

**Westfield Parish Council**

# **Westfield Neighbourhood Development Plan**

A report to Bath and North East Somerset Council of the  
Independent Examination of the Westfield Neighbourhood  
Development Plan

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## Overall Finding

This is the report of the Independent Examination of the Westfield Neighbourhood Development Plan. The plan area comprises the entire civil parish of Westfield within the Bath and North East Somerset Council area. The plan period is 2016-2036. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for development.

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

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”<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 Westfield Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Westfield 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 Westfield Neighbourhood Area which was formally designated by Bath and North East Somerset Council (B&NES Council) on 23 April 2015. Since 2015 the Neighbourhood Plan has been produced by the Westfield Neighbourhood Plan Working Group (the Working Group), made up of local residents, volunteers, and Councillors.
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 B&NES Council. B&NES Council arranged a period of publication between 3 April and 5.00pm on 15 May 2018. B&NES Council has submitted the Neighbourhood Plan to me for independent examination.

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<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012)

## Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to B&NES Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. B&NES Council will decide what action to take in response to the recommendations in this report.
6. B&NES 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 B&NES 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 a neighbourhood plan that has been brought into force, planning permission should not normally be granted<sup>6</sup>.
8. I have been appointed by B&NES 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 B&NES Council. I do not have any interest in any land that may be affected by the Neighbourhood

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

<sup>3</sup> Paragraph 216 of the National Planning Policy Framework (2012) 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 198 National Planning Policy Framework (2012)

Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions (including being a Member of the National Coalfields Taskforce – which has some relevance to the Westfield area), 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 purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

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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 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>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 as amended (the Regulations), which are made pursuant to the powers given in those sections.

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

<sup>11</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<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)).



16. The Neighbourhood Plan relates to the area that was designated by B&NES Council as a neighbourhood area on 23 April 2015. A map of the Neighbourhood Plan boundary is included as Figure 1.2 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Westfield parish 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 to be 2016-2036.
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.
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,

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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, 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 182 of the Framework

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

21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.<sup>20</sup>

## Documents

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

- Westfield Neighbourhood Development Plan 2016-2036 Submission Draft Plan including Appendices 1 to 3
- Westfield Neighbourhood Plan Basic Conditions Statement [*In this report referred to as the Basic Conditions Statement*]
- Westfield Parish Consultation Statement [*In this report referred to as the Consultation Statement*]
- Westfield Sustainability Appraisal
- Strategic Environmental Assessment – Screening Determination October 2017 [*In this report referred to as the SEA report*]
- Westfield Neighbourhood Plan Pre-submission Draft Initial Habitats Regulations Assessment Screening 3 October 2017
- Westfield Neighbourhood Plan Evidence Base
- Representations received during the Regulation 16 publicity period
- Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan Volume 1 District-wide Strategy and Policies, Volume 4 Somer Valley, Policies Maps, Appendices and Glossary. Core Strategy Adopted July 2014, Placemaking Plan adopted July 2017

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

- Bath and North East Somerset Local Plan 2016-2036 Issues and Options Consultation Winter 2017
- West of England Joint Spatial Strategy Publication Document November 2017
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance DCLG (June 2017) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2018
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.

## Consultation

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

25. A call for volunteers in February 2015 resulted in five councillors and six local residents first meeting as a Neighbourhood Plan Working

Group in July 2015. Additional members have subsequently been welcomed.

