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Report on Farndon Neighbourhood Development Plan 2010 - 2030

An Examination undertaken for Cheshire West and Chester Council with the support of the Farndon Parish Council on the May 2017 submission version of the Plan.

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Date of Report: 23 October 2017

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Main Findings - Executive Summary

From my examination of the Farndon Neighbourhood Development Plan (NDP) 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 Farndon Parish Council;
- The Plan has been prepared for an area properly designated – the whole of the Parish of Farndon as shown on page 9 of the submitted plan;
- The Plan specifies the period to which it is to take effect: 2010 - 2030; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Farndon Neighbourhood Development Plan 2010 - 2030

- 1.1 Farndon lies about 8 miles south of the city of Chester. The River Dee, which forms the border between England and Wales, extends along the western side of the village. In 2015, the Farndon parish boundary was extended to include the parishes of Crewe-by-Farndon and Kings Marsh.
- 1.2 The A534, linking Nantwich to Wrexham, lies just to the south of Farndon and crosses the River Dee on a by-pass built in 1986. Previously the main road passed through the centre of Farndon and across the 14th century bridge over the Dee to the village of Holt on the Welsh side of the river.
- 1.3 The character and appearance of the NDP Area is predominantly rural, open countryside interspersed with farms. Farndon, with a population of 1665 in 2011 (Census), is the local centre with a good range of facilities and a traditional village form, with recently built housing developments around parts of the periphery.
- 1.4 The countryside is gentle and undulating, bisected by the River Dee with the adjoining sandstone cutting on which Farndon is sited forming a

notable and colourful feature. Views are long; fields large; and mostly well defined by hedges and mature hedgerow trees.

- 1.5 Preparation of the NDP began in March 2012 with the establishment by Farndon Parish Council of a Development Working Group (Steering Committee). The Steering Committee met many times from April 2012, circulated information leaflets and questionnaires and held open meetings and drop in sessions. The NDP now represents over 5 years work by those involved.
- 1.6 The vision for the area derived from the results of questionnaires and local meetings is included on page 10 of the Plan and states: *"In twenty years time Farndon will still be a rural village with a strong community ethos. It will value its heritage, river and surroundings while providing people with a safe and sustainable environment. Farndon will be a welcoming place providing local employment and encouraging visitors."*
- 1.7 Seven objectives have also been listed which lead to six policy areas: economy, housing, built environment, facilities, transport and communications and landscape and environment. Each policy area is considered separately with background, evidence and the gist of community responses.

The Independent Examiner

- 1.8 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Farndon Neighbourhood Plan by Cheshire West and Chester Council (CWaCC), with the agreement of the Farndon Parish Council.
- 1.9 I am a chartered town planner and former government Planning Inspector where I dealt with a wide variety of casework ranging from small scale housing appeals to development plan and nationally significant infrastructure project examinations. Experience prior to joining the Planning Inspectorate included the preparation of informal development plans for small towns and villages for a local planning authority. 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

- 1.10 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.

1.11 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').

1.12 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

1.13 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.

1.14 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 CWaCC, not including documents relating to excluded minerals and waste development, includes the Cheshire West and Chester Local Plan. Part One of the Cheshire West and Chester Local Plan ('CWaCLP (Part One)') deals with Strategic Policies and was adopted in January 2015. Part Two of the Local Plan ('CWaCLP (Part Two)') covers Land Allocations and Detailed Policies and is at an advanced stage of preparation prior to submission for examination. The development plan also includes policies from the Chester District Local Plan (2006) which are being retained until they are replaced by policies in the CWaCLP (Part Two)¹.
- 2.2 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. PPG makes clear that whilst a neighbourhood plan is not tested against the policies in an emerging Local Plan, the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the Basic Conditions against which a neighbourhood plan is tested. It cites, as an example, that up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan contributes to the achievement of sustainable development. Paragraph 184 of the NPPF also provides, "The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider area". On

¹ Basic Conditions Statement paragraph 5.10.

this basis, I refer to the emerging Local Plan, the CWaCLP (Part Two) in this report.

- 2.3 The CWaCLP (Part One) indicates that new development will be brought forward according to a settlement hierarchy which lists Chester, Ellesmere Port, Northwich and Winsford as the locations where the majority will be built. In order to maintain the vitality and viability of rural areas, Key Service Centres are defined where an appropriate amount of development will be brought forward to support new homes and economic and social development. CWaCLP (Part One) Policy STRAT 2 includes Farndon as a Key Service Centre, together with nine other settlements.
- 2.4 Policy STRAT 8 of the CWaCLP (Part One) states that the Key Service Centres provide a good range of facilities and services and will be the main focus of development in the rural area and that Farndon should accommodate 200 dwellings. Policy R 1 of the Consultation Version of CWaCLP (Part Two) states that, within a Key Service Centre settlement boundary, planning permission will be granted for development which accords with the development plan for the identified settlement and is consistent with Policy STRAT 8.

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 Farndon Development Neighbourhood Plan 2010 - 2030;
 - the map on page 9 of the Plan which identifies the area to which the proposed neighbourhood development plan relates;
 - the Consultation Statement, completed in June 2017;
 - the Basic Conditions Statement, May 2017;
 - all the representations that have been made in accordance with the Regulation 16 consultation;
 - the Strategic Environmental Assessment Screening Opinion prepared by CWaCC June 2017; and
 - the request for additional clarification sought in my letter of 12 September 2017 and the response on the 26 September 2017 provided by the Parish Council, both of which are available on the Parish Council website².

