

Basic Conditions Statement -
Proposed Modification to the
Made Ashover Neighbourhood
Plan (26 February 2018)

Ashover Parish Council

September 2022

1.0 INTRODUCTION

- 1.1 This Basic Conditions Statement has been prepared by *Andrew Towler Associates* on behalf of Ashover Parish Council to accompany its submission to the local planning authority (North East Derbyshire District Council) of the revised Ashover Neighbourhood Plan ('The Plan') under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 ('the Regulations'). It has been prepared by *Andrew Towler Associates* on behalf of Ashover Parish Council.
- 1.2 In order to satisfy Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended), the Parish Council, as the 'qualifying body' must include a statement explaining how the proposed neighbourhood plan meets the requirements of paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).
- 1.3 Paragraph 8 (1) states that the examiner must consider the following:
- whether the draft neighbourhood development plan meets the basic conditions (see sub-paragraph (2));
 - whether the draft neighbourhood development plan complies with the provision made by or under sections 61E (2), 61J and 61L, as amended by s38C(5)(b);
 - whether the area for any referendum should extend beyond the neighbourhood area to which the draft neighbourhood development plan relates; and
 - such other matters as may be prescribed.
- 1.4 Paragraph 8 (2) (as amended) states a draft neighbourhood development plan meets the basic conditions if:
- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood development plan;
 - (b) the making of the neighbourhood development plan contributes to the achievement of sustainable development;
 - (c) the making of the neighbourhood development 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);
 - (d) the making of the neighbourhood development plan does not breach, and is otherwise compatible with, EU obligations;
 - (e) prescribed conditions are met in relation to the neighbourhood development plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood development plan.
 - (f) 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 2017.12
- 1.5 Section 2 of this Statement sets out how the modification to the approved Plan comply with the legal requirements of sub-paragraphs 1 (b), (c) and (d). Section 3 of this Statement sets out how they meet the basic conditions contained in sub-paragraph 1

(a) and sub-paragraph 2 (as amended).

2.0 LEGAL REQUIREMENTS

- 2.1 The modification to the approved Plan complies with the provisions of sub-paragraph 1(b) as described below.

The Plan is being submitted by a qualifying body

- 2.1.1 The modification has been submitted by Ashover Parish Council, which is a qualifying body and is entitled to submit and review a Neighbourhood Plan for its own parish. The Plan (and review) has been prepared by Ashover Parish Council.

What is being proposed is a neighbourhood plan

- 2.1.2 The modification to the approved Plan relates to the development and use of land within the neighbourhood plan area and has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended) and the Neighbourhood Planning Regulations 2012 (as amended).

The proposed neighbourhood plan states the period for which it is to have effect

- 2.1.3 The approved Plan states that the period which it relates to is from 2016 until 2033. The period was chosen to align with that of the (then) emerging North East Derbyshire Local Plan. The modification do not affect the period which the approved Plan is to have an affect.

The policies do not relate to excluded development

- 2.1.4 The modification does not deal with 'county matters' (mineral extraction and waste development), nationally significant infrastructure or any other matters set out in Section 61K of the Town and Country Planning Act 1990. The County Council was consulted as part of the Regulation 14 consultation on the original Plan and the Review and did not raise any concerns that either is not compatible with the adopted Derbyshire Minerals and Waste Local Plans.

The proposed neighbourhood plan does not relate to more than one neighbourhood area and there are no other neighbourhood plans in place within the neighbourhood area

- 2.1.5 The whole parish of Ashover was formally designated as a Neighbourhood Plan area by North East Derbyshire District Council on 16 February 2015.
- 2.1.6 The modification relates only to the parish of Ashover and no other neighbourhood plan area. There are no other neighbourhood plans in place within Ashover parish.

- 2.1.7 The Ashover Parish Neighbourhood Plan passed referendum on 8 February 2018 with a 93% vote in favour. This is the formal review of that Plan since the Plan was made.
- 2.1.8 In relation to sub-paragraph 1(d), it is not considered that there is any benefit or reason for extending the area for the referendum (if required) beyond the designated Neighbourhood Plan Area.
- 2.1.9 In relation to sub-paragraph 1(e), there are no other prescribed matters.

