

# Cheshire East Council

## Portfolio Holder – Housing Planning and Regeneration

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<b>Date of Meeting:</b>	18 <sup>th</sup> December 2017
<b>Report of:</b>	Director of Planning and Sustainable Development
<b>Subject/Title:</b>	Hulme Walfield and Somerford Booths Neighbourhood Development Plan – Decision to Proceed to Referendum
<b>Portfolio Holder:</b>	Councillor Ainsley Arnold

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### 1. Report Summary

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

### 2. Recommendation

- 2.1. That the Portfolio Holder accepts the Examiner's recommendations to make modifications to the HW&SBNDP as set out in the Examiner's report (at Appendix 1) and confirms that the HW&SBNDP will now proceed to referendum in the Hulme Walfield and Somerford Booths Neighbourhood Plan area.

### 3. Other Options Considered

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

### 4. Reasons for Recommendation

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

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

- 4.2. The Council accepts the examiner's recommendations and subject to the modifications set out in the Examiner's Report, the HW&SBNDP 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 2015 with the submission of the Neighbourhood Area Designation which was approved in December 2015.
- 5.2. The location and extent of the Hulme Walfield and Somerford Booths Neighbourhood Area is shown on the map in Appendix 2.
- 5.3. The final Neighbourhood Plan and its supporting documents were submitted to Cheshire East Council in April 2017.
- 5.4. The supporting documents included:
  - 5.4.1. Plan of the neighbourhood area
  - 5.4.2. Consultation Statement
  - 5.4.3. Basic Conditions Statement
  - 5.4.4. Screening Opinion on the need to undertake Strategic Environmental Assessment
  - 5.4.5. Links to supporting documents and reports
- 5.5. Cheshire East undertook the required publicity between 27.07.17 – 08.09.17. 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 Mary O'Rourke BA(Hons) DipTP MRTPI, to examine whether the Plan meets the necessary basic conditions and legal requirements and recommend whether the plan should proceed to referendum. On reviewing the content of the Plan and the representations received as part of the publication process, he decided not to hold a public hearing.
- 5.7. A copy of the Examiner's Report is provided at Appendix 1. A link to a copy of the Neighbourhood Plan (as submitted to the Council prior to examination) is included at Appendix 3.

- 5.8. The Examiner's Report contains Mary's findings on legal and procedural matters and his assessment of the Plan against the Basic Conditions. It recommends that a number of modifications be made to the Plan. These are contained within the body of the Report and summarised in a table at the end.
- 5.9. In addition, minor modifications for the purpose of correcting errors or for clarification are also set out at the end of the Report.
- 5.10. Overall it is concluded that the HW&SBNDP 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 "The Neighbourhood Plan is an easy to read and understandable document. It is evident that a significant amount of hard work has been put in by the Parish Council and its Steering Group...The close involvement of the local community in the preparation of the Plan is to be commended."

## **6. Wards Affected and Local Ward Members**

- 6.1. Brereton Rural Ward; Councillor John Wray

## **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 Hulme Walfield and Somerford Booths Neighbourhood Plan therefore contributes to the Councils corporate objectives to deliver high quality of place within a plan led framework and the strategic objectives of the Local Plan Strategy for Cheshire East.

### **7.2. Legal Implications**

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

### **7.3. Financial Implications**

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

#### **7.4. Equality Implications**

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

#### **7.5. Rural Community Implications**

7.5.1. Hulme Walfield and Somerford Booths is a largely rural area to the north of Congleton and the Plan addresses a number of rural issues including policies on rural character, wildlife corridors and the rural economy. 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 Hulme Walfield and Somerford Booths neighbourhood plan contains policies on infrastructure and community infrastructure which support physical wellbeing.

#### **7.8. Implications for Children and Young People**

7.8.1. None.

#### **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:

**Name:** >Tom Evans  
**Designation:** >Neighbourhood Planning Manager  
**Tel. No.:** >01260 383709  
**Email:** >Tom.Evans@Cheshireeast.gov.uk



## **Report on Hulme Walfield and Somerford Booths Neighbourhood Plan 2017-2030**

**An Examination undertaken for Cheshire East Council with the support of the Hulme Walfield and Somerford Booths Parish Council on the July 2017 submission version of the Plan.**

Independent Examiner: Mary O'Rourke BA(Hons) DipTP MRTPI

Date of Report: 17 November 2017

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## **Main Findings - Executive Summary**

From my examination of the Hulme Walfield and Somerford Booths 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 Hulme Walfield and Somerford Booths Parish Council;
- The Plan has been prepared for an area properly designated – the civil parishes of Hulme Walfield and Somerford Booths shown on Figure A;
- The Plan specifies the period to which it is to take effect – from 2017 to 2030<sup>1</sup>; 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**

### *Hulme Walfield and Somerford Booths Neighbourhood Plan 2017-2030 (the Plan)*

1.1 The two civil parishes of Hulme Walfield and Somerford Booths lie to the northwest of the town of Congleton. They are rural parishes bounded on their southern side by the meanders of the River Dane and to the east by the A34 running north from Congleton towards Alderley Edge. Other than scattered farms and small groups of houses, the area is predominantly in agricultural use and in 2011 had a population of 333, living in 140 households. The parish of Hulme Walfield adjoins the existing built up area of Congleton and recently planning permissions have been granted for a new link road and strategic housing sites either wholly or partly within the Plan area which, with other allocated sites will provide for around 1000 new homes. I deal with these strategic sites in more detail below.