26. The September 2015 edition of the Westfield Warbler, delivered to all homes and businesses in the plan area, included a report of the Working Group meeting and reference to the dedicated Neighbourhood Plan page on the Parish Council website.
27. Engagement with residents and other stakeholders in Plan preparation has included a wide range of methods including articles in the Westfield Warbler and in the Journal; a focus group on young mothers; consultation events at Fosseyway School and at Trinity Methodist Church Hall; interviews with businesses on the Westfield Trading Estate; use of social media; and a letter sent to all homes in Westfield.
28. A Housing Needs Survey posted to all homes in March 2016 was a key activity in the collection of quantifiable evidence from the local community. This was followed by articles in the Journal, the Westfield Warbler, and Somerset Guardian; use of Parish Council Annual Meetings; social media postings; consultation with voluntary sector organisations and Westhill Sports Football Club; publicity around a logo competition; and consultation events at the Mardons Club and at the Westfield Sports and Community Centre. A dedicated options consultation included use of a postcard delivery to every home and business, press releases and use of noticeboards.
29. Pre-submission consultation in accordance with Regulation 14 was undertaken in the six-week period 30 October to 11 December 2017. The consultation included local deposit of copies of the Plan and use of the printed press and social media. The representations arising from the consultation are comprehensively presented within the Consultation Statement where responses and changes made to the Neighbourhood Plan, are set out. The 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 B&NES Council. The Consultation Statement also contains additional comments received in January 2018 from residents of Welton Road regarding Community Aspiration 5 and the response of the Working Group.
30. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 3 April and 5.00pm on 15 May 2018. Representations from six different parties

were submitted during the period of publication. I have been provided with copies of each those 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.

31. The submissions of National Grid; Highways England; Historic England; and The Coal Authority confirm they have no specific comments to make and therefore do not necessitate any modification of the Neighbourhood Plan in order to meet the Basic Conditions. The Radstock Co-operative Society has submitted a significant representation that states regeneration options for their site between Somervale Road and Wells Road are currently being explored and that *“the emerging concept is for a comprehensive mixed-use redevelopment of the site to comprise the demolition of the current building and its replacement with a high quality modern store alongside ancillary office, retail, cafe and residential development”*. The representation includes specific comment on a number of policies, which I consider later in my report, and includes a summary which states *“The Radstock Co-operative Society generally supports the objectives and aspirations (and) policies within the Westfield Parish Neighbourhood Development Plan. Together we are greatly looking forward to playing a role in helping to achieve the aspirations of the community on what is a key regeneration site for both Westfield Parish and Radstock Town. The customers and members deserve a better offering and a purpose-built, modern shopping facility will enhance the town centre and public realm, protect employment opportunities and core services such as the Post Office and introduce new offerings for commercial space and town centre living. The comprehensive regeneration of the site is synonymous with the economic objectives and policies of the NDP and the aspiration to retain and enhance existing employment and retail facilities.”*
32. Bath & North East Somerset Council has also made a number of significant representations. I have taken these comments, that relate to specific policies of the Neighbourhood Plan, into account when considering the policies concerned later in my report. Bath & North East Somerset Council state that their comments submitted at Regulation 14 stage in respect of Policies 2 and 9 have been responded to positively by the Working Group and that those concerns have been resolved. This evidence of co-operative working represents good practice. Bath & North East Somerset Council continue to raise

concerns with respect to Policy 20. I consider this matter later in my report.

33. 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>
34. 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 Working 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**

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

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

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

36. The Basic Conditions Statement states “*The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998.*”<sup>22</sup> I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>23</sup> I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. Whilst no analysis has been undertaken to establish the impact the objectives and policies of the Neighbourhood Plan will have on persons with protected characteristics (as identified in the Equality Act 2010) from my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

37. The objective of EU Directive 2001/42<sup>24</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>25</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>26</sup>

38. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to B&NES Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and

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<sup>22</sup> Minor grammatical corrections made.

<sup>23</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>24</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>25</sup> Defined in Article 2(a) of Directive 2001/42

<sup>26</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.

