

Portfolio Holder Decision Report

Date of Meeting: 8th March 2021

Report Title: Hankelow Neighbourhood Development Plan: Decision to Proceed to Referendum

Portfolio Holder: Councillor Toni Fox, Portfolio Holder for Planning

Senior Officer: Frank Jordan, Executive Director of Place

1. Report Summary

- 1.1. The Hankelow Neighbourhood Development Plan (HNDP) was submitted to the Council in September 2020 and, following a statutory publicity period, proceeded to independent examination. The examiner's report has now been received and recommends that, subject to modifications, the Plan should proceed to referendum. The Plan contributes to delivery of sustainable development in Hankelow, setting out detailed local planning policy on matters important to the community and through its alignment with the Local Plan Strategy the HNDP also supports the Councils own strategic aims to promote economic prosperity, create sustainable communities, protect and enhance environmental quality and promote sustainable travel.

2. Recommendation

- 2.1. That the Portfolio Holder:
 - 2.1.1. Accepts the examiner's recommendations to make modifications to the Hankelow Neighbourhood Plan as set out in the examiner's report (at Appendix 1); and
 - 2.1.2. Confirms that it is the Councils intent to hold a referendum on the HNDP (as amended), within the Hankelow Neighbourhood Plan area, at the earliest opportunity available after the current restrictions on polling are lifted. At the time of writing this date will be 6th May 2021.

2.1.3. Confirms that the Council will use the Hankelow Neighbourhood Plan in planning decisions, giving policies significant weight so far as they are material to planning applications within the Hankelow Neighbourhood Area.

3. Reasons for Recommendation/s

- 3.1. The Council is committed to supporting neighbourhood planning in Cheshire East. It has a legal duty to provide advice and assistance on neighbourhood plans, to hold an independent examination on neighbourhood plans submitted to the Council, and to make arrangements for a referendum following a favourable examiner's report.
- 3.2. Subject to the modifications set out in the examiner's report, the HNDP is considered to meet the statutory tests, the Basic Conditions and procedural requirements set out in paragraph 8 of Schedule 10 to the Localism Act 2011 and as such it can now proceed to referendum.
- 3.3. Holding a referendum on the HNDP will enable the local community to vote on whether the plan should be used to determine planning applications in the neighbourhood area and bring the plan into statutory effect. The Neighbourhood Plan, as modified, will contribute to the strategic aims set out in the Cheshire East Local Plan Strategy and upon the outcome of a successful referendum result will form part of the Development Plan for Cheshire East. Following the referendum the Council is required to 'make' the neighbourhood plan, confirming its status within the development plan for the area.
- 3.4. It should be noted that local planning authorities are normally required to hold a referendum within 8 weeks of deciding to progress a neighbourhood plan to referendum. The exception to this is where an alternative date can be agreed between both parties. In this instance, due to the current restrictions in place due to the Covid-19 pandemic, it is not possible to hold a referendum within the 8-week time frame, and as set out in the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020, all polls are suspended until 6th May 2021.
- 3.5. The progress of the plan to the post examination stage ensures it must be awarded significant status in planning decisions. Section 70 (2) of the Town and Country Planning Act 1990 requires that local planning authorities must have regard to a post-examination neighbourhood plan, so far as the relevant policies are material to the application.

4. Other Options Considered

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

5. Background

- 5.1. The preparation of the HNBP began in 2014 with the Neighbourhood Area Designation approved in February 2015.
- 5.2. The final Neighbourhood Plan and its supporting documents were submitted to Cheshire East Council on 18th September 2020.
- 5.3. The supporting documents included:
 - 5.3.1. The draft Hankelow Neighbourhood Development Plan
 - 5.3.2. A map of the neighbourhood area
 - 5.3.3. A Consultation Statement
 - 5.3.4. A Basic Conditions Statement
 - 5.3.5. A copy of the Screening Opinion on the need to undertake Strategic Environmental Assessment
- 5.4. Cheshire East Council undertook the required publicity between 30.09.20 – 11.11.20. Relevant consultees, residents and other interested parties were provided with information about the submitted plan and were given the opportunity to submit comments to the examiner.
- 5.5. The Borough Council appointed Patrick Whitehead DipTP(Nott) MRTPI, as the independent examiner of the plan. The Examiner is a chartered town planner and former government Planning Inspector, with wide experience of examining development plans and undertaking large, and small-scale casework. On reviewing the content of the plan and the representations received as part of the publication process, she decided not to hold a public hearing.
- 5.6. A copy of the Examiner's Report is provided at Appendix 1. A copy of the Neighbourhood Plan can be accessed via the Council's [web pages](#) or requested from the Report's author.
- 5.7. The examiner's report contains the Examiner's findings on legal and procedural matters and his assessment of the plan against the Basic Conditions. It recommends that several modifications be made to the plan. These are contained within the body of the report and summarised in a table at the end.

5.8. The examiner has recommended multiple modifications to the plan but overall it is concluded that the HNBP does comply with the Basic Conditions and other statutory requirements and that, subject to recommended modifications, it can proceed to a referendum.

5.9. The Examiner comments that:

5.9.1. 'By any standard Hankelow is a very small community and the Parish Council is to be congratulated for the effort that has clearly gone into the production of the Neighbourhood Plan. From the documentation, it is apparent that the community as a whole has been drawn into the process and the resulting Plan reflects the work of volunteers and the local residents' concern for the future of their settlement. The Plan provides a comprehensive and positive steer for development and a worthy addition to the statutory planning framework for the locality.'

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. The Neighbourhood Plan is considered to meet the basic conditions and all relevant legal and procedural requirements, and this is supported in the Examiner's Report. Proceeding to referendum will enable the HNBP to be 'made', and legally form part of the Development Plan for Cheshire East.

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

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

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

6.1.5. The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020, mean that all polls are suspended until 6th May 2021. It is therefore not possible to hold a referendum on the HNBP until either 6th May 2021 or at a time when such restrictions, as set out in these regulations, are lifted. It is expected that polls will be held on the 6th May.

6.1.6. However, Section 70 (2) of the Town and Country Planning Act 1990 allows local planning authorities to pay due regard to post-examination neighbourhood plans, as far as their policies are material to applications.

6.2. Finance Implications

6.2.1. The referendum is estimated to cost circa £6000. This will be paid for through government grant specific to neighbourhood planning, and the service's revenue budget.

6.3. Policy Implications

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

6.3.2. Until such a time as the neighbourhood plan is made, due regard will be paid to the policies of the neighbourhood plan, with policies given significant weight so far as they are relevant to applications in the Hankelow Neighbourhood Area.

6.4. Equality Implications

6.4.1. The Neighbourhood Plan has been prepared in a manner which has been inclusive and open to all to participate in policy making and establish a shared vision for future development in the Hankelow neighbourhood area. The policies proposed are not considered to disadvantage those with protected characteristics.

6.5. Human Resources Implications

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

6.6. Risk Management Implications

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

6.7. Rural Communities Implications

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

6.8. Implications for Children & Young People

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

6.9. Public Health Implications

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

6.10. Climate Change Implications

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

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

7. Ward Members Affected

7.1. Audlem Ward: Councillor Rachel Bailey.

7.2. Ward members will be informed of the decision to proceed to referendum when this report is published for consideration.

