

**Leekfrith Parish Council**

# **Leekfrith Parish Neighbourhood Development Plan**

A report to the Peak District National Park Authority and  
Staffordshire Moorlands District Council of the Independent  
Examination of the Leekfrith Neighbourhood Development Plan

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# Contents

## Page

<b>Overall Finding</b>	<b>3</b>
<b>Neighbourhood Planning</b>	<b>4</b>
<b>Independent Examination</b>	<b>4</b>
<b>Basic Conditions and other Statutory Requirements</b>	<b>7</b>
<b>Documents</b>	<b>9</b>
<b>Consultation</b>	<b>11</b>
<b>The Neighbourhood Plan taken as a whole</b>	<b>14</b>
<b>The Neighbourhood Plan Policies</b>	<b>25</b>
Policy 1 Redevelopment of Upper Hulme Mill	32
Policy 2 Full time rental of holiday cottages	35
Policy 3 Parking on the narrow roads throughout the Parish	36
Policy 4 Parking at the Roaches	37
<b>Summary and Referendum</b>	<b>38</b>
<b>Annex: Minor corrections to the Neighbourhood Plan</b>	<b>40</b>

## Overall Finding

This is the report of the Independent Examination of the Leekfrith Parish Neighbourhood Development Plan. The plan area comprises the entire administrative area of Leekfrith Parish Council within the administrative area of Staffordshire Moorlands District Council, with statutory planning functions geographically split between the Peak District National Park Authority and Staffordshire Moorlands District Council. The plan period runs to 2033. 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 the power to develop a shared vision for their area*”<sup>1</sup>
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 Leekfrith Parish Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Leekfrith Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Leekfrith Neighbourhood Area which was formally designated by the Peak District National Park Authority (the National Park Authority) on 13 March 2015 and by Staffordshire Moorlands District Council (the District Council) on 24 March 2015. The plan preparation process has provided opportunity for stakeholders and interested parties to influence the nature and content of the plan.
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 National Park Authority and the District Council. The National Park Authority and the District Council arranged a period of publication between 2 August 2019 and 23 September 2019 and subsequently submitted the Neighbourhood Plan to me for independent examination.

## Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the National Park Authority and the District Council including a

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<sup>1</sup> Paragraph 29 National Planning Policy Framework (2019)

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The National Park Authority and the District Council will decide what action to take in response to the recommendations in this report.

6. The National Park Authority and the District 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<sup>3</sup>.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>4</sup> unless the National Park Authority and the District Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 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<sup>5</sup>. The Framework is very clear that where a planning application conflicts with an up to date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted<sup>6</sup>.
8. I have been appointed by the National Park Authority and the District 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 National Park Authority and the District 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

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<sup>3</sup> Paragraph 48 of the National Planning Policy Framework 2019 explains full weight is not given at this stage

<sup>4</sup> Section 3 Neighbourhood Planning Act 2017

<sup>5</sup> Section 156 Housing and Planning Act 2016

<sup>6</sup> Paragraph 12 National Planning Policy Framework 2019

Building Conservation. I have forty years 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,<sup>7</sup> 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.<sup>8</sup>

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>9</sup> The 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 purpose 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 and an unaccompanied visit to the Neighbourhood Plan area. My visit to the Plan area included the Tittesworth Water area; the small village of Meerbrook; Upper Hulme hamlet; Hen Cloud; and a walk along The Roaches to Roach End and then to the Lud’s Church geological feature.

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<sup>7</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> 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”.<sup>10</sup> 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 development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>11</sup>

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.<sup>12</sup> 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.<sup>13</sup> 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

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<sup>10</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>11</sup> This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “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”.

<sup>12</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998

<sup>13</sup> 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)).

Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was formally designated by the National Park Authority on 13 March 2015 and by the District Council on 24 March 2015. A map of the Neighbourhood Plan area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Leekfrith Parish Council boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>14</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>15</sup> 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;<sup>16</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>17</sup> 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.<sup>18</sup> The front cover of the Submission Version Plan clearly states the Plan period is 2019- 2033.
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.<sup>19</sup> 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.