Site Visit

- 2.6 I made an unaccompanied site visit to the NDP Area on 19 September 2017 to familiarise myself with it and visit relevant sites and areas referenced in the Plan and evidential documents.

² View at: http://www.farndonparishcouncil.co.uk/?page_id=168

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. As noted in paragraph 2.5 above, the Parish Council helpfully answered in writing the questions which I put to them in my letter of 12 September 2017. No requests for a hearing session were received.

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 Farndon Neighbourhood Development Plan has been prepared and submitted for examination by Farndon Parish Council which is a qualifying body. It extends over the whole of the Farndon Parish which constitutes the area of the Plan designated by CWaCC on 23 October 2015. The NDP includes Map 1 at page 9 on which the Farndon Parish Boundary is marked together with the former parishes of Kings Marsh and Crewe. A loose map showing the NDP area was submitted to me along with the other documents for examination. For the avoidance of doubt and to ensure compliance with statutory procedures, the key on Map 1 should be amended by the reference to the red line as the boundary of the Farndon Neighbourhood Plan Area (**PM1**).
- 3.2 It is the only neighbourhood plan for Farndon Parish and does not relate to land outside the designated neighbourhood area.

Plan Period

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2010 to 2030. The end date aligns with the CWaCLP (Part One) which is also 2030. However, the NDP includes three Annexes which, on the front cover of the enclosing document, are entitled Appendixes with a NDP period of 2016 to 2030. To be accurate and avoid confusion, the period should be altered to 2010 to 2030, the attachments should be

retitled Annexes, Appendix 1 should be retitled Annex 1 and a title page for Annex 3 should be included at the appropriate place (**PM2**).

Neighbourhood Plan Preparation and Consultation

- 3.4 The Consultation Statement completed in June 2017, indicates that the Parish Council commenced preparation of the Plan in March 2012 with the appointment of a Steering Committee. The Consultation Statement includes a list of All Activities dated 22 May 2017 which provides comprehensive documentation of nearly 40 public meetings and consultations held between December 2011 and March 2017, Neighbourhood Plan Questionnaires circulated to households and businesses in 2012 and a further questionnaire to households in 2015. There were 170 responses from 670 households for the 2012 questionnaire. The Steering Committee met 41 times including a final meeting in March 2017 with CWaCC. Five drop in sessions were held through March and April 2012. The Consultation Statement helpfully provides analysis of the results of the questionnaires and notes of the meetings, those with CWaCC being especially useful.
- 3.5 The Draft Plan was published for consultation under Regulation 14 of the 2012 Regulations on 13 March 2016. The consultation period ran for over 6 weeks until 28 May 2016. The publicity included notifying statutory bodies by email, an information leaflet distributed to households and businesses, and a web page on which the Draft Plan and associated appendices could be read. The Plan could also be read at the Surgery, the Post Office and several other local shops and businesses. There were 7 responses from interested parties.
- 3.6 Consultation in accordance with Regulation 16, when the Plan was submitted to CWaCC, was carried out for a 6-week period ending 17 August 2017 and 10 responses were received. I am satisfied that a transparent, fair and inclusive consultation process has been followed for this Neighbourhood Development Plan that has had regard to advice in the PPG on plan preparation and is procedurally compliant in accordance with legal requirements.

Development and Use of Land

- 3.7 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

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

Human Rights

- 3.9 The Basic Conditions Statement advises that, in preparing the NDP, regard was had to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and that it complies with the Human Rights Act 1998. CWaCC 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 NDP was screened for Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) by CWaCC and submitted with the NDP in accordance with the legal requirement under Regulation 15(e)(i) of the 2012 Regulations. The Council found that it was unnecessary to undertake SEA or HRA and neither Historic England nor the Environment Agency, when consulted, disagreed with that assessment or did not respond. Natural England sought clarification on the effect of NDP policies on the Site of Specific Scientific Interest (SSSI) and Special Area of Conservation (SAC) at Farndon and were subsequently content that no significant environmental effects would result and that full SEA and HRA would not be required.
- 4.2 Due to the proximity of Wales, Natural Resources Wales and Cadw were consulted, but made no specific comments on the need for SEA or HRA. Having read the SEA and HRA Screening Opinions and the other information provided, and considered the matter independently, I agree with those conclusions. Therefore, I am satisfied that the NDP is compatible with EU obligations.

Main Issues

- 4.3 Having considered whether the Plan complies with various procedural and legal requirements it is now necessary to deal with whether it complies with the Basic Conditions, particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance of all the Plan's policies.
- 4.4 As part of that assessment, I consider whether the policies are sufficiently clear and unambiguous having regard to advice in the PPG. The NDP 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 evidence³.

- 4.5 Having regard to the Farndon Neighbourhood Development Plan, the consultation responses, other evidence⁴ and the site visit, I consider that there are three main issues relating to the Basic Conditions for this examination. These are:

Issue 1: Whether the proposals for homes and jobs are in general conformity with the adopted strategic planning policies (and align with those emerging), whether they would contribute to the achievement of sustainable development and whether they have regard to national policy and guidance?

Issue 2: Whether the proposals for safeguarding the character and appearance of the built environment, landscape and the countryside have regard to national guidance, contribute to sustainable development and generally conform with strategic statutory planning policies, striking the right balance with rural economic needs?

Issue 3: Whether the remaining policies (other matters) in the Plan provide an appropriate framework to shape and direct sustainable development whilst maintaining the essential character of the Plan area and supporting essential facilities and services in meeting the Basic Conditions?

