

Portfolio Holder Decision Report

Report Title: Wybunbury Combined Parishes Neighbourhood Development Plan: Decision to Proceed to Referendum

Portfolio Holder: Councillor Toni Fox, Portfolio Holder for Planning

Senior Officer: Frank Jordan, Executive Director of Place

1. Report Summary

- 1.1. The Wybunbury Combined Parishes Neighbourhood Development Plan (WCPNDP) was submitted to the Council in July 2019 and, following a statutory publicity period, proceeded to independent examination. The examiners report has now been received and recommends that, subject to modifications, the Plan should proceed to referendum. The Plan contributes to delivery of sustainable development in Wybunbury Combined Parishes, setting out detailed local planning policy on matters important to the community and through its alignment with the Local Plan Strategy the WCPNDP also supports the Councils own strategic aims to promote economic prosperity, create sustainable communities, protect and enhance environmental quality and promote sustainable travel.

2. Recommendation

- 2.1. That the Portfolio Holder:
 - 2.1.1. Accepts the examiner's recommendations to make modifications to the Wybunbury Combined Parishes Neighbourhood Plan as set out in the examiner's report (at Appendix 1); and
 - 2.1.2. Confirms that a referendum will now be held on the WCPNDP, within the Wybunbury Combined Parishes Neighbourhood Plan area.

3. Reasons for Recommendation/s

- 3.1. 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.
- 3.2. Subject to the modifications set out in the examiner's report, the WCPNDP is considered to meet the statutory tests, the Basic Conditions and procedural requirements set out in paragraph 8 of Schedule 10 to the Localism Act 2011 and as such it can now proceed to referendum.
- 3.3. Holding a referendum on the WCPNDP will enable the local community to vote on whether the plan should be used to determine planning applications in the neighbourhood area and bring the plan into statutory effect. The Neighbourhood Plan, as modified, will contribute to the strategic aims set out in the Cheshire East Local Plan Strategy and upon the outcome of a successful referendum result will form part of the Development Plan for Cheshire East. Following the referendum the Council is required to 'make' the neighbourhood plan, confirming its status within the development plan for the area.
- 3.4. It should be noted that local planning authorities are normally required to hold a referendum within 8 weeks of deciding to progress a neighbourhood plan to referendum. The exception to this is where an alternative date can be agreed between both parties. In this instance, due to the scheduling of a general election in December and the updating of the electoral role in January, it has been agreed to exceed the usual time limits in this instance, holding a referendum on the 27th February 2020.

4. Other Options Considered

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

5. Background

- 5.1. The preparation of the WCPNDP began in 2015 with the Neighbourhood Area Designation approved in December 2015.
- 5.2. The final Neighbourhood Plan and its supporting documents were submitted to Cheshire East Council on 26th July 2019.
- 5.3. The supporting documents included:

- 5.3.1. The draft Wybunbury Combined Parishes Neighbourhood Development Plan
- 5.3.2. A map of the neighbourhood area
- 5.3.3. A Consultation Statement
- 5.3.4. A Basic Conditions Statement
- 5.3.5. A copy of the Screening Opinion on the need to undertake Strategic Environmental Assessment
- 5.4. Cheshire East Council undertook the required publicity between 26.07.19 – 06.09.19. 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.
- 5.5. The Borough Council appointed Andrew S Freeman BSc (Hons) DipTP DipEM FRTPI, as the independent examiner of the plan. The Examiner is a chartered town planner and former government Planning Inspector, with wide experience of examining development plans and undertaking large and small scale casework. On reviewing the content of the plan and the representations received as part of the publication process, she decided not to hold a public hearing.
- 5.6. A copy of the Examiner's Report is provided at Appendix 1. A copy of the Neighbourhood Plan can be accessed via the Council's [web pages](#) or requested from the Report's author.
- 5.7. The examiner's report contains the Examiner'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.
- 5.8. The examiner has recommended multiple modifications to the plan but overall it is concluded that the WCPNDP does comply with the Basic Conditions and other statutory requirements and that, subject to recommended modifications, it can proceed to a referendum.
- 5.9. The Examiner comments that:
- 5.10. *It is evident that a considerable amount of time and effort has been devoted to the development and production of this Plan and I congratulate those who have been involved. The Plan should prove to be a useful tool for future planning and change in the Wybunbury Combined Parishes over the coming years.*

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. 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. Proceeding to referendum will enable the WCPNDP to be 'made', and legally form part of the Development Plan for Cheshire East.

