

Dalston Parish Council

Dalston Neighbourhood Development Plan

A report to Carlisle City Council of the Independent
Examination of the Dalston Neighbourhood Development Plan

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Overall Finding

This is the report of the Independent Examination of the Dalston Parish Neighbourhood Development Plan. The plan area is the entire civil Parish of Dalston. The plan period is 2015-2030. The Neighbourhood Plan includes policies relating to the development and use of land.

This report finds that subject to specified modifications the Neighbourhood Plan meets the basic conditions and other requirements. It is recommended the Plan should proceed to a local referendum based on the plan area.

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”¹
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Dalston Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Dalston Parish Council (the Parish Council), a qualifying body able to prepare a neighbourhood plan, in respect of the Dalston Neighbourhood Area which was formally designated by Carlisle City Council (the City Council) on 15 October 2013. The Neighbourhood Plan has been prepared by the Dalston Neighbourhood Plan Steering Group (the Steering Group), made up of parish councillors and local volunteers, on behalf of the Parish Council.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to the City Council. The City Council received the submission on 11 May 2017 and arranged a six-week period of publication between 5 June and 17 July 2017. The period of publication was subsequently extended to 29 August 2017. The City Council has submitted the Neighbourhood Plan to me for independent examination.

Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.² The report makes recommendations to the

¹ Paragraph 183 National Planning Policy Framework (2012)

² Paragraph 10 Schedule 4B Town and Country Planning Act 1990

City Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The City Council will decide what action to take in response to the recommendations in this report.

6. The City Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and the decision taken to put the plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by the City Council. If 'made' the Neighbourhood Plan will come into force as part of the Development Plan for the neighbourhood area, and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area. The Housing and Planning Act requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan. The Framework is very clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted³.
8. I have been appointed by the City Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the City Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years

³ Paragraph 198 National Planning Policy Framework 2012

professional planning experience and have held national positions and local authority Chief Planning Officer posts.

9. As independent examiner, I am required to produce this report and must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

10. I make my recommendation in this respect and in respect to any extension to the referendum area,⁴ in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.⁵

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁶ The National Planning Practice Guidance (the Guidance) states *“it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”*

12. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

⁴ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁵ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

⁶ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

Basic Conditions and other statutory requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.⁷ A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.⁸

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁹ All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan policies’.

15. In addition to the Basic Conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.¹⁰ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

⁷ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

⁸ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁹ The Convention rights has the same meaning as in the Human Rights Act 1998

¹⁰ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

16. The Neighbourhood Plan relates to the area that was designated by the City Council as a neighbourhood area on 15 October 2013. A map of the Neighbourhood Plan boundary is included as Map 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Dalston parish boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹¹ and no other neighbourhood development plan has been made for the neighbourhood area.¹² All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;¹³ and the Neighbourhood Plan does not include provision about excluded development.¹⁴ I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.¹⁵ The front cover of the Submission Version Plan clearly states the plan period to be 2015-2030.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.¹⁶ It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention rights, and the other statutory requirements.
20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as,

¹¹ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹² Section 38B (2) Planning and Compulsory Purchase Act 2004

¹³ Section 38A (2) Planning and Compulsory Purchase Act 2004

¹⁴ Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

¹⁵ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

¹⁶ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.

21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.¹⁷

Documents

23. I have given consideration to each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Dalston Parish Neighbourhood Plan 2015-2030 Submission Draft
- Dalston Neighbourhood Plan Statement of Basic Conditions Statement March 2017
- Dalston Neighbourhood Plan Statement of Consultation February 2017
- Dalston Neighbourhood Plan evidence base available on the Carlisle City Council website
- Dalston Neighbourhood Plan Strategic Environmental Assessment Screening Report September 2016
- Dalston Neighbourhood Plan Habitats Regulations Assessment Screening Report September 2016 and a letter of 14 October 2016 from Natural England to Carlisle City Council confirming agreement to the conclusion of the report
- Submission Dalston Parish Neighbourhood Plan Regulation 15 Compliance Checklist Statement issued by Carlisle City Council 2 June 2017¹⁸
- Representations received during the Regulation 16 publicity period
- Carlisle District Local Plan 2015-2030 and Policy Map

¹⁷ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

¹⁸ The Neighbourhood Planning (General) Regulations 2012

- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Permitted development for householders' technical guidance DCLG (June 2016) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource DCLG (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Neighbourhood Planning Act 2017
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016

Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

25. Preparation of the Neighbourhood Plan was officially launched at the Annual Parish Meeting in April 2013 where a launch questionnaire was issued and volunteers asked to join the Steering Group. A Neighbourhood Plan website was established and community awareness of plan preparation was addressed through the monthly parish paper; the holding of 'drop-in' roadshows at local venues, in Dalston, Raughton Head, Gaitsgill, and Cumdivock; and through an

information desk at the Annual Dalston Agricultural Show where further launch questionnaires were issued. The 87 questionnaire returns and other feedback obtained fed into the development of Goals and Objectives for the plan.

26. In September 2013, a housing needs survey was carried out by the Cumbria Rural Housing Trust which was followed, in 2014, by a business survey; a farming and land ownership business survey; and a parish organisation survey. A young people's survey, and a "Dalston Visions" residents survey was undertaken in 2015, and a developers and estate agent's consultation in 2016.

27. Pre-submission consultation in accordance with Regulation 14 was undertaken in the period between 3 September and 15 October 2016 and included consultation with statutory organisations and a consultation brochure sent to every residential and business postal address in the plan area including local organisations, landowners, farmers, schools, faith groups, clubs, societies, businesses, and shops. In addition to a display at St Michael's Church Dalston, consultation events were held in the Victory Hall Dalston; All Saints Church Raughton Head; The Primrose Hall Gaitsgill; and in the Reading Room at Cumdivock. Publicity was also achieved through an advertisement in the Cumberland News, and through use of the Neighbourhood Plan website. Comments were received from more than 60 individuals and organisations. The observations made are presented within the Statement of Consultation where responses, and amendments to the Neighbourhood Plan, are set out. The suggestions have been reflected in a number of changes to the Plan that was approved by the Parish Council for submission to the City Council.

28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 5 June and 17 July 2017. The period of publication was subsequently extended to 29 August 2017. Representations from 17 different parties were submitted during the publicity period as follows:

L Swatts
Cumbria Police
S and T Nichol
C Oakley
Highways England
SSA Planning

L Cowen
Sport England
Network Rail
J and D Wilson
PKF Planning
Historic England
Natural England
Taylor and Hardy
United Utilities
Savills
The Health and Safety Executive

29. Responses of Highways England; Historic England; Natural England; United Utilities; SSA Planning; Sport England; and Network Rail have not raised any issues that require consideration of modification of the Neighbourhood Plan to meet the Basic Conditions and other statutory requirements.
30. Savills writing on behalf of The Church Commissioners for England support the objective of the Plan that acknowledges that Dalston Parish has grown organically over the centuries and that its residents support growth and changes, whilst ensuring that any change and future development retains the character of the area. The Church Commissioners support this objective and would like to work with the Parish Council to help deliver appropriate rural development to help meet the needs of the existing and future residents of Dalston Parish, ensuring sites and buildings do not fall into a state of disrepair if the current uses cease, whilst protecting and enhancing the rural nature of the Parish. The representation welcomes changes made from an earlier draft and supports the current plan.
31. Taylor and Hardy making representations on behalf of Cowens Ltd state, *“A significant proportion of Dalston is located within the Dalston Conservation Area. The fact that there is no policy that focuses solely on the statutory duty to preserve or enhance the character of the Conservation Area is a notable absence, which is at odds with the conditions that Neighbourhood Plans must adhere to”*. The representation also states the Neighbourhood Plan should include a policy that facilitates the redevelopment of Ellers Mill. There is no requirement for the Neighbourhood Plan to include a policy relating to statutory duties within the Conservation Area nor any requirement

to include a policy that facilitates redevelopment of any specific site.