Issue 1: Whether the proposals for homes and jobs are in general conformity with the adopted strategic planning policies (and align with those emerging), whether they would contribute to the achievement of sustainable development and whether they have regard to national policy and guidance?

- 4.6 The spatial strategy of the CWaCLP (Part One) includes meeting future housing needs and supporting economic growth. The CWaCLP (Part One) also seeks growth which is higher than that to meet local needs⁵. Under Policy STRAT 1 of the CWaCLP (Part One) new development is directed first of all to the four main urban areas of Chester, Ellesmere Port, Northwich and Winsford and then to the larger villages and market towns which have been identified as Key Service Centres. Finally, an appropriate level of development will also be brought forward in smaller rural settlements which have adequate services and facilities and access to public transport. These local service centres will be identified in CWaCLP (Part Two).

³ PPG Reference ID: 41-041-20140306.

⁴ The other evidence includes my letter to the Parish Council seeking clarification and the replies: see footnote 2.

⁵ CWaCLP (Part One) paragraph 5.1.

- 4.7 Policy STRAT 2 of the CWaCLP (Part One) seeks the delivery of the key elements of strategy: about 22,000 new dwellings and 365 ha of land for employment development. Policy STRAT 8 of the CWaCLP (Part One) requires the provision of at least 4,200 new dwellings across the rural area outside the four main urban areas, together with the provision of an additional 10ha of employment land. Farndon, as one of the 10 Key Service Centres is expected to provide at least 200 new dwellings within the CWaCLP (Part One) period of 2010 to 2030.
- 4.8 The explanatory text to Policy STRAT 8 states that settlement boundaries for Key Service Centres will be identified in the CWaCLP (Part Two) Land Allocations and Detailed Policies. However, the Farndon NDP already includes a defined settlement boundary shown on page 12 of the NDP and the representation from CWaCC indicates that the boundary aligns with that in the emerging CWaCLP (Part Two). Therefore, the land outside the Farndon settlement boundary is open countryside to which Policy STRAT 9 of the CWaCLP (Part One) applies.
- 4.9 The latest housing land monitoring position by CWaCC has demonstrated a housing land supply of 7.8 years⁶. So far as Farndon is concerned, compared to the net housing requirement of 200 in the CWaCLP (Part One) period 2010- 2030, 106 dwellings had been completed and 146 further dwellings had full or outline planning permission as at 1 April 2017⁷. Therefore, there is an excess of 52 dwellings above the minimum requirement of 200. Accordingly, there has been no need to allocate additional land for residential development at Farndon in the CWaCLP (Part Two) or in the NDP. I support that conclusion and agree that the NDP reflects the general thrust of the settlement pattern policies of the adopted CWaCLP (Part One).
- 4.10 Turning to the detailed policies of the NDP, I note the general comment by CWaCC in its representation about the confusion of terms and agree that the separate themes in the NDP should not be defined as policies but should be renamed as Topics. This would be consistent with the Summary of Policies table on page 16 of the Plan and I shall recommend such a modification (**PM3**).
- 4.11 Policy 2.1 considers the location of future housing development and indicates a sequence of site preferences. The first preference would be previously developed land within the settlement boundary, the second would be small scale development on undeveloped land within the settlement boundary. The third preference would be small scale redevelopment of previously developed sites close to the edge of the settlement, which the NDP states "may be acceptable".

⁶ Representation from CWaCC 16 August 2017 paragraph 5.1.

⁷ As above in footnote 6.

- 4.12 Community Consultation revealed that 96% of respondents agreed or strongly agreed that priority should be given to brownfield site development. This belief aligns with a core planning principle of government policy which is to encourage the use of previously developed (brownfield) land, provided it is not of high environmental value⁸. Moreover, planning policies and decisions should encourage the effective use of land by re-using land that has previously been developed, provided it is not of high environmental value⁹. Therefore, I consider that the bias in the NDP towards favouring the development of previously developed land over other land is broadly consistent with the aims of government policy, provided it is of lesser environmental value.
- 4.13 The hierarchy of site preferences within Policy 2.1 reflects national policy guidance to prioritise the use of previously developed land for housing, although development on such land should still comply with policies to safeguard the quality of life for residents who might live nearby. These include Policy SOC 5 of the CWaCLP (Part One) and Policy DM 2 of the emerging Part Two of the CWaCLP and would also form a component of the comparison of the environmental value of a previously developed site with a green field site. Accordingly, I shall add a reference to the adopted CWaCLP (Part One) Policy SOC 5 to the final sentence of NDP Policy 2.1 and incorporate it as part of **PM5** below.
- 4.14 I questioned the Parish Council on how the hierarchy could be implemented and received a joint response on 26 September 2017 from the Council and CWaCC which suggested that as part of any planning application for development which would fall within the second and third of the site preferences, applicants would be required to demonstrate that there were no appropriate sequentially preferable sites available. If this could be adequately demonstrated, then development within bullet points 2 or 3 could be considered favourably.
- 4.15 I broadly agree with the suggestion of the Councils but, rather than demonstrating availability, I would prefer a demonstration of deliverability. For example, a site may be available but not suitable for a variety of reasons. NPPF defines deliverability in paragraph 47 footnote 11 and includes considerations of availability, suitability and viability. Therefore, the text of the NDP should be amended to include an appropriate explanatory statement which I have drafted as **PM4**.
- 4.16 I note that there is no reference in Policy 2.1 to housing on rural exceptions sites which may occur on the edge of key service centres such as Farndon. However, provision is made for such development in Policy

⁸ NPPF paragraph 17 bullet point 8.