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<sup>14</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>15</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

<sup>19</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019



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, 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 reflect 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.<sup>20</sup>

## Documents

23. I have considered 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:
- Leekfrith Parish Neighbourhood Plan 2019 – 2033 Submission Version February 2018
  - Leekfrith Neighbourhood Plan 2019 - 2033 Consultation Statement including Appendices 1 -5 [*In this report referred to as the Consultation Statement*]
  - Leekfrith Neighbourhood Plan 2019 – 2033 Basic Conditions Statement February 2019 [*In this report referred to as the Basic Conditions Statement*]
  - Leekfrith Neighbourhood Plan SEA Statement of Reasons June 2019 Peak District National Park Authority
  - Leekfrith Neighbourhood Plan Strategic Environmental Assessment Screening Report June 2018
  - Leekfrith Neighbourhood Plan Habitat Regulations Assessment Screening Report January 2019

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<sup>20</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Information available on the Peak District National Park Authority, Staffordshire Moorlands District Council, and Leekfrith Parish Council websites
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the Local Planning Authorities and Parish Council, including the initial letter of the Independent Examiner dated 27 November 2019, and correspondence relating to clarification of various matters raised by the Examiner.
- Peak District National Park Core Strategy (adopted October 2011)
- Peak District National Park Development Management Policies (DMP) document (adopted May 2019)
- Peak District National Park Policies Map
- Staffordshire Moorlands Adopted Core Strategy 2014
- Town and village development boundaries and other boundaries including the Green Belt from the Staffordshire Moorlands Local Plan (1998) which remain in force
- The emerging Staffordshire Moorlands Local Plan 2016 – 2031
- National Planning Policy Framework (February 2019) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated - most recently on 1 November 2019) [*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 Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.
- The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

## 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. The Neighbourhood Plan preparation project was initially managed by one person, and later two people, overseen by the Parish Council which performed the role of a decision-making Steering Group. Plan preparation commenced in 2014 with the Parish Council preparing a Vision Statement. The Village Hall Committee and the Village Green Committee, a total of 20 parishioners, were consulted and wider consultation was achieved through a dedicated Meerbrook and Upper Hulme Facebook page. In May 2015 a meeting was held with four individual owners of Upper Hulme Mill, which was followed by other meetings regarding the Mill complex. The Facebook page and a Parish Council website established in December 2015 have been utilised throughout the plan preparation process. Other publicity has been achieved through the Meerbrook Chronicle; Parish and Church notice boards; flyers in the pub; and Parish meetings.
26. A parish wide residents survey delivered to all 160 households, with 40 responses, was undertaken in May/July 2016. A drop-in event, which 14 parishioners attended, was held in the village hall in October 2016, and a stall was staffed at the Meerbrook Xmas Fair in November 2016.
27. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan between 31 January 2018 and 22 March 2018. This consultation included use of the Meerbrook Community Facebook page; email notifications to organisations and to parishioners that had participated in the earlier survey; deposit of the Plan document in the Village Hall, District Council offices, and Leek Library; and an article in the Leek Post and Times. The representations arising from the 11 responses to the consultation are summarised in Part 4 of the Consultation Statement where responses and changes made to the Neighbourhood Plan, are set out. Suggestions have, where considered appropriate, been

reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the National Park Authority and the District Council.

28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 2 August 2019 and 23 September 2019. A total of 5 representations were submitted during the period of publication. I have been provided with copies of each of these representations. 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 representations suggest additional matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Where representations relate to specific policies, I refer to these later in my report when considering the policy in question.
29. The Coal Authority state *“As you will be aware the Neighbourhood Plan area lies within the current defined coalfield. According to the Coal Authority Development High Risk Area Plans, there are recorded risks from past coal mining activity in the area including; mine entries and likely historic unrecorded underground coal workings at shallow depth. However, the only area identified for development within the plan is not within the area where our records indicate that coal mining legacy features at shallow depth are present. On this basis we have no specific comments to make on the Neighbourhood Plan as proposed.”*
30. The Environment Agency state *“The only development proposal found within the neighbourhood plan is the proposed redevelopment of the Upper Hulme Mill. The site is situated in flood zone 1 so therefore the Environment Agency has no comments to make from a fluvial flood risk perspective. The redevelopment of the Upper Hulme Mill proposes to demolish certain sections of the site. It is unclear from the neighbourhood plan whether the previous use of the site would have been contaminative or not and the neighbourhood plan group must consider whether the development would require contamination and ground condition surveys to be undertaken, and therefore the requirement added to Policy 1, to ensure development could be brought forward where remediation is required. The Upper Hulme Mill sits over an ordinary watercourse and we would recommend that the*

*neighbourhood plan group contact the Lead Local Flood Authority (LLFA) to see if they have any comments to make on this proposed redevelopment.” I refer to these matters, including the comments of the LLFA, when considering Policy 1 later in my report.*