1.2 Work on the Plan began in June 2015 with the establishment by the Parish Council of a Neighbourhood Plan Steering Committee with the formal application for designation as a Neighbourhood Area, covering both Hulme

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<sup>1</sup> The submitted Plan does not explicitly state its end date of 2030, although it does in the Basic Conditions Statement paragraph 3.2, and this is a proposed modification (PM1).

Walfield and Somerford Booths, approved by Cheshire East Council (CEC) in December 2015. The Consultation Statement, which accompanied the submission version of the Plan, details the stages in the plan preparation process and the results of consultation with residents, businesses and strategic stakeholders.

### *The Independent Examiner*

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Hulme Walfield and Somerford Booths Neighbourhood Plan by CEC with the agreement of the Hulme Walfield and Somerford Booths Parish Council.
- 1.4 I am a chartered town planner and former government Planning Inspector, with some 40 years of experience in the public and private sectors, latterly dealing with major planning appeals and examining development plans and national infrastructure projects. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

### *The Scope of the Examination*

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

- it does not include provisions and policies for 'excluded development';
- it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
- whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012(as amended)(‘the 2012 Regulations’).

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

### *The Basic Conditions*

1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the 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.

1.9 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 CEC, not including documents relating to excluded minerals and waste development, is the Cheshire East Local Plan Strategy 2010-2030, adopted on 27 July 2017 (CELPS). It is up to date and provides the relevant strategic background for assessing general conformity. Work is progressing on the Site Allocations and Development Policies document. However, until it has been adopted the Development Plan for the Neighbourhood Plan area still includes, where relevant, the saved policies of the Congleton Borough Local Plan First Review (2005) (CBLPFR).
- 2.2 Congleton is a Key Service Centre for Cheshire East and the CELPS identifies a number of strategic sites in and around the town for growth in the future. At the heart of the development strategy is the construction of the Congleton Link Road to the north of the town connecting the A534 Sandbach Road to the A536 Macclesfield Road and unlocking various strategic development sites identified in the North Congleton Masterplan and which include land within the Neighbourhood Plan area.
- 2.3 The Plan was prepared in the context of the then emerging CELPS 2010-2030. This has meant the Plan, to a large extent, anticipated the adoption (27 July 2017) of the new CELPS policies against which I must now test the Plan for general conformity. In order to avoid a lengthy list of minor modifications, I recommend **PM8** as a general Plan-wide requirement to update and amend the Plan throughout to reflect the adoption of the CELPS on 27 July 2017 and to remove references to earlier stages of that Plan.
- 2.4 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented.

#### *Submitted Documents*

- 2.5 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Hulme Walfield and Somerford Booths Neighbourhood Plan, July 2017;
  - Figure A of the Plan which identifies the area to which the proposed neighbourhood development plan relates;
  - the Consultation Statement, July 2017;
  - the Basic Conditions Statement, July 2017;
  - all the representations that have been made in accordance with the Regulation 16 consultation; and
  - the Strategic Environmental Assessment (SEA) Screening Opinion prepared by CEC.

#### *Site Visit*

- 2.6 I made an unaccompanied site visit to the Neighbourhood Plan Area on 11 October 2017 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and evidential documents.

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

- 2.7 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.

#### *Modifications*

- 2.8 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.

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

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

- 3.1 The Plan has been prepared and submitted for examination by Hulme Walfield and Somerford Booths Parish Council which is a qualifying body, for an area that was designated by CEC on 16 December 2015.
- 3.2 It is the only neighbourhood plan for Hulme Walfield and Somerford Booths, and does not relate to land outside the designated neighbourhood area.

#### *Plan Period*

- 3.3 The title page of the Plan specifies when it was published (July 2017) but there is no clear statement as to the period to which it is to take effect, although the Basic Conditions Statement states that the Plan is to have effect up to 2030. Therefore, in the interests of clarity<sup>2</sup>, the first modification that I am proposing is that the Plan should set out clearly in its title that it covers the period from 2017 to 2030 (**PM1**).

#### *Neighbourhood Plan Preparation and Consultation*

- 3.4 The Consultation Statement (July 2017) provides full details of the public engagement that has taken place in the evolution of the Plan. The Parish Council decided to prepare a Neighbourhood Plan in June 2015, applying for

<sup>2</sup> The NP should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. See PPG Reference ID: 41-041-20140306.

designation and establishing a steering group which residents were invited to join. To engage residents, the preparation of the Plan was widely publicised locally, through public meetings, postal information, and electronic media via the Parish Council website. Regular newsletters were also sent out and made available on the website.