⁹ NPPF paragraph 111.

SOC 2 of the CWaCLP (Part One) and Policy DM24 of the emerging CWaCLP (Part Two). The Local Plan is equally part of the Development Plan as is a Neighbourhood Plan and I do not consider the omission of rural exceptions sites from the Housing policies to be a potentially fatal failure which would require a modification of the NDP to remedy it.

- 4.17 The third site preference within Policy 2.1 states that small scale redevelopment of previously developed sites outside the settlement boundary, but close to it, may be acceptable. In my opinion, there is an unacceptable lack of clarity in the use of the phrase "close to" and the word "may", which could be overcome by reference to the emerging Policy DM 1 of the CWaCLP (Part Two) which includes consideration of the development of previously developed land in the countryside.
- 4.18 Other details within Policy 2.1 which would aid clarity, avoid misunderstanding are: the deletion of the phrase in the first bullet point after the hyphen; the deletion of the phrase "avoiding over-intensity" from the second bullet point (this is covered by Policy 2.3); the substitution of "open countryside" for "agricultural land" (there might be non-agricultural land in the countryside which is of equally high environmental quality); the deletion of "commercial" (Policy 2.1 deals with housing) and the substitution of "granting planning permission" for "allocation" (development plans allocate land). I shall recommend a reworded Policy 2.1 as **PM5**.
- 4.19 Policy 2.2 considers the mixture of housing development and it conforms generally with Policies SOC 1 and SOC 3 of the CWaCLP (Part One). The representations from CWaCC indicate that evidence to support the requirement for smaller 2 – 3 bedroomed properties, can be found in the Cheshire West Strategic Housing Market Assessment (SHMA) (2013).
- 4.20 The SHMA identified that there is a high proportion of under occupation of houses in Farndon, with about 20% of households having 3 or more spare bedrooms. There is also a lower proportion of 1 - 2 bedroomed houses and a higher proportion of 5+ bedrooms in Farndon than the county average. Therefore, the first bullet point of the policy seeking smaller properties within the housing mix is based on sound evidence.
- 4.21 The policy states that affordable housing should be allocated to those with a local connection. Whereas the policy is basically sound, the possibility is raised of houses remaining empty if no-one with appropriate criteria comes forward if the local connection is the only test used. Therefore, I agree with the representation of CWaCC and shall recommend modifying the policy as suggested which would include the sentence "When allocating affordable housing, priority should be given to those with a local connection" (**PM6**).

- 4.22 CWaCC suggest including in the supporting text of the Plan the various and comprehensive criteria which need to be satisfied in order to qualify for affordable housing. The criteria are not explained in great detail in either the CWaCLP (Part One), nor in the emerging CWaCLP (Part Two) and I consider that these criteria, applicable throughout the CWaCC area, are best described in a CWaCC document rather than the NDP.
- 4.23 The third bullet point within Policy 2.2 refers to sheltered accommodation and seeks to restrict such housing to existing residents or those with a long-term connection with the Parish. As stated by CWaCC, a local connection criterion would not usually be applied to sheltered accommodation available on the general market, although it would for any affordable element required for the scheme. I support the suggestion of CWaCC that this part of the policy should be modified to “sheltered accommodation where there is demonstrable need within the local area”. In order to include a reference to affordable sheltered housing, a further bullet point should be added to read “when allocating affordable sheltered housing, priority should be given to those with a local connection” (**PM7**).
- 4.24 Policy 2.3 considers the size and scale of housing. The aim of the policy is to encourage small scale developments which respect the local character of the village. The second bullet point states that multiple small scale or large estate type development will not be permitted. I consider that this is an unnecessary element within the policy and merely repeats what can already be achieved under the first bullet point, which limits the size of development to small scale with the added reason of respecting the character of the village. Therefore, I shall recommend the deletion of the second bullet point (**PM8**).
- 4.25 CWaCC point out that the final bullet point is more suited to Policy 2.2 than Policy 2.3. Given that the subject matter of the bullet point is housing needs rather than size and scale, I agree and, for reasons of clarity, I shall recommend such a modification (**PM9**).
- 4.26 During the examination, following my request for information from the Parish Council, I received a submission which comprised a flow chart plotting a course of action for the Council upon receipt of a planning application for housing development. I am uncertain whether it is intended for me to recommend the diagram as an inclusion in the NDP, but I shall not do so in any event.
- 4.27 The diagram does not include all the relevant policies to take into account in the NDP when determining a planning application, makes no reference to any Local Plan policies and does not refer to the legal criterion of “other

material considerations” in the balancing of whether planning permission should be granted. I could suggest a comprehensive set of alterations to make it more accurate but it would then become extremely unwieldy and inappropriate for a document which would become part of the development plan and used for development management purposes.