31. Historic England *“has no adverse comments to make upon the plan which we feel takes a suitably proportionate approach to the main historic environment issues pertaining to Leekfrith. We are pleased that our suggestions at the Regulation 14 stage have been accommodated in this iteration of the Plan and can confirm that our other Regulation 14 comments remain entirely relevant. That is: ‘We commend the identification of the Upper Hulme Mill site in Policy 1 as a site for future development. Historic England strongly supports the retention and sympathetic conversion of the historic buildings at the mill site’.*” Highways England state the Neighbourhood Plan is unlikely to have implications for the continued safe operation and functionality of the Strategic Road Network and state support for the sustainable development principles contained within the Plan. These representations do not necessitate any modification of the Neighbourhood Plan.
32. Natural England offer general advice but do not have any specific comments on the Neighbourhood Plan. They have not checked the agricultural land classification of the proposed allocations but advise that any allocations on best and most versatile land are justified in line with paragraph 112 of the March 2012 version of the Framework. I refer to this matter when considering Policy 4 later in my report.
33. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council did not submit any comments in this respect. I advised the National Park Authority and the District Council that the Regulation 16 representations should be published.
34. 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.<sup>21</sup>

35. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. 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**

36. 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 submission, background, and supporting documents, and copies of the representations and other material provided to me.

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 development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

37. The Basic Conditions Statement states *“An equalities impact assessment has not been undertaken, as no longer required under the Equalities Act 2010, and it is not considered the Plan discriminates unfairly or in a manner which is contrary to the Human Rights Act 1998”*. I have considered the European Convention on Human Rights and in particular Article 8 (privacy); Article 14 (discrimination); and

<sup>21</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637



Article 1 of the first Protocol (property).<sup>22</sup> Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. Whilst no Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan, from my own examination it would appear the Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010, and the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

38. The objective of EU Directive 2001/42<sup>23</sup> 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 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’<sup>24</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>25</sup>
39. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to the National Park Authority and the District 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.
40. The Strategic Environmental Assessment Screening Report June 2018 states *“A Strategic Environmental Assessment (SEA) screening was undertaken by Peak District National Park Authority. The screening confirms that a Strategic Environmental Assessment is not required for this Leekfrith Neighbourhood Plan”*. It concludes: *“It is demonstrated, through assessment against the significance criteria in the SEA Directive and Regulations, as set out in Section 3, that the impact of*

<sup>22</sup> 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.

<sup>23</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>24</sup> Defined in Article 2(a) of Directive 2001/42

<sup>25</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

*the implementation of Leekfrith Neighbourhood Plan is not likely to result in significant environmental effects. On this basis, a full SEA will not be required to be undertaken.*” The screening was submitted to the statutory environmental bodies (Historic England, Natural England and the Environment Agency) who agreed with the conclusion that a Strategic Environmental Assessment is not required. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

41. A Habitat Regulation’s Assessment (HRA) screening was undertaken by the National Park Authority. This report concluded: *“Due to the limited scale of the development, its distance from the SPA/SAC and even greater distance from the key bird species, its location in the valley below the Natura 2000 site and the likely negligible impacts compared to existing recreational pressure, it is concluded that the policies set out in the Leekfrith Neighbourhood Plan are unlikely to have a significant impact on Natura 2000 sites.”* The screening was submitted to Natural England who agreed with this conclusion. I have earlier in my report, in Footnote 11, referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout much of the period of preparation of the Neighbourhood Plan. As the Screening Document is dated January 2019, and the response of Natural England is dated 18 February 2019, I am satisfied that the Neighbourhood Plan meets the revised Basic Condition. I conclude the Neighbourhood Plan meets the requirements of the Basic Condition relating to Habitats Regulations.
42. 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.
43. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
44. 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 National Park Authority and the District Council as Local Planning Authority



must decide whether the draft neighbourhood plan is compatible with EU obligations:

- 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).<sup>26</sup>

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

45. 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 Plans<sup>27</sup> which requires plans to be “*consistent with national policy*”.

46. Lord Goldsmith has provided guidance<sup>28</sup> 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.*”

47. The National Park Authority has informed me the Neighbourhood Plan was submitted on 28 February 2019 in the context of the National Planning Policy Framework as published in 2018. The most recent National Planning Policy Framework published on 19 February 2019 (updated 19 June 2019) sets out the government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance was most recently updated on 1 October 2019. In

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<sup>26</sup> Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

<sup>27</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>28</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords 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)

my initial letter sent to the National Park Authority, the District Council and the Parish Council on 27 November 2019 I confirmed my intention to undertake the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance. As parts of the Framework and Guidance have been updated after the Neighbourhood Plan was submitted to the National Park Authority and the District Council I provided an opportunity for any interested party, including the Parish Council and Local Planning Authorities, to submit comments relating to changes to the National Planning Policy Framework or the Planning Practice Guidance in so far as they are relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. On 5 December 2019 the National Park Authority provided me with an assessment of the effect of the 2019 changes to the Framework on the Neighbourhood Plan meeting the Basic Conditions. I have taken the assessment, which had been agreed by the Parish Council and the District Council, into account when preparing my report. No other party responded to the opportunity to comment on this matter.