- 3.5 Appendix 1 to the Plan sets out details of parishioner engagement in the planning process. An initial short questionnaire was delivered to every household in March 2016 and the 26 responses raised a number of issues and concerns which were discussed at an open parish meeting held in the April. A further questionnaire sent out in July 2016 to every household gave an update on the Plan and the strategic sites in the emerging Local Plan and detailed a vision and objectives for the Plan. Of the 42 responses received, the majority were in general support of the vision and objectives. Over 50 businesses operating in the area were also consulted in August 2016 with 11 replying. In addition, the Council held a photography competition to gain further input into the Plan preparation process.
- 3.6 Prior to the Regulation 14 consultation on the emerging Neighbourhood Plan, the Council held an open event on 6 April 2017 to discuss the Plan which around 40 residents attended. Photographs of the event are provided in the Consultation Statement with a summary at paragraph 9.3 of the key issues and concerns raised. The Regulation 14 consultation was held from 8 May to 19 June 2017, information about which had been given at the open event in April and by post or email to residents, statutory consultee and interested organisations, listed in the Consultation Statement at paragraph 10.3. In addition, a newsletter was distributed and subsequent mail drop and reminder emails were sent out.
- 3.7 The Consultation Statement sets out a total of 195 separate representations made at the Regulation 14 stage, including comments from 28 residents, and support for the policies in the emerging Plan was high (table at paragraph 10.5). Details of the representations made by residents and businesses are set out in the Consultation Statement at Appendices 1, 2 and 3, from public bodies and other organisations at Appendix 4 and from developers at Appendix 5.
- 3.8 Consultation in accordance with Regulation 16, when the Plan was submitted to CEC, was carried out for a 6-week period from 27 July to 8 September 2017, and 12 responses were received. I am satisfied that a transparent, fair and inclusive consultation process has been followed for this Neighbourhood Plan, that has had regard to the advice in the PPG on plan preparation and is procedurally compliant in accordance with legal requirements.

#### *Development and Use of Land*

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

#### *Excluded Development*

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

#### *Human Rights*

3.11 The Basic Conditions Statement advises that the Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. CEC has not alleged that Human Rights might be breached. I have considered this matter independently and I have found no reason to disagree with that position.

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

#### *EU Obligations*

4.1 The Neighbourhood Plan was screened for SEA by CEC. This is also a legal requirement by virtue of Regulation 15(e)(1) of the 2012 Regulations. CEC found it was unnecessary to undertake SEA and neither Historic England, Natural England nor the Environment Agency disagreed with that assessment. Having read the SEA Screening Opinion, and considered the matter independently, I agree with that conclusion.

4.2 The Plan was further screened for Habitats Regulations Assessment (HRA). Although there are no designated sites of European significance within the Plan area, there are European designated sites within 15km proximity. The assessment undertaken by CEC is that the Plan is unlikely to have a significant effect on the environment or on the designated sites. Having reviewed the Plan, Natural England did not consider that it would have any significant effects on the environment or on designated sites and made no specific comments. 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 Submission Version of the Hulme Walfield and Somerford Booths Neighbourhood Plan, the consultation responses and other evidence, and the site visit, I consider that there are three main issues relating to the Basic Conditions for this examination. These are:

- whether the Plan makes appropriate provision for new housing development having regard to national planning policy and guidance and the need to be in general conformity with the Local Plan's strategic policies for housing development;

- whether the policies on design, environment, heritage and the rural economy provide an appropriate framework to shape and direct sustainable development, having regard to national policy and guidance and are in general conformity with the Local Plan's strategic policies; and
- whether the infrastructure policies meet the Basic Conditions, with particular reference to having regard to national policy and guidance.

### *Introduction*

- 4.4 The Foreword to the Plan gives a brief explanation of the role of neighbourhood plans and the Basic Conditions to be met, before providing the wider context for planning in Hulme Walfield and Somerford Booths as rural parishes in close proximity to Congleton where strategic allocations in the now adopted Local Plan propose over 1000 new homes and a new link road. Chapter 2 gives more detail on the history, landscape and built character and design of the area, whilst Chapter 3 describes the planning background and development sites proposed in the North Congleton Masterplan.
- 4.5 The Vision and Objectives, which were arrived at following community consultation and discussion, are set out in Chapter 5 and envisage that in 2030, with the completion of the Congleton Link Road (for which permission was granted in 2016) and the development of the strategic sites, the remainder of Hulme Walfield and Somerford Booths will be quiet, peaceful but thriving rural communities. I consider that these early chapters set out a clear and robust structure for the planning of the area over the next 13 years. They derive from consultation with the local population and businesses and have regard to national and local planning policy.
- 4.6 The Plan includes 13 policies that fall to be considered against the Basic Conditions. When made, the NP will form part of the development plan and the PPG advises that NP policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. Policies should be concise, precise and supported by appropriate evidence<sup>3</sup>. With this in mind, I now turn, in the following paragraphs, to address each of my three main issues.

### *Issue 1 – whether the Plan makes appropriate provision for new housing*

- 4.7 Within Hulme Walfield and Somerford Booths there are scattered groups of houses and farmsteads but no settlements as defined in the CBLPFR. Saved CBLPFR policy PS8 deals with development in the open countryside which is only permitted in specific limited circumstances. Chapter 6 of the Plan addresses housing and design issues and acknowledges that around 1000 new homes are proposed to be built on strategic sites to the south of Hulme Walfield, as part of the expansion of Congleton as a Key Service Centre in

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<sup>3</sup> PPG Reference ID: 41-041-20140306.

accord with policy PG7 of the recently adopted CELPS. This will significantly increase the population of the parish, but the Plan recognises that new housing could also help meet housing needs arising in the parishes and provide additional facilities and services, benefiting the local community.