32. L Swatts raises concerns regarding vehicles parked in the Bridge End area and requests parking restrictions between the Bridge End Inn and Deepdale. A representation by Cumbria Police draws attention to the availability of crime prevention design advice from the Constabulary and seeks the Parish Council's support in encouraging developers to consult with the Constabulary for appropriate design advice. C Oakley draws attention to flooding problems linked to the drains in several locations suggesting improved flood protection plans would require farmers and landowners to keep all drains and culverts clear. D Wilson states that whilst lighting appropriate for a rural environment is mentioned the introduction of urban features such as traffic lights and roundabouts would be inappropriate and detrimental to the character of this rural village. L Cowen suggests that recognition is given to other areas of natural history importance that are already identified by various surveys and local natural historians, for example Ike's Wood, the graveyard, Lakerigg, Nook Lane, and the Green which are all felt to be worthy of protection. It is beyond my role to recommend the Neighbourhood Plan should address these matters.
33. L Cowen also makes representations on Policies DNP-H1 and DNP-H3, and D Wilson makes a representation regarding Policy DNP-E4 which I consider later in my report. S and T Nichol thank those involved for the work involved in bringing the Plan forward and state specific support for several statements in the Plan including part 2 of Policy H4.
34. In preparing this report I have taken into consideration all of the representations submitted during the Regulation 16 period even though they may not be referred to in whole, or in part. Where appropriate I refer to those representations that relate to policies of the Neighbourhood Plan in the later section of my report relating to the Plan policies.
35. In a consultation, Government, had put forward a question as follows *"Do you agree with the introduction of a new statutory requirement (basic condition) to test the nature and adequacy of the consultation undertaken during the preparation of a neighbourhood plan or order? If you do not agree is there an alternative approach that you suggest that can achieve our objective?"* The published Government response to the consultation states *"We do not intend to take forward the proposals*

*to introduce a new basic condition...*¹⁹ The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:

- a) Contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- b) Explains how they were consulted;
- c) Summarises the main issues and concerns raised by the persons consulted; and
- d) Describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.²⁰

36. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. On this basis, I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

37. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the background and supporting documents and copies of the representations provided to me.

¹⁹ Department for Communities and Local Government Neighbourhood Planning Government response to consultation December 2014 ISBN 978-1-4098-4416-7

²⁰ Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

Consideration of Convention rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

38. I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).²¹ I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention.

39. The Statement of Basic Conditions includes a detailed analysis designed to establish the impact the strategic objectives, and the policies, of the Neighbourhood Plan will have on persons with protected characteristics (as identified in the Equality Act 2010). The analysis concludes *“Certain protected characteristics are not affected by the Dalston Neighbourhood Plan, namely gender reassignment, race, religion, or sexual orientation. For persons with these characteristics the Neighbourhood Plan has a neutral effect. Where policies in the Neighbourhood Plan would adversely affect persons with these protected characteristics, they would not be differently affected than persons without these characteristics. For example, if a person with these protected characteristics were disadvantaged by a policy, it would have the same consequence for a person without the protected characteristic who wished to do the same thing. Similarly, if a person with one of these protected characteristics were to benefit from a policy, it would have the same benefit for a person without the protected characteristic in the same circumstances”*. The equalities analysis undertaken, and presentation of results, is an example of the very best practice and is to be commended. From my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

40. The objective of EU Directive 2001/42²² is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an*

²¹ The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

²² Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.” The Neighbourhood Plan falls within the definition of ‘plans and programmes’²³ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²⁴

41. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council to submit to the City Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required. The City Council issued a Screening Report in August 2016 concluding with the opinion that a full Strategic Environmental Assessment (SEA) will not be required. The report states, at paragraph 1.4, an intention that it will be amended in the light of consultation responses. No amended report has been issued. The Screening Opinion of August 2016 included a statement of reasons why a full SEA report is not required. The principle reasons are stated at paragraph 4.1 of the report. The Screening Opinion confirms that all the Statutory Consultees will be consulted. The Submission Plan Compliance Checklist Statement issued by the City Council in respect of Regulation 15 of the Regulations dated 2 June 2017 states the Screening Opinion was underpinned by the opinions of the three statutory bodies (the Environment Agency, Natural England, and English Heritage) and *“the three statutory bodies agreed with this opinion”*. I am satisfied that the requirements in respect of Strategic Environmental Assessment have been met.

42. The Screening Report prepared by the City Council in August 2016 stated screening in respect of the Habitats Directive will be undertaken separately. A report, which the City Council website shows was last updated 2 September 2016, carrying the title ‘Habitats Regulations Assessment Dalston Neighbourhood Plan’ states *“Within the neighbourhood plan area which covers the extent of Dalston Parish, there is one Natura 2000 site, (namely the River Eden SAC), which includes the River Caldew which flows south to north through the area including through Dalston village. This site drains into the Solway Coast Ramsar, SAC and SPA. Appendix 1 sets out the qualifying interests and conservation objectives of these sites”*. The appendix to the report provides information in respect of the following European

²³ Defined in Article 2(a) of Directive 2001/42

²⁴ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

sites - River Eden SAC, Upper Solway Flats and Marshes Ramsar and SPA and the Solway Firth SAC.

43. The Habitats Regulations Assessment concludes *“This appraisal has been undertaken in accordance with the Conservation of Habitats and Species Regulations 2010, which states that competent authorities must undertake a formal assessment of the implications of land use plans which are capable of affecting the designated interest features of European sites. This must be done before deciding whether to adopt and implement the plan. The Dalston Neighbourhood Plan sits within a planning policy framework which includes the Carlisle District Local Plan, which is due to be adopted in Autumn 2016. Decisions on planning applications will be made within this context. The Local Plan was subject to HRA at every step of its development, from initial preferred options to final modifications. It was concluded that the policies in the Local Plan as a whole would not be likely to have any significant effects on any European sites. This conclusion was endorsed by Natural England and the Environment Agency, who were engaged throughout the process. Similarly, it is concluded that no policies in the Dalston Neighbourhood Plan are likely to have a significant effect on the integrity of any European site, and as such does not need any further assessment under the Habitats Regulations. This is due in large part to the Plan making no allocations for development, the absence of realistic pathways for potential impacts, and/or the avoidance or mitigation measures to negate such impacts, contained either within the Local Plan or the Neighbourhood Plan.”*
44. The Submission Plan Compliance Checklist Statement issued by the City Council in respect of Regulation 15 of the Regulations, dated 2 June 2017, states the Screening Opinion concerning the need for a Habitats Regulations Assessment (HRA) was underpinned by the opinions of the three statutory bodies (the Environment Agency, Natural England, and English Heritage). The Compliance Statement continues with a statement relating to Strategic Environmental Assessment. I have queried this situation with the City Council. In response, the City Council has provided me with a consultation response from Natural England dated 14 October 2016 which states *“Natural England does not have any specific comments on this draft neighbourhood plan and agrees with the conclusion of the Habitats Regulation Assessment that there will be no likely significant effect on the River Eden Special Area of Conservation.”* On this basis, I agree it

is not necessary to undertake a full Habitats Regulations Assessment 'appropriate assessment' to accompany the Neighbourhood Plan.

45. In a Regulation 16 representation the Health and Safety Executive (HSE) has drawn attention to potential for encroachment on consultation zones in respect of two sites within the Neighbourhood Plan area (HSE Ref: H3911 – Petrolneos Fuels Assets, Barras Lane, Dalston. CA5 7LX and Northern Gas Networks MAHP – HSE Ref: 7890 – Cummersdale/Bothel CW01). The HSE refer to requirements in the Local Plan Regulations relating to Article 13 of Council Directive 2012/18/EU (Seveso III). I have noted Local Plan Policy CM5 includes the provision that development will not be permitted where it would be subject to unacceptable risk from existing hazardous installations. The Neighbourhood Plan Regulations do not include an equivalent provision to the Local Plan Regulations however having regard to paragraph 172 of the Framework I have recommended a modification of Policy DNP-SP1 that includes reference to the sites identified by the HSE.

46. I have not seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

47. I conclude that the Neighbourhood Plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

48. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The City Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations [including obligations under the Strategic Environmental Assessment Directive and under Council Directive 2012/18/EU (Seveso III)]:

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).²⁵

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

49. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans²⁶ which requires plans to be “*consistent with national policy*”.

50. Lord Goldsmith has provided guidance²⁷ that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

51. The Statement of Basic Conditions document includes Table 1 which I am satisfied demonstrates how the Neighbourhood Plan has regard to the 12 core principles set out in paragraph 17 of the Framework.

52. The Neighbourhood Plan includes a positive vision for Dalston Parish. This includes the statement that the Parish should “*have a thriving and sustainable future*”. The vision includes economic components “*protecting and promoting businesses, support the farming community and to encourage tourism*” and “*that the village of Dalston retains its*

²⁵ National Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

²⁶ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

²⁷ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord’s Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

services.” Reference is also made to social factors through the statements “*enhancing the strong community spirit*” and “*managing housing development*”. The vision also refers to the protection of “*the rural environment and unique character of the Parish*” and refers to “*heritage and identity*.” These statements are consistent with the underlying principles of the Framework, specifically, the need to jointly and simultaneously seek economic, social and environmental gains through the planning system.

