Cheshire East Council

CABINET MEMBER FOR HOUSING AND PLANNING

Date of Meeting:	10 July 2017
Report of:	Director of Planning and Sustainable Development
Subject/Title:	Astbury and Moreton Neighbourhood Plan – Decision to Proceed to Referendum
Portfolio Holder:	Councillor Ainsley Arnold

1. Report Summary

1.1. The Astbury and Moreton Neighbourhood Development Plan (A&MNDP) was submitted to the Council in February 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 minor 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 A&MNDP as set out in the Examiner's report (at Appendix 1) and confirms that the A&MNDP will now proceed to referendum in the Astbury and Moreton Neighbourhood Plan area.

3. Other Options Considered

3.1. Not to proceed to referendum – the examiner has found that subject to modiofication, 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. Subject to the modifications set out in the Examiner's Report, the A&MNDP 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 2013 with the submission of the Neighbourhood Area Designation which was approved in July 2013. An area of land was excluded from the original designation. Subsequently a further application to extend the neighbourhood area into this excluded land, was approved on 28th October 2016.

5.2. The location and extent of the Astbury and Moreton 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 February 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. A suite of key evidence base documents on subjects including housing and the natural environment

5.5. Cheshire East Council undertook the required publicity between 17.02.17 – 03.04.17. 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 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 more than 20 years experience inspecting and examining development plans. 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 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 Andrew'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 there is a list of minor modifications for the purpose of correcting errors or for clarification which are set out at the end of the Report.

5.10. Overall it is concluded that the A&MNDP 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 *"It is evident that a considerable amount of time and effort has been committed to the development and production of this plan and I congratulate all those who have been involved. The plan should prove to be a useful tool for future planning and change in Astbury and Moreton over the coming years."*

6. Wards Affected and Local Ward Members

6.1. Odd Rode; Councillor Rhoda Bailey; Councillor Liz Wardlaw

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 Astbury and Moreton 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 £3,500. This will be paid for through government grant (£20,000) 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 Astbury and Moreton. The policies proposed are not considered to disadvantage those with protected characteristics.

7.5. **Rural Community Implications**

7.5.1. Astbury and Moreton falls into the category of Rural and Other Settlements for the purposes of the Local Plan Strategy. Astbury and Moreton is a rural Parish and the A&MNDP addresses a number of rural issues including policies on new development in the open countryside, the rural economy and the use of rural buildings. 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 Astbury and Moreton neighbourhood plan contains policies on community faciliteis and contributies to community infrastructure.

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 Astbury and Moreton Neighbourhood Plan introduces policies to protect acces 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

Contact details for this report are as follows:

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Appendix 1: Examiners Report

Report on the Astbury and Moreton Neighbourhood Plan 2015-2030

An Examination undertaken for Cheshire East Council with the support of Astbury and Moreton Parish Council on the January 2017 submission version of the Plan.

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

Date of Report: 09 June 2017

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Main Findings - Executive Summary

From my examination of the Astbury and Moreton 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 Newbold Astbury cum Moreton Parish Council;
- The plan has been prepared for an area properly designated – the Astbury and Moreton Neighbourhood Area (Newbold Astbury and Moreton cum Alcumlow Neighbourhood Area) as shown on fig. 3 of the Neighbourhood Plan;
- The plan specifies the period to which it is to take effect – 2015-2030; 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

Astbury and Moreton Neighbourhood Plan 2015-2030

1.1 Newbold Astbury and Moreton-cum-Alcumlow are neighbouring parishes generally to the southwest of the town of Congleton in Cheshire. In 1977, they were formally united into one Parish Council - Newbold Astbury cum Moreton Parish Council. Through its Neighbourhood Plan Steering Group, the Parish Council has been responsible for the preparation of the draft Astbury and Moreton Neighbourhood Plan 2015-2030, the subject of this examination.

1.2 The area is roughly rectangular in shape. It is traversed from its southwestern border to the northeastern border by the A34, part of the main road between Newcastle-under-Lyme and Manchester; also by the railway line between Stoke-on-Trent and Manchester and by the Macclesfield Canal. The very northwestern corner of the area is crossed by the A534 which links Congleton to the M6 motorway at Junction 17, about 8km to the west.

1.3 The railway and canal lie towards the southeast of the area. They run along the bottom of a ridge which rises to a height of about 300m along Congleton Road on the Cheshire-Staffordshire border. From here, there are panoramic views out to the west across the Cheshire Plain. That part within the designated area is gently rolling countryside at a height of about 100m.

1.4 The area is fairly sparsely populated with about 650 residents in total. The main village is that of Astbury. There are smaller hamlets at Brownlow, Brownlow Heath and Ackers Crossing as well as many scattered houses and farms. The area is predominantly agricultural but with obvious signs of diversification into other enterprises.

1.5 A small part of the area, to the northwest, is classed as open countryside. However, the majority is designated as Green Belt. Much of the southeastern ridge is an Area of Special County Value, also containing Sites of Biological Importance. The village of Astbury and the Macclesfield Canal are conservation areas.