6.1.2. The Neighbourhood Planning Act 2017 requires a local planning authority ("LPA") or other planning decision-maker to have regard to a "post examination draft NDP" when dealing with a planning application so far as the plan is material to the application.

6.1.3. The WCPNDP will become part of the development plan for that area after it is approved in the referendum. Following the referendum, if Cheshire East Council decides not to make the Neighbourhood Development Plan, it will cease to become part of the development plan.

6.1.4. Cheshire East Council has considered the Human Rights Act 1998 and has not found that the Plan breaches the Act. The Examiner did not disagree with that position.

6.2. Finance Implications

6.2.1. The referendum is estimated to cost circa £6,000. This will be paid for through government grant specific to neighbourhood planning, and the service's revenue budget.

6.3. Policy Implications

6.3.1. Once 'made' neighbourhood plans are afforded the full legal status and policy weight as other Development Plan policies. The policies of the neighbourhood plan will therefore be used to determine decisions on planning applications within the defined neighbourhood area.

6.4. Equality Implications

6.4.1. 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 Wybunbury Combined Parishes. The policies proposed are not considered to disadvantage those with protected characteristics.

6.5. Human Resources Implications

6.5.1. The administration of the referendum procedure requires staff resource from the Elections Team to organise, promote and carry out the referendum. Following the declaration of the referendum result further activity is undertaken by the Neighbourhood Planning Team to manage publication of the plan, monitor and advise on its use.

6.6. Risk Management Implications

6.6.1. The decision to proceed to referendum and subsequently to 'make' the Wybunbury Combined Parishes Neighbourhood Development 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.

6.7. Rural Communities Implications

6.7.1. Wybunbury Combined Parishes falls into the category of 'Other Settlements and Rural Areas' for the purposes of the Cheshire East Local Plan Strategy. Wybunbury Combined Parishes provides limited services to a rural community. The policies in the plan have been developed by the community, with opportunities for the local rural community to participate in the plan making process.

6.8. Implications for Children & Young People

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

6.9. Public Health Implications

6.9.1. Neighbourhood plans are an opportunity to promote public health in the statutory planning framework and the Wybunbury Combined Parishes Neighbourhood Plan contains policies which support physical wellbeing.

6.10. Climate Change Implications

6.10.1. The WCPNDP includes a number of policies that seek to ensure the sustainable development of land and the retention of land in sustainable uses and supporting additional protection of the environment.

- 6.10.2. In combination with other elements of the Development Plan these measures will help the Council to reduce its carbon footprint and achieve environmental sustainability by reducing energy consumption and promoting healthy lifestyles.

7. Ward Members Affected

- 7.1. Wybunbury Ward: Councillor Janet Clowes
- 7.2. Ward members will be informed of the decision to proceed to referendum when this report is published for consideration.

8. Consultation & Engagement

- 8.1. Consultation is a legal requirement of the neighbourhood planning process and has taken place throughout the preparation of the WCPNDP with multiple opportunities for the community and interested parties to participate in the development of the plan.

9. Access to Information

- 9.1. The Examiner's Report is appended to this report and all relevant background documents can be found via the neighbourhood planning pages of the Council's website:
- 9.2. <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-planning.aspx>
- 9.3. The background papers relating to this report can also be inspected by contacting the report writer.

10. Contact Information

- 10.1. Any questions relating to this report should be directed to the following officer:

Name: Tom Evans
Job Title: Neighbourhood Planning Manager
Email: Tom.Evans@Cheshireeast.gov.uk

11. Appendix 1: Examiners Report



Report on Wybunbury Combined Parishes Neighbourhood Plan

2010 - 2030

An Examination undertaken for Cheshire East Council with the support of Wybunbury Parish Council on the June 2019 submission version of the Plan.