53. The vision is supported by eight strategic objectives of the Neighbourhood Plan. These objectives refer to the scale and design of development; the location of proportionate and appropriate development; the meeting of housing needs; the preservation and enhancement of local services and facilities; the protection and enhancement of natural and built environment; support for the local economy; and reduction in vulnerability to climate change, particularly flooding.
54. The Neighbourhood Plan also sets out objectives relating to the topics of housing; jobs and the local economy; and protecting our environment. In respect of the housing objectives PFK Planning in a representation state “*it is not acceptable to use words such as ‘appropriate’ in relation to scale. This is open to interpretation and can be viewed significantly differently between different people.*” In order to meet the Basic Conditions there is no requirement for the Strategic Objectives and objectives of the Neighbourhood Plan to be measurable.
55. In a representation PFK Planning state “*Dalston is a well-served settlement with a primary school, secondary school, significant employment, public transport (including rail) and retail services. It is considered that the constraining of development in a settlement which is eminently sustainable is contrary to increasing sustainable housing supply in the district and the Council’s strategic Policies. Further this is considered contrary to Para 47 of the National Planning Policy Framework (NPPF) which seeks to ‘boost significantly the supply of housing’. The defined development boundary is considered to be drawn so tight as to constrain housing development in the village contrary to the strategic aims of the Carlisle Local Plan 2015-30. The settlement summary considered Bridge End etc. as part of Dalston then excludes it from the mapping. The boundary effectively stops any development in Dalston occurring. It is considered that the*

constraining of housing development will not allow the Parish Council to meet the diverse housing needs for all by meeting the changing demographic and social requirements, nor will it allow for the support of additional services such as education provision as contribution levels would not be triggered.”

56. A representation made by Taylor and Hardy on behalf of Cowens Ltd (which resubmits a Regulation 14 representation when some policy and map references were different to those in the Submission Plan) states, *“the DNP introduces a Defined Development Boundary (DDB) with accompanying policies titled as Strategic Objectives, Strategic Policy SP1 and Policy H1, all of which restrict new development to within the proposed DDB. The DNP draws the DDB, as shown in Map 1 (Dalston Village Proposals Map), tightly around the existing built form of the core of Dalston village. Consequently, it is evident that very limited new housing or employment development could be approved in accordance with the draft policies above. Whilst it is recognised that the DNP identifies existing employment sites (Map 3), these sites are largely fully occupied and are unsuitable, in terms of scale, to accommodate the relocation of Cowens Ltd from their existing premises. By restricting new employment development to the employment sites identified on Map 3 or to sites within the DDB the DNP is limiting opportunities for growth.”* The representation also states *“The village of Dalston is a highly sustainable location by virtue of a large number of key community services, which render the village on par with a small town in terms of its facilities. These services include, but are not limited to, a train station, bus service, primary school, church, village hall, public houses, convenience store, post office, chemist, baker, butcher, building society and several sporting and recreation facilities. Of particular importance is the presence of some major employment providers within the settlement and the train station which allows easy and regular access to employment opportunities in Carlisle and in West Cumbria. It is therefore evident that Dalston has an abundance of services and infrastructure which would allow the settlement to accommodate a significant level of sustainable growth in the Plan period, both in respect of housing and employment development. It is evident that the DDS as proposed by the DNP, which seeks to maintain the current status quo, is too restrictive and would sterilise opportunities for growth and sustainable development within the Dalston area, contrary to the conditions that Neighbourhood Plans must adhere to.”* I have taken these representations into consideration when examining Policy DNP-SP 1

and the 'housing', and 'jobs and economy' policies, in particular, Policy DNP-H1, and Policy DNP-JE 1, later in my report.

57. After stating an overarching policy setting out development principles, the remaining 16 planning policies of the Neighbourhood Plan are grouped under topics, that support the Strategic Objectives and objectives of the plan, namely 'housing'; 'local jobs and economy'; and 'protecting our environment'. The Neighbourhood Plan taken as a whole seeks to shape and direct development. This is precisely the role national policy envisages for a neighbourhood plan.

58. My consideration of the Policies of the Neighbourhood Plan, which is detailed later in my report, leads me to conclude that the only modification of the Strategic Objectives and objectives that is necessary for the Neighbourhood Plan to meet the Basic Conditions is for Strategic Objectives 2 and 3 to refer to housing development only, as provision is made in the Neighbourhood Plan for employment development to occur in other locations. An inconsistency between these Strategic Objectives and the policies would result in the Neighbourhood Plan not providing a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

Recommended modification 1:

- in Strategic Objective 2 after “new” insert “housing”
- in Strategic Objective 3 after “any” insert “new housing”

59. The Neighbourhood Plan includes a “*health and well-being chapter*”. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on matters considered important in the local community. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The Guidance states, “*Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements.*” The acknowledgement in the Neighbourhood Plan of issues raised in the Dalston Visions Survey that did not have a direct relevance to land use is consistent with this guidance and represents good practice. The Guidance states, “*Wider community aspirations than those relating to*

development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”

I consider the approach adopted in the Neighbourhood Plan of identifying concerns raised and stating how those concerns support the justification of housing, economic and environmental policies is wholly appropriate.

60. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that need to ‘*have regard to*’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.*”

61. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.²⁸ The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*”²⁹.

62. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a

²⁸ Paragraph 14 National Planning Policy Framework 2012

²⁹ National Planning Practice Guidance (Ref ID:41-072-20140306)

contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

63. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Section 4 of the Statement of Basic Conditions confirms, for each dimension of sustainability, the alignment of the Neighbourhood Plan with the aims of the Framework.

64. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate quality; will enhance social and economic facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan seeks to:

- Establish overarching development principles seeking sustainable development solutions;
- Direct housing development to appropriate locations and be of a size and scale in character with its setting;
- Ensure new housing reflects local need;
- Ensure all development meets design requirements to be high quality in nature;
- Support business growth with satisfactory traffic implications, direct and shape new employment related development including new farm buildings, and guard against unnecessary loss of employment premises;
- Facilitate good communications infrastructure;
- Ensure development proposals preserve and/or enhance the function and appearance of Dalston Square;
- Ensure development proposals respect and not detrimentally affect environmental features including active travel routes;
- Preserve historic boundary walls;
- Support renewable energy; and
- Designate five Local Green Spaces;

65. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in

guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

66. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.³⁰ “*Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies*”.³¹

67. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.*”³²

68. I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The City Council has confirmed that the Development Plan applying in the Dalston neighbourhood area and relevant to the Neighbourhood Plan is the Carlisle District Local Plan 2015-2030 and Policy Map. The City Council considers all of the policies of the Local Plan are strategic for the purposes of neighbourhood plan preparation.

69. In considering a now repealed provision that “*a local plan shall be in general conformity with the structure plan*” the Court of Appeal stated “*the adjective ‘general’ is there to introduce a degree of flexibility.*”³³ The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable

³⁰ Paragraph 16 National Planning Policy Framework 2012

³¹ Paragraph 184 National Planning Policy Framework 2012

³² National Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

³³ Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31

room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

70. The Guidance states, “*When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”³⁴*

My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance.

71. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

³⁴ National Planning Practice Guidance (ID ref: 41-074 201 40306)

The Neighbourhood Plan policies

72. The Neighbourhood Plan includes 17 policies. I have here repeated the policy titles as they appear in the Plan contents page. The policies are as follows:

Strategic Policy DNP-SP1 Development Principles

Policy DNP-H 1. Dalston village - Defined Development Boundary

Policy DNP-H 2. Parish-wide, new housing

Policy DNP-H 3. Providing a mix of dwelling types and tenures

Policy DNP-H 4. New developments must preserve local distinctiveness

Policy DNP-JE 1. Proposals for sustainable growth

Policy DNP-JE 2. Proposals for use of commercial land

Policy DNP-JE 3. Proposals for residential units on commercial land or buildings

Policy DNP-JE 4. Proposals for use outside primary employment areas

Policy DNP-JE 5. Traffic & Parking with business development

Policy DNP-JE 6 New business should promote improved Broadband

Policy DNP-JE 7. Conservation of the Dalston Square built environment

Policy DNP-E 1. Landscape, habitats, rural character

Policy DNP-E 2. Creation of “List of Heritage Assets” for the Parish

Policy DNP-E 3. Renewable energy and energy efficiency

Policy DNP-E 4. Development should preserve historic boundary walls

Policy DNP-E 5. Proposed “Local Green Spaces”

73. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider*

local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.” “Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”³⁵

74. *The Guidance states “A policy in a neighbourhood plan should be clear and unambiguous. It 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. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”³⁶*

75. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.³⁷*

76. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”³⁸*

77. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

³⁵ Paragraphs 184 and 185 National Planning Policy Framework 2012

³⁶ National Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306

³⁷ National Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

³⁸ National Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20140306

Strategic Policy DNP-SP1 Development Principles

78. This policy seeks to establish eight development principles that all development applications must conform to.
79. The Framework states *“Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan”* and *“outside these strategic elements, neighbourhood plans will be able to shape and direct development in their area.”* Inclusion of the word *“strategic”* in the Policy title cuts across the structure described in the Framework. Description as *“Overarching Policy”* or *“Sustainable Development Policy”* would avoid this difficulty however I have not recommended a modification in this respect as it is not necessary to meet the Basic Conditions.
80. A representation by PFK Planning states *“It is considered appropriate that development should reflect the unique distinctiveness of Dalston. In relation to point 4 - it is not clear whether the conversion of existing and redundant building to a range of uses is appropriate in any location, for any use and whether those buildings should be traditional in appearance or could be modern in nature. Housing is an acceptable in flood zone 2 under national policy and there are standard acceptable tables in this regard. It is not considered that this is an appropriate consideration for a neighbourhood plan. There is considered to be a considerable tension between the strategic policies of the Local Plan which seeks to increase housing in settlements which are well served such as Dalston and the draft plan which seeks to significantly constrain development.”* A representation by Taylor and Hardy on behalf of Cowens Ltd states that the Defined Development Boundary drawn tightly around the existing built form of the core of Dalston village means it is evident that very limited new housing or employment development could be approved. I have considered the issue of constraint in the context of my examination of Policy DNP-H1 and Policy DNP-JE 1 of the Neighbourhood Plan. My consideration of those policies leads me to conclude Policy DNP-SP1 does require modification in respect of employment development in order to meet the Basic Conditions.
81. Part 2 of the policy seeks to establish that the part of the neighbourhood area north of the railway line will be protected in order to preserve the open rural aspect of the Parish, and retain Dalston village as a distinct settlement from Carlisle. I have noted the policy

does not seek application in all directions from Dalston Village but relates specifically, and only, to land north of the railway line.