8. Consultation & Engagement

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

9. Access to Information

9.1. The Examiner’s Report is appended to this report and all relevant background documents can be found via the neighbourhood planning pages of the Council’s website:

9.2. <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-planning.aspx>

9.3. The background papers relating to this report can also be inspected by contacting the report writer.

10. Contact Information

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

Name: Tom Evans

Job Title: Neighbourhood Planning Manager

Email: Tom.Evans@Cheshireeast.gov.uk

11. Appendix 1: Examiners Report: pending final version



**Report on
Hankelow Neighbourhood Plan
2019-2030**

An Examination undertaken for Cheshire East Council with the support of the Hankelow Parish Council on the September 2020 submission version of the Plan.

Independent Examiner: Patrick T Whitehead DipTP (Nott) MRTPI

Date of Report: 22 February 2021

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Main Findings - Executive Summary

From my examination of the Hankelow Neighbourhood Plan (the Plan/HNP) 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 Hankelow Parish Council;
- The Plan has been prepared for an area properly designated – the whole of the Parish area, as shown on Figure A at paragraph 3.4 of the Submission Plan;
- The Plan specifies the period to which it is to take effect – 2019 - 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

Hankelow Neighbourhood Plan 2019-2030

- 1.1 Hankelow is located on the A529 just over 7km (4.5 miles) south of Nantwich and 2km (1.25 miles) north of Audlem. The present population is around 290 (2018) and has changed little since 1880 (264), although the number of dwellings has almost doubled to 88 dwellings in the main village and a further 30 in the surrounding countryside. There is an active congregation at the Methodist Chapel, and it also serves as a community facility. The White Lion Public House is currently closed but there are plans for its future as a community hub. The village is characterised by mainly frontage development with some large gaps providing visual links to the countryside. New development to the rear of Lodge Farm is the exception, and is visually prominent from various locations, notably along Hall Lane.
- 1.2 The HNP built on a previous Hankelow Parish Plan which was published in 2012. First raised at the Parish Council in 2014, work on the HNP commenced early in 2015. The Neighbourhood Plan Area was designated in February 2015. A first consultation occurred in 2015 with questionnaires to all households to provide a basis from which to develop

policies. The Regulation 14 Consultation ran for six weeks during October and November 2019, leading to publication of a submission version of the Plan in September 2020.

The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the HNP by Cheshire East Council (CEC), with the agreement of Hankelow Parish Council (HPC).
- 1.4 I am a chartered town planner and former government Planning Inspector, with more than 20 years experience inspecting and examining development plans. 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’; and
- 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.
- 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 (under retained EU law)¹; 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 making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.²

¹ The existing body of environmental regulation is retained in UK law.

² This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

1. 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 and the saved policies of the Crewe and Nantwich Borough Replacement Local Plan (2005). The Local Plan is being prepared in two stages with the first part being the Cheshire East Local Plan Strategy (CELPS) which was adopted in 2017. This sets out the strategic planning framework for the Borough to 2030. The second part is the Site Allocations and Development Policies Document (SADPD), and consultation on the Revised Publication Draft (for examination) concluded on 23 December 2020. I shall have regard to the advice in the Planning Practice Guidance (PPG) in my consideration of the HNP, which states that it is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. The PPG advises that the reasoning and evidence informing emerging local plans can be relevant to neighbourhood plans. Where a neighbourhood plan is brought forward before an up-to-date local plan is in place, the local planning authority and qualifying body should discuss and aim to agree the relationship between their emerging policies and the adopted development plan.³
- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The PPG offers guidance on how this policy should be implemented. A revised NPPF was published on 19 February 2019, and all references in this report are to the February 2019 NPPF and its accompanying PPG .

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 and referred to:
- the draft Hankelow Neighbourhood Plan 2019 -2030, September 2020;
 - the map at figure A of the Plan, which identifies the area to which the proposed Neighbourhood Development Plan relates;

³ PPG Reference ID: 41-009-20190509.

- the Consultation Statement, September 2020;
- the Basic Conditions Statement, September 2020;
- the Strategic Environmental Assessment (SEA) Screening Report prepared by Cheshire East Council, September 2019;
- Protecting and Enhancing Hankelow’s Natural Environment; Cheshire Wildlife Trust, May 2017;
- Hankelow Neighbourhood Plan: Housing Needs Advice Report (Cheshire East Council), January 2018;
- Hankelow Neighbourhood Plan; Site Options and Assessment (Hankelow Parish Council), June 2020 Update;
- all the representations that have been made in accordance with the Regulation 16 consultation; and
- Hankelow Parish Council’s response (12 December 2020) to the examiner’s questions (30 November 2020).⁴

Site Visit

2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 24 November 2020 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

2.5 This examination has been dealt with by written representations. There were no requests for an appearance amongst the Regulation 16 representations and the responses clearly articulated objections to the Plan, and presented arguments for and against the Plan’s suitability to proceed to a referendum. As a consequence, I concluded that hearing sessions would be unnecessary.

2.6 I have noted that a Regulation 16 representor has raised issues concerning impropriety. However, I have no authority to consider such matters which should be dealt with through the internal complaints handling procedures of the qualifying body or local planning authority. Similarly, allegations regarding Freedom of Information (FOI) are matters for review by the public authority, and ultimately for the Information Commissioner’s Office

⁴ View at: [Hankelow Neighbourhood Plan \(cheshireeast.gov.uk\)](https://cheshireeast.gov.uk) [12 December Response is not on the website]

which is responsible for the 'enforcement' of the FOI Act. Neither of these matters falls within the jurisdiction of this examination.

Modifications

- 2.7 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The HNP has been prepared and submitted for examination by HPC, which is a qualifying body for an area that was designated by CEC on 23 February 2015.
- 3.2 It is the only Neighbourhood Plan for Hankelow Parish and does not relate to land outside the designated Neighbourhood Plan Area.

Plan Period

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2019 to 2030.

Neighbourhood Plan Preparation and Consultation

- 3.4 Preparation of a neighbourhood plan was first raised at the Parish Council meeting in July 2014, with a decision to prepare a plan taken in November 2014. The Plan Area was consulted upon between November 2014 and January 2015 with official designation by CEC

on 23 February 2015. A steering group to oversee the preparation of the Plan was formed and work commenced in January 2015.

- 3.5 An initial questionnaire was delivered to every household in May 2015 with the purpose of providing a basis on which to develop policies. This achieved a response rate of over 90% with 104 returned questionnaires. This was followed by drop-in sessions during 2017, a time when permission was granted, on appeal, to demolish the public house – the White Lion – and close the Brookfield Golf Club. Not surprisingly, there was strong support for the idea of a community hub for the village. A second consultation followed in 2018, with a formal consultation document delivered to all households.
- 3.6 The Regulation 14 pre-submission consultation was undertaken between 7 October 2019 and 18 November 2019, accompanied by a drop-in event at the Village Hall on 19 October. The Parish Council responded to a total of 81 comments submitted by 15 respondents, with amendments made to the Plan prior to the Regulation 15 submission. Appendix 2 attached to the Consultation Statement summarises the comments received and the Steering Group’s responses. Based on those comments a number of modifications were made to the Plan, following which it was submitted to CEC. The Regulation 16 Consultation took place between 30 September 2020 and 11 November 2020. There were 13 responses, 7 of which offered no further substantive comment.
- 3.7 The consultation process is described in detail in the Consultation Statement, September 2020, covering the period prior to the Regulation 16 consultation. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the HNP, that has had regard to the advice in the PPG pertaining to plan preparation and engagement and is procedurally compliant in accordance with the legal requirements.

Development and Use of Land

- 3.8 Subject to **PM1**, recommend below in relation to Policy NE3 (Phosphate and nitrate pollution), 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

3.9 The Plan does not include provisions and policies for ‘excluded development’.

Human Rights

3.10 HPC is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998)⁵, and from my independent assessment I see no reason to disagree.