39. The Basic Conditions Statement states *“A screening process was carried out by the local planning authority to determine whether a Strategic Environment Assessment (SEA) would be required in support of the plan. It was determined (October 2017) that the Neighbourhood Plan will not have significant environmental effects and that no European Sites will be affected by the policies described in the Neighbourhood Plan. As such a SEA is not required for this Neighbourhood Plan. Therefore, basic conditions concerning Habitats and Environmental Impact Assessment as described in Schedules 2 and 3 of the Regulations have been accounted for.”*

40. The Strategic Environmental Assessment Screening Determination (October 2017) states *“B&NES Council consider that the proposed Westfield Neighbourhood Plan is unlikely to have significant environmental effects and accordingly does not require a Strategic Environmental Assessment. This decision is made for the following key reasons:*

- *The neighbourhood plan proposals are considered to be in general conformity with the Core Strategy and Placemaking Plan documents of Bath & North East Somerset Council and this has been subject to SEA and HRA assessments.*
- *The neighbourhood plan is not proposing additional development over and above that described in the Core Strategy and Placemaking Plan. Westfield is within the Somer Valley Area in the adopted planning policy. The neighbourhood plan explains that ‘limited infill’ development within the village housing development boundary will be subject to the usual controls and restrictions of the adopted Placemaking Plan.”*

41. This Draft Screening Report has been sent to Natural England, the Environment Agency, and Historic England for their opinions. The responses of Natural England and Historic England are included in the Screening Report. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

42. The Submission documents include a Habitats Regulations Assessment Screening Report (3 October 2017) that concludes *“The policies screened do not raise any concerns with respect to the Habitat Regulations. It is concluded that no significant effects upon any Natura*



*2000 are likely to result from the WNP either alone or in combination with other plans or projects*". The Strategic Environmental Assessment Screening Report states *"The Draft HRA screening has confirmed that there are opportunities for impact avoidance and mitigation which have been incorporated into the draft Westfield Plan"*. Natural England has confirmed support for the Council's conclusions in relation to HRA. I conclude the Neighbourhood Plan meets the requirements of the EU Habitats Regulations.

43. 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.

44. I conclude that the Neighbourhood Plan:

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

45. 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. Bath and North East Somerset 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>27</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

46. 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*

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<sup>27</sup> Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

*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>28</sup> which requires plans to be "*consistent with national policy*".

47. Lord Goldsmith has provided guidance<sup>29</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.*"

48. The Basic Conditions Statement includes a statement that "*The Neighbourhood Plan has due regard for the core planning principles set out in Para 17 of the NPPF and in particular seeks to (1) support this thriving community within the Somer Valley, (2) contribute to conserving and enhancing the natural environment, (3) improve health, social and cultural wellbeing for all and deliver facilities and services to meet local needs*". The Basic Conditions Statement also includes a Table that sets out a brief commentary how each of the Neighbourhood Plan policies have regard to identified sections of the Framework. I am satisfied this assessment and Table demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.

49. The Neighbourhood Plan includes a positive vision for Westfield Parish. The vision includes components that acknowledge positive change with reference to "*creative development*"; "*enhancement of amenities and infrastructure*"; "*future developments*"; and "*growth aspirations*". The vision includes social components concerned with creating "*a place that people of all ages, generations and backgrounds aspire to live*" and "*protection of community assets.*" The vision also refers to the environmental consideration of "*the historic character of the area*". These statements are consistent with the underlying principles of the Framework, specifically, the need to jointly and

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<sup>28</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

<sup>29</sup> The Attorney General, (Her Majesty's Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord's Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England's Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

simultaneously seek economic, social and environmental gains through the planning system.

50. The vision is supported by a series of key issues and objectives of the Neighbourhood Plan, presented under the six headings of Housing; Green Spaces; Preserving Heritage; Economy, Industry and Jobs; Amenity and Infrastructure; and Highways. These key issues and objectives provide a link between the vision and the policies of the plan. These objectives are consistent with the Framework.

51. The Neighbourhood Plan includes six community aspirations relating to improving access to green spaces; Elm trees; street lighting; through traffic; residential traffic; and footpaths. 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 essential that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The Guidance states, *“Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements.”* The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning is consistent with this guidance and represents good practice. The Guidance states, *“Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”* I am satisfied the colour-coding approach adopted in the Neighbourhood Plan, and the separation of policies and community aspirations in the index, adequately differentiates the community actions from the policies of the Plan and has sufficient regard for the Guidance.