- 4.28 The NDP describes the background to the economy of Farndon and its surroundings which, unsurprisingly for a rural area, used to be based on agriculture. Farndon village includes a wide range of small retail units and services for its size which reflects its selection and function as a Key Service Centre in the CWaCLP (Part One).
- 4.29 An objective of the NDP is to strengthen existing economic activities and support new opportunities for local employment. This is given effect by Policies 1.1 to 1.4 in the Plan. Policy 1.1 seeks to protect existing employment premises and opportunities which, to be less ambiguous and as I shall recommend, could be better defined as “protect existing employment land and premises” **(PM10)**.
- 4.30 As stated by CWaCC, Policy 1.1 generally conforms with the aims of Local Plan Policies STRAT 8, STRAT 9 and ECON 1¹⁰. Nevertheless, the first bullet point states that the proposal which would result in the loss of employment premises will be required to demonstrate being actively marketed for six to twelve months which is at variance with the emerging CWaCLP (Part Two) period of at least 12 months and at a reasonable rate¹¹. Therefore, in order to align with the emerging Local Plan policy, I shall recommend the period should in the NDP should be extended **(PM11)**.
- 4.31 Furthermore, Policy 1.1 indicates that that the loss of retail and other employment premises to wholly residential use will be strongly resisted. Firstly, the use of the word “strongly” adds nothing to the policy which would, in any event, become part of the development plan. To avoid ambiguity and to reduce the possibility of resistance in other areas where the policy might be contravened, being judged as weak, it should be deleted **(PM12)**.
- 4.32 However, of greater significance, is the lack of recognition of permitted development rights under the General Permitted Development Order (GPDO) Schedule 2 Part 3 Classes M, N, O, P and Q¹². I support the aim of this part of the policy but, so that it complies with current legal requirements, I shall recommend an appropriate modification **(PM13)**.

¹⁰ Letter from CWaCC dated 26 September 2017.

¹¹ CWaCLP (Part Two) Policy DM 5 bullet point 2 and paragraph 9.33.

¹² The Town and Country (General Permitted Development) (England) Order 2015.

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- 4.33 Policy 1.2 which supports proposals for the development of new businesses or the expansion of existing businesses is consistent with adopted CWaCLP (Part One) Policy STRAT 8. The first bullet point in the NDP policy refers to the employment site at Monument Place on the northern edge of Farndon, just outside the settlement boundary. The CWaCLP (Part Two) proposes an allocation of additional land for employment purposes at Monument Place. The CWaCLP (Part Two) has not yet reached the examination stage and whilst it is generally desirable to align a neighbourhood plan with an emerging local plan, in this instance I view the definition of the site in the NDP as pre-emptory.
- 4.34 The second bullet point in NDP Policy 1.2 refers to the redevelopment of previously developed land which I questioned in relation to Policy 2.1 (see paragraph 4.13 above). In my opinion, the same considerations about residential amenities should apply and I shall recommend a modification to make previously developed land subject to CWaCLP (Part One) Policy SOC 5 (**PM14**).
- 4.35 Policy 1.4 seeks to protect common land and other land along the bank of the River Dee which are seen as attractive recreational resources for residents and tourists alike. The policy would be consistent with national policy in NPPF paragraph 73. However, to be accurate, the statement from the text which supports low key recreational use of the river bank should be within the policy. I shall recommend such a modification (**PM15**). In addition, given the architectural, historic and visual importance of the 14th Century Farndon Bridge, it should also be worthy of protection in Policy 1.4. I shall recommend an appropriate modification (**PM16**), including, in recognition of its status as a scheduled monument and Grade 1 Listed Building, the protection of its setting.
- 4.36 I agree with CWaCC that Policy 1.3, which encourages a range of goods and services within Farndon, conforms with CWaCLP (Part One) Policy STRAT 8¹³. Accordingly, with the recommended modifications, I consider that the policies concerning the provision of homes and jobs would generally conform with strategic policies, would contribute to the achievement of sustainable development and have due regard to national policy and guidance. Therefore, the Basic Conditions are met.

Issue 2: Whether the proposals for safeguarding the character and appearance of the built environment, landscape and the countryside have regard to national guidance, contribute to sustainable development and generally conform with strategic statutory planning policies, striking the right balance with rural economic needs?

¹³ Letter from CWaCC dated 26 September 2017.

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- 4.37 As stated in the NDP and as I saw on my site inspection, Farndon is set on a low hill surrounded by fields and hedges with some small copse cover. St Chad's church tower in the centre of Farndon is a focal viewpoint. The aim of Policy 3.1 is to safeguard views and key vistas. This is implemented comprehensively by the details within the policy. I agree with the comment of CWaCC that the policy conforms with CWaCLP Policy (Part One) ENV2. Policy 3.2 deals with the design and layout of new development and is also consistent with CWaCLP (Part One) Policy EN2.
- 4.38 Policy 3.3 relates to development within or adjacent to the Farndon Conservation Area. The policy is consistent with CWaCLP (Part One) Policy ENV5 but should have a more accurate title which reflects the need to consider the setting of the Conservation Area and listed buildings, rather than merely the development in or around the sight line of listed buildings **(PM17)**.
- 4.39 The detail within Policy 3.3 is confusing. To enable the first paragraph to be more clearly understood I shall recommend creating a sentence from the final clause and the use of the phrase "where appropriate" rather than "where possible", which is more accurate **(PM18)**. In addition, the sentence at the foot of page 39 is more of a policy statement than evidence or justification and so should be included as a short paragraph within Policy 3.3 **(PM19)**. Modified as recommended, the policy would be consistent with a core planning principle within the NPPF by seeking to conserve heritage assets in a manner appropriate to their significance¹⁴.
- 4.40 Policies 6.1 to 6.3 consider the topics of landscape and the countryside and generally are consistent with NPPF paragraph 109¹⁵. The separate elements of Policy 6.1 are compatible with CWaCLP (Part One) Policies ENV2 and ENV5 and seek to conserve the landscape. However, additional clarity within the third bullet point of the policy would be beneficial. The NDP only considers land within Farndon Parish. Therefore, the reference to the Parish in the policy is superfluous, as is the reference to "public roads" which need not be specified. I shall recommend modification **(PM20)** which would satisfy the aim of this part of the policy and be less ambiguous.
- 4.41 The text at the foot of page 60 of the NDP states that there are no specific wildlife sites within the Parish other than the river bank and a badger set. However, as indicated by CWaCC in its representation and confirmed as part of the response to my question, there are nine Local Wildlife Sites (LWS) in the NDP area which would receive protection under Policy ENV 4 via paragraph 8.40 of the CWaCLP (Part One)¹⁶. These are shown on the

¹⁴ NPPF paragraph 17 bullet point 10.