4. Compliance with the Basic Conditions

EU Obligations

4.1 The Neighbourhood Plan was screened for SEA by CEC, which found that it was unnecessary to undertake SEA. Having read the Strategic Environmental Assessment Screening Opinion⁶, I support this conclusion

4.2 The Plan was further screened for HRA, which also was not triggered. There are no designated sites of European significance within the neighbourhood area but there are a series of sites within 15km proximity of the Plan. However, the assessment concludes that the HNP is unlikely to have a significant effect on the environment or on designated sites. Natural England agreed with this conclusion, indicating that it is not aware of significant populations of protected species which are likely to be affected by the Plan proposals or policies.⁷ From my independent assessment of this matter, I have no reason to disagree.

Main Issues

⁵ Basic Conditions Statement (September 2020), paragraph 4.4.

⁶ Neighbourhood Plan SEA Screening Report, September 2019.

⁷ Natural England email dated 10 September 2019.

4.3 I have approached the assessment of compliance with the Basic Conditions of the Hankelow Neighbourhood Plan as two main matters:

- *Issue 1: - General compliance of the Plan, as a whole, having regard to national policy and guidance (including sustainable development) and the strategic adopted local planning policies; and*
- *Issue 2: - The appropriateness of individual policies to support improvements to the Plan area, create a sustainable and inclusive community and support essential facilities and services.*

4.4 As part of that assessment, I shall consider whether the policies are sufficiently clear and unambiguous, having regard to advice in the PPG that a neighbourhood plan policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence.⁸

Issue 1: General compliance of the Plan, as a whole, having regard to national policy and guidance (including sustainable development) and the strategic adopted local planning policies

4.5 The Plan emphasises concern for the environment in advance of giving attention to development issues. This is demonstrated by the first and second objectives being aimed to conserve the natural rural environment and guard against pollution, and the first set of Policies, NE1–NE4, addressing environmental issues. This approach contributes to the achievement of sustainable development, particularly in relation to the environmental objective in NPPF paragraph 8 (c) being concerned with “*protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution*”. The policies also relate to those in the CELPS, particularly SE3, SE5 and SE12.

4.6 The design and transport policies in the HNP include requirements for new development to have regard for the natural environment and the local rural character and take account of sustainable transport principles. They are well related to CELPS Policies SE4, SE6 and CO1, and to the NPPF’s emphasis on concern for conserving and enhancing the natural environment and sustainable transport. For these reasons, and subject to my conclusions and detailed recommendations on individual policies, I am satisfied that the HNP should

⁸ PPG Reference ID: 41-041-20140306.

contribute to the achievement of sustainable development and has had regard to national policy and guidance.

- 4.7 Turning to the development policies, housing need is a key consideration as indicated by NPPF paragraph 8(b), which provides the objective of “ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations”. The NPPF also makes it clear that “neighbourhood plans should not promote less development than set out in the strategic policies for the area” (paragraph 29). The CELPS includes a Full Objectively Assessed Needs figure of 36,000 homes to be delivered during the Plan period, 2010-2030. Policy PG2 sets out the distribution of development across the settlement hierarchy with a focus on the larger settlements, and a lower level of development in Other Settlements and Rural Villages (OSRV). Hankelow is within the OSRV category which has a target of 3378 new homes across the whole of the OSRV areas.
- 4.8 The Revised Publication Draft SADPD includes a revised Policy PG10 which identifies Hankelow as an “infill village”. As such, it has a defined village infill boundary within which limited infilling will be supported. The draft Policy provides three criteria to be met by development proposals. The boundary for Hankelow is shown on the policies map. The draft Policy has been acknowledged by the HNP (paragraph 13.15) and informs the content of Policy H2.
- 4.9 Within this context CEC has provided a useful input to the HNP through an advice report.⁹ The report sought to establish an appropriate quantum for the Neighbourhood Area of Hankelow based on, firstly a fair share of the planned growth, secondly on the village population as a starting point, thirdly on the DCLG¹⁰ Household Projections and finally consideration of the dwelling completion rate for 2001-2011. These calculations give a range of 14–18 dwellings required for the Plan period. The Report looked at completions and commitments from April 2010 to March 2017, showing 11 completions and 32 further dwellings committed at that time.
- 4.10 The Report concludes with advice that the Neighbourhood Plan group should consider policies as follows:

- *Provision of older persons accommodation;*

⁹ Hankelow Neighbourhood Plan: Housing Needs Advice Report (CEC), January 2018.

¹⁰ The former Department for Communities and Local Government.

- *Smaller, more affordable, market housing; and*
- *Developing a housing offer to meet the vision and aspirations of the Neighbourhood Plan.*

4.11 The steering group recognised the need for a small number of smaller dwellings in the Parish and undertook an independent site assessment for the HNP. A number of sites were identified.¹¹ The appraisal concluded that *“there are four sites that are suitable for allocation with a capacity to deliver 11 homes and an additional site is potentially suitable if identified issues are resolved”* (paragraph 4.1.2). The steering group discounted two of these sites as it was considered that they would extend into the open countryside. The remaining two (Sites A and B) have been included in the Plan, with a combined capacity of 6 dwellings.

4.12 In addition to the allocated sites, the HNP includes Policy H2 allowing for limited infilling, although the infill boundary has been drawn tightly around the developed area of the village – see my analysis at paragraph 4.72, below. There is also Policy H4 which provides support for entry-level exception sites located adjacent to the defined infill boundary.

4.13 From this analysis it is clear that the HNP meets the NPPF advice for neighbourhood planning groups to allocate small or medium sized sites (paragraph 69), support the development of windfall sites (paragraph 68) and support entry-level exception sites (paragraph 71). It is also evident that the Plan’s policies (subject to the recommended modifications I make below) are in general conformity with the local strategic planning policies contained within CELPS, particularly regarding Policies PG2, PG7, and SC6. It also seeks to align, where appropriate, with the emerging SADPD which is to form Part 2 of the Cheshire East Local Plan.¹²

Issue 2: The appropriateness of individual policies to support improvements to the Plan area, create a sustainable and inclusive community and support essential facilities and services

Natural Environment Policies

Policy NE1 – Woodland, hedgerows, trees and watercourses

¹¹ Site Options and Assessment, June 2020 Update:
<https://hankelow-neighbourhood-plan.weebly.com/uploads>

¹² See footnote 3.

- 4.14 The local strategic policy for trees, hedgerows and woodland is provided by CELPS Policy SE5 which has two requirements: firstly, to ensure the sustainable management of trees, woodland and hedgerows and secondly, the planting and sustainable growth of large trees within new development. The draft SADPD includes Policy ENV6 which elaborates on implementation issues concerning trees, hedgerows and woodland, and which relates to matters included in Policy NE1. At the national level the NPPF includes the principle of achieving sustainable development (paragraph 8(c)), and the protection of irreplaceable habitats (paragraph 175).
- 4.15 Policy NE1 seeks to protect hedgerows, trees and watercourses and prevent development which would adversely impact upon them. It sets down requirements for new developments including an arboricultural assessment where protected trees may be threatened, protection for veteran trees, and the retention of historic hedgerows. In all of these matters the Policy is in general conformity with the local strategic policy in CELPS. It also has regard to the advice in the NPPF. The Policy therefore meets the Basic Conditions.