82. In a representation L Cowen disagrees that the railway line should be designated as the hard edge to the village to the north as areas to the north of the line, accessible from the main road and to public transport could be assigned within the proposed line of the southern ring road.
83. The Framework states *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as: • the essential need for a rural worker to live permanently at or near their place of work in the countryside; or • where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or • where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or • the exceptional quality or innovative nature of the design of the dwelling. Such a design should: – be truly outstanding or innovative, helping to raise standards of design more generally in rural areas; – reflect the highest standards in architecture; – significantly enhance its immediate setting; and – be sensitive to the defining characteristics of the local area.”*
84. The Framework also states *“Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should: • support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings; • promote the development and diversification of agricultural and other land-based rural businesses; • support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and • promote the retention and development of local services and community facilities in*

villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship".

85. Whilst the justification supporting Policy DNP-SP1 refers to "*greenfield residential development*" the Policy wording refers to "*all development*". This approach is not in general conformity with strategic Local Plan Policies EC2 and EC11 which make provision for employment development north of the railway line. I have also noted policies of the Neighbourhood Plan relating to jobs and the economy support defined development north of the railway line. I consider those policies later in my report. There is a need for the policies of the Neighbourhood Plan to be mutually compatible. A policy defining an area where no development is to be permitted seeks to establish a regime that is more restrictive than even that applying in designated Green Belt. Such an approach would not have sufficient regard for national policy for it to be appropriate. I have recommended a modification in these respects.

86. Whilst the resistance of all forms of development in a defined area of open countryside would not have sufficient regard for national policy the resistance of coalescence of settlements can be a legitimate objective of land use policy. Preventing two settlements from coalescing is not the same as preventing any development between them. I have recommended a modification of the policy such that within the defined area north of the railway line, development that visually significantly diminishes the openness of the rural gap between Carlisle and Dalston, as viewed from publically accessible locations, will, with stated exceptions, not be supported. The recommended modification would have regard for those elements of the Framework that establish a presumption in favour of sustainable development; those elements that specifically recognise the importance of economic growth in rural areas; and those elements that state that there are special circumstances where isolated homes in the countryside will be acceptable. The recommended modification would also have regard for Paragraph 109 of the Framework which states "*the Planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes*". I have noted the text of the justification to Policy DNP-SP1 and reference to the evidence base which demonstrates that the undeveloped rural landscape in the defined area is a valued landscape.

87. I have noted the justification to Policy DNP-SP 1 states “*it is paramount that the masterplanning exercise due to be carried out in support of the Local Plan Policy SP 3 respects the key strategic principle of this Plan.*” The justification to Local Plan Policy SP 3 refers to future masterplanning work relating to the development of Carlisle South and states “*Maintaining adequate distances between the major mixed-use development and existing settlements in the wider locality, in order to avoid any coalescence and preserve their distinctiveness, would be a valid and undoubtedly essential approach to such work*”. This supporting text does not prevent a neighbourhood plan from seeking to prevent coalescence of settlements, however the Neighbourhood Plan cannot undermine the strategic policies of the Local Plan. Policy DNP-SP1 upholds the general principle of the strategic policy, but in adding an additional level of detail, it may, when future masterplanning work is complete, undermine the strategic policy. I conclude a modification of the second part of Policy DNP-SP1 is necessary for it to be in general conformity with the strategic policies of the Development Plan.

88. The term “*of the environment*” in part 3 of the policy is imprecise. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

89. The Framework states re-use of redundant or disused buildings may constitute special circumstances where new isolated homes in the countryside may be possible, but only where this would lead to an enhancement to the immediate surroundings. I recommend the Policy should reflect this requirement. In response to the point made by PFK Planning I also recommend a requirement that the amenity of surrounding uses should not be significantly adversely affected in respect of any proposed re-use of redundant buildings.

90. The Health and Safety Executive has advised that there is the potential for land allocated in the Neighbourhood Plan to encroach on consultations zones relating to HSE Ref: H3911 – Petrolneos Fuels Assets, Barras Lane, Dalston. CA5 7LX, and Northern Gas Networks MAHP – HSE Ref: 7890 – Cummersdale/Bothel CW01. I have earlier in my report referred to this matter in respect of EU obligations. Paragraph 172 of the Framework states “*Planning policies should be based on up-to-date information on the location of major hazards and on the mitigation of the consequences of major accidents*”. As the

Neighbourhood Plan will influence the location of development for residential, employment, and other relevant purposes I recommend Policy DNP-SP 1 should be modified so that the potential for encroachment on HSE Consultation Zones is brought to the attention of parties preparing planning proposals, and to the attention of decision makers when determining planning applications.

91. It is unnecessary for the policy to seek to “*strictly protect*” areas of environmental importance as these enjoy statutory protection. Part 5 of the policy also includes the imprecise term “*other areas adjacent to river banks elsewhere in the Parish*” which does not provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I recommend part 5 of the policy should be deleted.
92. Parts 6 and 7 of the Policy do not provide an additional level of detail or distinct local approach to that set out in Local Plan Policies CC 4 and CC 5. Part 7 of the policy also includes the imprecise term “*minimise*”. I recommend parts 6 and 7 of the policy should be deleted.
93. Part 8 of the policy includes the imprecise terms “*focussed*” and “*on their own merit*” such that the policy does not provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. The policy approach to residential development in relation to the proposed Defined Development Boundary is established in Policy DNP-H1, which I consider later in my report. It is unnecessary and confusing for two policies to deal with the same subject matter. I recommend part 8 of the policy should be deleted.
94. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular policies SP 2, SP 3, EC2, and EC 11. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport; delivering a wide choice of high quality homes; requiring good design; conserving and enhancing the natural environment; and conserving and

enhancing the historic environment. Subject to the proposed modification this policy meets the Basic Conditions.

**Recommended modification 2:
In Policy DNP-SP 1**

- **replace part 2 with “Development proposals that, as viewed from publically accessible locations, will visually significantly diminish the openness of the rural gap between Carlisle and Dalston, north of the railway line, will not be supported unless they:**
 - **have been identified through masterplanning as necessary for the implementation of Carlisle South as a location for growth; or**
 - **propose employment premises within or adjacent to groups of buildings without adverse impact on the rural landscape and where there would be no significant adverse residential or visual amenity impacts; or**
 - **relate to essential utility infrastructure that cannot be located elsewhere.”**
- **in part 3 insert “surrounding” before “environment”**
- **in part 4 after “housing” insert “(where this would lead to an enhancement to the immediate setting)”; and after “business use” continue “where there are no significant adverse amenity impacts for surrounding uses”**
- **delete parts 5, 6, 7 and 8**
- **insert a new part 5 “Development proposals will not be supported where the Health and Safety Executive advise the development may increase the risk of consequences of a major accident. (At the time of preparation of the Neighbourhood Plan consultation zones have been defined in respect of HSE Ref: H3911 – Petrolneos Fuels Assets, Barras Lane, Dalston. CA5 7LX, and Northern Gas Networks MAHP – HSE Ref: 7890 – Cummersdale/Bothel CW01.)”**

Policy DNP-H 1. Dalston village - Defined Development Boundary

95. This policy seeks to establish that new housing will be permitted within the proposed Defined Development Boundary (DDB) shown on Map 3.

The policy also states circumstances when development will, conditionally, be supported outside the DDB.