52. 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.*”

53. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.<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>.

54. 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.

55. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement confirms the Neighbourhood Plan contributes to the achievement of sustainable development as follows: “*The Westfield Neighbourhood Plan contributes to the achievement of sustainable development through:*

- *seeking good design in its policies on Housing: Policy 1 Residential Infill and Backland development; Policy 2 Housing Accessibility Standard and Policy 3 Housing Design.*
- *The Westfield Neighbourhood Plan seeks to promote the health of the community by planning positively for the provision of shared space,*

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<sup>30</sup> Paragraph 14 National Planning Policy Framework (2012)

<sup>31</sup> Planning Practice Guidance (Ref ID:41-072-20140306)

*community facilities and other local services to enhance the sustainability of the community. In particular via Policy 14 A Community Facility for Westfield; Policy 15 Developer Contributions; Policy 19 Air Quality and the consideration of road dangers, see Policy 20.*

*• The Plan seeks to contribute and enhance the natural and local environment by protecting and improving valued landscapes recognising the important views, via Policy 4 Ecology: Protecting the importance of the green corridors of Waterside Valley and Land north of Fosseway Gardens; Policy 5 Rural Landscape Character: Waterside Valley and land north of Fosseway Gardens and Policy 6 Important Views”.*

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

- Establish conditional support for residential infill and backland development;
- Establish support for proposals that provide homes suitable for wheelchair users and elderly people;
- Establish building design principles for new housing;
- Ensure development does not harm identified ecological assets;
- Conserve and enhance rural landscape character;
- Ensure development does not harm identified important views;
- Ensure development has regard for the special character of the Conservation Area;
- Prevent loss of key locally important heritage assets;
- Establish conditional support for the expansion of Westfield Industrial Estate;
- Establish criteria for support of new business development on employment sites;

- Establish criteria for support of new retail development;
- Establish control of loss of employment land or buildings;
- Establish conditional support for recreational and tourism development;
- Establish support for the development of a community facility;
- Identify key infrastructure for use of Community Infrastructure Levy, Section 106 contributions, or grant funding;
- Ensure good broadband connectivity in new developments;
- Ensure development does not adversely affect surface water flooding on the A367; and
- Ensure developments likely to generate significant amounts of movement are adequately assessed.

57. 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)

58. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.<sup>32</sup> “*Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies*”.<sup>33</sup>

<sup>32</sup> Paragraph 16 National Planning Policy Framework (2012)

<sup>33</sup> Paragraph 184 National Planning Policy Framework (2012)

59. The Guidance states, *“A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”*<sup>34</sup>
60. 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). B&NES Council has informed me that the Development Plan applying in the Westfield neighbourhood area and relevant to the Neighbourhood Plan comprises the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan. The Core Strategy was adopted July 2014 and the Placemaking Plan was adopted July 2017. All policies contained within the Core Strategy and Placemaking Plan are regarded as strategic policies in the Development Plan that apply to the Westfield neighbourhood area. The West of England Joint Waste Core Strategy (2011) also forms part of the Development Plan but this is not relevant to the Independent Examination of the Neighbourhood Plan.
61. Bath & North East Somerset Council is preparing a new Local Plan for the District, through which the Core Strategy is being reviewed. It is currently anticipated that an ‘Options’ consultation on the new Local Plan will be published in the autumn of 2018. The new Local Plan is being prepared alongside the West of England Joint Spatial Plan which will provide a new strategic planning context for all four West of England Districts for the period 2016-2036. The West of England Joint Spatial Plan was submitted to the Secretary of State on 13 April 2018 and is currently being examined for its compliance with statutory requirements and its soundness.
62. The Neighbourhood Plan can proceed ahead of preparation of the new Local Plan and the Joint Spatial Plan. 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*

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<sup>34</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

*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:*

- *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. 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>35</sup>*