Policy NE2 – Buffer zones, wildlife corridors and biodiversity

- 4.16 The Policy seeks to provide protection for wildlife corridors, sites, ponds, etc defined by a Cheshire Wildlife Trust report.¹³ The Report was prepared in order to *“identify the core, high ecological value sites for nature conservation in Hankelow, as well as sites deemed to be of medium ecological value”* and recommend measures for protection. The HNP identifies the protection of the natural assets as of crucial importance to the local community (paragraph 8.3). Protection for areas of high distinctiveness habitat would be achieved by establishing buffers zones of at least 15m. Other measures of protection include a *“no net loss”* in biodiversity for new developments, a requirement for comprehensive surveys for any developments which would affect areas of high or medium habitat distinctiveness, and the protection of wildlife corridors from the creation of divisions through new developments.
- 4.17 The measures are broadly in conformity with the strategic local policy provided by CELPS - Policy SE3 which seeks to provide protection and enhancement of areas of high biodiversity and geodiversity value. In this respect, Policy SE3 (6) provides protection in the case of development proposals *“that are likely to have a significant impact on a non-designated asset or a site valued by the local community”*. Policy NE2 also has had regard to national

¹³ Protecting and Enhancing Hankelow’s Natural Environment; Cheshire Wildlife Trust, May 2017.

advice in the NPPF, particularly paragraph 174, that plans should “*identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks*”.

- 4.18 The Policy uses the concept of “buffer zones” to provide protection for areas identified as high distinctiveness habitats. In this context I have noted that the SADPD includes references to buffer zones to protect important habitats (paragraph 4.6). I have considered whether “*about 15m*” provides a sufficiently precise indication of the Policy requirement. However, in reality there is only one limited area of high distinctiveness habitat within the Plan Area, an area of ancient woodland abutting the Parish boundary which, through its location, does not appear to be at high risk of development pressure. Accordingly, I have concluded that the Basic Conditions have been met by the Policy.

Policy NE3 – Phosphate and nitrate pollution

- 4.19 National guidance advises that planning policies should contribute to and enhance the natural and local environment by “*preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of...water...pollution...*”. At the local level CELPS, Policy SE12, seeks to ensure that all “*development is located and designed so as not to result in a harmful or cumulative impact upon...surface water and groundwater...*”.
- 4.20 Within the context outlined above there are a number of issues with Policy NE3. The first paragraph is intended to apply to “*new development*” but the term is not defined in any way that would allow for proper implementation of the Policy. In the response to the examiner’s questions HPC have advised that the intention of Policy NE3 “*was to limit pollution caused by new agricultural development rather than domestic dwellings*”. The latter would be subject to the requirements of Policy TC3 in any event. However, this raises a further complication, in that Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 gives permitted development status to most developments for agriculture.
- 4.21 The second paragraph of Policy NE3 seeks to guard against the potential for increased pollution as a result of animal farming operations, with a specific reference to The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018. Paragraph 8.13 of the justification introduces a reference to further secondary legislation in the form of The Protection of Water Against Agricultural Nitrate Pollution (England and Wales) Regulations 1996. These raise a further issue, in that neither of the regulations are administered through the planning system and there are no provisions within the planning process for their

enforcement. Both the 2018 and the 1996 Regulations indicate that it is the function of the Environment Agency to monitor and/or enforce the provisions, the former through Regulation 14, and the latter through Regulation 4.

- 4.22 Taking the above into account, together with the clear indication in the justification (paragraphs 8.13 – 8.15) that the Policy is aimed at reducing pollution resulting from agricultural sources and preventing further pollution from such sources, it has to be concluded that it is not a planning policy implementable through the planning process. In this circumstance the Policy does not meet the Basic Conditions, and cannot be amended in order to achieve compliance. It follows that the Policy should be deleted from the Plan as shown in proposed modification **PM1**.
- 4.23 In arriving at this conclusion I have sympathy with the concerns expressed in the Plan and by HPC. However the planning system cannot be used for purposes for which it was not designed and for which it has no basis in law. Nevertheless, an expression of the Council's concerns, as described in paragraphs 8.13 – 8.15 may remain, although not in terms of justification and evidence for a policy. The second paragraph of Policy NE3, suitably modified, could be inserted as a new paragraph 8.12 to emphasise and support the concerns. Proposed modification **PM1** includes an appropriate wording. This would ensure the Basic Conditions are met.

Policy NE4 – Light pollution

- 4.24 The objective of seeking to limit the impact of increased human activity on dark skies is increasingly important and, as indicated by NPPF paragraph 180(c), this is particularly the case where intrinsically dark landscapes are concerned. The absence of street lighting in the Parish is highlighted in the HNP, Figure E, and noted during my visit. Policy NE4 has regard to the NPPF advice. The Policy is also in general conformity with the CELPS, Policy SE12, which seeks to ensure that development will not result in a harmful or cumulative impact upon (amongst other things) light pollution, and that developers will be expected to minimise, and mitigate against the effects of possible pollution arising from the development.
- 4.25 In response to the examiner's questions, the Parish Council agreed that the wording of the Policy could be interpreted to include domestic installations, normally falling within permitted development rights. As a consequence the Council has suggested amended text for the second paragraph of the Policy. The amendment is included as a proposed modification in **PM2** and ensures the Policy meets the Basic Conditions.

- 4.26 As a consequence of my recommendation regarding Policy NE3, above, this Policy should be renumbered as shown in the proposed modification.

Local Character and Design Policies

Policy DC1 – Design

- 4.27 In general terms Policy DC1 seeks to maintain and, where possible, enhance the settlement character of Hankelow and ensure that new development meets stated standards. The Policy includes a list of eight criteria which new development must take into account where it is appropriate to do so. In this respect it follows guidance in NPPF, paragraph 127(a), which requires that development should “*function well and add to the overall quality of the area*”. It also has regard to the advice that “*neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development*” (paragraph 125). The Policy is also in general conformity with the thrust of CELPS, Policy SE1, which seeks to ensure that “*design solutions achieve a sense of place by protecting and enhancing the quality, distinctiveness and character of settlements*”.
- 4.28 Criterion (g) requires all dwellings capable of being inhabited by families to have private outdoor garden amenity space. The criterion does not clarify whether the requirement would be limited to houses. In response to the examiner’s questions, HPC advised that it was the intention that the criterion should be applied to all dwellings, although flats and apartments were not considered likely to be brought forward in Hankelow. Amended text was provided with an explicit requirement for private garden/outdoor space for flats or apartments, and balcony space for those at first floor or above.
- 4.29 I have given consideration to the proposed text but I have not been convinced that a requirement for private garden space for flats or apartments is practical or a reasonable imposition on all proposed developments since it takes no account of necessary

management and ownership issues. There is no similar requirement included in CELPS Policy SE1 regarding design which simply requires new developments to ensure an appropriate level of privacy and appropriate external storage (criteria 4(i) and (ii)). However I consider an amendment to the criterion, based on the HPC suggestion, could be beneficial and my proposed modification includes a suggested appropriate form of words.

- 4.30 HPC has also indicated, in response to the examiner's questions, that it would welcome a requirement for developers to incorporate Sustainable Drainage Systems to be included in Policy DC1 criteria. This would support the Policy TC3 requirement for sustainable drainage systems to be incorporated. An appropriate form of wording is shown in proposed modification **PM3**.
- 4.31 With the proposed modifications shown by **PM3**, the Policy meets the Basic Conditions.