96. In a representation PFK Planning state *“In the event of a lack of 5-year housing supply, the housing policies of the neighbourhood plan would be considered out-of-date in line with Para 49 of the NPPF. The reference to such is therefore unnecessary. The word proportionate is not appropriate for a policy, it is not specific and can be widely interpreted. It is not considered that defined development boundary is appropriate for a settlement such as Dalston. New development in the settlement would be inappropriately constrained. The development of only small-scale sites (which is it interpreted would be sites of under 10 units would not result in the development of any affordable housing in the settlement. This cannot be considered a good thing for the future development of Dalston.”* I have also taken into consideration those representations of PFK Planning, and of Taylor and Hardy, relating to constraint of development, referred to earlier in my report in respect of the vision, strategic objectives, and other objectives of the Neighbourhood Plan.
97. In a representation L Cowen does not accept the intention to focus development to the west of the village solely, stating *“the River Caldew should not be seen as a boundary to the village as significant parts of the village are already situated to the east of the river and suitable future housing space exists to the east of the village outside the floodplain”*. The representation also disagrees that the railway line should be designated as the hard edge to the village to the north as areas to the north of the line, accessible from the main road and to public transport could be assigned within the proposed line of the southern ring road. I have referred to this representation in my consideration of Policy DNP-SP 1 but it is also relevant to Policy DNP-H 1.
98. In a representation D Wilson states *“the Churchyard and playing field behind the primary school should not be within the Defined Development Boundary”*. This representation also states a precise definition of what infill means in this Plan would be helpful, and *“there should be no further estate or non-infill developments in the Conservation Area which now needs realignment after the recent development of 121-unit Grange estate within it.”*
99. The policy uses the term *“permitted”*. With regard to the issue of decision making the Framework states *“the planning system is plan-*

led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise". This basis for decision making should be made clear. Policies should use the term "will be supported" in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states development will be permitted or not permitted. I have recommended a modification so that the basis of decision making on planning applications should be clarified.

100. I am satisfied the Defined Development Boundary is shown on Map 3 at an adequate scale so that it is possible to determine whether land is within or outside the boundary. Map 3 does however not show a complete boundary. The boundary is incomplete in its most north-eastern extremity. The policy does not provide the clarity necessary to achieve a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I consider this to be a minor drafting error, where site boundaries mean the intention is clear, and have recommended modification in this respect.
101. The term "*Development outside the DDB which would constitute an expansion to Dalston village*" is imprecise. I recommend a modification that clarifies the entire policy relates to housing development and that developments outside, but very close to, or adjacent to, the DDB would constitute an expansion of Dalston village. I am satisfied sufficient justification is presented in respect of flood plain and environmental designations to support the shaping of development to be "*focussed towards*" the west of the village. I interpret this to not represent an allocation of land but to indicate an area of first search for parties preparing development proposals in the circumstances described. In this way, the Neighbourhood Plan will be directing development as anticipated by paragraph 185 of the Framework. The term "*proportionate to the size and scale*" is imprecise. I have recommended a modification to use the term "*demonstrated to be socially, economically, and environmentally sustainable in terms of its scale, form, function and character*", which is capable of being tested.

102. The final sentence of the policy relates to rural exception housing sites. Local Plan Policy HO 5 limits such provision to sites very close to, adjoining, or within a suitable settlement. Although qualified by the need to accord with Policy HO 5, I consider the use of the term “*will be accepted outside the DDB*” is imprecise. The Development Plan should be read as a whole and it is confusing and unnecessary for a policy to refer to other policies. I recommend a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

103. In the context that the up to date Local Plan identifies sufficient sites to meet requirements within the rural area, and that a five-year supply of housing land can currently be demonstrated, I do not consider the approach of the Neighbourhood Plan to be constraining of sustainable growth. Policy DNP-H 1 does not place any cap on the amount of housing development that can occur within the proposed Defined Development Boundary. The Neighbourhood Plan also supports new housing in Raughton Head, and in Gaitsgill; in defined circumstances in open countryside; and provides for rural exception sites outside the Defined Development Boundary. The Neighbourhood Plan also supports expansion of Dalston Village outside the Defined Development Boundary in circumstances where a projected District wide shortfall of the five-year housing supply is demonstrated. I have recommended a modification that clarifies rural exception site developments outside, but very close to, or adjacent to, the DDB would be accepted where it is demonstrated they meet local needs.

104. I have noted Local Plan Policy SP 2 includes parts 7 and 8 which state “*Within the District’s rural settlements, development opportunities of an appropriate scale and nature, which are commensurate with their setting, will be harnessed to positively contribute to increasing the prosperity of the rural economy and to enable rural communities to thrive. Within open countryside, development will be assessed against the need to be in the location specified*”. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular policies SP 1, SP 2, and HO5. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the

components of the Framework concerned with delivering a wide choice of high quality homes. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 3:

In Policy DNP-H 1

- **delete “permitted” and insert “supported”**
- **in the second sentence delete “Development outside” and insert “Housing development outside, but very close to, or adjacent to,”**
- **in the third sentence delete “proportionate to the size and scale of the village.” and insert “be demonstrated to be socially, economically, and environmentally sustainable in terms of its size, form, function and character; and”**
- **in the final sentence delete the text after “will be” and insert “supported very close to, adjacent to, or within the DDB, or in locations that have good public transport links to a larger settlement with a wide range of services and facilities.”**

The Defined Development Boundary shown on Map 3 should be completed to form a continuous boundary

Policy DNP-H 2. Parish-wide, new housing

105. This policy seeks to establish conditional support for new housing in the hamlets of Raughton Head, and Gaitsgill. The policy also seeks to establish that beyond these hamlets and in open countryside new housing will only be supported where Local Plan requirements are met.

106. A representation by PFK Planning states *“It is not understood why Raughton Head, Stockdalewath, and Gaitsgill are in the Neighbourhood Plan as areas where new housing will be supported but the more sustainable area of Buckabank/Bridge End/Hawksdale (where the three areas act as a functional whole) is not supported but is a sustainable location in relation to access to public transport, education, retail and employment”*. Policy DNP-H 1 relates to housing development in and surrounding Dalston. Policy DNP-H 2 relates to the hamlets of Raughton Head and Gaitsgill, and open countryside. Evidence to support the choices made is referenced. My role is to consider whether the Neighbourhood Plan meets the Basic Conditions

and other requirements it does not extend to consideration of whether some alternative plan would offer a more sustainable solution.

107. The Development Plan should be read as a whole. It is confusing and unhelpful for the policy to refer to “*the Development Principles of the Neighbourhood Plan*” and to refer to Policy HO 2 and Policy HO 6 of the Local Plan. I have recommended a modification in this respect.

108. The Framework states “*Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as: • the essential need for a rural worker to live permanently at or near their place of work in the countryside; or • where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or • where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or • the exceptional quality or innovative nature of the design of the dwelling. Such a design should: – be truly outstanding or innovative, helping to raise standards of design more generally in rural areas; – reflect the highest standards in architecture; – significantly enhance its immediate setting; and – be sensitive to the defining characteristics of the local area.*” I recommend the policy is modified to have regard for national policy in this respect.

109. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular policies SP 2, HO 2 and HO 6. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy DNP-H 2

- **delete “it accords with Policy HO 2 of the Carlisle District Local Plan 2015-2030 and the Development Principles of the Neighbourhood Plan” and insert “the scale, design, and location of the proposal respects the form, function and character of the settlement, and does not have a significant adverse landscape impact”**

- delete “it accords with Policy HO 6 of the Carlisle District Local Plan 2015-2030” and insert “there are special circumstances for an isolated new home such as: the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or where the development would re-use redundant buildings and lead to an enhancement to the immediate setting; or the design of the dwelling is of exceptional quality or innovative nature”

Policy DNP-H 3. Providing a mix of dwelling types and tenures

110. This policy seeks to establish that new housing developments should provide a mix of dwelling types and tenures which is responsive to the needs of the Parish. The policy also seeks to establish a mechanism relating to provision and occupation of affordable housing.
111. In a representation PFK Planning states *“It is not clear how reasonable or enforceable it would be for any registered provider to inform the Council when properties become available. The Council have s106 agreements which meet the needs of the housing areas, it is not considered appropriate to restrict this need which is defined by the wider housing area to just Dalston.”*
112. In a representation L Cowen does not consider one month allows local people sufficient time to find out a property is for sale and make necessary enquiries as has been shown in the sale of existing ‘locals only’ housing designated on Nook Lane Close. The representation suggests the relevant period should be six months.
113. The Neighbourhood Planning Act establishes a duty for Government to produce guidance on how local development documents should meet the needs of older and disabled people. This guidance is currently being drafted but not yet published. Paragraph 50 of the Framework refers to the need to plan for a mix of housing based on current and future demographic trends, market trends, and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes). I recommend use of the term ‘homes’ rather than ‘housing’ so that the policy relates to the full range of dwelling types. The term ‘mix’ would not be appropriate in the case of proposals for a single dwelling, and

may not be appropriate in the context of future housing needs throughout the plan period. The first part of the policy is a statement without implication, and imprecise as to how the needs of the Parish are to be assessed throughout the plan period. The policy does not provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended modification in this respect.

