 Neighbourhood planning was introduced by the Localism Act 2011 as a new community right to prepare a development plan document relevant to a specific geographic area.
- 10.5 A neighbourhood plan is a development plan document prepared by a relevant body (either a town/parish council or a neighbourhood forum) which allows communities to allocate land and write policies which relate to the development of land. It is subject to an independent examination, a local referendum and, once adopted, will hold equal weight to the Local Plan for decision making purposes.
- 10.6 The preparation of neighbourhood plans is supported by the National Planning Policy Framework (NPPF); they are required to be prepared positively in accordance with the NPPF, the strategic policies of the Local Plan, all relevant legislation and national policy to promote local growth and development.
- 10.7 Local Planning authorities have a duty to support and assist the preparation of neighbourhood plans which may include providing guidance on the process, sharing information and best practice. Funding is available to reflect costs incurred by the local authority.
- 10.8 Funding is also available to communities preparing a neighbourhood plan in the form of a grant of up to £7,000 and for planning assistance from Locality and Planning Aid England.
- 10.9 The Council publicised the application for a period of six weeks from 15/07/2013 to 27/08/2013 during which representations on the proposals were invited. Four responses were received, three of which support the application. One response was submitted as comment only; no objections were received. A full report of representations received is included in Appendix 3.

- 10.10 At this stage the Local Planning authority is required to assess whether a valid neighbourhood area application has been submitted and whether it is desirable to designate the whole of the parish council areas as a neighbourhood area.
- 10.11 Where the Council decides to refuse an application to designate a neighbourhood area, they must provide reasons to the applicant for refusing the application. These reasons may include the submission of an invalid application, or the submission of an application which conflicts with the strategic aims of the Local Plan.
- 10.12 Where the Council decides to exclude part of the submitted neighbourhood area, the council must use its powers of designation to secure that some of the area applied for is designated a neighbourhood area.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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### **Appendices:**

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| Appendix 1: | Statements submitted by the parish councils in support of Newbold Astbury and Moreton Parish Neighbourhood Area application    |
| Appendix 2: | Results of Consultation  |
| Appendix 3: | Proposed Astbury and Moreton Neighbourhood Area, Area proposed for exclusion and Congleton Link Road Area of Search            |
| Appendix 4: | Proposed Astbury and Moreton Neighbourhood Area, Area proposed for exclusion and Congleton Link Road Area of Search (detailed) |
| Appendix 5: | Correspondence from Astrbuy and Moreton Neighbourhood Plan Group   |

**Appendix 1:                Statements submitted by the parish councils in support of Newbold Astbury and Moreton Parish Neighbourhood Area application**

*'Newbold Astbury Moreton is a wholly rural Parish, a substantial proportion of which is part of the South East Cheshire Green Belt and includes a Conservation Area and designated large areas of ASCV, HLV and an SSSI.*

*Lying immediately south of the urban settlement of Congleton and under pressure from urban expansion, a Neighbourhood Plan is considered essential to ensure the needs of the Parish population and communities and the largely agriculturally based economic activity are properly met by analyzing and coordinating future land use and development in the most appropriate and sustainable way.*