48. The Basic Conditions Statement includes Table 1 which lists sections of the Framework that the Neighbourhood Plan has regard to, and, where relevant, makes reference to policies of the Neighbourhood Plan. I am satisfied the Basic Conditions Statement, supplemented by the assessment provided to me on 5 December 2019, demonstrates that the Neighbourhood Plan has sufficient regard to relevant identified components of the Framework.

49. The Neighbourhood Plan includes a positive vision for Leekfrith developed at the beginning of the plan preparation process, that includes economic dimensions (*“small businesses thriving”, “set up a range of businesses”* and *“employment opportunities for local people”*) and social components (*“housing suitable for all ages”, “places of focus”, “communication and cohesion”, “health and wellbeing”*) whilst also referring to environmental considerations (*“special character”, “beauty”* and *“careful management”*). It is explained the Neighbourhood Plan concentrated on the issues that parishioners were most enthused about, which were housing, business, and issues arising from tourism.

50. The referencing of policies and the title of the first Policy in the contents page of the submitted Plan do not correspond to the main body of the report. Three of the Policy titles are not presented in the

Policy text boxes. I have recommended modifications in these respects so that the Neighbourhood Plan *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

**Recommended Modification 1:**

- **in the Neighbourhood Plan Contents Page refer to the Policies using numbers, and replace “Development” with “Redevelopment”**
- **add the Policy titles to the text boxes for Policies 2,3, and 4**

51. 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 the 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.”*

52. At the heart of the Framework is a presumption in favour of sustainable development<sup>29</sup> which should be applied in both plan-making and decision-taking.<sup>30</sup> 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”*<sup>31</sup>.

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<sup>29</sup> Paragraph 10 National Planning Policy Framework 2019

<sup>30</sup> Paragraph 11 National Planning Policy Framework 2019

<sup>31</sup> Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

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

54. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes Table 2 which demonstrates how the Neighbourhood Plan simultaneously contributes to the economic, social, and environmental dimensions of sustainable development. 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 guiding redevelopment of Upper Hulme Mill; enabling the renting of ancillary holiday accommodation under specified circumstances; and addressing issues relating to the parking of vehicles.

55. 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)

56. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.<sup>32</sup> Plans should make explicit which policies are strategic policies.<sup>33</sup> “*Neighbourhood plans must be in general conformity with the strategic policies contained in any*

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<sup>32</sup> Paragraph 13 National Planning Policy Framework 2019

<sup>33</sup> Paragraph 21 National Planning Policy Framework 2019

*development plan that covers their area<sup>34</sup>. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies”.<sup>35</sup>*

57. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”<sup>36</sup> In this independent examination, 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).

58. The National Park Authority and the District Council have informed me what constitutes the Development Plan applying in the Leekfrith Neighbourhood Area and relevant to the Neighbourhood Plan as follows:

- In the National Park Authority area, it is the Core Strategy (adopted 7 October 2011), and the Development Management Policies (DMP) document (adopted 24 May 2019), and the Policies Map which shows where site area specific policies apply, and where development proposals are likely to go ahead. The Core Strategy sets out strategic policies. The Development Management Policies document supplements the Core Strategy with detailed operational policies. The National Park Authority has, at the Regulation 14 stage of preparation of the Neighbourhood Plan, stated Core Strategy Policies GSP2 (D and E), and RT2 (A) are relevant to the Neighbourhood Plan policies;
- In the District Council area, it is the Core Strategy (adopted 26 March 2014). Town and village development boundaries and other boundaries including the Green Belt (see maps below) from the 1998 Local Plan will remain in force for development management purposes until superseded by the Local Plan 2016 – 2031. The District Council has stated the following policies of the Core Strategy are most relevant to preparation of the Neighbourhood Plan:

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<sup>34</sup> Footnote 16 National Planning Policy Framework 2019

<sup>35</sup> Paragraph 29 National Planning Policy Framework 2019

<sup>36</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

Policy SS3 – Distribution of Development: sets out the development requirements across the district.

Policy SS4 – Managing the Release of Housing Land: includes an allowance from unidentified (windfall) of up to 30% in rural areas.

Policy SS6b – Smaller Villages Area Strategy: identifies Meerbrook as a smaller village. This allows for new housing development which meets a local need, including affordable housing. Supporting text states that an Infill Boundary will be defined around these settlements within which appropriate development will be allowed.

Policy SS6c – Other Rural Areas Area Strategy: restricts new development to essential local need. Seeks to enhance and conserve the quality of the countryside by recognising and conserving the special quality of the landscape in the Peak District National Park (PDNP) and states that any development proposal that might have the potential to affect a European or Ramsar Site must itself be subject to Appropriate Assessment.