¹⁵ NPPF paragraph 109 first three bullet points.

¹⁶ Letter of 26 September from CWaCC.

Map which has been received in the joint response from the Councils and I recommend that the Map of LWS, which includes a list of them, be included in the Plan (**PM21**). Policy 6.2 should be modified to refer to the need to safeguard LWS (**PM22**).

- 4.42 In addition, the final bullet point mentions that one of the reasons to retain mature trees and hedgerows is to act as barriers to noise. I agree with the comment of CWaCC on this point. Unfortunately, trees and hedges have an insignificant effect on noise attenuation. Therefore, the reference should be deleted (**PM23**).
- 4.43 The text at the foot of page 60 should be amended to correct the inaccurate reference to the lack of specific wildlife sites. It should also be combined with the text between Policy 6.2 and 6.3 which would also delete the reference to the NDP being subject to SEA in the future. The NDP has already been subject to SEA and HRA screening as part of the preparation process. HRA issues for future development would be dealt with under the relevant legal requirements¹⁷ and is covered by the CWaCLP (Part One)¹⁸. Therefore, there is no need to repeat them in the NDP. The modification would also delete the reference to the badger set which, in my experience, it is unwise to publicise, in order to safeguard the badgers from human interference (**PM24**).
- 4.44 Policy 6.3 considers the need to protect and conserve the environment, including land and river. I note the comments of CWaCC about the inaccuracy of references to the NPPF and the Housing and Planning Act 2016. The first bullet point, not allowing the development of best and most versatile (bmv) agricultural land, is not consistent with NPPF paragraph 112 which is more balanced. The use of bmv land is not precluded, only that local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.
- 4.45 The encouragement of the re-use of previously developed land in preference to greenfield land is laudable but cannot be achieved through the development management process of the NDP. In addition, as stated in CWaCLP (Part One) Policies SO9 and STRAT 1, previously developed land must also be suitably sustainably located.
- 4.46 Development at the SSSI and SAC at the Farndon Cliffs and River Dee is covered by other legislation as noted above. Moreover, Policy 1.4 of the NDP already seeks to protect the bank of the River Dee. Therefore, overall, although I agree with the basic aims of the policy, I do not believe it adds to the value of the Plan and should be deleted (**PM25**). In making

¹⁷ Conservation of Habitats and Species Regulations 2010 (as amended).

¹⁸ CWaCLP (Part One) paragraph 8.39.

this recommendation, I do not consider that the conservation aims behind the policy would be in any way frustrated.

4.47 Policy 6.4 seeks the protection of local green spaces. The policy is in broad conformity with CWaCLP (Part One) Policy SOC 6 and the more general Policy ENV 3. Each of the three locations of local green space in the Plan is supported by evidence justifying their selection and I have no modifications to recommend to the Policy. However, the Map 8 on page 62 of the Plan delineating the open spaces is an aerial photograph and unsuitable for use in development management for determining planning applications. In response to my request, an appropriate plan was submitted by CWaCC and this should be used in place of the photograph **(PM26)**¹⁹.

4.48 Therefore, with the recommended modifications, I consider that the landscape and countryside policies are in general conformity with the statutory policies, have regard to national guidance, would not unacceptably inhibit rural economic growth and would contribute to the achievement of sustainable development, thereby meeting the Basic Conditions.

Issue 3: Whether the remaining policies (other matters) in the Plan provide an appropriate framework to shape and direct sustainable development whilst maintaining the essential character of the Plan area and supporting essential facilities and services in meeting the Basic Conditions?

4.49 The wide range of local facilities and services located in Farndon befits its Local Plan designation as a Key Service Centre. The NDP recognises that there is a need for them to be protected wherever possible to meet the needs of the existing and future residents of the village and surrounding area. NDP Policy 4.1 supports the provision of new community facilities and services within the defined settlement boundary of Farndon and I agree with CWaCC that the policy is consistent with CWaCLP (Part One) Policies STRAT 8 and SOC 5.

4.50 Policy 4.2 seeks to protect the possible change of use or redevelopment of community facilities and services. NPPF states that planning policies and decisions should guard against the unnecessary loss of valued facilities and services where this would reduce the community's ability to meet its day to day needs²⁰. Therefore, the policy complies with national advice. Nevertheless, the detail of the policy is confusing. The statement that any proposal for any change of use redevelopment should be accessible to walking and cycling (as well as by car and public transport) would cover any possible site circumstance given the ability of many people to walk or

¹⁹ Letter of 26 September from CWaCC.

²⁰ NPPF paragraph 70.

cycle long distances. The second bullet point could also be read as only requiring access by car. I shall recommend modifying the policy as suggested by CWaCC and by adapting the safe and accessible phrase from the NPPF²¹ **(PM27)**.