Independent Examiner: Andrew S Freeman BSc (Hons) DipTP DipEM FRTPI

Date of Report: 14 November 2019

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Main Findings - Executive Summary

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

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – Wybunbury Parish Council;
- the Plan has been prepared for an area properly designated – Wybunbury Combined Neighbourhood Area – Fig.1 on Page 3 of the Plan;
- the Plan specifies the period to which it is to take effect – 2010 - 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

Wybunbury Combined Parishes Neighbourhood Plan 2010 - 2030

- 1.1 The Wybunbury combined parishes form an irregularly shaped area in the southeast corner of Cheshire with Shropshire to the south and Staffordshire to the east. The designated area covers the 11 parishes that have joined together to prepare the Wybunbury Combined Parishes Neighbourhood Plan. It is a rural area with scattered settlements and villages. The largest of the villages is Shavington which straddles the northern boundary of the designated area. Other villages include Wybunbury and Hough, both towards the northern boundary of the designated area.
- 1.2 The town of Crewe lies a short distance from the designated area boundary to the north whilst Nantwich lies close by to the northwest. The A500 trunk road forms the northern boundary of the area, whilst the A51 runs through the area roughly in a south-easterly to north-westerly direction. Part of the west coast main line railway crosses the northeastern corner of the area and is another important geographical feature.

- 1.3 The area was designated as a Neighbourhood Plan Area in December 2015 following an application from the Wybunbury Parish Council earlier in the year. The community was subsequently consulted through open days, interest group meetings, community events, newsletters, social media and surveys. Formal consultation on a first draft of the Plan took place in February and March 2019. The submission Plan, the subject of formal consultation between 26 July 2019 and 6 September 2019, contains five policy areas and 24 policies.

The Independent Examiner

- 1.4 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Wybunbury Combined Parishes Neighbourhood Plan by Cheshire East Council with the agreement of Wybunbury Parish Council.
- 1.5 I am a chartered town planner and former government Planning Inspector with over forty years' experience. I have worked in both the public and the private sectors. 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

- 1.6 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.
- 1.7 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 Section 38A and Section 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”).

1.8 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

1.9 The “Basic Conditions” are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with and not breach European Union (EU) obligations; and
- meet prescribed conditions and comply with prescribed matters.

1.10 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the neighbourhood development plan

does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.¹

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for this part of Cheshire East Council, not including documents relating to excluded minerals and waste development, includes the Cheshire East Local Plan Strategy 2010 – 2030; also, saved policies from the Borough of Crewe and Nantwich Replacement Local Plan. In addition, there is an emerging Development Plan in the form of the draft Site Allocations and Development Policies Document (SADPD).
- 2.2 The SADPD was published for consultation from 19 August 2019 until 30 September 2019. I shall make reference to the emerging policies of the SADPD in this report, having regard to the Planning Practice Guidance (PPG), which states that it is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. The PPG advises that the reasoning and evidence informing emerging local plans can be relevant to neighbourhood plans. Where a neighbourhood plan is brought forward before an up-to-date local plan is in place, the local planning authority and qualifying body should discuss and aim to agree the relationship between their emerging policies and the adopted development plan.²
- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published on 19 February 2019 and all references in this report are to the February 2019 NPPF and its accompanying PPG.³

Submitted Documents

¹ This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

² PPG Reference ID: 41-009-20190509.

³ See Paragraph 214 of the NPPF. The Plan was submitted under Regulation 15 to the local planning authority after 24 January 2019.

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

- the draft Wybunbury Combined Parishes Neighbourhood Plan 2010 -2030, June 2019;
- a map of the Plan which identifies the area to which the proposed Neighbourhood Development Plan relates (Fig.1 on Page 3 of the Plan);
- the Consultation Statement, July 2019;
- the Basic Conditions Statement, January 2019;
- all the representations that have been made in accordance with the Regulation 16 consultation;
- the “Wybunbury Combined Parish Council Neighbourhood Plan SEA Screening Report” prepared by Cheshire East Council, November 2018; and
- the requests for additional clarification sought in my letter of 30 September 2019 and the response of 10 October 2019 provided by the Qualifying Body, both of which are available on the Cheshire East Council website.⁴

Site Visit

2.5 I made an unaccompanied site visit to the Neighbourhood Plan Area on 19 October 2019 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

2.6 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan’s suitability to proceed to a referendum. As noted in Paragraph 2.3 above, the Qualifying Body helpfully answered in writing the questions which I put to them in my letter of 30 September 2019.