114. The period of not less than one calendar month for 'local offer' is consistent with efficient utilisation of the local stock of affordable homes, through avoidance of long void periods, and meets the Basic Conditions, and would not appear to be in breach of the Convention rights.

115. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030, and in particular policies HO 4, HO 5 and HO 10. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 5:

In Policy DNP-H 3 replace the first sentence with “To be supported proposals for new homes must demonstrate they provide dwelling types and tenures that reflect the latest housing needs survey findings for the Parish.”

Policy DNP-H 4. New developments must preserve local distinctiveness

116. This policy seeks to establish that new developments must be to a high-quality design and preserve or enhance local distinctiveness. The Policy sets out design requirements for developments.

117. It is inappropriate for the Policy to refer to Local Plan Policy SP 6 as the Development Plan should be read as a whole. The policy does provide an additional level of detail and/or a distinct local approach to that set out in the Local Plan policy. The policy refers to

the development principles “in ‘Strategic Policy No.1’ of this Plan (p10).” It is unclear whether all, or which part of, Policy DNP-SP1, is referred to. The Neighbourhood Plan should be read as a whole. It is inappropriate and confusing for one policy to refer to another policy. It is also confusing and inappropriate for both parts 3 and 5 of the policy to refer to density. The term “views which reinforce the high-quality landscape character and rural setting of the Parish” is imprecise. The policy also includes the imprecise terms “important spaces”, “appropriate”, and “compromised” and does not provide the clarity necessary to achieve a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended modification in these respects.

118. It is confusing and inappropriate for this policy to include provision relating to boundary treatments in respect of housing development when Policy DNP-E 4 deals with that matter in respect of all types of development. I have recommended modifications to Policy DNP-H 4 and Policy DNP-E 4 so that boundary treatments are dealt with in Policy DNP-E 4 only, which will achieve a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework, and will render the two policies compatible.

119. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030, and in particular Policy SP 6. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with requiring good design by promoting development that reinforces local distinctiveness whilst avoiding unnecessary prescription. The policy also has regard to the components of the Framework concerned with conserving and enhancing the natural environment, and conserving and enhancing the historic environment. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 6:

Replace Policy DNP-H 4 with “To be supported new development proposals must be of a high-quality design, and preserve or enhance local distinctiveness. Proposals should:

- demonstrate any loss or reduction of spaces between buildings will not have a significant adverse effect on streetscape or the character of the settlement as a whole;
- demonstrate views towards the fells are not significantly adversely affected;
- reflect the height, scale, massing and density of surrounding buildings; and
- not result in light spillage beyond the site boundaries.”

Policy DNP-JE 1. Proposals for sustainable growth

120. This policy seeks to establish support for sustainable growth and expansion of businesses through conversion of existing buildings and well-designed new buildings. Proposals for new commercial and industrial buildings are particularly supported on the existing primary employment sites identified on the “*Primary Employment Site map*”.

121. The second sentence of the policy includes the term “*commercial and industrial units*”. This raises an issue of definition. The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'. The Order gives an indication of the types of use which may fall within a use class. It is for local planning authorities to determine, in the first instance, depending on the individual circumstances of each case, which use class a particular use falls into. The Use Classes Order does not include the term commercial. In one instance where Government has used the term commercial it is defined as including the 'B' Use Classes which are B1 (business – offices, research and development premises and light industry), B2 (general industrial) and B8 (storage and distribution).³⁹ These are the uses named in Local Plan Policy EC 2 as being acceptable in defined Primary Employment Areas. The justification to that Policy does identify the need for a sequential and impact test for B1(a) (offices) uses in certain circumstances. The Town and Country Planning General Permitted Development Order 2015 (as amended) establishes permitted changes of use and temporary uses. Many of these changes contain limitations and conditions that exclude certain types of buildings; or set out other restrictions; or require an application for prior approval; or include other provisions. The policies of the

³⁹ Relaxation of planning rules for change of use from commercial to residential. Consultation. April 2011. DCLG

Neighbourhood Plan only apply to proposals that require planning permission.

122. Paragraph 28 of the Framework states neighbourhood plans should, in order to promote a strong rural economy, support the sustainable growth and expansion of all types of business and enterprise in rural areas; and refers to development and diversification of agriculture and other land-based rural businesses; sustainable rural tourism and leisure developments which respect the character of the countryside; and local services and community facilities. I recommend a modification so that the Policy relates to this full range of types of business and enterprise including diversification of agriculture, but excluding development of agriculture which is dealt with under Policy DNP-JE 4.

123. The second sentence of the policy refers to “*the existing primary employment sites shown on the Primary Employment Sites map.*” Map 2 of the Submission Draft Plan identifies five areas of land. Policy EC 2 of the Local Plan refers to Primary Employment Areas identified on the Policy Map. These include the locations immediately to the east and west of Dalston, but not the three other locations further north. The justification presented below the Policy DNP-JE 1, and in particular reference to Local Plan Policy EC 2, is misleading in this respect. Policy DNP-JE 1 is seeking to identify employment sites in locations that are additional to those identified by Local Plan Policy EC 2. The Neighbourhood Plan cannot modify the Local Plan to apply Policy EC 2 to additional sites. I recommend Map 2 should be adjusted to only identify the Primary Employment Areas on the Local Plan Policy Map.

124. The three areas of land north-west of Dalston in the vicinity of, and east of Cardewlees, identified on Map 2 but not defined as Primary Employment Areas in Policy EC 2 include employment uses but the utilisation of each is very different. One accommodates a garden centre the planning permission for which defines authorised uses; another appears to be principally a haulage and storage use; and the other includes a mixture of uses including what appears to be some protected cropping agricultural use⁴⁰. Description of these areas in the Basic Conditions Statement as “*underutilised*”, and in the justification to the Policy as “*under-developed*”, calls into question at

⁴⁰All crop growing under protective structures such as glasshouses, or either permanent or temporary polytunnels, in an enclosed space that allows for manipulation of conditions to suit the grower. This gives protected cropping distinct characteristics as opposed to outdoor crop growing.

least some of the boundaries of the employment areas identified. The Guidance states “*Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*”.⁴¹ There is no explanation in the Plan documents, or evidence base, of the approach taken. Given that there is at least a degree of ‘allocation’ implicit in the policy I draw attention to the requirements of Strategic Environmental Assessment, not least relating to the consideration of options. I recommend a modification so that the policy refers to areas specifically identified by Local Plan Policy EC 2, and refers to, but does not identify, existing employment sites with groups of buildings where conversions or new buildings may be capable of being accommodated without adverse impact on the rural landscape or on residential amenity. Adopting this approach of directing development by establishing location criteria, as anticipated by paragraph 185 of the Framework, the Neighbourhood Plan will not be allocating land for employment purposes without due process regarding selection, and without environmental assessment. Without this modification, the Basic Conditions would not be met, and the Neighbourhood Plan should not proceed to referendum.

125. A representation by Taylor and Hardy on behalf of Cowens Ltd states the Neighbourhood Plan should include a policy that facilitates the redevelopment of Ellers Mill. As stated earlier in my report there is no requirement for a Neighbourhood Plan to include a policy that facilitates the redevelopment of any particular site. The representation also states “*Whilst it is recognised that the DNP identifies existing employment sites (Map 3)*⁴², *these sites are largely fully occupied and are unsuitable, in terms of scale, to accommodate the relocation of Cowens Ltd from their existing premises. By restricting new employment development to the employment sites identified on Map 3 or to sites within the DDB the DNP is limiting opportunities for growth*”. The Defined Development Boundary to be established by Policy DNP-H 1 relates to new housing development only. The second sentence of Policy DNP-JE 1 includes the term “*particularly supported*”. A decision on a planning application would not enable different degrees or types of support to be differentiated. The term does however indicate that support is not limited to those areas identified. Restriction of employment development to specified sites and areas of land would, in the absence of any quantitative and

⁴¹ National Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

⁴² It is Map 2 of the Submission Version Neighbourhood Plan that identifies existing primary employment areas

qualitative assessment of need, not have sufficient regard for those aspects of the Framework that require “*significant weight to be placed on the need to support economic growth through the planning system*”; and require that “*policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances*”; and in accordance with paragraph 28, which I have already referred to, “*should promote a strong rural economy.*” I recommend a modification of the policy in this respect.