- 4.8 The NPPF states that neighbourhood plans should reflect strategic policies in an up-to-date Local Plan, plan positively to support them and should not undermine them (paragraph 184). It goes on in paragraph 185 to advise that outside strategic elements (my underlining), neighbourhood plans will be able to shape and direct sustainable development in their area. Policy HOU2 of the Plan deals with the strategic sites and requires that new development must be of a high standard of design and where possible enhance local character, setting out a series of requirements, amongst others, in respect of existing landscape quality, wildlife, the River Dane, visual quality, traffic impacts, and for each strategic site to have its own neighbourhood identity. However, I note that these detailed planning issues relating to the strategic sites within the Plan's area are already addressed in the CELPS, in particular from page 275 onwards where site specific principles of development are set out for each of the allocated sites (LPS27, LPS28 and LPS29).
- 4.9 I am not satisfied by the evidence that a case has been made here for a separate Neighbourhood Plan policy relating to the strategic sites. I do not consider that policy HOU2 supports the strategic policies for the area and it does not add anything to the site-specific principles set out in the CELPS, which I find to be very comprehensive. Indeed, as developers of these sites would have to look at two policies, one in the CELPS and one in the Neighbourhood Plan, it raises the potential for confusion and misinterpretation and arguably for conflict and delay. I conclude that policy HOU2 does not meet the Basic Conditions; in that it does not have regard to national policy in the NPPF that neighbourhood plans should not undermine strategic policies, is not in general conformity with the strategic policies of the Local Plan and would not contribute to the achievement of sustainable development. I recommend that policy HOU2 and its supporting text at paragraphs 6.14 to 6.17 should be deleted from the Plan (**PM2**).
- 4.10 Policy SC4 of the CELPS requires that new housing developments provide for a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities, including provision for the elderly, whilst policy SC5 sets out the requirements for affordable housing. The Housing Advice Note, appended to the Plan and prepared by CEC, refers to the increasing numbers of elderly residents in the Plan area as the current population ages. Neighbourhood Plan policy HOU3 addresses housing for older people and those with disabilities, recognising in the supporting text that such accommodation is better provided close to services and facilities in larger nearby settlements and that the strategic sites offer an opportunity for new development to meet these needs. Whilst I am recommending the

deletion of strategic sites policy HOU2, I consider that there is sufficient local evidence to support the inclusion of a specific policy in the Plan relating to the provision within the strategic sites of extra care housing for older people and those with disabilities. I am satisfied that policy HOU3 does not undermine the strategic policies of the Local Plan and accords with the NPPF at paragraph 50 to plan for the needs of different groups in the community and as such meets the Basic Conditions.

- 4.11 Outside the strategic sites, Hulme Walfield and Somerford Booths are defined in policy PG6 of the CELPS as being in open countryside, outside of any settlement with a defined settlement boundary and where only development essential for various activities, operations and uses appropriate to a rural area will be permitted. It provides for certain exceptions including limited infilling in villages and *'the infill of a small gap with one or two dwellings in an otherwise built up frontage elsewhere'*, as well as the re-use of existing rural buildings and the extension and replacement of buildings. CEC has explained that the Local Plan Strategy policy allows for the development of up to 2 dwellings in open countryside. However, it is proposed in the Neighbourhood Plan through policy HOU1 to allow for small scale residential development outside of the strategic sites, of up to 3 dwellings and potentially more in the case of conversions or on brownfield sites.
- 4.12 In the period to 2030, the Local Plan expects the other settlements and rural areas to accommodate around 2,950 new homes (including Alderley Park). In recent years, on average around 1 new dwelling has been built each year in the Plan area and the Housing Advice Note produced by CEC<sup>4</sup> envisages this rate of growth will continue through the Plan period. I noted on my site visit that Hulme Walfield and Somerford Booths are characterised by small scale housing development and individual units and there are no large estate type developments. Neighbourhood planning provides the opportunity for communities to set out a positive vision for how they want their community to develop in ways that meet identified local needs and make sense to local people<sup>5</sup>. In allowing for residential developments of up to 3 dwellings, and maybe more where compliant with policy requirements, the Plan is taking a proactive approach and policy HOU1 is a positive local assertion that will enable additional development to take place in the right circumstances at a scale that is commensurate with the character of existing development. I am satisfied that there is adequate local evidence to support the policy. It is a principal objective of the CELPS strategy to protect the open countryside from urbanising development. Notwithstanding the difference in the number of dwellings between the Neighbourhood Plan and Local Plan policies, I consider that policy HOU1 is in general conformity with that objective, aligns with the strategic priorities of the wider local area, and with the thrust of CELPS policy PG6.

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<sup>4</sup> Appendix 3 to the Plan.

<sup>5</sup> PPG Reference ID: 41-003-20140306.