Modifications

2.7 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.

⁴ View at: <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-plans-n-z/wybunbury-ward-combined-parishes-neighbourhood-plan.aspx>

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The Wybunbury Combined Parishes Neighbourhood Plan has been prepared and submitted for examination by Wybunbury Parish Council which is a qualifying body for an area that was designated by Cheshire East Council on 1 December 2015.
- 3.2 It is the only Neighbourhood Plan for Wybunbury Combined Neighbourhood Area and does not relate to land outside the designated Neighbourhood Plan Area.

Plan Period

- 3.3 Section 2 of the Plan states that the Neighbourhood Plan is to run for the same period as the Cheshire East Local Plan (namely 2010 to 2030). However, this conflicts with the Plan Glossary which indicates that the Plan period will start upon adoption of the Plan. It has since been confirmed⁵ that the Plan period is indeed 2010 to 2030. This would be addressed through proposed modification **PM1**. With this modification in place, the Plan will specify clearly the period to which it is to take effect.

Neighbourhood Plan Preparation and Consultation

- 3.4 Details of plan preparation and consultation are set out in the Parish Council's Consultation Statement⁶ and in documents referenced therein.⁷ Application for designation as a neighbourhood area was made to Cheshire East Council in 2015. Following statutory publicity, the Neighbourhood Plan Area was approved on 1 December 2015.

⁵ Response dated 10 October 2019 to Examiner's Questions (30 September 2019).

⁶ "A Summary of the Main Issues raised following Consultation and Participation Activity during the development of the Neighbourhood Plan", July 2019.

⁷ See "First Consultation Results", June/July 2017; and "Second Consultation Results, Pre-submission Version (Regulation 14)", March 2019. For a list of statutory consultees consulted, see "Wybunbury Combined Parishes Neighbourhood Plan Consultation Timeline", June 2015 – July 2019.

- 3.5 The first main stage of consultation took place over a seven-week period in June and July 2017. A total of 1,773 questionnaires were delivered to each household in the Plan area together with a copy of the Spring Up-date Newsletter. Through the 154 returned questionnaires, residents' views were obtained on a variety of topics relevant to plan preparation. The consultation followed a Housing Needs Survey that was carried out by Cheshire Community Action in March and April 2017.
- 3.6 Formal pre-submission consultation under Regulation 14 comprised a second major consultation event and was carried out between 4 February 2019 and 21 March 2019. The total number of responses received was 157. The Consultation Statement summarises the details and actions taken by way of modifications.
- 3.7 At the Regulation 16 stage, representations were received from 14 different parties. The majority of the responses were from statutory consultees. In addition, there were two responses from agents with an interest in the area.
- 3.8 I confirm that the legal requirements have been met by the consultation process. In addition, I am satisfied that a transparent, fair and inclusive consultation process has been followed having regard to the advice in the PPG on plan preparation.

Development and Use of Land

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

Excluded Development

- 3.10 The Plan does not include provisions and policies for "excluded development".

Human Rights

- 3.11 Wybunbury Parish Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998). Cheshire East Council has similarly confirmed in their Regulation 16 representation that the Plan does not breach, and is compatible with, EU Obligations and Convention rights. From my independent assessment, I see no reason to disagree.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The Neighbourhood Plan was screened for Strategic Environmental Assessment (SEA) by Cheshire East Council which found that SEA is not required. Having read the Strategic Environmental Assessment Screening Report, I support this conclusion.
- 4.2 As part of the SEA Report, the Wybunbury Combined Parishes Neighbourhood Plan was further screened for Habitats Regulations Assessment (HRA), which also was not triggered. There is one designated site of European significance within the Neighbourhood Plan Area and seven component sites within 15km proximity. However, due to the nature of the Plan, and the absence of allocations, the effect on these sites is not considered to be significant. Natural England agreed that the Plan will not have any significant effects. From my independent assessment of this matter, I have no reason to disagree.