126. The first sentence of the policy closely reflects the first bullet point of paragraph 28 of the Framework. The Framework is subordinate to an up to date Development Plan.⁴³ On this basis I consider it can be appropriate to include in a Neighbourhood Plan an element of policy that duplicates a part of the Framework. The first sentence of the policy also closely resembles part of Local Plan Policy EC 11 although the justification for the latter policy infers this relates to rural areas outside existing settlements. Local Plan Policy SP 2 also distinguishes between rural settlements, referred to in part 7 of that policy, and open countryside, referred to in part 8 of that policy. Local Plan Policy EC 2 relates to defined Primary Employment Areas. Policy DNP-JE1 seeks to establish a distinct local approach to that set out in the strategic policy without undermining the strategic policies by establishing criteria for support of sustainable growth and expansion of all types of businesses across the Plan area including settlements and open countryside.

127. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030, and in particular Policy SP 2, Policy EC 2 and Policy EC 11. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with building a strong, competitive economy; ensuring the vitality of town centres; supporting a prosperous rural economy; promoting healthy communities; and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

⁴³ Paragraph 13 of the decision in the Court of Appeal (Civil Division) Barwood Strategic Land II LLP and East Staffordshire Borough Council and SoS DCLG 30 June 2017 Case NO: C1/2016/4569. Neutral Citation Number [2017] EWCA Civ 893

Recommended modification 7:

Replace Policy DNP-JE 1 with “Proposals for the conversion of existing buildings or well-designed new buildings for the sustainable growth and expansion of all types of business and enterprise, including diversification of agriculture and other land-based rural businesses; sustainable rural tourism and leisure developments which respect the character of the countryside; and local services and community facilities, will be supported:

- **within settlements, or adjacent to groups of buildings where there would be no significant adverse impact on the rural landscape; and**
- **where they are compatible with surrounding uses and where there are no significant adverse residential or visual amenity impacts.**

Map 2 should be adjusted to only identify the Primary Employment Areas on the Local Plan Policy Map.

Policy DNP-JE 2. Proposals for use of commercial land

128. This policy seeks to establish a general presumption against loss of commercial premises and land unless the existing use is no longer economically viable and the site has been marketed at a reasonable commercial rate for at least 12 months without an appropriate offer being received.

129. A representation by PFK Planning states *“It is considered that this is already covered in the Carlisle Local Plan and therefore there is no need for repetition in the DNP”*. The Policy provides a distinct local approach and an additional level of detail to that set out in the strategic policy without undermining that policy;

130. I have earlier in my report drawn attention to the fact the Use Classes Order does not include the term commercial. A *“general presumption against”* does not offer a basis for decision making. The policy does not provide the clarity necessary to achieve a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended modification in these respects.

131. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development

Plan, the Carlisle District Local Plan 2015-2030, and in particular Policy EC2. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with building a strong, competitive economy and supporting a prosperous rural economy. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 8:

Replace Policy DNP-JE 2 with “Proposals that would result in the loss of employment land or buildings within the Primary Employment Areas identified on Map 2 will only be supported where it is demonstrated the existing use is no longer viable, and the site has been marketed at a market rate for at least 12 months without an appropriate offer being received.”

Policy DNP-JE 3. Proposals for residential units on commercial land or buildings

132. This policy seeks to establish that proposals for residential use of commercial land or buildings should include evidence of an operational requirement, and that occupancy conditions can be imposed.
133. A representation by PFK Planning states “*It is not clear what this policy is in relation to – the loss of commercial land for residential can be a whole sale relocation and redevelopment with housing. It is assumed that this policy relates to housing on working commercial sites such as rural workers etc?*”. It is evident from page 24 of the Statement of Basic Conditions that the intention of the Policy is to retain areas described in the Neighbourhood Plan as Primary Employment Sites available for future business use. I have earlier in my report described why it is necessary to differentiate between Primary Employment Areas identified by Local Plan Policy EC 2, and other existing employment sites. Policy DNP-JE 4 relates to employment premises outside Primary Employment Areas.
134. The Use Classes Order does not include the term commercial. The policy sets out a statement without consequence, and the term “*comply with other aspects of this policy*” does not provide the clarity necessary to achieve a practical framework within which decisions on

planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended a modification in these respects.

135. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular Policy EC2. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with building a strong, competitive economy; and supporting a prosperous rural economy. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 9:

Replace Policy DNP-JE 3 with “To be supported proposals for residential development, or residential use, within the Primary Employment Areas identified on Map 2, must demonstrate evidence of business operational requirements that cannot be satisfied in any other way. Any permission granted in this respect will be subject to occupancy restrictions limiting the residential use to staff of the business.”

Policy DNP- JE 4 Proposals for use outside primary employment areas

136. This policy seeks to establish criteria for support of proposals to convert employment buildings located outside defined existing employment areas to non-commercial uses. The policy also seeks to establish criteria to assess proposals for new farm buildings.
137. A representation by PFK Planning states “*There is an existing farm building policy within the Carlisle Neighbourhood Plan and Part 6 of the GPDO 2015, it is not necessary to repeat these requirements in the DNP.*” The General Permitted Development Order has the effect of granting planning permission for specified types of development. Policy DNP-JE 4 only applies to proposals that require planning permission. The Policy provides an additional level of detail, with respect to demonstration of operational requirements, and screening, to that set out in the strategic policy without undermining that policy.

138. The Framework states planning policies should guard against the unnecessary loss of valued services and facilities. Local Plan Policy CM 3 establishes a planning policy approach in this respect. Policy DNP-JE 4 provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy. The policy also includes the imprecise term “*viable services or facilities*” such that the policy fails to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended modification so that the policy refers to community services or facilities.
139. The policy includes the phrases “*will only be permitted*” and “*will be permitted*”. With regard to the issue of decision making the Framework states “*the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise*”. This basis for decision making should be made clear. Policies should use the term “will be supported” in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states development will be permitted or will only be permitted.
140. The Development Plan should be read as a whole. It is confusing and unnecessary for one policy to refer to other policies of the Neighbourhood Plan or to a Local Plan policy. The Framework states neighbourhood plans should promote the development of agricultural and other land-based rural businesses. The reference in Policy DNP-JE 4 to farms only, is not adequately justified. The terms “*prejudice*” and “*minimise*” are imprecise so that the policy does not provide the clarity necessary to achieve a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended modification in these respects.
141. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular policies EC 11, EC 12 and CM 3. The policy seeks to shape and direct sustainable development to ensure that local people get the right type

of development for their community. The policy has regard to the components of the Framework concerned with supporting a prosperous rural economy; and delivering a wide choice of high quality homes. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 10:

Replace Policy DNP-JE 4 with “Outside the Primary Employment Areas identified on Map 2 conversion of buildings from employment use, or from uses offering community services or facilities, to other uses will only be supported where the existing building is capable of being converted without extensive rebuilding; any valued community services or facilities lost are demonstrated to not be required or viable; and the proposed use does not have significant adverse impact on the amenity of adjacent land uses.

Proposals for new agricultural or other land based rural business buildings will be supported where an operational requirement is demonstrated, and they are designed, sited, and screened using native species so that they do not have significant adverse impact on adjacent land uses, or their landscape setting.”

Policy DNP-JE 5 Traffic & Parking with business development

142. This policy seeks to establish that proposals for business development will not have a detrimental impact on the free and safe flow of traffic; that HGV movements through residential areas should be avoided; and where necessary contributions to off-site highway improvements should be made.

143. A representation by PFK Planning states *“Again, the requirements for Transport Assessments etc are set out in other documents and relate only businesses which generate a certain number of trips. The NPPF states that applications will be refused where traffic impacts are severe. Highways contributions and impacts are covered in the Carlisle Local Plan and it is not necessary to repeat these in this document.”*

144. I have earlier in my report explained why I consider it can be appropriate to include in a Neighbourhood Plan an element of policy that duplicates a part of the Framework. The Framework states *“All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment.”*

The Framework also states “*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*”. Reference to a Local Plan policy is confusing and unnecessary as the Development Plan should be read as a whole. Inclusion of the term “*appropriate*” results in the policy not providing the clarity necessary to achieve a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended modification in these respects

145. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular policy IP 2. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 11:

In Policy DNP-JE 5

- **before “detrimental” insert “severe”**
- **delete “appropriate” and insert “practical and viable”**
- **delete “Where necessary, developments” and insert “Developments that generate significant amounts of movement”**
- **transfer the reference to the Local Plan to the justification**

Policy DNP-JE 6. New business should promote improved Broadband

146. This policy seeks to establish that new properties should where possible be served by a superfast broadband connection.

147. A representation by PFK Planning states “*Broadband is already covered in the Carlisle Local Plan, the delivery and installation is provided by Open Reach and not controlled by developers. There are no CIL monies and even if there were this is for a later date.*”

148. The policy adds a level of detail to Local Plan policy. The preparation of the Neighbourhood Plan provides an opportunity to identify infrastructure elements that are regarded as important local requirements. The policy provides the clarity necessary to achieve a

practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

149. The policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular Policy IP 4. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with supporting high quality communications infrastructure. This policy meets the Basic Conditions.