- 4.13 Policy HOU1 has been criticised for setting an arbitrary cap on new dwelling numbers<sup>6</sup> and reference made to the conclusions of the Headcorn Neighbourhood Plan examiner<sup>7</sup>. However, from my reading of that report, those comments were made in the context of a settlement, identified by the local planning authority as a Rural Service Centre, where there was not a shared vision as to its future or the need for housing allocations, and where those Neighbourhood Plan policies sought to cap any new housing development at 30 units. In the case of Hulme Walfield and Somerford Booths, where it is both national and CELPS policy to avoid new isolated homes in the countryside, I am satisfied that the policy as drafted is sufficiently flexible such that it would not unreasonably prevent sustainable development coming forward on appropriate sites. I conclude that policy HOU1 has regard to national policy and guidance, is in general conformity with the strategic policies of the Local Plan and would contribute to the achievement of sustainable development, thus meeting the Basic Conditions.
- 4.14 It has been suggested by Congleton Town Council that all or some parts of policies HOU1 and HOU3 should be reworded along the lines of its own Neighbourhood Plan policies. However, I see no reason in itself why the policies of adjoining neighbourhood areas need to be worded the same, as they should be a reflection of the vision and aspirations of each local community. Further, it may well be that the Congleton Neighbourhood Plan policies are themselves changed given that it has only recently gone out to Regulation 14 consultation.
- 4.15 Subject to the recommended modifications being made, I am satisfied that the Neighbourhood Plan policies for housing have regard to national policy, are in general conformity with the strategic policies of the development plan for Cheshire East, and would contribute to the achievement of sustainable development, thus meeting the Basic Conditions.

*Issue 2 - whether the design, environment, heritage and rural economy policies provide an appropriate framework to shape and direct sustainable development*

- 4.16 Hulme Walfield and Somerford Booths are characterised by gently undulating open agricultural countryside, wooded valleys, narrow rural lanes, hedgerow trees and boundaries, and limited built development largely comprising low density housing and large individual farmsteads. The Plan refers at paragraph 4.7 to the importance placed by local people on the rural character of the area and to the protection of local wildlife. The Plan's Vision is that Hulme Walfield and Somerford Booths, outside the strategic sites, will remain quiet, peaceful but thriving rural communities, enjoying a close relationship

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<sup>6</sup> Gladman Developments Ltd.

<sup>7</sup> Report to Maidstone Borough Council of the Examination into the Headcorn Neighbourhood Plan 2011-2031 by Jeremy Edge March 2017.

with the open countryside, agriculture and wildlife. To this end, the Plan contains a raft of policies covering the protection of rural character, housing design, views, wildlife and habitats, trees and hedgerows, public rights of way, heritage assets and the rural economy.

- 4.17 It is one of the core planning principles set out in the NPPF to recognise the intrinsic character and beauty of the countryside and to support thriving rural communities within it. Policy HOU4 seeks to protect the local rural character of the area, requiring new development to have regard to the latest Design Guide<sup>8</sup> and Local Character Assessment<sup>9</sup> and setting out those matters to be taken into account in the design and layout of new development, including the protection of existing hedgerows. As the policy includes the words '*where appropriate and viable*', I am satisfied that it is sufficiently flexible so as not to constrain potentially sustainable development, and has regard to national policy and is in general conformity with the strategic policies of the Local Plan.
- 4.18 Much of Hulme Walfield and Somerford Booths is undisturbed open countryside with few street lights and will have natural dark skies. Paragraph 123 of the NPPF requires that planning policies and decisions should aim to identify and protect areas of tranquillity which remain relatively undisturbed by noise and by encouraging good design, limit the impact of light pollution on local amenity, intrinsically dark landscapes and nature conservation (paragraph 125). Whilst street lighting is expected on the strategic sites, part G of policy HOU4 seeks to minimise its impact, in accord with national and local planning policy.
- 4.19 It is one of the NPPF's core planning principles to always seek to secure high quality design and the Government attaches great importance to the design of the built environment, good design being a key aspect of sustainable development. The Local Character Assessment describes the area's vernacular detailing and local character and relevant design cues for this central area of Cheshire in the recently adopted Cheshire East Design Guide including the landscape setting, views and footpaths out to the countryside, few terraced houses and design features such as bay windows, ridge detailing and prominent chimney stacks. In accordance with the Sustainable Environment policies in the CELPS, in particular policy SE1 which requires that development proposals make a positive contribution to their surroundings and achieve a sense of place, policy HOU5 sets out design principles for new residential development. The policy also requires consideration to be given to the Local Character Assessment for the area and the Cheshire East Design Guide.

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<sup>8</sup> Cheshire East Residential Design Guide, adopted as Supplementary Planning Document May 2017.

<sup>9</sup> Appendix 4 to the Neighbourhood Plan.