- 4.51 I note that the text of the NDP raises the possibility of redeveloping the existing Monument Place industrial site for perhaps a new school or surgery, but that would seem contrary to NDP Policy 1.1 and the aims of adopted CWaCLP (Part One) Policy ECON 1. Therefore, this misleading sentence should be deleted **(PM28)**.
- 4.52 I also note that CWaCC suggested moving the list of current facilities from page 46 of the NDP to page 45 which, placing it alongside the relevant policy, might be more helpful to a reader. It seems to me that the location of the list of facilities is not so confusing that it is contrary to a Basic Condition and so I have no comment or recommendation to make.
- 4.53 Policy 4.3 proposes that a “Development Impact Assessment” should be required for planning applications so that the likely effect on local infrastructure, services and facilities can be identified together with how such effects can be addressed. The matters to assess are listed as anticipated numbers of new pupils at “the school”, patients at the surgery, numbers of cars, increase in traffic, and disruption associated with the new building activities including provision of gas, electricity, water and sewerage²².
- 4.54 The policy includes a threshold of ten houses, below which the assessment may be limited to describing the planned number of new residents, school pupils at primary and secondary levels, and cars. For housing numbers at ten or more, the assessment should be comprehensive.
- 4.55 I have significant reservations about the practicality of the policy. A developer or builder of market housing cannot accurately predict to whom a house or bungalow would be sold, whether a single person or couple, the number and ages of children, if any, the age and health of any potential occupants and car usage. Assumptions might be made about various numbers but, in my opinion, the quantity of houses would have to be so large that it would unrealistic to expect a proposal of such magnitude within or near Farndon, given the policies of the CWaCC Development Plan and this NDP if and when it is made. For example, the threshold above which an environmental impact assessment is required

²¹ NPPF paragraph 69.

²² NB: NDP typo in Policy 4.3 – Sewerage is the system which carries the sewage, not the reverse.

for infrastructure proposals is 150 houses or 5 hectares²³. Accordingly, for development of less than 10 houses, I consider the policy would be even more unreasonable and impractical. Therefore, despite the strong support for such a policy in the Community Consultation, I regret that I shall recommend that it should be deleted **(PM29)**.

- 4.56 Policy 4.4 considers accessibility and footpaths. The first bullet point seeks safe links between developments of ten or more houses and village services but this would be achieved under NDP Policies 5.2 and 2.3 and therefore this part of the policy is unnecessary. The second part of the policy, requiring a potential developer to liaise with the Cheshire Footpath Society, is not a land use matter and I agree with the suggestion by CWaCC that the policy should be deleted **(PM30)**.
- 4.57 The sentence in the text following Policy 4.4 states that proposals that do not positively contribute to Farndon will be resisted. This statement is more akin to a policy than evidence or justification. However, if it were to be a policy, it is so unclear that it would serve no useful purpose. There would be an element of positivity in virtually all proposals, economically, socially or environmentally which would have to be balanced against the negative aspects and which would result in an evaluation, characteristic in making planning decisions, about where the balance in a particular case should lie. Therefore, I shall recommend deleting the statement from the text **(PM31)**.
- 4.58 Road safety and congestion is dealt with in Policy 5.1, where it is proposed that planning applications for all significant developments should include a traffic assessment incorporating the predicted effect on the village. I support the aim of the policy, but note that the detail includes superfluous words which might promote an emotional and hence counter-productive dialogue should such a proposal be the subject of a planning application. I shall recommend that the words "realistic", "inevitable" and "normal" are deleted because they create a lack of clarity in the policy. I note that CWaCC has suggested that, for highways matters, significant development is normally defined as about 50 dwellings, or large scale commercial development²⁴. I shall recommend modifying the policy to accord with the above reasons **(PM32)**.
- 4.59 CWaCC also refer to the NPPF test that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe²⁵. In order to ensure the policy has

²³ Town and Country Planning (Environmental Impact Assessment) Regulations 2017 Schedule 2 Item 10.

²⁴ Letter from CWaCC dated 26 September 2017.

²⁵ NPPF paragraph 32 third bullet point.

regard to with national policy, I shall recommend an appropriate modification **(PM33)**.

4.60 Policy 5.2 covers pedestrians and cyclists and conforms generally with CWaCLP (Part One) Policy STRAT 10 and SOC 5 and with NPPF paragraphs 32 and 35. However, as pointed out by CWaCC, the first strand of the policy could apply to any new development and this could apply to change of use and minor house extensions. Therefore, a modification to include appropriateness would enable the policy to be realistic and more accurate. Similarly, it may not always be possible to enhance existing footpaths when forming a link with paths in a new development. This should be recognised in the policy. I shall recommend making the requisite modifications to the policy **(PM34)**.

4.61 Therefore, with the recommended modifications, I consider that the policies on other matters would be in general conformity with the strategic statutory policies and would both contribute to the achievement of sustainable development and have regard to national policy and guidance. Accordingly, the Basic Conditions are met.

5. Conclusions

Summary

5.1 The Farndon Neighbourhood Development Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the NDP, 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 Farndon NDP as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated neighbourhood plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated neighbourhood plan area.

- 5.4 I realise that Farndon has been subjected to recent pressure to accommodate new house building, the evidence of which I saw on my site inspection. The recent adoption of the CWaCLP (Part One) should reduce the pressure considerably by enabling the demand to be focussed elsewhere in the CWaCC area.
- 5.5 Nevertheless, the Parish Council is to be commended for its efforts in producing a clear and concise document which, incorporating the modifications I have recommended, will make a positive contribution to the development plan for the area and help to find the right balance between the protection of character and appearance of Farndon and the surrounding countryside, whilst enabling necessary development to proceed. The high quality of the NDP was also enhanced by the cooperation between the Parish Council and CWaCC, the results of which were evident in the comprehensive notes of the meetings between the two parties which I enjoyed reading.