Policy DNP-JE 7. Conservation of the Dalston Square built environment

150. This policy seeks to establish that proposals for development fronting Dalston Square will be supported if they preserve and/or enhance its built environment. The policy also sets out conditions for support of conversions from residential buildings into retail units, and in respect of applications for signage and lighting.

151. The term “*preserve and/or enhance its built environment*” is imprecise. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

152. The Policy states “*Proposals for development fronting Dalston Square*” is defined on Map 4. The Map referred to merely shows properties in the vicinity of Dalston Square but does not assist in identifying the properties to which the policy applies. The policy does not provide the clarity necessary to achieve a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended modification in this respect so that Map 4 clearly identifies those properties to which the policy applies. The defined area should include at least all the properties identified in the Local Plan as within the Primary Shopping Area.

153. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular

Policies EC 3 and EC 5. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with ensuring the vitality of town centres; promoting sustainable transport; requiring good design; promoting healthy communities; and conserving and enhancing the historic environment. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 12:

In Policy DNP-JE 7 delete “its built environment” and insert “the distinctive local character and identity of surrounding properties”.

Identify the properties fronting Dalston Square to which the policy applies on Map 4.

Policy DNP-E 1. Landscape, habitats, rural character

154. This policy seeks to establish that proposed developments that would detrimentally affect named environmental features will not be supported.

155. The term “*should respect*” is imprecise such that the policy does not provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended a modification in this respect.

156. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 including Policies GI 1, GI 3, GI 4, GI 5, HE 2, HE 3, HE 6, and HE 7. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 13:

In Policy DNP-E 1

- delete “Proposed development should respect” and insert “To be supported development proposals must demonstrate they will not significantly detrimentally affect”
- delete the second sentence

Policy DNP-E 2. Creation of “List of Heritage Assets” for the Parish

157. This policy seeks to establish that development will not be supported where it would remove, harm or undermine the significance of a locally listed asset.
158. Savills writing on behalf of The Church Commissioners for England state “*We would be most grateful if we are kept informed of the progress associated with the Local Heritage Assets List, proposed as part of this Plan.*” A representation by PFK Planning states “*Impacts on locally listed assets are already covered by both the NPPF and the Local Plan and there is no need for repetition in this document. Also it is an issue of weight and benefits potentially outweighing harm.*”
159. The policy includes the term “*or its contribution to the character of the area*”. This is confusing as it implies the contribution to the character of an area that a non-designated heritage asset makes is separate from its significance. In this way, the policy does not provide the clarity necessary to achieve a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
160. The policy fails to have regard for the approach of the Framework that requires a “*balanced judgement*” “*having regard to the scale of any harm or loss and the significance of the heritage asset*”. The policy title suggests the content is concerned with creation of a list of heritage assets however the policy does not address this task. The Policy does not provide an additional level of detail and/or a fully justified distinct local approach to that set out in Local Plan Policy HE 6. This policy does not meet the Basic Conditions. I recommend the policy is deleted.

Recommended modification 14: Delete Policy DNP-E 2

Policy DNP-E 3. Renewable energy and energy efficiency

161. This policy seeks to establish that applications that incorporate various forms of renewable energy and provide maximum energy efficiency, both in construction and maintenance will be supported.
162. A representation by PFK Planning states “*This policy is poorly written and does not consider harm, impacts on amenity, impacts on environment etc but just supports all renewable energy.*” I have recommended a modification so that the policy has regard for the recognition in the Framework that adverse impacts of renewable energy development should be addressed satisfactorily. In recommending a modification I have also been mindful of the references to unacceptable impact in Local Plan Policies CC 1 and CC 2, and to unacceptable harm in Local Plan Policy CC 3.
163. The term “*various forms of renewable energy*” is imprecise and implies the policy does not apply to some forms of renewable energy. The policy does not provide the clarity necessary to achieve a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. Maintenance of energy efficiency is not a material consideration in the determination of a planning proposal. The policy includes reference to “*maximum energy efficiency*”. The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: “*From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings*”. Whilst the Ministerial Statement only applies to new dwellings these are likely to be the most common form of development proposal occurring during the Plan period. The term “*maximum energy efficiency*”, does not in any case have regard for the requirement of the Framework to ensure viability. I have recommended a modification in these respects.
164. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular Policies CC 1, CC 2, and CC 3. The policy seeks to shape and direct sustainable development to ensure that local people get the right type

of development for their community. The policy has regard to the components of the Framework concerned with meeting the challenge of climate change and flooding; and conserving and enhancing the natural environment. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 15:

Replace Policy DNP-E 3 with “Development proposals that include renewable energy capability will be supported where there are no significant adverse landscape or visual impacts, and there is no other significant harm to amenity in the locality”

Policy DNP-E 4. Development should preserve historic boundary walls

165. This policy seeks to establish that development proposals should preserve historic boundary walls except in specified circumstances, and that new building should endeavour to replicate this form of construction.

166. In a representation PKF Planning states “*Demolition of walls (unless listed) does not require consent.*” It is appropriate for the Neighbourhood Plan to include design requirements relating to boundary definition, not least in the context of the extensive nature of the Dalston Conservation Area within which demolition of most walls would require consent. In a representation D Wilson states “*appropriate and traditional methods of construction should also be required. Recent and inappropriate replication has involved pressing stones into a bed of cement over a prefabricated core.*” The policy seeks to reinforce local distinctiveness whilst avoiding unnecessary prescription referred to in paragraphs 60 and 59 of the Framework. I have earlier in my report recommended a modification to Policy DNP H-4 so that boundary treatments are dealt with in Policy DNP-E 4 which relates to all types of development.

167. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Carlisle District Local Plan 2015-2030 and in particular Policy SP 6. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with requiring good design; and conserving and

enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 16:

In Policy DNP-E 4 replace the final sentence with “To be supported all development proposals should use boundary treatments of cobblestone walls unless it is demonstrated these are not appropriate, in which case, native hardwood hedges should be proposed. Alternative boundary treatments will only be supported where it is demonstrated both cobblestone walls or native hardwood hedges are not appropriate.”

Policy DNP-E 5. Proposed “Local Green Spaces”

168. This policy seeks to designate five Local Green Spaces.
169. The wording of the policy does not reflect the terms of the designation of Local Green Spaces set out in paragraph 76 of the Framework where it is stated communities will be able to rule out development other than in very special circumstances. It is not appropriate for the Policy to seek to establish an alternative description of the designation. I have recommended a modification in this respect.
170. The Framework states *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.”*
171. The Framework refers to identification. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on maps in the Neighbourhood Plan at sufficient scale to identify the precise boundaries of each Local Green Space proposed for designation.

172. In respect of the areas intended for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.

173. The Framework states that: *“Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.”⁴⁴*

I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.

174. I now consider whether there is sufficient evidence for me to conclude that the five areas proposed for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance. The Neighbourhood Plan sets out in Appendix 3 a justification for the designations. I have visited each of the areas proposed for designation. I have noted the Green Spaces Photo Gazetteer in the Neighbourhood Plan evidence base. I conclude each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

175. I find all the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 76 and 77 of the Framework concerned with the identification and designation of Local

⁴⁴ Paragraph 77 National Planning Policy Framework 2012

Green Space. I consider that subject to the modification recommended this policy meets the basic conditions.

Recommended modification 17:

Replace Policy DNP-E 5 with “The areas of land identified on Maps LGS 05, LGS 47, LGS 55, LGS 56, and LGS 59 are designated as Local Green Spaces where new development is ruled out other than in very special circumstances”

Summary and Referendum

176. I have recommended 17 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

177. I am satisfied that the Neighbourhood Plan⁴⁵:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990 and meets the Basic Conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and

⁴⁵ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.⁴⁶

I recommend to Carlisle City Council that the Dalston Neighbourhood Development Plan for the plan period up to 2030 should, subject to the modifications I have put forward, be submitted to referendum.

178. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.⁴⁷ I have seen nothing to suggest the referendum area should be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by the City Council as a Neighbourhood Area on 15 October 2013.

Annex: Minor Corrections to the Neighbourhood Plan

179. A number of consequential modifications to the general text, and in particular the justification of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

180. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁴⁸ I recommend the following minor changes only in so far as they are to correct errors or where they are necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework:

- The Contents page should include all 7 policies relating to local jobs and economy;

⁴⁶ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁴⁷ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁴⁸ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

- The policy title descriptions included in the Contents should be repeated in the policy titles in the body of the document. All policy titles should where necessary be adjusted to reflect the policy content;
- The title of Map 2 should reflect Recommended modification 7: relating to Policy DNP-JE1 whereby Map 2 should only identify Primary Employment Areas shown on the Local Plan Policy Map.

**Recommended modification 18:
Modification of general text will be necessary to achieve consistency with the modified policies, and to correct identified errors including those arising from updates**

Chris Collison
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14 September 2017
REPORT ENDS