Policy SS7 – Churnet Valley Area Strategy: relates to sustainable tourism and rural regeneration. Leekfrith parish lies within the Churnet Valley Masterplan Area.

Policy H1 – New Housing Development: residential development / redevelopment on unidentified windfall sites will be permitted up to an indicative maximum scheme size of 5 dwellings within the infill boundaries of smaller villages.

Policy DC3 – Landscape and Settlement Setting: Part 5 recognises and conserves the special quality of the landscape in the PDNP and ensures that development does not adversely affect the wider setting of the National Park.

Policy R1 – Rural Diversification: Wherever possible development should be within suitably located buildings which are appropriate for conversion. Priority given to the re-use of rural buildings for commercial enterprise including tourism uses.

Policy R2 – Rural Housing: Sets out the types of dwellings appropriate in the rural area outside the larger and smaller villages.

Policy NE1 – Biodiversity and Geological Resources: states that any proposed development that could have an adverse effect on the integrity of a European site will be resisted.

59. The District Council is currently preparing the Local Plan 2016-2031. The Local Plan was submitted to the Secretary of State for examination in June 2018 and has reached the stage of consideration



of comments on the Main Modifications and Additional Modifications. Further hearing sessions are to be held on 4 and 5 February 2020.

60. The Neighbourhood Plan can proceed ahead of preparation of the Local Plan 2016-2031. The Guidance states: *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.”*<sup>37</sup>
61. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Local Plan 2016-2031 is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*<sup>38</sup>. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.
62. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the emerging Local Plan 2016-2031 when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan unless the latter plan states otherwise; however, the Guidance is clear in that potential conflicts should be minimised.
63. In considering a now-repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated

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<sup>37</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

<sup>38</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

*“the adjective ‘general’ is there to introduce a degree of flexibility.”<sup>39</sup>*

The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable 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.

64. 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.”<sup>40</sup>*

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

65. 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. This consideration has been informed by Section 4 of the Basic Conditions Statement which includes, at paragraph 4.2, Table 3 that includes a comment on the conformity of the Neighbourhood Plan policies with relevant strategic policies. 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.

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<sup>39</sup> Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P & CR 31

<sup>40</sup> Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014



## The Neighbourhood Plan Policies

66. The Submission Version Neighbourhood Plan includes 4 policies as follows:

Policy 1 Redevelopment of Upper Hulme Mill

Policy 2 Full time rental of holiday cottages

Policy 3 Parking on the narrow roads throughout the Parish

Policy 4 Parking at the Roaches

67. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*. Footnote 16 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*

68. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*

69. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).*

70. 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.”<sup>41</sup>*

71. *“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”.*<sup>42</sup>

72. A neighbourhood plan should contain policies for the development and use of land. *“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. 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).*<sup>43</sup>

73. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.”<sup>44</sup> “A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”<sup>45</sup>*

74. 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-

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<sup>41</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

<sup>42</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

<sup>43</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

<sup>44</sup> Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

<sup>45</sup> Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

relationships between policies where these are relevant to my remit. I have considered the issue of meeting housing needs initially as this issue is relevant to more than one policy of the Neighbourhood Plan.

### **Meeting Housing Needs**

75. The Guidance states *“The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies. While there is no set method for doing this, the general policy making process already undertaken by local authorities can continue to be used to direct development requirements and balance needs and protections by taking into consideration relevant policies such as the spatial strategy, evidence such as the Housing and economic land availability assessment, and the characteristics of the neighbourhood area, including its population and role in providing services. In setting requirements for housing in designated neighbourhood areas, plan-making authorities should consider the areas or assets of particular importance (as set out in paragraph 11, footnote 6), which may restrict the scale, type or distribution of development in a neighbourhood plan area.”*<sup>46</sup>
76. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”*<sup>47</sup>
77. *“Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it. A sustainable choice of sites to accommodate housing will provide flexibility if circumstances change, and allows plans to remain up to date over a longer time scale. Where neighbourhood planning bodies intend to exceed their housing requirement figure, proactive*

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<sup>46</sup>Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

<sup>47</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

*engagement with their local planning authority can help to assess whether the scale of additional housing numbers is considered to be in general conformity with the strategic policies. For example, whether the scale of proposed increase has a detrimental impact on the strategic spatial strategy, or whether sufficient infrastructure is proposed to support the scale of development and whether it has a realistic prospect of being delivered in accordance with development plan policies on viability. Any neighbourhood plan policies on the size or type of housing required will need to be informed by the evidence prepared to support relevant strategic policies, supplemented where necessary by locally-produced information.”<sup>48</sup>*

78. *“The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing. However, there is an expectation that housing requirement figures will be set in strategic policies, or an indicative figure provided on request. Where the figure is set in strategic policies, this figure will not need retesting at examination of the neighbourhood plan. Where it is set as an indicative figure, it will need to be tested at examination.”<sup>49</sup>*