1.6 As indicated below, preparation of the plan commenced in the Spring of 2013 following an open meeting, Parish Council meetings and publicity in the Parish Newsletter. The submitted plan represents four years of work by those involved. There is a vision for the area covering the period to 2030; also, six policy themes. For each theme, a summary of the justification and evidence is set out followed by the gist of the community feedback and specific policies on the related topic.

The Independent Examiner

1.7 The Astbury and Moreton Neighbourhood Plan has now reached the examination stage. With the agreement of the Newbold Astbury cum Moreton Parish Council, I have been appointed as the examiner by Cheshire East Council.

1.8 I am a chartered town planner and former government Planning Inspector with over forty years' experience in the planning profession. 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

1.9 As the independent examiner, I am required to produce this report and recommend that:

(a) the neighbourhood plan is submitted to a referendum without changes; or

(b) modifications are made and that the modified neighbourhood plan is submitted to a referendum; or

(c) the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.10 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 Sections 38A and 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; and

  - whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum;

- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 ("the 2012 Regulations").

1.11 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

1.12 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.

1.13 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the neighbourhood plan 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 Cheshire East Council, not including documents relating to excluded minerals and waste development, is the saved policies of the Congleton Borough Local Plan (adopted January 2005). Also of relevance is the Cheshire East Local Plan Strategy. Upon adoption, this will replace the Congleton Borough Local Plan. The Strategy has reached an advanced stage of preparation with consultation on the proposed main modifications having closed on 20 March 2017. As such, the strategic direction of future planning policy in the Borough is quite clear.

2.2 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. PPG makes clear that whilst a draft neighbourhood plan is not tested against the policies in an emerging Local Plan, the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the Basic Conditions against which a neighbourhood plan is tested. Paragraph 184 of the NPPF also provides, “The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider area”. On this basis, I make reference to Cheshire East’s emerging Local Plan Strategy in this report.

Submitted Documents

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

- the draft Astbury and Moreton Neighbourhood Plan 2015-2030 dated 24 January 2017;

- a map which identifies the area to which the proposed neighbourhood development plan relates (within the draft neighbourhood plan);
- the Consultation Statement dated 12 October 2016;
- the Basic Conditions Statement dated 12 October 2016;
- all the representations that have been made in accordance with the Regulation 16 consultation; and
- the Strategic Environmental Assessment (SEA) Screening Opinion prepared by Cheshire East Council.

Site Visit

2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 10 May 2017 to familiarise myself with it and to visit relevant sites and areas referenced in the plan and evidential documents.

Written Representations or Public Hearing

2.5 This examination has been dealt with by way of written representations. One of the respondents to the Regulation 16 consultation set out a request to hold a hearing. However, I am satisfied that objections to the plan have been clearly articulated as have arguments for and against the plan's suitability to proceed to a referendum. I do not consider that a public hearing is necessary.

Modifications

2.6 Where necessary, I have recommended modifications to the plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Schedule 1 of the Appendix. Whilst not required to meet the Basic Conditions, modifications to correct errors[1] (**PM25** to **PM58**), if made, would improve the clarity[2] and accuracy of the document. These are listed in Schedule 2 of the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

3.1 The Astbury and Moreton Neighbourhood Plan has been prepared and submitted for examination by Newbold Astbury cum Moreton Parish Council which is a qualifying body for an area that was designated by Cheshire East

[1] Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.
[2] Regard should be had to advice in PPG Ref ID: 41-041-20140306.

Council on 28 October 2016. The Parish Council formed a Neighbourhood Plan Steering Group in March 2013 and on 10 March 2014 Cheshire East Council registered the two civil parishes of Newbold Astbury and Moreton-cum-Alcumlow as a Neighbourhood Area.

3.2 A consultation period on the designation ran for six weeks from 15 July 2013 to 27 August 2013. However, the Neighbourhood Area Designation was objected to by Cheshire East Council and part of the proposed Neighbourhood Area was subject to an exclusion zone in the North West of Newbold Astbury Parish, where the proposed Congleton Link Road would join the A534 Sandbach Road. Consequently, the Council initially approved (on 10 March 2014) a slightly smaller area.

3.3 On 28 October 2016, the Cheshire East Neighbourhood Planning Manager issued a revised Decision Notice, which removed the exclusion zone as the Link Road had by now received consent. The new notice re-instated the originally applied for Neighbourhood Area so that it now covers the whole of Newbold-Astbury and Moreton-cum-Alcumlow parishes as originally proposed. Whilst one could argue that the revision to the Neighbourhood Area might have triggered a need to rerun the 2015 Regulation 14 consultation, there were no representations made concerning the designation of the whole of the current Neighbourhood Area made either during the designation consultation of 2013 (other than the Council) or during the Regulation 16 consultation. Given the small extent of the excluded area, I am satisfied that no substantive prejudice has arisen out of the variance to the designated plan area.

3.4 The Astbury and Moreton Neighbourhood Plan is the only neighbourhood plan for the plan area. It does not relate to land outside the designated neighbourhood area.

Plan Period

3.5 The plan specifies clearly the period to which it is to take effect, which is from 2015 to 2030.

Neighbourhood Plan Preparation and Consultation

3.6 Details of plan preparation and consultation are set out in the Parish Council's Statement of Consultation (Regulation 15 Edition, 2017). Application for designation of a neighbourhood area was made in July 2013 following an open meeting, meetings of the Parish Council and an article in the Parish Newsletter all in the Spring of 2013.