Main Issues

- 4.3 Having regard for the Wybunbury Combined Parishes Neighbourhood Plan, the consultation responses and other evidence, and the site visit, I consider that there are four main issues relating to the Basic Conditions for this examination. These concern:
- Housing and Design;
 - Environment;
 - Local Economy; and
 - Transport and Infrastructure.
- 4.4 Before I deal with the main issues, I have a few observations to make with regard to the representations. First, the Wybunbury Combined Parishes Neighbourhood Plan should be seen in the context of the wider planning system. This includes the CELPS as well as the

NPPF and PPG. It is not necessary, and it would be inappropriate, to repeat in the Neighbourhood Plan matters that are quite adequately dealt with elsewhere.⁸

- 4.5 Secondly, the Neighbourhood Plan does not have to deal with each and every topic raised through the consultation. For example, a neighbourhood plan can be used to allocate sites; but it does not have to do so. In this regard, the content of the Neighbourhood Plan is largely at the discretion of the Qualifying Body albeit informed by the consultation process and the requirements set by the Basic Conditions.
- 4.6 Thirdly, my central task is to judge whether the Neighbourhood Plan satisfies the Basic Conditions. Many of the objections to the Plan do not demonstrate or indicate a failure to meet those conditions or other legal requirements. Similarly, many of the suggested additions and improvements are not necessary when judged against the Basic Conditions. This includes matters that would be dealt with more appropriately at the district level and are not neighbourhood-specific.
- 4.7 The following section of my report sets out proposed modifications that are necessary in order to meet the Basic Conditions. Some of the proposed modifications are factual corrections.⁹ Others are necessary in order to have closer regard to national policies and advice. In particular, plans should be succinct and contain policies that are clearly written and unambiguous.¹⁰ The Plan should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. In addition, the policies should be supported by appropriate evidence.¹¹

Issue 1: Housing and Design

Settlement Boundaries and the Location of New Houses

- 4.8 Provisions in support of housing development are set out, in the Neighbourhood Plan, in two main policies. These are Policy H1 (Location of new houses) and Policy H6 (Settlement Boundaries). There is a degree of overlap between the two policies. For example, both deal with the location of development; but, in so doing, there is conflict between the policies.

⁸ See NPPF, Paragraph 16 f).

⁹ Modification for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

¹⁰ NPPF Paragraphs 15 and 16.

¹¹ PPG Reference: 41-041-20140306.

More particularly, there is a failure to be in general conformity with strategic development plan policies.

- 4.9 The nature of development in the neighbourhood area means that, in terms of the settlement hierarchy in the Local Plan,¹² there is one Local Service Centre (Shavington) and a number of other settlements and rural areas. The provisions of the emerging SADPD¹³ are also relevant. Here, the more significant villages (in this case Hough and Wybunbury) have defined boundaries within which limited infilling will be supported. Other villages and settlements (open countryside) would not benefit from the policy support for limited infilling.
- 4.10 With regard to Shavington,¹⁴ text on Page 22 of the Plan reflects representations to the effect that the village should be treated as an infill village, not a local service centre. However, this would conflict with Local Plan Policy PG 2. The policy provisions, and the description of the justification and evidence, need to be aligned with the Development Plan. In addition, the settlement boundary plan and its caption (Fig 2ii on Page 22 of the Plan) needs to be amended to reflect the latest consensus on definition.
- 4.11 So far as Hough and Wybunbury are concerned, they need to be distinguished in the Plan, so that provisions appropriate to these infill villages can be applied, all in accordance with the Development Plan. Similarly, the provisions that will apply to settlements elsewhere in the open countryside need to be clear and distinct. This includes the identification of “exceptions” whereby other types of housing, across the designated Neighbourhood Plan Area, may be supported in defined circumstances.
- 4.12 In terms of these exceptions, Policy H1 indicates that proposals would have to meet all the listed criteria. This was not the intention.¹⁵ Nor would it make sense. For example, infill development would not be expected to occupy brownfield land no longer suitable for employment use.
- 4.13 With regard to the conversion of existing buildings, the criterion includes a requirement for the building to be structurally sound. However, this would conflict with Part Q of the

¹² Cheshire East Local Plan Strategy 2010-2030, Policy PG 2.

¹³ See paragraph 2.2 of this report.

¹⁴ Only part of which (the “Shavington Triangle”) is within the designated area.