79. *“Where an indicative housing requirement figure is requested by a neighbourhood planning body, the local planning authority can follow a similar process to that for providing a housing requirement figure. They can use the authority’s local housing need as a starting point, taking into consideration relevant policies such as an existing or emerging spatial strategy, alongside the characteristics of the neighbourhood plan area. Proactive engagement with neighbourhood plan-making bodies is important as part of this process, in order for them to understand how the figures are reached. This is important to avoid disagreements at neighbourhood plan or local plan examinations, and*

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<sup>48</sup> Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

<sup>49</sup> Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision date: 09 05 2019

*minimise the risk of neighbourhood plan figures being superseded when new strategic policies are adopted”.*<sup>50</sup>

80. *“Where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative figure to be provided to neighbourhood planning bodies on request. However, if a local planning authority is unable to do this, then the neighbourhood planning body may exceptionally need to determine a housing requirement figure themselves, taking account of relevant policies, the existing and emerging spatial strategy, and characteristics of the neighbourhood area. The neighbourhood planning toolkit on housing needs assessment may be used for this purpose. Neighbourhood planning bodies will need to work proactively with the local planning authority through this process, and the figure will need to be tested at examination of the neighbourhood plan, as neighbourhood plans must be in general conformity with strategic policies of the development plan to meet the basic conditions.”*<sup>51</sup>
81. *“If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process.”*<sup>52</sup>
82. *“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

<sup>50</sup> Planning Practice Guidance Paragraph: 102 Reference ID: 41-102-20190509 Revision date: 09 05 2019

<sup>51</sup> Planning Practice Guidance Paragraph: 105 Reference ID: 41-105-20190509 Revision date: 09 05 2019

<sup>52</sup> Planning Practice Guidance Paragraph: 043 Reference ID: 41-043-20140306 Revision date: 06 03 2014



- the emerging neighbourhood plan
- the emerging Local Plan
- the adopted development plan

with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination. Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”<sup>53</sup>

83. “A neighbourhood plan can allocate additional sites to those identified in an adopted plan so long as the neighbourhood plan meets the basic conditions.”<sup>54</sup> and “A neighbourhood plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy. Neighbourhood plans should not re-allocate sites that are already allocated through these strategic plans. A neighbourhood plan can also propose allocating alternative sites to those in a local plan (or spatial development strategy), where alternative proposals for inclusion in the neighbourhood plan are not strategic, but a qualifying body should

<sup>53</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

<sup>54</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 67-009-20190722 Revision date: 22 07 2019

*discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate. The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy. Should there be a conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”<sup>55</sup>*

84. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance. Policy 1 and Policy 2 of the Neighbourhood Plan are relevant to housing supply.
85. The National Park Authority and the District Council have not provided a housing target at neighbourhood area level and the Parish Council have not requested an indicative housing requirement figure. The revisions to the Guidance relating to these matters were published in May 2019 when the Neighbourhood Plan was at an advanced stage of preparation. The emerging Staffordshire Moorlands Local Plan 2016-2031 does provide a housing requirement for the Neighbourhood Area outside the National Park.
86. In a joint response to my request for clarification of the strategic policy context regarding housing numbers the Local Planning Authorities and the Parish Council state *“The PDNPA Core Strategy does not include a housing requirement figure for all or any part of the neighbourhood plan area. Policy DS1 of the Core Strategy names settlements (known*

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<sup>55</sup> Planning Practice Guidance Paragraph: 044 Reference ID: 41-044-20190509 Revision date: 09 05 2019

*as DS1 settlements) where there is scope for new build affordable housing in or on the edge of these settlements. There are no DS1 settlements in Leekfrith Neighbourhood area. Policy H1 of the Core Strategy states ‘provision will not be made for housing solely to meet open market demand’. The Staffordshire Moorlands Core Strategy did not include a housing requirement figure for all, or part, of the Neighbourhood Plan area. Policies SS3, SS4 and Appendix 11 of the emerging SMDC Local Plan set out that Neighbourhood Plans should make provision for at least the same amount of housing as is identified for their Neighbourhood Area in the Local Plan; with an aspiration for 4-8 windfall dwellings in Leekfrith Neighbourhood Area outside the Peak Park.”*

87. The Neighbourhood Plan makes reference to, and includes as Appendix 3 a report of a housing needs survey undertaken in Leekfrith Parish in 2014. This survey identified very limited housing need. Although the survey is now five years old, I have not seen anything to suggest the situation has changed significantly. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided on the basis of Policies 1 and 2. The Neighbourhood Plan relies on strategic policies to regulate the supply of new homes outside the context of those policies. I am satisfied the approach adopted to address housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for Leekfrith and provides the necessary justification that those policies that are relevant to housing supply will result in local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.