Policy DC2 – Important views, vistas and gateways

- 4.32 Local residents see the rural setting of Hankelow and local views of the countryside as important to the village's value as an attractive place to live.
- 4.33 The Policy identifies two important matters: public views into the wider countryside and the 'gateways' on the approaches to the village – seeking opportunities through new developments to enhance the public views, whilst preserving the appearance of the gateways. The local strategic planning policy framework provides support in broad terms through CELPS Policy SE4, the justification for which advises that "*the impacts of proposed developments upon existing landscape and views of the surrounding area should be assessed as part of the planning process*".¹⁴ Policy DC2 provides a distinctive additional measure at the local level. This follows advice in the NPPF that non-strategic policies should set out more detailed policies for specific areas or neighbourhoods.¹⁵ It also follows the advice in NPPF paragraph 125, that design policies should reflect local aspirations. It is clear to me that Policy DC2 is in general conformity with the strategic local planning framework, and has had regard to the national guidance.

¹⁴ CELPS, paragraph 13.35.

¹⁵ NPPF, Paragraph 28.

- 4.34 For all of the above reasons I have concluded that the Basic Conditions have been met by the Policy.

Policy DC3 – Renewable energy generation

- 4.35 The NPPF makes it clear that local planning policies should provide a positive strategy for energy from the increased use and supply of renewable and low carbon energy and heat.¹⁶ Following the national steer, Policy DC3 supports the development of renewable energy facilities, subject to stated criteria being met. Broadly speaking, the criteria seek to prevent significant adverse impact on matters such as the countryside, character of the landscape, access and safety, or where there is a significant need for the facility any adverse impacts are mitigated through community benefits.
- 4.36 At the local level CELPS, Policy SE8, provides positive support for renewable and low carbon energy, subject to balancing the weight to be given to the wider benefits arising from schemes against the anticipated adverse impacts. Policy DC3 is in general conformity with the local strategic policy.
- 4.37 The final paragraph of the Policy, requiring all new development to secure at least 15% of their total regulated energy from decentralised and renewable sources is problematic. As indicated in paragraph 9.27 of the justification, it is based on an EU Directive issued in 2009 which set a target for the United Kingdom to achieve 15% of its energy consumption from renewable sources by 2020.¹⁷ The Directive set a national target for the UK as a whole with the target to be achieved through energy within different sectors making contributions from renewable sources: for example – for electricity demand, reference is made to 30%, whilst for transport it suggests only 10%. It would be unreasonable therefore to seek to apply the national target to individual developments as indicated. For these reasons the Policy requirement could not be applied consistently and with confidence when determining planning applications. Therefore, including the target should not form part of the Policy, although I see no reason why the justification for the Policy at paragraph 9.27 should not include the reference.

¹⁶ NPPF, Paragraph 151.

¹⁷ National renewable Energy Action Plan for the United Kingdom – Article 4 of the Renewable Energy Directive 2009/28/EC, page 4.

- 4.38 As a consequence of my analysis the final paragraph of the Policy should be deleted as shown in proposed modification **PM4**, so that the Basic Conditions can be met.

Transport and Infrastructure Policies

Policy TC1 – Development impact on transport

- 4.39 The overall ethos of Policy TC1 is twofold: to improve sustainable transport and to ensure safety and convenience to non-motorised users, such as walkers and cyclists. It does this through the inclusion of eight criteria which applicants for new development must take into account where appropriate. The criteria include such matters as safe cycling and walking routes, cycle storage, relationship to the existing highway network, and concerns regarding potential exacerbation of existing traffic problems.
- 4.40 The Policy is generally in conformity with 3 relevant CELPS Policies: CO1 – Sustainable Travel and Transport; SD1 – Sustainable Development in Cheshire East and IN2 – Developer Contributions. It has also had regard to national advice in the NPPF contained in Section 9: Promoting Sustainable Transport, particularly paragraph 102.
- 4.41 I appreciate the fact that the Policy indicates that the criteria should be applied '*where appropriate*'. However, I am concerned that it is implicit the Policy would apply to all new developments, including changes of use, which will '*increase traffic*' without qualification. Clearly even small developments, such as a single house, will almost certainly increase traffic – if only by the addition to the highway network of a single car. For this reason I consider the Policy should include '*significantly*' in the first sentence, as shown in proposed modification **PM5**. With this modification the Policy meets the Basic Conditions.

Policy TC2 – Electric vehicle charging points

- 4.42 There are two parts to the Policy: firstly, support for electric vehicle (EV) charging points in new developments; and secondly, support for the provision of a public charging point, subject to it fulfilling certain stated requirements.

- 4.43 The Policy is in line with central government policy which seeks to address climate change, and specifically it has had regard to the guidance in NPPF paragraph 105 that local policy should take into account *“the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles”*.
- 4.44 Local planning strategy, CELPS, includes relevant policies CO1 and CO2: the former being supportive of preparations for carbon free modes of transport, the latter supporting the provision of recharging points for hybrid or electric vehicles in major developments in order to reduce carbon emissions. Policy TC2 is in general conformity with these policies.
- 4.45 The Policy seeks to deliver on important environmental objectives by encouraging the preparations for a low carbon economy and meets the Basic Conditions.

Policy TC3 – Drainage systems

- 4.46 In general terms, the Policy follows the requirements of CELPS Policy SE13 which requires that new developments should be designed to manage surface water. It also has regard to Government advice in the NPPF, paragraph 149, that plans should take a proactive approach, taking into account the long-term implications for flood risk, including mitigation.
- 4.47 The second requirement included in the Policy involves removing permitted development rights relating to the surfacing of driveways by condition on new developments. This is not in accord with national advice in the PPG which states that the *“blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.”*¹⁸ In this context I have noted that there is no justification or evidence for the inclusion of the requirement in paragraphs 10.17-10.22. Accordingly, in order to meet the Basic Conditions, it is necessary to delete the sentence as shown in proposed modification **PM6**.

¹⁸ PPG Reference ID: 21a-017-20190723.

Economy and Business Policies

Policy EB1 – The local economy and Policy EB2 – Rural business development

- 4.48 I will consider Policies EB1 and EB2 together. Both are concerned with supporting and encouraging the local rural economy and both are identified by the Basic Conditions Statement as relating to the same CELPS Policies, EG2 and SE2 (and in the case of EB2, Policy EG4); and the Crewe and Nantwich Replacement Local Plan Policies NE15 and NE13. Both Policies respond to the objective to support and encourage the local rural economy. Both Policies also have regard to the NPPF, particularly in relation to Paragraph 83, supporting a prosperous rural economy.
- 4.49 Looking at the detail of the Policies it is difficult to determine which Policy would apply to any particular proposal. Two of the categories of development which receive support through Policy EB1 (c) and (d) are cross-referenced to Policy EB2, adding to the apparent confusion. This suggests that a restructuring of the Policies, moving the first of those two categories to Policy EB2 since it relates to development opportunities which would naturally occur in rural settings outside the infill boundary. The second category largely duplicates the substantive content of Policy EB2 and so can be omitted, although the term '*sympathetic*' could usefully be incorporated into the Policy EB2 description. Further clarification could be introduced through amending the titles of the Policies: in the case of EB1 to 'The Local Rural Economy' to reflect the fourth of the Objectives set out for the Neighbourhood Plan Policies; and in the case of EB2 to 'Business Development in the Open Countryside' to reflect the emphasis in the introductory sentence.
- 4.50 Appropriate amendments are set out in the proposed modifications for the two Policies, **PM7** for Policy EB1 and **PM8** for Policy EB2. With these modifications the Policies meet the Basic Conditions.