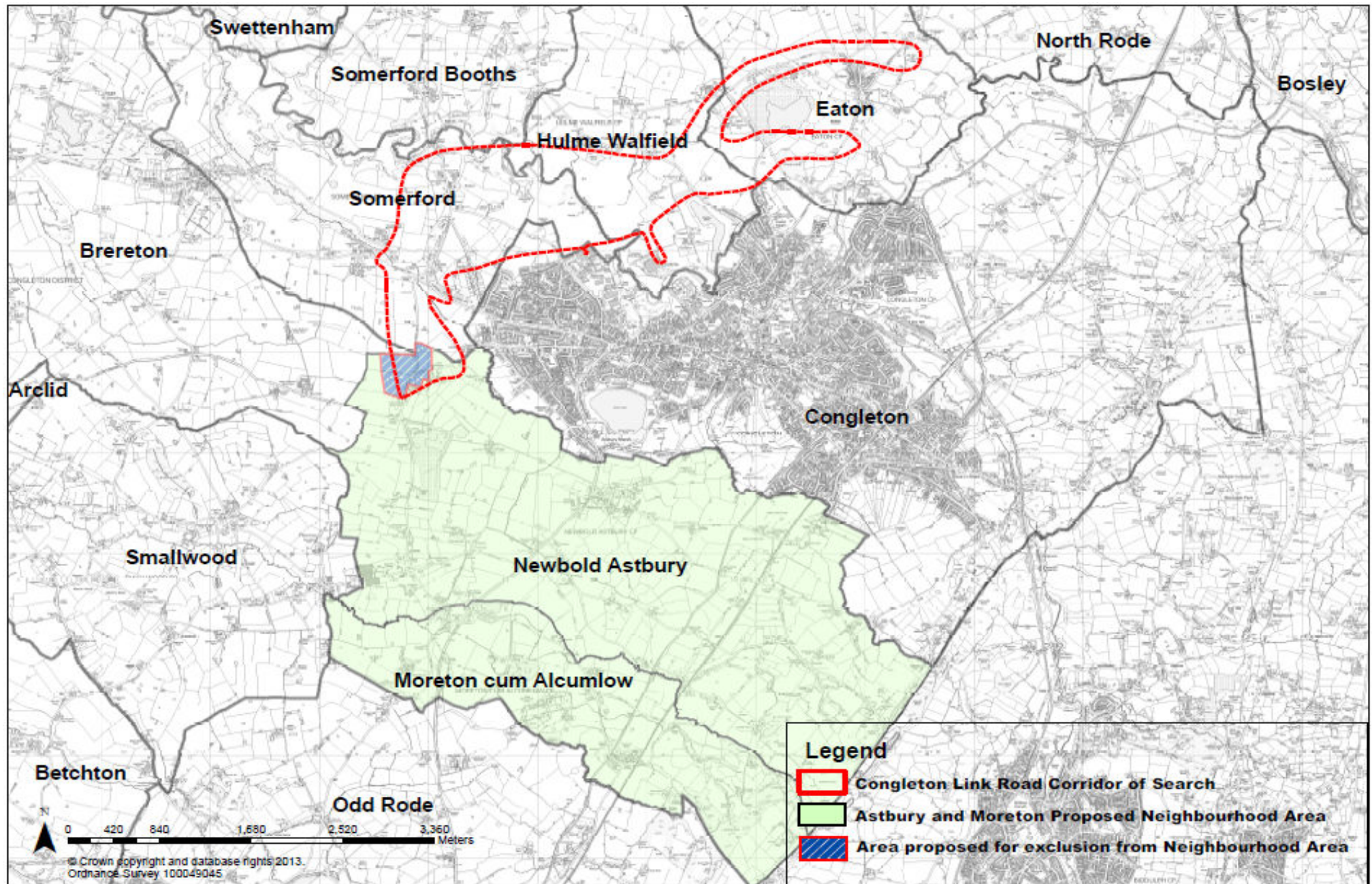
*Postal canvas and a public meeting have confirmed that the Parish Community strongly supports the concept of a Neighbourhood Plan which is appropriate for the whole Parish as a unifying Objective.'*