3.7 In November 2013, information about the parishes and the potential of a neighbourhood plan was presented to attendees at a second open meeting. Attendees also had the opportunity to complete a questionnaire on options for

the area. The questionnaire was subsequently posted to all households and businesses within the parishes. Ninety responses were received.

3.8 Based on responses to the questionnaire, the Neighbourhood Plan Steering Group produced a set of draft policies. These were presented to a third open meeting and revised in the light of the feedback. An informal review by Cheshire East Council led to further changes.

3.9 Following circulation of the draft neighbourhood plan to all Parish Members, the Parish Council gave approval to proceed to pre-submission consultation (Regulation 14). Consultation commenced in December 2015 and included circulation to statutory consultees on a list prepared by Cheshire East Council. Within the plan area (see Para 3.1 and 3.3 above), printed copies of the plan were available for inspection at a number of locations and a newsletter concerning the plan was delivered to all households. Ten substantive responses were received to the Regulation 14 consultation. One revision was made as a consequence as well as other minor changes.

3.10 Consultation at the Regulation 16 stage was carried out over the period 17 February 2017 to 3 April 2017. Seven representations were made. All in all, I am satisfied that, at both the Regulation 14 and 16 stages, the consultation process has met the legal requirements and that there has been procedural compliance.

Development and Use of Land

3.11 In the main, the plan sets out policies in relation to the development and use of land in accordance with Section 38A of the 2004 Act. However, Policy P30 is concerned with marking the boundaries of the area with boundary signs. Although a laudable objective, this is not a matter to be addressed through planning policies and through the determination of decisions on planning applications. The policy should be deleted as provided for under **PM23** but could be added to the Action Plan or Neighbourhood Delivery Plan.

Excluded Development

3.12 The plan does not include provisions or policies for “excluded development”.

Human Rights

3.13 The Basic Conditions Statement, page 59, states that the Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights, and complies with the Human Rights Act 1998. Cheshire East Council has not suggested that the Plan breaches Human Rights (within the meaning of the 1998 Act). I have considered this matter independently and I have found no reason to disagree with that position.

4. Compliance with the Basic Conditions

EU Obligations

4.1 The Astbury and Moreton Neighbourhood Plan was screened for SEA by Cheshire East Council. It was determined that SEA was not required. The neighbourhood plan was further screened for Habitats Regulations Assessment, which also was not triggered.

4.2 I have read the submitted SEA Screening Opinion and on the basis of the information provided and my independent consideration, I am satisfied that the plan is compatible with EU obligations.

Main Issues

4.3 Having regard for the Astbury and Moreton Neighbourhood Plan, the consultation responses and other evidence[3], and the site visit, I consider that there are four main issues relating to the Basic Conditions for this examination. These are:

- *Issue 1: Whether the housing proposals pay appropriate regard to national policies and advice and whether they would contribute to the achievement of sustainable development;*

- *Issue 2: Whether the proposals with regard to landscape, the environment and local character provide an appropriate basis for the determination of planning applications;*

- *Issue 3: Whether the proposed requirements regarding communications and transport pay appropriate regard to national policies and advice; and*

- *Issue 4 – Whether the policy on backland development is sufficiently precise*

Modifications are recommended where necessary.

<u>Issue 1 – Whether the housing proposals pay appropriate regard to national policies and advice and whether they would contribute to the achievement of sustainable development</u>

Code for Sustainable Homes

[3] Other evidence includes a list of questions submitted by the Examiner, and the Parish Council's response thereto, all as posted on the Parish Council's web-site.

4.4 The first paragraph of Policy P1 (Scale of Housing Development) includes reference to Fabric Energy Efficiency Standards, Building for Life 12 and the Code for Sustainable Homes Level 3 and that incorporation of the latest standards or guidance is required. However, such requirements are contrary to Government policy as set out in a written statement to Parliament by the Secretary of State for Communities and Local Government on 25 March 2015. This said, amongst other things:

From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. This includes any policy requiring any level of the Code for Sustainable Homes to be achieved by new development; the government has now withdrawn the code, aside from the management of legacy cases.

4.5 As such, the references should be deleted as set out in proposed modification PM3. The corresponding entry in the Glossary should also be deleted (PM24).

Redevelopment of Brownfield Land

4.6 Policy P1 a) supports the redevelopment of environmentally sustainable brownfield sites. However, one of the qualifications is that they are neither suitable nor capable of employment development. For my part, I accept that employment development may be a suitable use. However, I do not see the justification for such an employment test in circumstances where housing development for local needs may be equally appropriate.

4.7 The provision would also appear to be out of step with the NPPF, certainly with regard to development in the Green Belt. At the same time, it would be important to recognise the restrictions imposed by Government policy. I conclude that the policy should be modified as set out in **PM5** in order to meet the Basic Conditions.

Housing in Settlements

4.8 Under Policy P1 b), infill housing development of up to two dwellings in character with adjoining developments would be supported in principle. In this regard, I saw from my site visit that the development opportunities in the settlements are limited. I also consider that they would not necessary fall within the usual definition[4] of "infill". I am further aware that, in the proposed modifications to the Cheshire East Local Plan Strategy, there would be support for an appropriate level of small scale development in "other settlements". The reference to "infill" in the submission version has been removed.