¹⁵ See response dated 10 October 2019 to Examiner’s Questions (30 September 2019).

General Permitted Development Order¹⁶ whereby a change of use to residential, and some related building operations, would not need express planning permission. In addition, a requirement regarding redundancy is unnecessary in circumstances where, for buildings previously in employment use, a two-year marketing exercise would have been necessary.

4.14 One more modification to the exception criteria is also needed. The scale of housing on rural exception sites needs to be tied to the requirements set out in Policy H3 (Affordable Housing on Rural Exception Sites). This is for internal consistency and to meet the objectives of the Plan.

4.15 In the light of the above, the following modifications are necessary:

- Combine Policy H1 and Policy H6, and the supporting justification and evidence, in the interests of a succinct plan.
- In terms of the settlement hierarchy, revise the text so as to secure general conformity with the strategic policies of the Development Plan.
- For the countryside areas, re-word the criteria to ensure consistency in decision taking.

Necessary amendments are set out in proposed modifications **PM2** and **PM3**.

Affordable Housing

4.16 Neighbourhood Plan Policy H3 is supportive of two or three affordable dwellings on rural exception sites. However, this quantum is not in general conformity with Policy SC 6 of the CELPS which allows up to 10 dwellings. To achieve general conformity with this strategic policy, proposed modification **PM4** is necessary.

Design

¹⁶ View the Town and Country Planning (General Permitted Development) (England) Order 2015 at:
<http://www.legislation.gov.uk/ukxi/2015/596/schedule/2/part/3/crossheading/class-q-agricultural-buildings-to-dwellinghouses/made>

4.17 Policy H4 of the Plan addresses design issues. However, for clarity and consistent decision taking, a number of modifications are necessary:

- to avoid the imprecise term “rural skyline”;
- to recognise that significantly adverse effects should be avoided but that some minor adverse effects may be permissible; and
- to recognise that not all new developments will require a Design and Access Statement.

These matters would be addressed through proposed modification **PM5**.

4.18 With regard to Section 5.5.1, Justification and Evidence, there is inappropriate reference to the views of the Combined Parishes on SADPD draft Policy GEN1 on design principles. The appropriateness of this policy will be determined through the examination process. The reference should be deleted as in proposed modification **PM6**.

4.19 I am aware that, since the draft Neighbourhood Plan was submitted for examination, the Ministry of Housing, Communities and Local Government has published its “National Design Guide”. This, effectively, has PPG status. Having reviewed the content of Policy H4 in the light of the new Guide, I am satisfied that no tension with national policy and guidance arises.

4.20 The remaining Policies H2 and H5 generally conform with the Development Plan and have regard to national guidance in the NPPF. Therefore, overall, on the evidence before me, with the recommended modifications **PM1** to **PM6**, I consider that the policies for housing and design are in general conformity with the strategic policies of the Development Plan (and align with the policies in the emerging SADPD), have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Issue 2: Environment

- 4.21 Policy E2 of the Plan concerns wildlife corridors. Criterion (iv) states that all development proposals which are adjacent to the wildlife corridor network or other notable habitats must demonstrate substantial mitigation and avoidance measures. However, this presupposes that there is going to be some negative impact. This may not be the case. For consistency in decision taking, amended wording is needed.
- 4.22 The same criterion indicates that there should be no net loss in biodiversity and ideally a net gain. Having regard to Paragraphs 170 and 174 of the NPPF, the call should be for net gains for biodiversity. Both of these Policy E2 matters would be addressed through proposed modification **PM7**.
- 4.23 In Policy E3 (Biodiversity), there is again an assumption that there will be negative ecological impacts as a consequence of development. As in Policy E2, consistency in decision taking would be secured through proposed modification **PM8**.
- 4.24 Policy E4 states that “Planning permission will not be granted...” and also “Alterations, adaptations and extensions to existing intensive livestock units within the Nature Improvement Area will only be permitted ...”. Cheshire East Council is the planning authority, not the Parish Council and the Plan should correctly refer to planning permission not being “supported”. With this modification (**PM8A**) the policy meets the Basic Conditions.
- 4.25 The remaining Policies E1 and E5 generally conform with the Development Plan and have regard to national guidance. Therefore, overall, on the evidence before me, with the recommended modifications **PM7**, **PM8** and **PM8A**, I consider that the policies for the environment are in general conformity with the strategic policies of the Development Plan (and align with the policies in the emerging SADPD), have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Issue 3: Local Economy

- 4.26 If interpreted as written, Policy LE1 (New and Existing Businesses) would require applicants for proposals involving home working to demonstrate that there would be the opportunity for training. However, in this circumstance, the requirement is excessive. It is not supported by appropriate evidence and should be amended as in proposed modification **PM9** in order to meet the Basic Conditions.