63. The Neighbourhood Plan states “*The Neighbourhood Plan is also written with reference to the West of England’s Joint Spatial Plan, which will set out a prospectus for sustainable growth that will help the wider area meet its housing and transport needs for the next 20 years*” and “*Bath and North East Somerset Council has actively supported the process of preparing the Neighbourhood Plan for Westfield.*” This approach represents good practice. I am mindful of the fact that should there ultimately be a conflict between the Neighbourhood Plan, and the emerging Local Plan and the emerging Joint Spatial Plan when

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<sup>35</sup> Paragraph: 009 Reference ID: 41-009-20160211 Planning Practice Guidance



they are adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan, however the Guidance is clear in that potential conflicts should be minimised.

64. 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 and the emerging Joint Spatial Strategy are not part of the Development Plan and this requirement does not apply in respect of those plans. 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”*. 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.
65. In considering a now repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated *“the adjective ‘general’ is there to introduce a degree of flexibility.”*<sup>36</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.
66. 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*

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<sup>36</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

*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>37</sup>*

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

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

## **The Neighbourhood Plan policies**

68. The Neighbourhood Plan includes 20 policies as follows:

Policy 1 Residential infill and backland developments

Policy 2 Housing accessibility standard

Policy 3 Housing design

Policy 4 Ecology: Protecting the importance of the green corridors of Waterside Valley and land north of Fosseyway Gardens

Policy 5 Rural landscape character: Waterside Valley and land north of Fosseyway Gardens

Policy 6 Important views

Policy 7 Preservation of the historic environment

Policy 8 Preserving the locally important heritage assets

Policy 9 Development of employment

Policy 10 New business development on land already in commercial use

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<sup>37</sup> Planning Practice Guidance (ID ref: 41-074 201 40306)

Policy 11 The provision of any new or additional retail floorspace

Policy 12 Land usage proposals

Policy 13 Proposals for recreation and tourism activities

Policy 14 A community facility for Westfield

Policy 15 Developer contributions

Policy 16 Broadband provision

Policy 17 Drainage: surface water flooding on the A367

Policy 18 Road dangers

Policy 19 Air quality

Policy 20 Parking: domestic dwellings

69. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.”* *“Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*<sup>38</sup>

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>39</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*

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<sup>38</sup> Paragraphs 184 and 185 National Planning Policy Framework 2012

<sup>39</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306

*should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*".<sup>40</sup>

72. "A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004)."<sup>41</sup>

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

### **Policy 1 Residential infill and backland developments**

74. This policy seeks to establish criteria for support of residential development proposals on infill and backland sites.

75. The policy includes the term "*will be permitted*". It is not appropriate for a policy to indicate that proposals will be permitted or not permitted as all planning applications "*must be determined in accordance with the development plan, unless material considerations indicate otherwise*".<sup>42</sup> All material considerations will not be known until the time of determination of a planning proposal. I have recommended a modification in this respect.

76. The policy includes the term "*within the housing development boundary*" however this is not explained. I have recommended that the map showing the housing development boundary that is included at page 46 in the Westfield Sustainability Appraisal should be reproduced in the Neighbourhood Plan and that the policy should refer to this map. The terms "*or the appearance of cramming*", "*unacceptably reduce*",

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<sup>40</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

<sup>41</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20140306

<sup>42</sup> Paragraph 196 National Planning Policy Framework 2012

and “*seriously reducing*” are imprecise. It is unnecessary to refer to other policies of the Neighbourhood Plan as the Plan should be read as a whole. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

77. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

78. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes and requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended Modification 1:**

#### **In Policy 1**

- **delete “Planning permission for”**
- **delete “permitted” and insert “supported”**
- **after “development boundary” insert “identified on the Map below”**
- **in criterion 2 delete “or the appearance of cramming”**
- **in criterion 3 replace the text after “properties by” with “significant overshadowing”**
- **in criterion 4 replace the first sentence with “Proposals must maintain private amenity space suited to the size of property.”**
- **in criterion 5 replace the text after “street scene” with “and additional on-road parking will not result”**

### **Policy 2 Housing accessibility standard**

79. This policy seeks to establish that new dwellings should be built in accordance with part of the Building Regulations and seeks to apply

accessibility standards for affordable housing in accordance with the B&NES Planning Obligations Supplementary Planning Document.