[4] There is no formal definition of 'infill' in the NPPF or PPG.

4.9 In the circumstances, I consider that reference to infill development in Policy P1 should be deleted. However, the reference to up to 2 dwellings would be consistent with my observations across the area. **PM6** and **PM1** refer.

Rural Exception Sites

4.10 Policy P1 b) is supportive of rural exception sites of up to 4 houses where they would meet local needs and would be in character with adjoining developments. The text of the plan similarly refers to a limit of 4 houses; also to the housing adjoining settlement boundaries and not exceeding 50 in aggregate across the parish.

4.11 I judged from my site visit that the limit of 4 houses and a total of about 50 over the plan period would help ensure that the character of the area was safeguarded. This is in circumstances where I have no evidence to suggest that local need would be higher. However, I consider that this main provision should, having regard to advice in the PPG, be included for clarity within the policy, as under **PM7**.

4.12 On a related note, the first paragraph of Policy P1 indicates that new housing development should be phased over the period of the plan. However, there is no means of monitoring the delivery of housing through the neighbourhood plan process and phasing cannot be regulated. The provision should be deleted as in **PM4**.

4.13 I have also considered whether the policy should include a cross-subsidy provision. This could be appropriate where market housing would facilitate the provision of *significant* additional affordable housing to meet local needs. However, the provision at Astbury and Moreton would be comparatively modest. It is appropriate for proposals to be considered on their merits and by reference to the development plan and Government policy and guidance.

Re-use of Buildings

4.14 Part d) of Policy P1 (Scale of Housing Development) indicates that buildings such as redundant farm buildings have to be deemed unsuitable for employment use before residential re-use can be considered. However, the NPPF is accepting of homes in the countryside in certain special circumstances. These include where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting. Policy P1 needs to be modified, as in **PM8**, to reflect this national policy.

4.15 In similar circumstances, reference to residential use is absent from Policies P8 (Use of Rural Buildings) and P16 (Agricultural Buildings). Appropriate modification would be made under **PM13** and **PM16**.

Housing to Meet Local Needs

4.16 Policy P2 addresses housing to meet local needs. In this regard, the policy indicates that the local community would like to see planning conditions and/or planning obligations governing first occupation. To my mind, this phrasing does not enable confident application of the provision. A more positive and clearer form of wording is set out under **PM9**.

4.17 On a second point, I note that the definition of "local need" in Policy P2 is different from that set out in the text (Page 12, fourth bullet point). There is a need for consistency. The most appropriate definition is that contained in the policy. The text should be modified as set out in **PM2**.

Low-cost Market Housing

4.18 Policy P3 (Housing Mix) requires provision to include "an element of low cost market housing". However, there is no indication of what this means in practice. To add precision, the words "at least one such house in each development" should be added to the policy as provided for under **PM10**.

Design

4.19 Policy P4 (Design) is lacking in clarity in two important respects:

- it is not clear whether the policy just applies to Astbury; and
- the provisions with regard to brownfield sites are unclear.

To address these points, modifications are necessary as set out in **PM11**.

Garden Size

4.20 Amongst other things, Policy P4 (Design) requires provision of sufficient private garden amenity space to meet the household recreational needs. However, this is not sufficiently precise and the requirement could not be applied with consistency and confidence. The policy should be modified as set out in **PM12**.

Other Restrictions on Housing Development

4.21 I have considered whether the restrictions on housing development, imposed by non-housing policies, would be unduly restrictive. Such policies include, but are not limited to, Policies P11 (Countryside and Open Views), P13 (New development in the open countryside or Green Belt) and P26 (Landscape Quality). To my mind, in the rural environment of Astbury and Moreton, such policies are entirely appropriate and give fitting emphasis to the character and appearance of the area. They are also reflective of national policy restrictions that apply to Green Belt and open countryside.

Contributing to Sustainable Development

4.22 Representors have indicated that the plan gives undue emphasis to environmental sustainability at the expense of economic and social considerations; and also, that sustainable development may be prevented from coming forward as a result of the policies in the plan.

4.23 For my part, I consider that an appropriate balance has been struck. It is fitting that, in the rural landscape of this part of Cheshire, environmental considerations should be to the fore. At the same time, the policies of the plan will support sensitive development. I conclude that the plan will contribute to the achievement of sustainable development and hence it meets the Basic Conditions.

Issue 2 – Whether the proposals with regard to landscape, the environment and local character provide an appropriate basis for the determination of planning applications

Open and Local Views

4.24 Policies P11 (Countryside and Open Views) and P26 (Landscape Quality) refer respectively to the importance of existing open views and local views. However, there are questions of clarity with regard to:

- the extent of the countryside "surrounding Astbury" (Policy P11);
- the geographical extent of the control to be exercised (Policy P11); and
- the definition of the views to be safeguarded (Policies P11 and P26).

4.25 On the first point, the "countryside around Astbury" is intended to refer to the remainder of the designated area.[5] As to the second point, control cannot be exercised over matters outside the designated area even if they would relate to a view from within the plan area. Clarification would be provided under **PM14**.