4.27 Policies LE2, LE3, LE4 and LE5 meet the Basic Conditions as drafted.

Issue 4: Transport and Infrastructure

4.28 An issue of proportionality also arises in Policy TI3 (Traffic Generation). Under the terms of the policy, there is a requirement to submit a transport assessment in support of all proposals for two or more houses and new employment developments. However, this is not supported by appropriate evidence. Smaller schemes typically only need a transport statement. Proposed modification **PM10** refers.

4.29 Policies TI1, TI2, TI4, TI5, and TI6 generally conform with the Development Plan and have regard to national guidance in the NPPF. Therefore, overall, on the evidence before me, with the recommended modification **PM10**, I consider that the policies for transport and infrastructure are in general conformity with the strategic policies of the Development Plan and align with the policies in the emerging SADPD, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Other Policies

4.30 For the reasons stated, the need for modifications in relation to the four main issues has been highlighted in the foregoing discussion. There is further a Gap Policy GG1 which states that “construction of new buildings or the change of use of existing buildings or land within the proposed Green Gap in the Neighbourhood Plan area will not be permitted ...”. As previously noted, Cheshire East Council is the planning authority, not the Parish Council, and the Plan should correctly refer to planning permission not being “supported”. With this modification (**PM11**) the Policy meets the Basic Conditions.

4.31 There remains one topic area within the Plan that has not been considered. This relates to Footpaths and Public Rights of Way. In particular, Policy F1 (PROW) looks at the protection and maintenance of exiting public rights of way including footpaths and cycleways. This topic has regard to the NPPF where, at Paragraph 98, the protection and enhancement of public rights of way and access is encouraged. However, the policy states that “Any development which leads to the loss or degradation of any PROW, or any cycleway, shall not be permitted”. Thus, for the reasons already stated, the Plan should refer to permission not being “supported”. With this modification (**PM12**) the Policy meets the Basic Conditions.

- 4.32 Other minor changes and factual updates (that do not affect the Basic Conditions) could be made by the Parish Council, with the agreement of Cheshire East Council.

5. Conclusions

Summary

- 5.1 The Wybunbury Combined Parishes 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.
- 5.2 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

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Wybunbury Combined Parishes 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.

Overview

- 5.4 It is evident that a considerable amount of time and effort has been devoted to the development and production of this Plan and I congratulate those who have been involved. The Plan should prove to be a useful tool for future planning and change in the Wybunbury Combined Parishes over the coming years.

Andrew S Freeman

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Front Cover and Glossary (Page 51)	<p>Show the Plan Period (2010 to 2030) on the Front Cover.</p> <p>In the Glossary entry for “Plan Period”, replace “from the adoption of the plan” with “from 2010”.</p>
PM2	Pages 14, 15 and 21	<p>Delete Policies H1 and H6. Substitute the following text for Policy H1:</p> <p>“Policy H1 – Location of New Houses</p> <p>Development in the Wybunbury Combined Parishes Neighbourhood Plan Area will focus on sites within the built-up area of the settlements named in this policy. This is with the aim of enhancing their role as sustainable settlements whilst protecting the surrounding countryside.</p> <p>All housing developments across the designated area shall be well designed, meet local housing needs, be of a scale appropriate to the rural character of the area, avoid encroachment into existing gaps between settlements and have access to services.</p> <p>Within the Settlement Boundary of that part of Shavington that falls within the designated area (see Fig 2i), housing proposal will be supported where they are in keeping with the scale, role and function of that settlement and of the neighbourhood plan area as a whole.</p> <p>Within the village infill boundaries for Hough and Wybunbury (See Figs 2ii and 2iii), limited infilling (see Glossary) will be supported where it is in keeping with the scale, character and appearance of its surroundings and the local area; does not give rise to unacceptable impacts; and does not involve the loss of undeveloped land that makes a positive contribution to the character of the area.</p> <p>Across the designated area, proposals for small scale (see Glossary) development will be supported where:</p> <ol style="list-style-type: none"> 1) They fill a small gap, up to two dwellings, (infill development) in an otherwise built-up frontage; 2) They are conversions of an existing, permanent building which does not require extensive alteration,