Community Facilities Policies

Policy CF1 – Local Green Space

- 4.51 The Village Green is a key feature defining the character of Hankelow and, as I saw during my visit, is the visual focus of the village centre. It makes a major contribution to the high quality environment of the village. I have also noted that its importance to the community is demonstrated by its maintenance by volunteers from within the community. Policy CF1 designates the area as Local Green Space (LGS) and provides for its protection from development.
- 4.52 Local planning policy for green infrastructure is provided by CELPS Policy SE6, which seeks to safeguard green infrastructure assets and ensure that development does not compromise their integrity or potential value. The Policy does not make specific reference to LGS, but the draft SADPD, includes a reference to neighbourhood plans showing LGS at paragraphs 11.2–11.3. Policy CF1 is in general conformity with the CELPS.
- 4.53 National guidance in the NPPF, paragraph 101, indicates that the management of development within a LGS should be consistent with Green Belt policies. Policy CF1 achieves this by reference to very special circumstances being necessary for development proposals to succeed and so has had regard to national advice in the NPPF. However, the second part of the Policy goes beyond the protection afforded to Green Belts and, without local evidence to justify imposing further controls over development outside the LGS, the sentence should be deleted as shown in proposed modification **PM9**.
- 4.54 The Parish Council has acknowledged that Figure H, showing the extent of the LGS, is incorrect. In its response to the examiner's questions, HPC indicated that the triangle on the map is a private house and not intended to be part of the LGS designation. A revised Figure H was submitted, which should replace the one in the draft Plan as shown by proposed modification **PM10**. I therefore conclude, having regard to NPPF paragraphs 99-101 and the guidance in the PPG that (with the modification proposed) the Village Green should be designated as a Local Green Space and that the Policy (as modified) meets the Basic Conditions.

Policy CF2 – Community Hub

- 4.55 The White Lion Public House is located overlooking the Village Green in the heart of the settlement and appears to have been a focal point of the village until its closure. At the time

of my visit it was closed and appeared to be undergoing refurbishment works. There appeared to be building operations underway adjacent to the property. From the evidence provided the pub was closed in 2017, since when the Methodist Church and Hall have provided the only facility for social interaction.

- 4.56 Evidence has been provided to show that a company has been formed with mainly local investors to repair, refurbish and reopen it as a traditional village pub and for it to serve as a centre for other community activities. To this end, planning permissions have been granted for the refurbishment of the building (19/2029N and 20/4123N), and for a showroom/sales office for a car restoration company on land to the south (19/2099N). The justification for the Policy (paragraph 12.11) suggests interest in, and support for the project from local residents.
- 4.57 The proposal, and the Policy which provides support, meets with the advice in the NPPF¹⁹ to guard against the unnecessary loss of valued community facilities and services, and support the improvement of health, social and cultural well-being. The Policy is also in general conformity with CELPS Policy SC1, which seeks to protect and enhance existing leisure and recreation facilities.
- 4.58 HPC has advised that use of the term “*enabling development*” could cause confusion as the White Lion is not a listed heritage asset and has proposed amending the wording of the Policy.²⁰ It has also noted the Policy refers erroneously to Figure H instead of Figure I. Appropriate amendments have been included in proposed modification **PM11** which ensure that the Policy meets the Basic Conditions.
- 4.59 In response to the examiner’s questions, the Parish Council has suggested some minor changes to the text of paragraphs 12.8, 12.14 and 12.21. These provide additional clarity and should be included as amendments as shown in the proposed modification.
- 4.60 I have noted above, paragraph 2.6, that issues concerning impropriety surrounding the White Lion proposal have been raised in the Regulation 16 representations. As I have indicated, these matters should be dealt with elsewhere and none fall within the jurisdiction of this examination.

Policy CF3 – Community and Recreational Facilities

¹⁹ NPPF, paragraph 92.

²⁰ Response to the examiner’s questions, 12 December 2020.

- 4.61 Local strategic planning policies in the CELPS seek to protect and enhance existing leisure and recreation facilities and promote the provision of better facilities where there is a need (Policy SC1). There is also protection for existing community infrastructure and ensuring the provision of a network of community facilities through Policy SC3. The HNP, Policy CF3, encourages the refurbishment and improvement of community buildings and is in general conformity with the strategic policies of the CELPS.
- 4.62 As with Policy CF2, above, this Policy has had regard to national advice in the NPPF to guard against the unnecessary loss of valued community facilities and services, and support the improvement of health, social and cultural well-being.
- 4.63 The first paragraph of the Policy makes references to proposals being permitted or not permitted. However, the power to grant planning permission lies with the local planning authority, not the Parish. It follows that whilst a neighbourhood plan, as a part of the Local Development Plan, can support proposals or provide guidance and criteria against which applications will be measured, the Parish Council cannot determine applications for development. Accordingly, the Policy should refer to *'supported'* rather than *'permitted'*. The second sentence also refers to changes of use being not *normally* permitted. However, the sentence continues by providing the circumstances in which permission would be supported. The qualification is therefore unnecessary and could be interpreted to suggest other unspecified circumstances which would receive support. The word should be deleted. I have included appropriate amendments in the proposed modification **PM12** to ensure the Basic Conditions are met.

CF4 – Access to the countryside

- 4.64 National advice encourages support for *"healthy lifestyles.. for example through the provision of safe and accessible green infrastructure.. and layouts that encourage walking and cycling"*.²¹ The NPPF also advises that planning policies and decisions *"should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users"*.²² Additionally, paragraph 102 of the NPPF indicates that opportunities to promote walking and cycling should be identified and pursued. The advice has clearly been taken into account in relation to Policy CF4. The Policy is also in general conformity with local strategic policy provided by CELPS Policy SE6 which seeks to safeguard and enhance the network of green infrastructure assets, including developer contributions to improve their

²¹ NPPF, paragraph 91.

²² NPPF, paragraph 98.

quality, and Policy CO1 which gives priority to walking and cycling and seeks improvements to walking and cycling facilities.

- 4.65 There are, however, some issues with the Policy's text. As with the previous Policy CF3, the reference to development not being permitted should be changed. Additionally, the text refers to '*very special circumstances*', a description used within the planning system only in reference to inappropriate development within the Green Belt, or in relation to Local Green Space. An amended text is provided by proposed modification **PM13**.
- 4.66 The third paragraph includes an imperative – that new development *must* provide certain routes – implying that permission would be withheld if the requirement is not met. This gives a different message to the final sentence of the paragraph which refers to support for the routes. A revised paragraph is shown in the proposed modification.
- 4.67 The final paragraph refers to traffic planning in relation to rural roads and lanes which is a matter for the highways authority rather than the planning authority. The paragraph also indicates requirements to be met to deal with hazards arising from the conversion of agricultural buildings, with more specific measures detailed in the final sentence. It appears that these requirements are included in the specific Policy TC1, which provides criteria relating to the impact of development on transport – including matters of safety and the needs of non-motorised highway users – and in relation to conversion for business uses, duplicates the requirements of policies EB1 and EB2 (taking account of the proposed modifications to those policies in **PM7 & 8**). As a consequence of this analysis, I have concluded that the final paragraph is confusing and superfluous. It should be deleted as shown in proposed modification **PM13**.

Housing Policies

Policy H1 – Housing Allocations

- 4.68 Policy H1 simply provides for two sites allocated for housing, on Audlem Road (Site A) and Monks Lane (Site B). I visited both sites during my site visit and agree that they appear suitable for housing development and appropriate in the context of the Housing Needs

Advice Report²³ and the Site Options and Assessment.²⁴ The Policy also indicates that development proposals should be consistent with Policy DC1. The Policy does not specify the amount of development, but the Justification and evidence indicates that Site A has the potential for four dwellings whilst Site B is capable of providing two dwellings.