- 4.20 I am satisfied that policy HOU5 is not unnecessarily prescriptive or overly detailed. With design principles to guide the scale, layout, location, design and materials of new development to be in keeping with the character of the surrounding built development, it has regard to national policy and would contribute to the achievement of sustainable development.
- 4.21 The consultations carried out during the preparation of the Plan identified the importance of the rural countryside setting of Hulme Walfield and Somerford Booths to the local community. Paragraph 6.40 of the Plan refers to the loss of wide reaching countryside views when the link road and strategic sites are developed and therefore the importance of preserving other views that enhance and define the rural landscape character. Paragraph 113 of the NPPF requires local planning authorities to set criteria based policies against which development proposals on or affecting landscape areas will be assessed. The River Dane is identified in saved policy PS9 of the CBLPFR as an Area of Special County Value, carried forward in the CELPS as a Local Landscape Designation Area. Policy SE4 of the CELPS requires that *'all development should conserve the landscape character and quality and should where possible, enhance and effectively manage the historic, natural and man-made landscape features that contribute to local distinctiveness of both rural and urban landscapes'*.
- 4.22 However, I have serious concerns that policy HOU6 goes beyond both national and strategic policy in requiring that all development must respect the 21 key viewpoints identified in Figure G. Whilst I appreciate that local people place a high value on the surrounding countryside which they see every day, the Plan lacks sufficient evidence to demonstrate why these views are of particular importance, such that they merit particular policy protection. The photographs in Figure H give a sense of the rural nature and openness of the countryside, however, many are very similar views across open farmland and where the reasons given for their importance do not refer to any particular or noteworthy visual or landscape attributes. For example, the reason given for the importance of viewpoint 9 could apply to any arable field changing colour through the seasons.
- 4.23 In the absence of sufficient evidence to demonstrate what makes these views special, I consider that policy HOU6 lacks the necessary clarity for a decision maker to be able to apply it consistently and with confidence in determining planning applications. I conclude that policy HOU6 should be deleted (**PM3**), in that it fails to have sufficient regard to the advice contained in the Secretary of State's guidance and would not contribute to the achievement of sustainable development.
- 4.24 In coming to this conclusion, I acknowledge that there are some views which warrant careful consideration, in particular views of The Cloud and St Michael's Church. However, policy HOU4 at part E already requires that

views of these important local landmarks should be maintained. Further, as part D requires all new development to maximise views from the site of the surrounding areas of countryside and minimise impact on the skyline, I am satisfied that the landscape impact of development is adequately addressed in the Plan.

- 4.25 Hulme Walfield and Somerford Booths are valued by the local community for their rural nature and local wildlife. The meandering valley of the River Dane bounds the parishes to their south west and its lower reaches from Holmes Chapel to Radnor Bridge are an SSSI<sup>10</sup>. A detailed report by the Cheshire Wildlife Trust, appended to the Plan, identifies the area's natural assets including core high ecological value sites, as well as those of medium value, considered as biodiversity opportunity areas subject to further evaluation, and key local and regional ecological networks.
- 4.26 The NPPF at paragraph 113 makes clear that in criteria based policies against which development proposals on or affecting protected wildlife will be judged, '*distinctions should be made between the hierarchy of international, national and locally designated sites so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to the wider ecological networks*'. However, policy ENV1, as drafted, applies the same level of protection to the nationally designated SSSI as to local wildlife sites, areas of habitat distinctiveness, and indicative wildlife corridors, contrary to national policy and to CELPS policy SE3 which sets out a hierarchical approach to sites of biodiversity value.
- 4.27 Moreover the Plan is unclear in the supporting text, Figure I or Appendix 4 as to whether the local wildlife sites are in fact local nature reserves or simply areas the Cheshire Wildlife Trust thought to be interesting in biodiversity terms. So as to be in general conformity with the CELPS and have regard to national policy, reference to the SSSI and local wildlife sites should be deleted from policy ENV1. However, CELPS policy SE3 does provide for Neighbourhood Plans to identify non-designated assets or sites valued by the local community where development proposals likely to have a significant impact will only be permitted where suitable mitigation and/or compensation is provided to address the adverse impacts. I therefore propose to reword policy ENV1 to apply only to the areas identified in Figures J and K, to clarify that any adverse effect should be significant, and to delete the words '*in exceptional circumstances*' which reflect neither national or strategic policy. Subject to these modifications being made, I am satisfied that policy ENV1 has regard to national policy and is in general conformity with strategic policy (PM4).
- 4.28 Scattered woodland, boundary hedgerows and trees are a key characteristic of the landscape of Hulme Walfield and Somerford Booths and policy ENV2

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<sup>10</sup> Site of Special Scientific Interest.

seeks to ensure that those trees and hedgerows which make a significant contribution to the area are preserved. As policy HOU4 part B requires that existing hedgerow boundaries should be protected and maintained as a feature of new development, the second part of the first sentence of policy ENV2 is unnecessary. Nor am I persuaded that the words '*in exceptional circumstances*' add anything useful to the intent of the policy. Subject to these modifications being made, I am satisfied that policy ENV2 meets the Basic Conditions **(PM5)**.