		<p>rebuilding or extension; or</p> <p>3) They utilise the redevelopment of brownfield sites that are no longer suitable for employment use.</p> <p>In addition, affordable housing will be supported on rural exception sites as provided for under Policy H3.”</p>
PM3	Pages 21 and 22	<p>Delete the whole of Section 5.7.1.</p> <p>At the end of Section 5.2.1, add the following text:</p> <p>“In terms of the settlement hierarchy, draft Policy PG 9 of the emerging Cheshire East Draft Site Allocations and Development Policies Document (SADPD) proposes settlement boundaries for principal towns, key services centres and local service centres to assist in directing built development towards the most sustainable locations across the Borough. This directly corresponds with Local Plan Policy PG 2 (Settlement Hierarchy) and defines the intended relationship between settlements and the countryside beyond.</p> <p>The only relevant local service centre in the area of the combined parishes is Shavington. The settlement boundary for that part of Shavington that extends into the designated area is shown on Fig 2i below.</p> <p>In addition to the above, Policy PG 10 of the emerging SADPD identifies infill villages in the open countryside. The infill villages within the designated area are Hough and Wybunbury. In due course, it is to be expected that provision for housing in these villages, and their boundaries, will be formalised through the SADPD. Until such time, the provisions of Neighbourhood Plan Policy H1 will apply. These reflect the emerging SADPD and its evidence base, including the “Settlement and infill boundaries review”, August 2019 upon which the village infill boundaries (Figs 2ii and 2iii) are based.”</p> <p>At the end of the above added text, insert Fig 2i (as included in the combined parishes’ response dated 10 October 2019 to the Examiner’s Questions (30 September 2019). Also, add new Fig 2ii (Village Infill Boundary – Hough) and new Fig 2iii (Village Infill Boundary – Wybunbury) based on the proposed village infill boundaries as shown in the document “Settlement and infill boundaries review”, August 2019.</p> <p>In the Glossary (Page 50), add a definition: “Limited Infilling – The development of a relatively small gap between existing buildings.”</p>

PM4	Page 18	Substitute the following for the text of Policy H3: “Proposals for the development of small-scale affordable housing schemes of up to 10 dwellings will be supported on rural exception sites on the edge of existing settlements where the scale, mass, form and design reflect the character and built form of the existing settlement on sites where housing would not normally be permitted.”
PM5	Pages 18 and 19	In Policy H4: Substitute “local skyline” for “rural skyline”. In criterion a), delete “will not be adversely affected”. After “Demonstrate that”, insert “there would be no significant adverse effect on”. In criterion f), substitute “Where a Design and Access Statement is required, the Statement shall demonstrate” in place of “All new development should be accompanied by a Design and Access Statement which demonstrates”.
PM6	Page 20	Delete the final paragraph of Section 5.5.1.
PM7	Page 23	In Policy E2 – Wildlife Corridors, substitute the following wording for criterion (iv): “Where development proposals are identified to have a negative impact on the wildlife corridor network or other notable habitats, appropriate mitigation and avoidance measures to lessen any impact on wildlife and provide net gains for biodiversity will be required.”
PM8	Page 24	In Policy E3 (ii), insert “negative” before “ecological impacts”.
PM8A	Page 29	In Policy E4, replace “granted” with “supported” in the first sentence. In the second sentence, replace “permitted” with “supported”.
PM9	Page 39	In Policy LE1, delete “, including home working,”. Before “training”, insert “, except in the case of home working, for”.
PM10	Page 42	In Policy TI3, insert “transport statement or” before “transport assessment”.
PM11	Page 32	In Policy GG1, replace “granted” with “supported” in the first sentence.
PM12	Page 36	In policy F1, replace “permitted” with “supported” in the third sentence.