### **Policy 1 Redevelopment of Upper Hulme Mill**

88. This policy seeks to establish support for redevelopment of the Upper Hulme Mill site broadly in line with stated requirements, and as indicated on figure 2. The policy also refers to numbers of housing units and the ratio of affordable to market housing. The policy seeks to discourage parking on the main road through Upper Hulme and seeks to establish requirements that will assist assessment of proposals that would affect the South Pennine Moors Special Area of conservation and the Peak District Moors Special Protection Area.

89. In a representation the Environment Agency states “*The redevelopment of the Upper Hulme Mill proposes to demolish certain*



sections of the site. It is unclear from the neighbourhood plan whether the previous use of the site would have been contaminative or not and the neighbourhood plan group must consider whether the development would require contamination and ground condition surveys to be undertaken, and therefore the requirement added to Policy 1, to ensure development could be brought forward where remediation is required.” I have recommended a modification to include an appropriate requirement regarding this matter so that the Policy has sufficient regard for national policy.

90. The Environment Agency representation also states *“The Upper Hulme Mill sits over an ordinary watercourse and we would recommend that the neighbourhood plan group contact the Lead Local Flood Authority (LLFA) to see if they have any comments to make on this proposed redevelopment.”* The Lead Local Flood Authority has stated *“As the Environment Agency highlighted, the Upper Hulme Mill sits over an ordinary watercourse, and we would recommend that any application for development or change of use to a more vulnerable category should be supported by a Flood Risk Assessment. The fluvial Flood Zones are only modelled for catchments greater than 3km<sup>2</sup>, so although the site is in Flood Zone 1, there may still be significant flood risk to parts of the site from the watercourse. Whilst not definitive, the Surface Water Flood Map indicates that parts of the site could be at risk of flooding. A detailed site-specific Flood Risk Assessment would be required to establish the flood risk extents, areas suitable for development and any mitigation measures required.”* I have recommended a modification to include an appropriate requirement regarding this matter so that the Policy has sufficient regard for national policy.

91. Use of the term *“broadly”* in the Policy introduces flexibility as required by paragraph 11 a) of the Framework. Part B of the Policy comprises statements rather than policy components. Part B of the policy and the terms *“may be suitable”* and *“completely discouraged”* do not offer a basis for the determination of planning proposals. The term *“associated parking”* is imprecise. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

92. The requirement in Part A (i) of the Policy for garaging facilities has not been sufficiently justified as required by paragraph 31 of the Framework. Part A (iii) of the policy could result in incompatible uses,

for example general industry and housing, being mixed-in with one another. I have recommended a modification that requires proposed uses to be compatible with nearby uses for them to be acceptable. This modification is recommended in the interests of achieving acceptable living standards and recognises the importance of securing well-designed, attractive and healthy places as set out in paragraph 122 of the Framework.

93. As recommended to be modified the policy is in general conformity with the strategic policies included in the Peak District National Park Core Strategy (adopted 7 October 2011); the Peak District National Park Development Management Policies (adopted 24 May 2019); and the Staffordshire Moorlands Core Strategy (adopted 26 March 2014) applying in the Leekfrith Neighbourhood Area, and relevant to the Neighbourhood Plan, and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
94. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing; building a strong, competitive economy, promoting sustainable transport; making effective use of land; achieving well-designed places; conserving and enhancing the natural environment; and conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 2:**

##### **In Policy 1**

- in Part A (i) replace “associated parking and garaging” with “sufficient vehicle parking facilities to ensure no additional on-road parking results”
- in Part A (ii) replace “may be suitable” with “will be supported”
- continue Part A (iii) with “subject to proposed uses being compatible with nearby uses”
- delete Part B and transfer the text to Section 7.1 of the supporting text

- insert replacement Part B “All development proposals must include a detailed site-specific flood risk assessment and demonstrate the suitability of the proposals taking into account any mitigation measures.”
- in Part C replace the text before “parking on” with “All development proposals must include sufficient vehicle parking provision to ensure no additional”; and replace “is completely discouraged” with “results”
- add as Part E “All development proposals must include results of a contamination survey and demonstrate necessary mitigation appropriate to the use proposed.”