- 4.29 It is an objective of national planning policy to promote healthy communities and paragraph 75 of the NPPF requires that planning policies should protect and enhance public rights of way and access. There are a number of public rights of way in the Neighbourhood Plan area that allow direct access to the countryside, along with three routes that are part of the National Cycle Network. Policy ENV3 supports proposals to maintain and enhance the network of public rights of way and cycleways and seeks improved links and connections as part of any new development. In that walking and cycling are sustainable modes of transport and can make an important contribution to the health and well-being of communities, it accords with the NPPF paragraphs 35 and 73 and with CELPS paragraph 12.5.
- 4.30 The second part of policy ENV3 refers to proposals leading to the loss or degradation of public rights of way not being permitted other than in very special circumstances. However, there is nothing in the supporting paragraphs to the policy to explain why there is this concern nor what is meant by '*very special circumstances*'. In the absence of any justification, I propose modifying the policy to delete that sentence. Subject to the modifications set out in the Appendix, I am satisfied that policy ENV3 complies with the Basic Conditions **(PM6)**.
- 4.31 Hulme Walfield and Somerford Booths have a number of heritage assets, including 8 Listed Buildings, and various archaeological discoveries have been made including evidence of a medieval deserted settlement at Somerford Booths. Heritage policy HER1 seeks to protect these historical assets and their settings. However, I have serious concerns that, as drafted, policy HER1 fails to have sufficient regard to national policy in the NPPF of the staged approach that must be taken to determining the impact of a proposed development on, and the weight to be given to any harm to, the significance of a heritage asset, and particularly to the separate balancing exercises that need to be undertaken for designated and non-designated heritage assets. For this reason, I am not satisfied that policy HER1 is in general conformity with strategic policy SE7 of the CELPS. Furthermore, in my view the NPPF and CELPS provide sufficient protection for heritage assets. I am therefore proposing to modify the Plan to delete policy HER1 to ensure that the Plan meets the Basic Conditions **(PM7)**.

- 4.32 It is an objective of the Neighbourhood Plan to encourage and support a thriving local rural economy. In supporting the development of new small businesses and the expansion of existing businesses, policy ECON1 is in accord with paragraph 28 of the NPPF. As a rural parish, farming is also important in the local economy and the Plan supports rural diversification to help farming businesses remain viable. I am also satisfied that policy ECON1 is in accord with Rural Economy policy EG2 of the CELPS which, amongst other things, encourages the retention and expansion of existing businesses together with the creation and expansion of sustainable farming and food production businesses. As drafted, policy ECON1 directs B2 and B8 uses to the existing and proposed extension to the Congleton Business Park and provides positive support for the CELPS strategic site LPS27.
- 4.33 Overall, I conclude on my second issue that subject to the recommended modifications being made, the Neighbourhood Plan policies on design, the environment, and the rural economy (alongside the protection of the historic environment already provided by the NPPF and CELPS), provide an appropriate framework to shape and direct sustainable development in Hulme Walfield and Somerford Booths, have regard to national policy and are in general conformity with the strategic policies in the CELPS, thus meeting the Basic Conditions.

### *Issue 3 – policies on infrastructure*

- 4.34 The Neighbourhood Plan refers at paragraph 10.3 to comments made throughout the consultation period on the need to improve access to facilities and services. Whilst the Plan covers a rural area, there is clearly an opportunity with the development of the strategic sites to provide new and additional facilities and services that will benefit the existing rural community. As drafted, policy INF1 requires that new residential development addresses the impacts and benefits it will have on community infrastructure. Given that policy HOU1 only envisages small scale new residential development outside the strategic sites, it is clear that policy INF1 is directed predominantly towards development on the CELPS sites LPS27, LPS28 and LPS29 (shown on Figure B in the Plan) and indeed paragraph 10.4 quotes from the then draft Local Plan.
- 4.35 These are strategic sites and the subject of strategic policies in the CELPS. There are recently adopted detailed site-specific policies in the CELPS for the allocations within the Neighbourhood Plan area to ensure that the necessary infrastructure to support that development is provided. However, in my view it is not unreasonable for the Neighbourhood Plan for the area to include a policy to plan positively to support those strategic policies. I am satisfied that policy INF1 has regard to national policy in the NPPF at paragraphs 16 and 184, is in general conformity with the CELPS policies and contributes towards the achievement of sustainable development.

- 4.36 Policy INF2 is concerned with communications infrastructure including the development of high speed broadband, a matter of particular concern for the rural communities in the area given the travel distances to secondary schools, doctors' surgeries, and food supermarkets as well as employment centres. Also with a higher than average percentage of residents working from home in the Plan area, a high-quality communications infrastructure is important to help sustain and develop their businesses and provide jobs. Government policy supports the provision of high quality communications infrastructure as essential for sustainable economic growth as well as playing a vital role in enhancing the provision of local community facilities and services<sup>11</sup>. The importance of high quality leading edge digital connections is also emphasised in policy CO3 of the CELPS. I am satisfied that policy INF2 has regard to the NPPF, conforms with strategic policy and would contribute to the achievement of sustainable development.
- 4.37 I conclude on my third issue, that both the infrastructure policies meet the Basic Conditions.

## **5. Conclusions**

### *Summary*

- 5.1 The Hulme Walfield and Somerford Booths 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 Hulme Walfield and Somerford Booths 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.

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<sup>11</sup> NPPF paragraph 42.

- a. The Neighbourhood Plan is an easy to read and understandable document. It is evident that a significant amount of hard work has been put in by the Parish Council and its Steering Group since 2015 to progress a Neighbourhood Plan that reflects local opinion and which successfully addresses, through its policies, the key issues arising in this rural area at the edge of a large and growing settlement. The close involvement of the local community in the preparation of the Plan is to be commended.