3.0 THE BASIC CONDITIONS

- 3.1 This section addresses how the modification to the approved Plan fulfils the basic conditions set out in sub-paragraph (2). The Plan has been prepared having regard to national policies and advice set out in the National Planning Policy Framework 2021 ('NPPF') and to the strategic policies contained in the adopted North East Derbyshire Local Plan 2014 – 2034 (adopted 29 November 2021).
- 3.1.1 In accordance with national guidance the Review has been informed by the evidence base of the adopted Local Plan.
- 3.1.2 Details of how the Plan is in general conformity with strategic policies contained in the approved Local Plan is provided in table 2.
- 3.1.3 It should also be noted that while national planning policy guidance¹ does not require a neighbourhood plan to be reviewed or updated it does support its review and updating as necessary.

3.2 Having regard to national policies and advice

- 3.2.1 The modification has been developed having regard to the NPPF. An explanation of how each one has shown regard to the NPPF is outlined in Table 1 below.

Table 1: A summary assessment of how the modification conforms to the National Planning Policy Framework (NPPF)	
Modification to the approved Neighbourhood Plan	Key NPPF Section
POLICY AP14: Local Green Spaces - It is proposed to amend the boundary of one of the approved Local Green Spaces. Namely, site	Section 101 of the NPPF enables communities to identify and protect green areas of particular importance to them by designating them as Local Green Spaces

¹ <https://www.gov.uk/guidance/neighbourhood-planning--2#updating-neighbourhood-plan>; Paragraph: 084
Reference ID: 41-084-20190509; Revision date: 09 05 2019

<p>Number 9 'two small areas of Land off Alton Hill, Alton'. The proposal is to remove the area on the east side of Quarry Lane, the other small triangular area on the west side is to remain.</p>	<p>through neighbourhood plans. It goes on to indicated that Local Green Spaces can only be designated when a neighbourhood plan is being prepared or updated.</p>
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3.3 Achieving sustainable development

- 3.3.1 The proposed modification is positively prepared, reflecting the presumption in the NPPF in favour of sustainable development. They support the strategic development needs in local planning policies, shaping and directing development in the area.
- 3.3.2 Whilst there is no legal requirement for a neighbourhood plan to have a sustainability appraisal, this section of the Statement demonstrates in broad terms how the proposed modification fulfils the basic condition that a neighbourhood plan contributes to achieving sustainable development.
- 3.3.3 The NPPF sets out three objectives to sustainable development: -
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 3.3.4 The approved Plan and modification, by guiding development to sustainable solutions, contribute to the achievement of sustainable development, including:
- contributing to building a strong and competitive economy by supporting small businesses, the retention of appropriate employment sites in the Parish, and by supporting small scale economic development in appropriate locations.
 - planning positively for housing growth to meet the needs of present and future generations in accordance with the strategic development needs set out in Local Plans.
 - supporting the provision of a mix of housing types and sizes that can meet the needs of a wide range of people and promote a healthy and inclusive community.

- supporting new development where it relates well to the existing built-up area of the Parish.
- promoting policies to protect locally important landscape features, important local green spaces, trees and woodlands and biodiversity, which contribute toward the sense of community and quality of life in the area.

3.4 General conformity with the strategic policies of the development plan for the area

3.4.1 The modification has been developed in general conformity with the approved policies contained in the North East Derbyshire's Local Plan adopted on 29 November 2021.

3.4.2 Table 2 provides a summary of how each of the modified policies is in general conformity with the strategic policies in the Adopted North East Derbyshire Local Plan 2014-2034.