- 4.69 The Policy is clearly in general conformity with CELPS Policy PG2, which states that for ‘Other Settlements’ growth should *‘be confined to proportionate development at a scale commensurate with the function and character of the settlement and confined to locations well related to the existing built-up extent of the settlement’*. The Plan also takes account of advice in the NPPF, paragraph 69, that neighbourhood planning groups should consider the opportunities for allocating small and medium-sized sites suitable for housing in their area.
- 4.70 For these reasons I have concluded that the Basic Conditions have been met by the Policy.

Policy H2 – New Housing

- 4.71 The Policy identifies an infill boundary (Figure N), provides criteria to be met by proposals for infill development, and provides policy regarding development outside the infill boundary. It further provides for exceptions to the Policy requirements. The Policy utilises the defined village infill boundary shown on the adopted policies map, amended to include the allocated sites and draws on draft Policy PG10 of the SADPD for the criteria.
- 4.72 The Policy is in general conformity with local strategic planning policies in the CELPS, particularly Policy PG2 and Policy PG6, the latter indicating that development may be permitted *‘where there is the opportunity for limited infilling in villages; the infill of a small gap with one or two dwellings in an otherwise built up frontage elsewhere’*. Regard has also been had to national guidance in the NPPF, paragraph 29, that allows for neighbourhood plans to shape sustainable development whilst not undermining strategic policies.
- 4.73 The Policy indicates that limited infilling and other uses appropriate to a rural area *‘will be permitted’*. As is the case with other policies within the Plan, the grant of planning

²³ Hankelow Neighbourhood Plan: Housing Needs Advice Report, CEC, January 2018.

²⁴ Site Options and Assessment, June 2020 Update: <https://hankelow-neighbourhood-plan.weebly.com/uploads>

permission is a matter for the local planning authority and so this Policy should indicate that proposals *'will be supported'*.

- 4.74 The second part of the Policy reproduces verbatim the criteria for exceptions to the Policy related to the Open Countryside stated in CELPS Policy PG6. This is an unnecessary duplication²⁵ of the strategic policy which should be omitted and replaced with a single sentence stating exceptions will be supported in accordance with the criteria in Policy PG6. The final sentence is also an unnecessary duplication of the statement following the criteria defining infilling development and, for clarity, should be omitted.
- 4.75 Appropriate amendments to the Policy are shown in proposed modification **PM14** which ensure that the Policy will meet the Basic Conditions.

Policy H3 – Housing Type

- 4.76 Policy H3 essentially requires that new homes, including those on allocated sites, should be properties of three bedrooms or less, unless viability or material considerations suggest otherwise. Whilst the evidence suggests that there is a preponderance of detached properties within the Parish and an elderly population, there is no specific evidence that there is a need for smaller properties which could only be met through the provision of new market housing.
- 4.77 The Housing Needs Advice Report²⁶ advises that in general the housing stock is limited to larger family size dwellings with limited provision of smaller properties. The Report also recommends that the Neighbourhood Plan considers policies on *'smaller, more affordable, market housing to balance stock profile and provide more housing opportunities for younger residents including first time buyers as well as some downsizing opportunities for residents in larger properties'* (paragraph 23.3). However, the Report also states that *'no local survey work has been undertaken specifically in regard to housing need'* (paragraph 10.1).
- 4.78 CEC has included Policy SC4 in the CELPS, specifically addressing residential mix. However, it provides support in broad terms for new residential development to maintain, provide or contribute *'to a mix of housing tenures, types and sizes to help support the creation of mixed,*

²⁵ NPPF, paragraph 16 f).

²⁶ Hankelow Neighbourhood Plan: Housing Needs Advice Report (CEC), January 2018, Paragraph 10.1.

balanced and inclusive communities'. The advice in the NPPF is also set down in broad terms: *'the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies'* (Paragraph 61). It follows that a Policy which requires that *'new homes, including those on the allocated sites, should be properties of three bedrooms or less'*, unless viability or other concerns indicate otherwise, could be seen as too prescriptive. It is my conclusion that in the absence of specific evidence of need this is, indeed, the case with Policy H3.

- 4.79 The proposed modification **PM15** includes a suggested rewording of the Policy to provide a more flexible response to the question of housing type to ensure the Policy is in general conformity with the local planning strategy and has had regard to national advice in the NPPF. This will ensure the Policy meets the Basic Conditions.

Policy H4 – Entry-level exception sites

- 4.80 Entry-level exception sites suitable for first time buyers, or equivalent for those looking to rent their first home, was introduced in the updated February 2019 NPPF (paragraph 71). They should be *'adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in this Framework, and comply with any local design policies and standards'*. The new guidance postdates the adoption of CELPS so that Policies SC5, Affordable homes and SC6 Rural exceptions housing for local needs do not provide relevant local strategic planning policies. CEC has indicated that it is preparing an affordable housing Supplementary Planning Document (SPD) which will cover this topic.
- 4.81 Policy H4 directly responds to the NPPF initiative providing support for entry-level exception sites, provided that a number of criteria are met. The criteria are intended to ensure any proposal meets with the requirements for such sites, as indicated by the NPPF, together with specific criteria to ensure proposals are compatible with the Vision and Objectives set down in the HNP. The Policy contributes to the achievement of sustainable development as defined in the NPPF (Paragraph 8).
- 4.82 The Policy indicates that restrictions will be placed on the site that limits occupation to those in affordable housing need (third bullet point). The penultimate paragraph then advises that *'where Entry-level exception sites are found acceptable, Permitted Development rights will normally be removed by condition to ensure they remain affordable to future occupants'*. There is no indication of which permitted development rights would be removed, or how this would ensure the houses remain affordable to future occupants. Additionally, there is

no justification or explanation of the requirement contained within the justification for the Policy. In any event, as indicated in respect of Policy TC3 (paragraph 4.47, above) blanket removal of permitted development rights would be unlikely to meet the tests of reasonableness and necessity.

- 4.83 I have noted that, in respect of affordable homes, CELPS Policy SC5 and rural exception housing, Policy SC6, indicate that restrictions would be placed on occupancy in perpetuity or to ensure continuing affordability. CEC's current SPD on affordable housing and mixed communities, Section 5 provides advice on the use of planning obligations under Section 106 of the 1990 Act to ensure future availability and affordability.
- 4.84 Taking account of my analysis, above, and the intention of CEC to make specific advice available through publication of an affordable housing SPD, it appears to me that the third bullet point criterion provides sufficient policy guidance, and that the penultimate paragraph should be deleted. Proposed modification **PM16** shows the appropriate amendment to ensure that the Basic Conditions are met.

5. Conclusions

Summary

- 5.1 The Hankelow 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 Hankelow Neighbourhood Plan as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

Overview

- 5.4 By any standard Hankelow is a very small community and the Parish Council is to be congratulated for the effort that has clearly gone into the production of the Neighbourhood Plan. From the documentation, it is apparent that the community as a whole has been drawn into the process and the resulting Plan reflects the work of volunteers and the local residents' concern for the future of their settlement. The Plan provides a comprehensive and positive steer for development and a worthy addition to the statutory planning framework for the locality.