4.26 On the question of identifying significant views, important views within the Astbury Conservation Area are shown on fig. 4 (Appendix B). However, the photographs within the appendix show a variety of views, not all of which could be regarded as significant. Reference to this material in Policy P26 should be deleted (**PM21** refers). Elsewhere, I would expect the qualifying views to be identified on their merits.

Extensions and Alterations

[5] A point clarified in the Parish Council's response to the Examiner's questions (see Footnote 2).

4.27 Policy P14 has the title "Extensions and Alterations to existing buildings in the open countryside". One of the requirements is that extensions and/or alterations should be constructed in traditional materials. However, on my site visit, I noted that many of the successful extensions and alterations reflect the materials used in the original building. A related change of wording has been suggested by Cheshire East Council and accepted by the qualifying body.[6] This change is set out in **PM15** and is recommended.

Buffer Zones and Wildlife Corridors

4.28 Policy P17 states, "The existing protected sites, woodlands, wildlife sites, drainage ditches, brooks and culverts will be maintained and enhanced and, where appropriate, new buffer zones and wildlife corridors will be created to increase the biodiversity of the plan area." However, the mechanism by which such actions are to be achieved is not stated. There needs to be a link to the grant of planning permission as provided for under **PM17**.

Historic Environment

4.29 Policy P18 (Historic Environment) deals with designated and non-designated heritage assets. However, that part of the policy dealing with designated assets is lacking in clarity and precision. Alternative text has been put forward by Cheshire East Council.[7] This wording, accepted by the qualifying body, is expressed in **PM18** and is recommended.

Footpaths

4.30 Policy P19 (Footpaths) sets out requirements with regard to new paths, tracks or links. However, the policy is not linked to the determination of planning applications. It may be that related matters will be covered in the Action Plan of the qualifying body and in close cooperation with Council officers. However, insofar as the actions are requirements of the grant of planning permission, modification of the policy is necessary. This would be addressed under **PM19.** This, and the other modifications above allow the policies to meet the Basic Conditions.

<u>Issue 3 – Whether the proposed requirements regarding communications and transport pay appropriate regard to national policies and advice</u>

4.31 Under Policy P20 (Fibre to Premises), and in relation to certain types of development, additional ducting should be provided (where possible and desirable) that would contribute to a local network for the wider community. In

[6] The suggested wording in set out in Regulation 16 representations and accepted in the Parish Council's reply to the Examiner's questions.
[7] As Footnote 5.

addition, major infrastructure development must provide ducting that is available for community owned access or strategic fibre deployment.

4.32 No doubt planning conditions or obligations would be used to secure such provision. However, as pointed out in the NPPF (Paras 204 and 206), the provision would have to be relevant to the development to be permitted / directly related to the development in some way. This would not be the case under the terms of Policy 20. The requirements should be deleted as provided for under **PM20.** This, and the other modifications above allow the policies to meet the Basic Conditions.

Issue 4 – Whether the policy on backland development is sufficiently precise

4.33 Policy P29 states that, "Backland development will be resisted if it would impact upon existing residential amenity through overlooking, loss of amenity or intrusion of privacy." In this regard, it is likely that backland development will give rise to *some* impact. What matters is whether that impact is significant or material. Precision would be added under **PM22**.

Other Policies

4.34 In respect of all other matters, no modifications are necessary. Specifically, the policies discussed below are in my assessment compliant with the Basic Conditions.

4.35 Design - Many of the policies are concerned with design in one guise or another. Policy P5 addresses design in parking areas and garaging; Policy P9 requires new employment development to be of a high quality of design; Policy P25 looks to respond to local character in new developments; and Policies P27 and P28 seek appropriate design in extensions and alterations and in replacement dwellings respectively. The importance of design is stressed in many parts of the NPPF. In particular, seeking and securing high quality design is one of the core planning principles as set out in Paragraph 19 of the document.

4.36 Local Economy - Other polices are concerned with the local economy. Policy P6 offers support for small scale employment opportunities. The loss of local employment sites and community facilities would be resisted under Policy P7. These polices accord with the NPPF. For example, Para 28 of the NPPF says that planning policies should support economic growth in rural area. In addition, Para 70 indicates that planning policies should guard against the unnecessary loss of valued facilities and services.

4.37 Landscape and Environment - Several policies address landscape and environmental matters. Policy P10 seeks to protect valuable open space whilst safeguarding woodland, trees and hedgerows is the object of Policy

P12. In both the open countryside and the Green Belt, development would be restricted under Policy P13. Policy P15 is concerned with environmental sustainability in buildings. Again, the policies have regard to national policy. The core planning principles (Para 19 of the NPPF) indicates that planning should conserve and enhance the natural environment as well as recognise the intrinsic character and beauty of the countryside. Protecting the Green Belt is the subject of a whole section within the NPPF (Section 9). With regard to the environmental sustainability of buildings, support for the qualifying body's policy is to be found in Paras 65 and 95 of the NPPF.