**Appendix 2:****Results of Consultation**

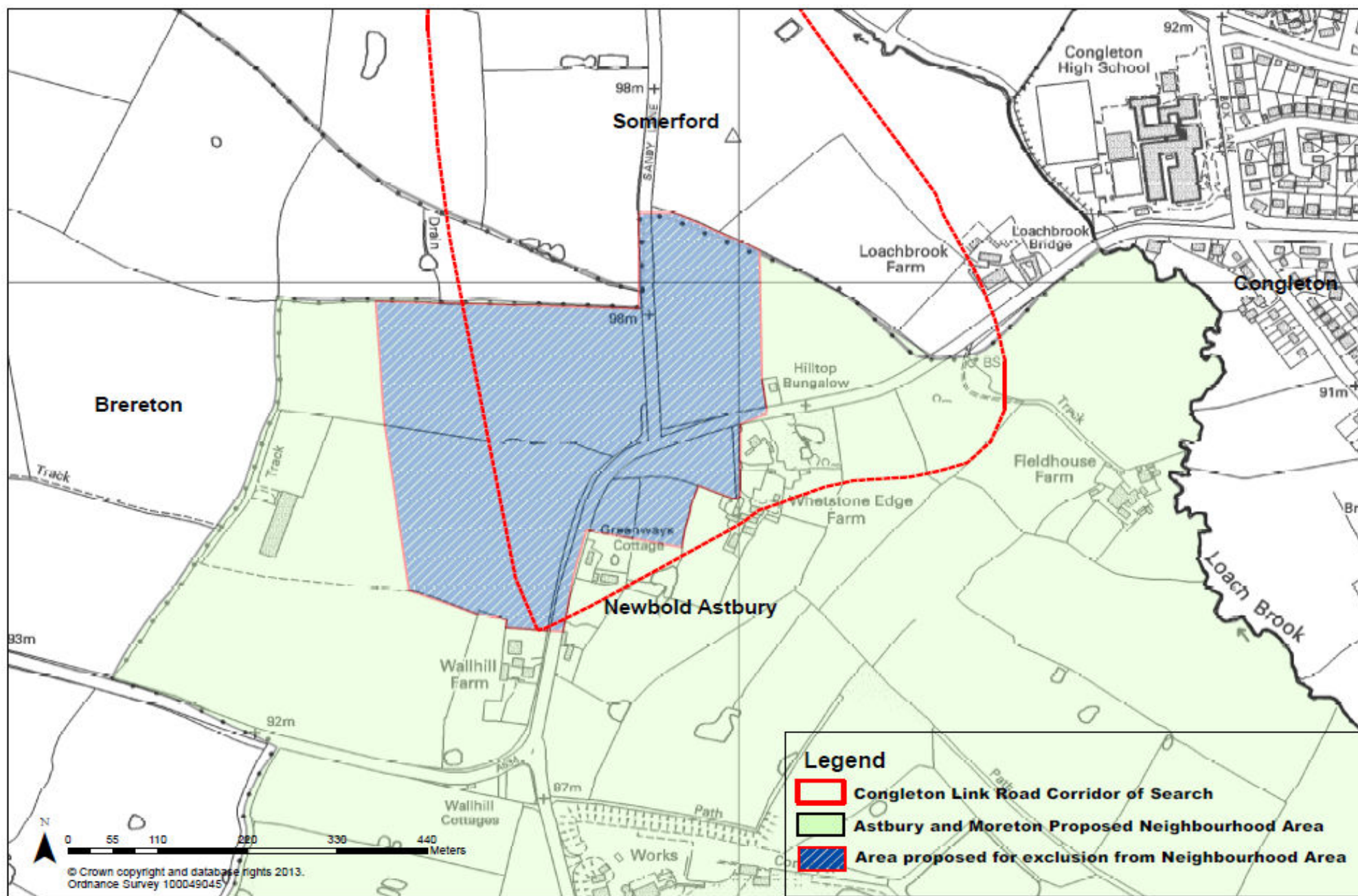
<b>Type - Please indicate whether you support, object or wish to make a comment.</b>	<b>Comment - Please provide details:</b>
Support	<p>The collective community of Alcumlow, Astbury, Moreton &amp; Newbold can only benefit from a stronger local voice such as that proposed by the Neighbourhood Plan / Forum. It is simply a win / win situation for Alcumlow, Astbury, Moreton &amp; Newbold, who for the very first time will be able to directly influence what happens in their parish. Local decisions by local people who have the community at heart, not remote mandarins who have their career and back yards at heart.</p>
Support	<p>I strongly support this application by Astbury-cum-Moreton PC to designate a Neighbourhood Area as the first step in creating a Neighbourhood Plan. This action will enable Astbury-cum-Moreton to create a plan that is sensitive to the aspirations and needs of the local community, whilst still being in general conformance with strategic requirements of Cheshire East's emerging Local Plan.</p> <p>In doing so, Astbury-cum-Moreton will relieve Cheshire East of some of the burden of preparing detailed plans for the designated area, which would inevitably miss many of the residents' preferences.</p> <p>Cheshire East's legal obligation to support Astbury-cum-Moreton, imposed by the Localism Act, will be offset by government grants.</p> <p>I call on Cheshire East not only to approve the Neighbourhood Area Designation, but to be generous rather than parsimonious in their support for Astbury-cum-Moreton PC.</p>
Support	<p>I support Astbury and Moreton Neighbourhood Area Application. Neighbourhood Planning is a key part of Localism and it is great to see parishes in Cheshire East setting out to produce Neighbourhood Plans for their area.</p>
Comment	<p>United Utilities: We support growth and sustainable development within the North West and would like to build a strong partnership with you and neighbourhood groups to aid sustainable development and growth. Our aim is to proactively share our information; assist in the development of sound planning strategies, to identify future development needs and to secure the necessary long-term infrastructure investment.</p> <p>At this stage we have no specific comments to make on the Neighbourhood Area Application submitted by the Newbold Astbury Parish Council, but wish to be included in further consultations and where necessary, the development of the Newbold Astbury and Moreton cum Alcumlow Parish Neighbourhood Plan and any Neighbourhood Development Orders or Community Right to Build Orders</p>



**Appendix 3: Proposed Astbury and Moreton Neighbourhood Area, Area proposed for exclusion and Congleton Link Road Area of Search**



**Appendix 4: Proposed Astbury and Moreton Neighbourhood Area, Area proposed for exclusion and Congleton Link Road Area of Search (detailed)**



## **Appendix 5: Correspondence from Astbury and Moreton Neighbourhood Plan Group (dated 27/09/2013)**

*Dear Tom*

*I refer to your e-mail of the 17th September which was discussed at last week's NP Group meeting. Comments as follows:-*

- 1. Whilst appreciating CEC's wish to keep options open for a possible link road/A534 junction - the area proposed by CEC for deletion from the NP area requested is far in excess of the land area that would actually be required for a roundabout or similar highway junction.*
- 2. The AMNP group acknowledge that the link road is a strategic element of the developing Local Plan and see no reason why the junction cannot be worked into the emerging NP and Local LDF - indeed the link road junction when its geometry and position are known is likely to significantly influence NP proposals for land use in its immediate vicinity.*
- 3. Deletion of the section of N, as proposed by Cheshire East, would effectively abandon residents in the excluded area - all of whom have rightfully an expectation as Ratepayers and Electors to benefit from the Parish initiative.*
- 4. The NP Group would draw your attention to the NPPF section 184 which urges LPA's to "set out clearly" their strategic policies and co-operate with NP Groups in achieving co-ordination of Local and NP Policies. The simple removal of a significant area of the Parish from the NP as proposed by CEC would appear to be a defensive position to keep currently indeterminate options open rather than a positive approach to liaison and mutual benefit.*

*For the above reasons the NP Group are reluctant to agree omission of part of the proposed designated area and feel that a more constructive approach should be forthcoming from CEC.*

*It would be appreciated if you could refer the content of this e-mail to the next Planning Meeting but in the meantime if you need to discuss in advance of the meeting please do not hesitate to contact me.*

*Thank you for your assistance.*

*Yours sincerely*