*Mary O'Rourke*

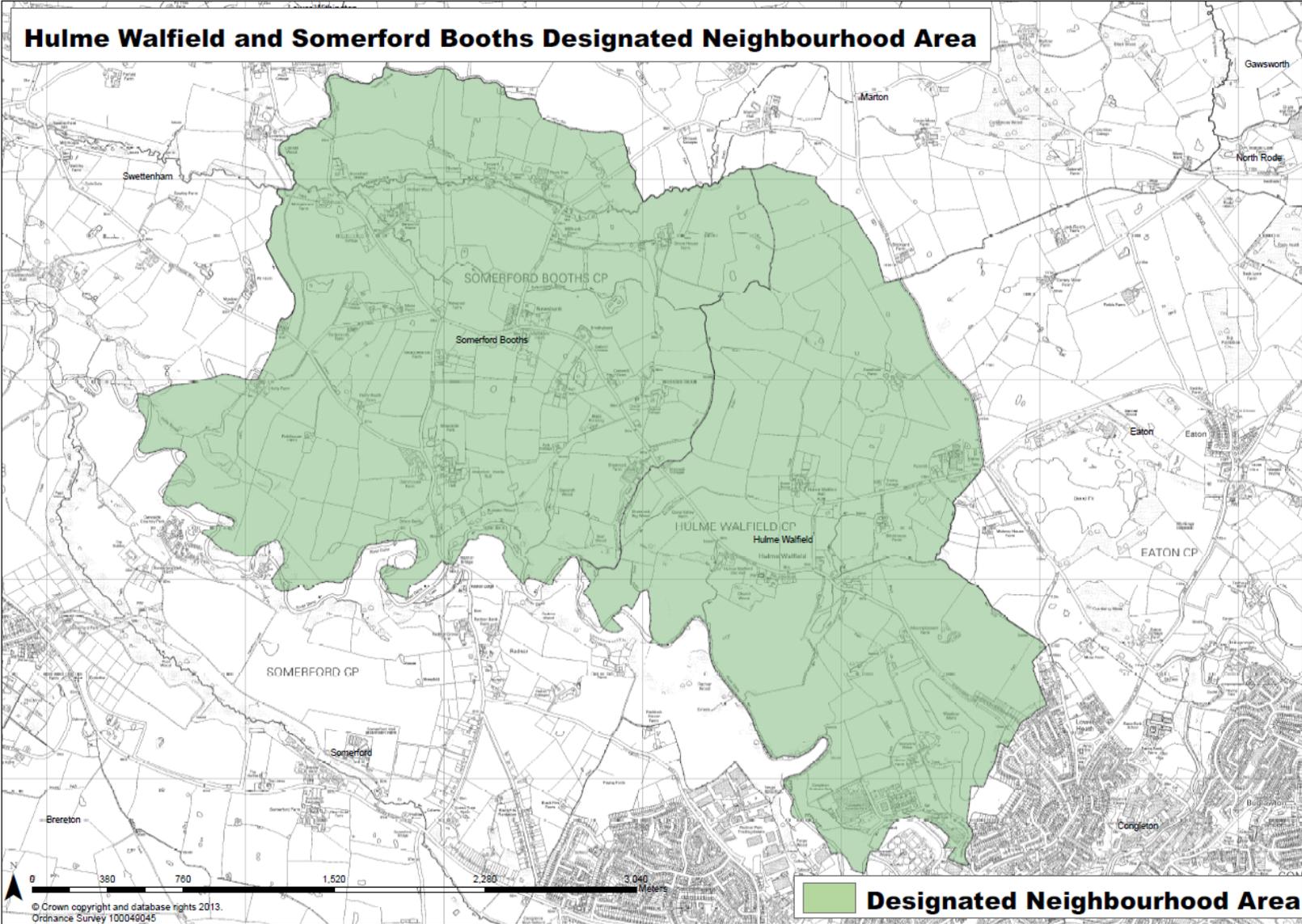
Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no.	Modification
PM1	Page 1	Include the Plan period on the front cover.
PM2	Page 11	Delete policy HOU2 and paragraphs 6.14 to 6.17.
PM3	Page 15	Delete policy HOU6, Figures G and H and supporting text at paragraphs 6.39 to 6.43.
PM4	Page 16	<p>Replace the first part of policy ENV1 with the following:</p> <p><b><i>Development should not significantly adversely affect the areas of high or medium distinctiveness identified in Figure J or the wildlife corridors identified in Figure K. The enhancement of these areas for biodiversity will be supported.</i></b></p> <p>In the second part of policy ENV1 delete the words ‘In exceptional circumstances,’.</p> <p>The remainder of policy ENV1 as in the Plan.</p> <p>Additionally, delete Figure I on page 29.</p>
PM5	Page 16	In policy ENV2 delete the words ‘and development which would adversely affect upon them will not normally be permitted. In exceptional circumstances ....’.
PM6	Page 17	Delete the third sentence of policy ENV3.
PM7	Page 17	Delete policy HER1.
PM8	Plan wide	Delete references in policy and text to earlier stages in the preparation of the Cheshire East Local Plan Strategy (CELPS) and refer to the Adopted CELPS (July 2017), where appropriate.



Appendix 2: Neighbourhood Area



## Appendix 3: Hulme Walfield and Somerford Booths Neighbourhood Plan

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