4.38 Transport and Communications - The final set of compliant policies are related to transport and communications. Policies P23 and P24 are concerned with mitigating the effects of traffic; Policy P22 seeks sufficient parking in new developments; and Policy P23 supports improvements to rights of way. These policies are consistent with the provisions of the NPPF in Section 4 (Promoting sustainable transport) and at Para 75 (protection and enhancement of public rights of way).

5. Conclusions

Summary

5.1 The Astbury and Moreton 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 to 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 and is error free. 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 Astbury and Moreton 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.

5.4 In the interests of completeness, I should mention that the Neighbourhood Planning Act 2017 received Royal Assent on 27 April ie during the course of this examination. Only Sections 1 to 7 are concerned with neighbourhood planning and these provisions will not come into effect for the time being.

5.5 It is evident that a considerable amount of time and effort has been committed to the development and production of this plan and I congratulate all those who have been involved. The plan should prove to be a useful tool for future planning and change in Astbury and Moreton over the coming years.

Andrew S Freeman

Examiner

Appendix: Modifications

Schedule 1: Modifications to meet the Basic Conditions (and other legal requirements)

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 12	At the end of the first bullet point, delete “infilling of a small gap with”; replace with “small scale developments of”.
PM2	Page 12	In the final sentence of the fourth bullet point, delete the words after “local need”; replace with “is that identified in the latest parish housing needs survey or, if out of date, the most appropriate objectively assessed review of housing in the future as carried out by Cheshire East Council.”
PM3	Page 14	Delete the following from the first paragraph of Policy P1: “Development shall incorporate the latest Fabric Energy Efficiency Standards or the equivalent standard in force at the time, follow the guidance in Building for Life 12, and adopt a minimum building standard of Code for Sustainable Homes Level 3.”
PM4	Page 14	Delete the final sentence of the first paragraph of Policy P1.
PM5	Page 14	In Part a) of Policy P1 (Brownfield within the Parishes), delete “, where they are neither suitable or capable of employment development,”; after “neighbourhood plan”, insert “and the NPPF”.
PM6	Page 14	Modify the first paragraph of Policy P1 b) (Greenfield within the Settlement) as follows: ~~Infill~~ Housing development of ~~a small gap in an otherwise built up frontage of~~ up to two dwellings in character with adjoining developments.
PM7	Page 14	Under Policy P1 b) (Greenfield within the Settlements), delete the second paragraph; replace with: “Rural exception sites, adjacent to settlements, with up to 4 houses in keeping with the character and appearance of the settlement and meeting local needs. Subject to a limit of about 50 houses over the plan period.”
PM8	Page 14	In that part of Policy P1 addressing the re-use of buildings (Part d)), delete “, where they are unsuitable for employment use”.

PM9	Page 15	In Policy P2, delete the second and third sentences; replace with "Planning obligations will be used to secure first occupation in the following order of priority: first, residents living in Astbury or with an Astbury connection; second, residents of adjoining parishes; and third, residents elsewhere in Cheshire East. In the case of essential agricultural dwellings, the occupants shall be employed, or last employed, in agriculture."
PM10	Page 15	In Policy P3, add the following words after "low cost market housing": "(at least one such house in each development)".
PM11	Page 16	Modify the first sentence of Policy P4 as follows: All new housing proposals, other than on brownfield sites, should be in small groups, no more than 4, ~~to~~ reflect the historic character of Astbury and ~~will be expected to~~ respect the character and appearance of the surrounding area. Housing on brownfield sites should have regard to the character and appearance of the wider area.
PM12	Page 16	In Policy P4, in the final bullet point, add "(a minimum of 50% of the dwelling's net floor area)" after "in scale with the dwelling".
PM13	Page 18	In the first paragraph of Policy P8, insert "residential use," before "small businesses".
PM14	Page 22	Modify Policy P11 as follows: Beyond Astbury, all new development will be expected to respect and enhance the countryside ~~surrounding Astbury~~ … Any development in ~~these~~ the plan area~~s~~ will only be acceptable…
PM15	Page 24	In Policy P14, delete "traditional materials" and replace with "materials that reflect those used in the original building".
PM16	Page 24	In the first paragraph of Policy P16, insert "residential use," before "small business"; add "P1," before "P8".
PM17	Page 25	In Policy P17, delete "The"; insert "Through the grant of planning permission,"
PM18	Page 25	Delete the first paragraph of Policy P18. Replace with: "Designated heritage assets and their settings will be protected from harmful development. New development shall enhance the asset's contribution to local distinctiveness, character and sense of place."
PM19	Page 25	Delete the second sentence of Policy P19 and replace with "Where new paths, tracks or

		links between existing footpaths are to be provided under planning applications, the construction and appearance shall be appropriate and sensitive to the character of the locality and the surrounding area."
PM20	Page 28	Delete the following from Policy P20: "Where possible and desirable, additional ducting should be provided that also contributes to a local network for the wider community. "Major infrastructure development must provide ducting that is available for community owned access or strategic fibre deployment. Such developers are encouraged to have early discussions with local broadband groups."
PM21	Page 33	Delete the following from Policy P26: "(See Appendix X for a list and map respectively of important local views and vistas.)"
PM22	Page 33	In Policy P29, insert "significantly" before "impact".
PM23	Page 35	Delete Policy P30 (Neighbourhood Plan Boundary Signs); renumber subsequent policies, or alternatively, add to the Action Plan or Neighbourhood Delivery Plan.
PM24	Page 53	Delete Glossary entries for "Fabric First" and "Fabric First Approach"