## Policy 2 Full time rental of holiday cottages

95. This policy seeks to establish that the renting of ancillary holiday accommodation, on the general rental housing market will be permitted on a temporary basis for two years, subject to stated criteria.
96. The approach adopted in the policy of supporting proposals on a temporary basis for two years includes sufficient flexibility to adapt to rapid change as required by paragraph 11 a) of the Framework.
97. The structure of the policy could lead to some uncertainty whether points iv and v only apply in the case of circumstances set out in point iii. I have recommended the policy is restructured. The policy includes the terms “*permitted*” and “*permission*”. Paragraph 2 of the Framework states “*Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise*”. Material considerations will not be known until the time of determination of application. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
98. As recommended to be modified the policy is in general conformity with the strategic policies included in the Peak District National Park Core Strategy (adopted 7 October 2011); the Peak District National Park Development Management Policies (adopted 24 May 2019); and the Staffordshire Moorlands Core Strategy (adopted 26 March 2014) applying in the Leekfrith Neighbourhood Area, and relevant to the Neighbourhood Plan, and serves a clear purpose by providing an

additional level of detail or distinct local approach to that set out in the strategic policies.

99. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3:**

**In Policy 2**

- **present points ii and iii as alternative circumstances and then present points i, iv and v to apply in every case**
- **replace “permitted” with “supported”**
- **replace “permission will be granted” with “proposals will be supported”**

**Policy 3 Parking on the narrow roads throughout the Parish**

100. This policy seeks to establish that any development proposal must provide a transport statement that considers the parking implications of the proposal and requires proposed developments to demonstrate suitable parking arrangements that avoid unacceptable harm to the highway network.

101. Policy 3 is without consequence. The policy includes the imprecise terms “*suitable*” and “*unacceptable*”. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

102. As recommended to be modified the policy is in general conformity with the strategic policies included in the Peak District National Park Core Strategy (adopted 7 October 2011); the Peak District National Park Development Management Policies (adopted 24 May 2019); and the Staffordshire Moorlands Core Strategy (adopted 26 March 2014) applying in the Leekfrith Neighbourhood Area, and relevant to the Neighbourhood Plan, and serves a clear purpose by

providing an additional level of detail or distinct local approach to that set out in the strategic policies.

103. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 4:**

**In Policy 3 replace the final sentence with “To be supported development proposals must demonstrate that they will not result in additional on-road vehicle parking.”**

**Policy 4 Parking at the Roaches**

104. This policy seeks to establish support the use of land identified in figure 3 for car parking for up to 28 days per calendar year.
105. Natural England state they have not checked the agricultural land classification of the proposed allocations but advise that any allocations on best and most versatile land are justified in line with paragraph 112 of the Framework. This reference is to the March 2012 version of the Framework. The Agricultural Land Classification maps published by Natural England appear to indicate the land in question is not best and most versatile agricultural land as defined in Annex 2 of the Framework.
106. The purpose of the policy is not clear in that the development to which the policy relates is permitted development not requiring a grant of planning permission. In fact, “up to” is more restrictive than the permitted development term “not more than”. In response to my request for clarification the Parish Council and the relevant Local Planning Authority have confirmed *“The purpose of the policy is to identify the area rather than support any access works. The policy should be included as a non-planning action.”*
107. 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 matters that will not be the subject of a formal planning application, but 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 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.”* The acknowledgement in the Neighbourhood Plan of issues raised in consultation that do not have a direct relevance to land use planning processes would be consistent with this guidance and represent good practice. I recommend an approach should be adopted in the Neighbourhood Plan presenting the matters raised in Policy 4 as *“community aspirations”* in an additional Appendix to the Neighbourhood Plan that adequately differentiates the community aspirations from the policies of the Plan and has sufficient regard for the Guidance. I have recommended a modification so that the Neighbourhood Plan meets the Basic Conditions.

**Recommended modification 5:**

**Delete Policy 4 and transfer the policy text and supporting text to become a non-policy community aspiration in a new Part 8 of the Neighbourhood Plan**

## Summary and Referendum

108. I have recommended 5 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.
109. I am satisfied that the Neighbourhood Plan<sup>56</sup>:
- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and

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<sup>56</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them



- 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
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>57</sup>

**I recommend to the Peak District National Park Authority and Staffordshire Moorlands District Council that the Leekfrith Neighbourhood Development Plan for the plan period up to 2033 should, subject to the modifications I have put forward, be submitted to referendum.**

110. 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.<sup>58</sup> I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”<sup>59</sup>. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

<sup>57</sup> This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

<sup>58</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>59</sup> Planning Practice Guidance Paragraph 059 Reference ID: 41-059-20140306 Revision 06 03 2014

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by the Peak District National Park Authority on 13 March 2015 and by Staffordshire Moorlands District Council on 24 March 2015.**

#### **Annex: Minor Corrections to the Neighbourhood Plan**

111. A number of consequential modifications to the general text, and in particular the reasoned justification of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.
112. I recommend minor change in this and any other respects only in so far as it is necessary to correct an error or where it is necessary so that the Neighbourhood Plan *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

#### **Recommended modification 6:**

**Modify general text to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.**

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23 December 2019  
REPORT ENDS