Andrew Mead

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Map 1	Insert " Farndon Neighbourhood Development Plan Boundary " in the Key with a consequent amendment to the Map title.
PM2	Annexes	Front cover of Annexes should be retitled " 2010 – 2030 "; " Annexes "; Appendix 1 should be retitled " Annex 1 " and a page signifying the beginning of " Annex 3 " should be inserted.
PM3	Pages 17, 25, 33, 41, 49 and 55	Rename as " Topic " rather than Policy.
PM4	Page 30	Include in the text; " For any planning application for housing development which would fall within the second and third of the site preferences, applicants would be required to demonstrate that there were no appropriate sequentially preferable sites deliverable. If this could be adequately demonstrated, then development within bullet points 2 or 3 could be considered favourably. "
PM5	Policy 2.1	<p>Delete policy and insert:</p> <ul style="list-style-type: none"> • Building within the settlement boundary on previously developed land; • Subsequently, on small scale undeveloped land within the settlement boundary; • Outside the settlement boundary; small scale redevelopment of previously development land in the open countryside consistent with emerging Policy DM 1 of the

		<p>Cheshire West and Chester Local Plan (Part Two).</p> <p>All are in preference to granting planning permission for new residential development in open countryside.</p> <p>Proposals which meet the above criteria must also meet the requirements of Policies 3.1, 3.2 and 3.3 of the Plan and Policy SOC 5 of the Local Plan.”</p>
PM6	Policy 2.2	<p>Delete second bullet point and insert:</p> <p>“Affordable housing provided in accordance with Policy SOC 1 of the Cheshire West and Chester Local Plan (Part One) should remain affordable in perpetuity. When allocating affordable housing, priority should be given to those with a local connection.”</p>
PM7	Policy 2.2	<p>Delete third bullet point and insert:</p> <p>“sheltered accommodation where there is a demonstrable need within the local area”</p> <p>Add fourth bullet point:</p> <p>“when allocating affordable sheltered housing, priority should be given to those with a local connection”</p>
PM8	Policy 2.3	Delete second bullet point.
PM9	Policy 2.3	Move the final bullet point into Policy 2.2 as a final bullet point.
PM10	Policy 1.1	Delete title and insert: “Protect existing employment land and premises”
PM11	Policy 1.1: first bullet point	Delete “six to twelve months” insert “... at least 12 months at a

		reasonable rate..."
PM12	Policy 1.1: second paragraph	Delete "strongly".
PM13	Policy 1.1: second paragraph	Add at after "... resisted" "subject to the right of development which would be permitted under the General Permitted Development Order."
PM14	Policy 1.2: second bullet point	Insert after "...boundary" "... subject to Local Plan Policy SOC 5" .
PM15	Policy 1.4	Insert as a first statement after the title: "Low key recreational use or development of the river bank will be supported."
PM16	Policy 1.4	Add a final bullet point: "Have regard to the need to protect Farndon Bridge and its setting."
PM17	Policy 3.3	Change the title of the policy to "Conservation Areas, listed buildings and their settings"
PM18	Policy 3.3	Alter the final section of the first paragraph to "... vernacular and preservation of natural features including trees and hedgerows. Where appropriate, a positive contribution should be made to the wider public realm ..." .
PM19	Policy 3.3	Move the final sentence on page 39 to form the final paragraph of the policy.
PM20	Policy 6.1 third bullet point	Delete the first sentence and replace with "Other than to enable access to be gained to sites for development, existing hedgerows should be retained. ... "
PM21	Pages 60/61	Include the Map of Local Wildlife Sites (LWS) as submitted by CWaCC on 26 September 2017.
PM22	Policy 6.2	Add as a second bullet point: "The protection of Local Wildlife Sites;

		and...”
PM23	Policy 6.2	Delete from the fourth bullet point: “...as barriers to noise and ...”.
PM24	Pages 60/61	Delete the text at foot of page 60 and the text following Policy 6.2. Replace with: “There are nine designated Local Wildlife Sites within the parish which include two marl pits, Meadow Chase Pit and Crewe Lane Pond where the usual water species are found. The River Dee and the nearby cliffs are designated Sites of Special Scientific Interest (SSSI) and the River Dee is a Special Area of Conservation (SAC).”
PM25	Policy 6.3	Delete the policy.
PM26	Map 8 page 62	Substitute the Map of Local Green Spaces submitted by CWaCC for the aerial photograph.
PM27	Policy 4.2	Alter second bullet point to read: “It is safely accessible to all by a range of transport modes including walking, and had adequate car parking.”
PM28	Page 45	Delete the final sentence of the paragraph preceding Policy 4.2
PM29	Policy 4.3	Delete the policy.
PM30	Policy 4.4	Delete the policy.
PM31	Page 46	Delete the sentence in the text at the top of the page following the recommended to be deleted Policy 4.4
PM32	Policy 5.1	Delete the first paragraph of the current policy and replace with: “In all significant applications applicants should include an assessment of the impact that any increase in traffic would have on the roads within and around the village, especially at peak times for

		journeys to and from school and work. The assessment should incorporate steps to mitigate any harmful effects and the timetable to deliver that mitigation.
PM33	Policy 5.1	Delete the second paragraph of the current policy and replace with: “Development where levels of traffic would cause severe danger which could not be ameliorated will not be approved.”
PM34	Policy 5.2	Add at the beginning of the first sentence: “Where appropriate...” Amend the beginning of the second sentence to: “If appropriate and wherever possible, the new footpaths...”