Schedule 2: Further Modifications to Correct Errors and to Improve Clarity and Accuracy

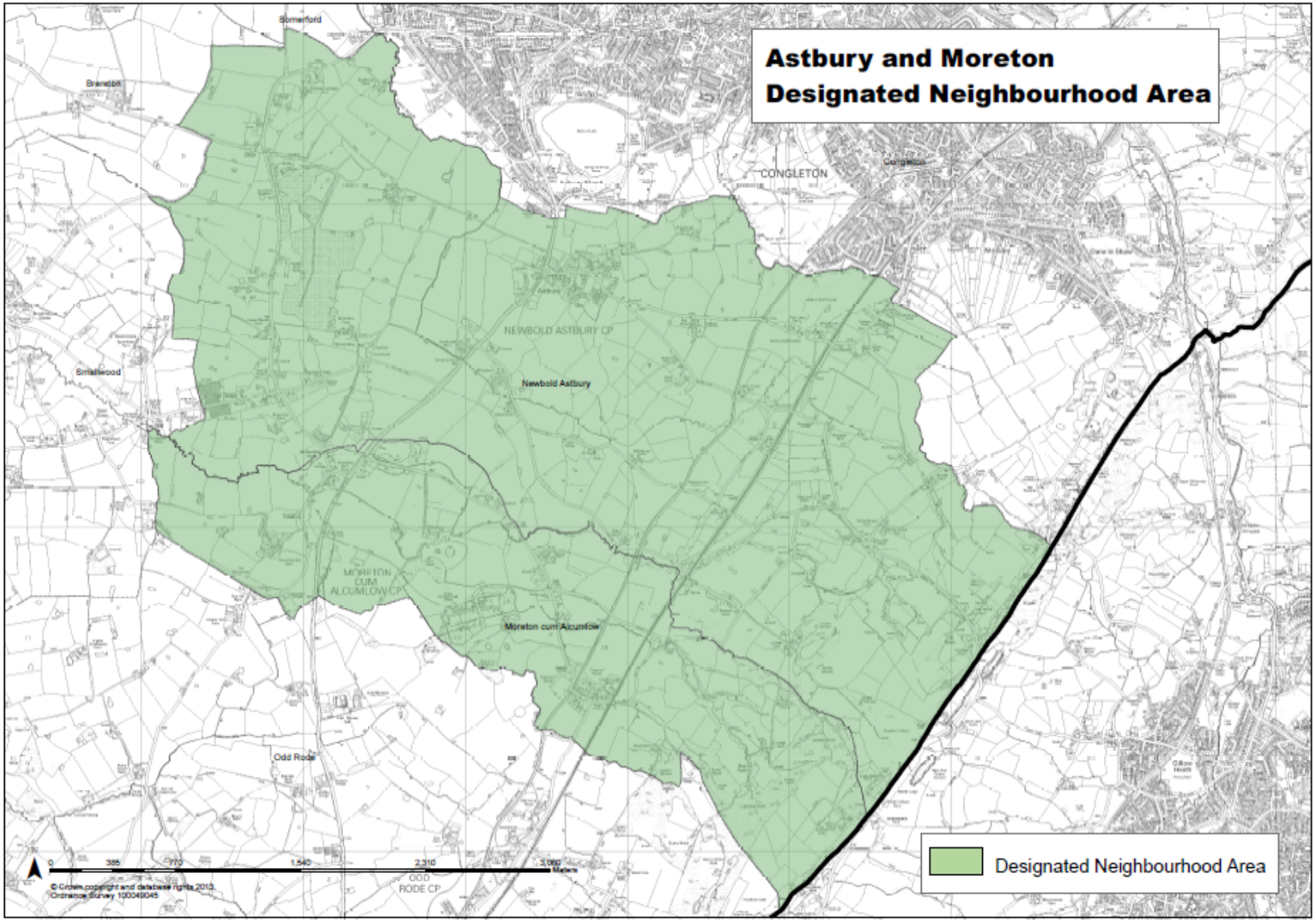
Proposed modification number (PM)	**Page no./ other reference**	**Modification**
PM25	Page 3, 3rd para, final line	Delete "adopted"; insert "made"
PM26	Page 4, final para	Delete "Greenbelt"; insert "Green Belt"
PM27	Page 5, 1st sentence	Delete first sentence; insert "The Parishes contain two Sites of Special Scientific Interest (SSSI), five Sites of Biological Importance (SBI) and a large Area of Special County Value (ASCV)."