Patrick T Whitehead DipTP(Nott) MRTPI

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Pages 17-18	<p>Policy NE3</p> <p>Policy NE3 should be deleted from the Plan. As a consequence, Policy NE4 - Light pollution should be renumbered.</p> <p>The sub-heading “justification and evidence” should be deleted.</p> <p>The second paragraph of deleted Policy NE3 should be amended as follows, and inserted as new paragraph 8.12:</p> <p><u>“To ensure that watercourses are protected from guard against the potential for increased pollution as a cumulative effect of small animal farming operations, the Parish Council will support action by the Environment Agency to secure the compliance of any new animal farming developments must comply with the requirements of The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 (or its successor).”</u></p> <p>Amend the first sentence of paragraph 8.13 as follows:</p> <p><u>“The Protection of Water Against Agricultural Nitrate Pollution (England and Wales) Regulations 1996, administered by the Environment Agency, have objectives of...”</u>.</p>
PM2	Page 18	<p>Policy NE4</p> <p>The Policy heading should be revised to read <i>“Policy NE3”</i>.</p> <p>The second paragraph should be amended as follows:</p> <p><i><u>“In all cases, outdoor lighting sources as part of new developments should be well located, kept to the minimum required for safety and security, should have a minimum impact on the environment, and should minimise light pollution and minimise adverse effects on wildlife. Where possible, individual short-period timer controls and/or movement sensors shall be installed for each outdoor light sources to ensure they do not remain illuminated any longer than necessary, and all lighting shall should use low-energy technology”</u></i>.</p>

PM3	Page 20	<p>Policy DC1</p> <p>Amend criterion (g) by replacing “All dwellings” with “All new houses” in the first sentence, and by adding the following text after “..topography and privacy.”:</p> <p>“Flats and apartments should have access to outdoor space, which may be in the form of shared space within the development. The provision should not harm the privacy and amenity of nearby residents.”</p> <p>And include additional criterion as follows:</p> <p>‘i) Development should, where appropriate, incorporate Sustainable Drainage Systems (SuDS) which avoids all non-permeable surfaces, or delivers a water management system which minimises surface water run-off and ensure that all surface water is addressed within the site boundary. Every reasonable option should be investigated before discharging surface water into a public sewerage network, in line with the surface water hierarchy.’</p>
PM4	Page 23	<p>Policy DC3</p> <p>The Policy should be amended by deletion of the final paragraph as follows:</p> <p>“All-new-development should, subject to viability, secure at least 15% of their total regulated energy from decentralised and renewable sources (or a higher figure, should the Government increase the target)”.</p>
PM5	Page 27	<p>Policy TC1</p> <p>The first sentence of the Policy should be amended to read:</p> <p>“In order to improve sustainable transport and safety and to facilitate cycling and walking, applicants for new development or changes of use which will <u>significantly</u> increase traffic must demonstrate, where appropriate:”</p>
PM6	Page 30	<p>Policy TC3</p> <p>Delete the second sentence of the Policy as follows:</p> <p>“Permitted development rights relating to the surfacing of driveways should be removed by condition on new developments”.</p>
PM7	Page 32	<p>Policy EB1</p> <p>Amend the Policy title as follows:</p> <p>“The Local <u>Rural</u> Economy”</p>

		Delete items c) and d) and amend item e) to read “c”).
PM8	Page 32	<p>Policy EB2</p> <p>Amend the Policy title as follows:</p> <p><i>“Rural Business Development <u>in the Open Countryside</u>”</i></p> <p>Amend the Policy wording as follows:</p> <p>Insert “<i>These include:</i>” after the first sentence which ends in “<i>public rights of way</i>”.</p> <p>Insert item c) from Policy EB1 as item a), deleting “<i>{see Policy EB2}</i>” as follows:</p> <p><i>“a) The diversification of farms and rural businesses”</i>.</p> <p>Amend the second item of the Policy as follows:</p> <p><i>“b) The sympathetic re-use, conversion and adaptation....”</i>.</p>
PM9	Page 35	<p>Policy CF1</p> <p>Delete the second sentence of the Policy.</p>
PM10	Page 37	<p>Figure H</p> <p>Replace Figure H with the corrected version submitted with responses to the examiner’s questions, 12 December 2020.</p>
PM11	Page 38	<p>Policy CF2</p> <p>Amend the second sentence of the Policy to read as follows:</p> <p><i>“Appropriate enabling additional development may be permitted on the site in line with Cheshire East Local Plan policies and Neighbourhood Plan policies (see Figure H-1) to ensure the successful viability of the project”</i>.</p> <p>Amend the second sentence of paragraph 12.8 as follows:</p> <p><i>“Other than <u>Whilst there is the Methodist Chapel Community Hall, (which has no alcohol licence)</u> there is no longer a <u>other</u> locations for local residents to meet informally, such as a village community hub, pub or shop”</i>.</p> <p>Add an additional sentence to paragraph 12.14 as follows:</p> <p><i>“A key point taken from the questionnaire and community meetings was that the <u>White Lion development and the Chapel community facilities complement each other and are both supported by the community.</u>”</i></p> <p>Amend paragraph 12.21 by amending the final sentence as follows:</p>

		<p>“It also serves as the venue for <u>four different Parish Councils to hold their council meetings and a polling station for Hankelow and two <u>three</u> other parishes”.</u></p>
PM12	Page 41	<p>Policy CF3</p> <p>The first paragraph should be amended as follows:</p> <p><i>“Proposals for the refurbishment and improvement of community buildings will be permitted <u>supported</u>, subject to other policies within the Neighbourhood Plan. Changes of use of these buildings to non-community buildings which require planning permission will not normally be permitted <u>supported</u>, unless any replacement use will provide equal or greater benefits to the community, the facility is replaced elsewhere, or it is demonstrated that the facility is no longer required”.</i></p>
PM13	Page 42	<p>Policy CF4</p> <p>Amend the second paragraph as follows:</p> <p><i>“Any development that leads to the loss or degradation of any PROW, or any cycleway, will not be permitted in other than very special circumstances, and then only if supported unless a suitable alternative can be provided. Proposals to divert PROWs or cycleways should provide clear and demonstrable benefits for the wider community”.</i></p> <p>Amend the third paragraph as follows:</p> <p><i>“Any n New development must <u>which provides</u> easy, accessible traffic-free routes for non-motorised users (to include pedestrians, disabled people, people with prams or baby-buggies, cyclists and where appropriate equestrians) to shops, parks and open spaces, and nearby countryside. The provision of any such additional routes will be supported”.</i></p> <p>The final paragraph should be deleted in its entirety.</p>
PM14	Page 50	<p>Policy H2</p> <p>Replace “permitted” with “supported” in the final sentence of the first paragraph, and the second sentence of the paragraph following the criteria, as follows:</p> <p><i>“Limited infilling will only be permitted <u>supported</u> where it is:”</i></p> <p>And:</p>

		<p><i>“..or for other uses appropriate to a rural area will be permitted <u>supported</u>.”</i></p> <p>The remainder of the Policy starting with ‘Exceptions may be made...’ to be deleted and replaced with the following:</p> <p><i><u>“Exceptions may be made in accordance with the criteria contained in Cheshire East Local Plan Policy PG6.”</u></i></p>
PM15	Page 52	<p>Policy H3</p> <p>Amend the text of the Policy to read as follows:</p> <p><i>“Unless viability, any updated housing needs survey or other material considerations show a robust justification for a different house type, in <u>In order to redress the imbalance of the current housing stock and ensure an appropriate mix of housing in Hankelow, new homes, including those on the allocated sites, an appropriate mix of house types will be sought in new developments, including those on the allocated sites. should be This may include properties of three bedrooms or less, and provide for the changing needs and life-styles of an ageing population - including where appropriate an element of fully compliant Lifetime Homes. Viability or other material considerations will be taken into consideration in arriving at an appropriate mix”.</u></i></p>
PM16	Page 53	<p>Policy H4</p> <p>The Policy should be amended by deletion of the penultimate paragraph as shown:</p> <p><i>“Where Entry-level exception sites are found acceptable, Permitted Development rights will normally be removed by condition to ensure they remain affordable to future occupants”.</i></p>