Table 2: A summary assessment of how the modification conforms to the Strategic policies in the North East Derbyshire Local Plan 2014-2034	
Modification to the approved Neighbourhood Plan	Relationship with Local Plan
POLICY AP14: Local Green Spaces - It is proposed to amend the boundary of one of the approved Local Green Spaces. Namely, site Number 9 'two small areas of Land off Alton Hill, Alton'. The proposal is to remove the area on the east side of Quarry Lane, the other small triangular area on the west side is to remain.	Paragraph 9.106 identifies that Local Green Spaces' <i>'are green spaces of particular importance to the local community'</i> . Adding, <i>'In North East Derbyshire, the Local Plan does not designate Local Green Spaces, but any forthcoming Neighbourhood Plans may do so'</i> . The proposal is consistent with and in support of this.

3.5 EU obligations

Strategic Environmental Assessment (SEA)

3.5.1 In some limited circumstances, where a neighbourhood plan (or review) could have significant environmental effects, it may require a Strategic Environmental Assessment under the relevant EU Directive. Government planning guidance suggests that, whether a neighbourhood plan requires a strategic environmental assessment and (if so) the level of detail needed will depend on what is proposed in the draft neighbourhood plan. A strategic environmental assessment may be required, for example, where:

- a neighbourhood plan allocates sites for development;
- the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan;

- the neighbourhood plan may have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan.

3.5.2 In the case of the modification:

- it does not allocate any sites for development.
- there are no sensitive natural or heritage assets that may be adversely affected by it.
- it does not have significant environmental effects as defined by the criteria set out in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004.
- it does not contain significant proposals.

3.5.3 The Parish Council has screened the Plan to determine whether an SEA is required. They considered that one is not required. They have consulted with North East Derbyshire District Council, Historic England, Environment Agency and Natural England on their opinion on whether a SEA was not required, and they have each confirmed that they do not consider that one is not required. Further information about this screening opinion and the various responses received from the statutory consultees on it can be found on the Parish Council website at [ashover-neighbourhood-plan-review-\(january-2020\)-statement-of-proposed.pdf](https://www.ashover-nc.gov.uk/ashover-neighbourhood-plan-review-(january-2020)-statement-of-proposed.pdf) ([ashover-nc.gov.uk](https://www.ashover-nc.gov.uk)).

Habitats Directive

3.5.4 An HRA screening of the Plan has also been undertaken by the Parish Council. This did not identify any significant effects arising from the proposals contained in it.

3.5.5 It is considered, therefore, that the Plan is not in breach of the EU Habitats Directive.

Convention on Human Rights

3.5.6 A neighbourhood plan must have regard to, and is compatible with, the fundamental rights and freedoms guaranteed under the European Convention on Human Rights. The modification has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR).

3.6 Other Relevant Basic Conditions

3.6.1 An additional basic condition was introduced in 2019 and after the Plan was 'made'. This prescribed that under Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 that: - The making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010(2)) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(3) (either alone or in combination with other plans or projects).

3.6.2 North East Derbyshire District Council, Natural England, Environment Agency and Historic England have formally been consulted on the modification and did not raise any concerns that it would adversely affect an internationally or nationally designated nature conservation site within Ashover Parish or the surrounding area. It is, therefore, considered that the Plan meets the additional prescribed basic condition.

3.7 Consultation

3.7.1 The modification to the approved Plan has been prepared with extensive input from the community and stakeholders, as set out in the accompanying Statement of Consultation. They were consulted on and publicised in accordance with Regulation 14 of the Neighbourhood Planning (General) Regulations 2012. Responses were recorded and the Plan amended as appropriate. A revised Statement of Consultation has been prepared and meets the requirements set out in Paragraph 15 (2) of the Regulations.

4.0 Conclusions

4.1.1 The Basic Conditions demonstrate that the modification to the approved Ashover Neighbourhood Plan:

- has had regard to national policy and advice;
- contributes toward the achievement of sustainable development;
- is in general conformity with the approved national and local planning policies;
- does not breach, and is otherwise compatible with, any EU obligations that remain in force; and
- has met the prescribed conditions and matters in connection with the proposal for the development and review of a Neighbourhood Development Plan.

4.1.2 It is therefore respectfully suggested to the Examiner that the amended Plan complies with Paragraph 8(1)(a) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).