PM28	Page 7, final two paras	Delete the final two paragraphs; replace with "The starting point for any development proposals in the plan area will be the Neighbourhood Plan and the Congleton Borough Local Plan (Adopted January 2005). The Congleton Borough Local Plan will be replaced shortly by the Cheshire East Local Plan Strategy and, upon adoption, this will become the relevant part of the development plan. Once made, the Neighbourhood Plan will also have the status of the development plan. "The Neighbourhood Plan has been prepared in general conformity with the strategic policies of the adopted Congleton Borough Local Plan and in alignment with the emerging Cheshire East Local Plan Strategy. It will run for the same period as the Strategy, up to 2030."
PM29	Page 9, para wrapping around photo 9	Insert "significantly" between "not encroaching" and "into open countryside."
PM30	Page 10, 1st para, 3rd sentence	Delete third sentence of first paragraph; replace with "The Neighbourhood Plan is in general conformity with the principles and policies contained in the adopted Congleton Borough Local Plan and is aligned with the emerging Cheshire East Local Plan Strategy."
PM31	Page 12, 1st para	Delete "Significant Local Environmental Value,"
PM32	Page 12, 3rd para	Delete "surrounded over"; insert "washed over"
PM33	Bullet points at the bottom of Page 13	After "Cheshire East Local Plan Strategy", delete "Submission Version March 2014"; Delete "Congleton Borough Council Local Plan First Review 2005"; insert Congleton Borough Local Plan"; Delete "Building for Life 12" and "Code for Sustainable Homes"
PM34	Page 17, bullet points	After "Cheshire East Local Plan", insert "Strategy"; Delete "Congleton Borough Council Local Plan First Review 2005"; insert Congleton Borough Local Plan"
PM35	Page 18, 4th bullet point	Delete ", including stables,"; insert "stables and" before "agricultural buildings".

PM36	Page 20, final word of 2nd para	Delete "ganisters"; insert "gannisters"
PM37	Page 20, final word of 3rd para	Delete "ganisters"; insert "gannisters"
PM38	Page 20, footnote one	Delete "Ganister"; insert "Gannister"
PM39	Page 21, bullet points	Delete "Biological Interest"; insert "Biological Importance"; insert bullet point before "To protect views into and out of the plan area and rural skylines"; after "Cheshire East Local Plan Strategy", delete "Submission Version March 2014"; delete "Congleton Borough Council Local Plan First Review 2005"; insert Congleton Borough Local Plan"
PM40	Page 24, 1st full para	Delete "Inappropriate development in the Green Belt will, by definition, be harmful and should not be approved except in very special circumstances."
PM41	Page 24, Policy 16, 3rd para	Delete "including ménage areas"; insert "including to ménage areas"
PM42	Page 27, end of 2nd para	Delete "It is anticipated that the majority of the properties in the plan area will be able to access high speed broadband from 2015."; insert "Broadband/fibre is currently being rolled out through the Parishes, initially to villages/hamlets."
PM43	Page 28, bullet points	After "Cheshire East Local Plan Strategy", delete "Submission Version March 2014"; delete "Congleton Borough Council Local Plan First Review 2005"; insert Congleton Borough Local Plan"
PM44	Page 29, 1st bullet point	Delete "conservation area"; inset "Astbury Conservation Area".
PM45	Page 31, bullet points	After "Cheshire East Local Plan Strategy", delete "Submission Version March 2014"; delete "Congleton Borough Council Local Plan First Review 2005"; insert Congleton Borough Local Plan"
PM46	Page 35, bullet points	Delete "Emerging Cheshire East Local Plan [Strategy Submission Version", March 2014]"; insert "Cheshire East Local Plan Strategy" Delete "Congleton Borough Council Local Plan First Review 2005"; insert

		Congleton Borough Local Plan"
PM47	Page 37, Appendix A	Delete heading "Section 106 Agreements"; insert "Section 106 Obligations"
PM48	Page 37, 1st para	Delete "Section 106 Agreements"; insert "Section 106 Obligations"; Delete "They are legally binding agreements that"; insert "There are two types both of which are legally binding. Planning agreements…"
PM49	Page 37, 2nd para	Delete "Agreements, also sometimes referred to as planning obligations,"; Insert "Obligations…"
PM50	Page 37, above bullet points	Delete "Section 106 Agreements"; insert "Section 106 Obligations"
PM51	Page 37, 1st bullet point	Delete "or provide"; insert "for"
PM52	Page 37, below bullet points	Delete "Section 106 Agreements"; insert "Section 106 Obligations"; delete "These tests are that the obligations in the Section 106 Agreement must be"; insert "These tests are that the obligations must be"
PM53	Page 38, 1st para	Delete "negotiated S106 agreement"; insert "S106 Obligation"
PM54	Page 38, 3rd para	Delete "Section 106 agreements"; insert "Section 106 obligations"
PM55	Page 38, 1st para under Community Infrastructure Levy heading	Insert full stop after "mandatory"
PM56	Page 38, above the bullet points	Delete "What can CIL be spent on?"; insert "On what types of projects and infrastructure can CIL be spent?"
PM57	Page 38, after the final para	Insert new para saying, "Once a CIL scheme is in place, the specific projects and types of infrastructure upon which CIL can be spent (in whole or in part) are identified in a list known as a "Regulation 123 list"."
PM58	Page 43, penultimate row in table of listed buildings	Delete row (Fragment of Plague Cross to South of Number 7 **, Grade II, Newbold Astbury)

Appendix 2: Astbury and Moreton Neighbourhood Area



Appendix 3: Astbury and Moreton Neighbourhood Plan
Link to neighbourhood plan (full plan to be appended as pdf in final report)