80. In a representation B&NES Council states *“the reworded policy is now consistent with the wording from PMP H7”* and *“Officers are also aware that the Written Statement to Parliament: Planning update March 2015, states that: ‘The optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the National Planning Policy Framework and Planning Guidance. Neighbourhood plans should not be used to apply the new national technical standards.’”*
81. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.<sup>43</sup> The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*.
82. The issue of standards for accessible and adaptable dwellings is covered by Part M Volume 1: Access to and use of dwellings. This includes requirement M4(1) Category 1 – Visitable dwellings, and optional requirement M4(2) Category 2 - Accessible and adaptable dwellings of The Building Regulations 2010 (incorporating 2016 amendments for use in England). This approved document sets out what, in ordinary circumstances, may be accepted as reasonable provision for compliance with the relevant requirements of the Building Regulations. I have recommended a modification so that Policy 2 is not seeking to establish any requirements but is using the Building Regulations as a means to define the type of development that will be supported. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

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<sup>43</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>

83. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
84. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 2:**

**Replace Policy 2 with “Proposals for homes suitable for wheelchair users and elderly people will be supported.”**

**Policy 3 Housing design**

85. This policy seeks to establish principles for the design of new housing developments.
86. The requirement of the policy *“to demonstrate the following”* is without consequence. The term *“where possible”* is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
87. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.<sup>44</sup> The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction,*

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<sup>44</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>

*internal layout or performance of new dwellings*". I have recommended requirement 5 is modified in this respect.

88. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
89. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes; requiring good design; meeting the challenge of climate change; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 3:  
In Policy 3**

- **replace the text before the colon with "To be supported a proposal for new homes must demonstrate"**
- **in requirement 4 delete "Where possible" and after "landscaping" insert "unless it is demonstrated this is not practicable"**
- **delete requirement 5**
- **insert a freestanding final sentence "Proposals for new homes that incorporate energy efficient design; vehicle charging; and under-cover, secure and accessible cycle parking facilities will be supported."**

**Policy 4 Ecology: Protecting the importance of the green corridors of Waterside Valley and land north of Fosseyway Gardens**

90. This policy seeks to establish development must avoid harming ecological assets, and that proposals that have potential to impact on ecological assets must be accompanied by a landscape and ecological mitigation and management plan.



91. The term “*must avoid harming*” sets out an intention without consequence. The Framework recognises that if significant harm to biodiversity arising from a development cannot be avoided or mitigated, then as a last resort compensation should be considered. I have recommended a modification in these respects so that the policy has regard for national policy and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
92. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
93. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 4:  
In Policy 4**

- **delete “Development must avoid harming” and insert “To be supported development proposals must demonstrate they will safeguard the integrity and effectiveness of”**
- **Insert a final sentence “Where a proposal will unavoidably harm existing ecological assets that harm should be mitigated, or as a last resort compensated.”**

**Policy 5 Rural landscape character: Waterside Valley and land north of Fosseway Gardens**

94. This policy seeks to establish that development proposals should conserve and enhance rural landscape character and not cause significant harm to identified rural features.
95. Whilst the list of identified rural features is non-inclusive I consider it sufficiently precise to provide a practical framework within which

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

96. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
97. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. This policy meets the Basic Conditions.

#### **Policy 6 Important views**

98. This policy seeks to establish that development should have regard to important views.
99. The term “*including views identified in the maps shown in this section*” is imprecise in that there is only one map in Section 6.9 of the Plan. The term “*demonstrate regard to*” is imprecise and the requirement is without consequence. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
100. I am satisfied the selection of views has been adequately explained and their local significance has been tested through extensive consultation. Planning policy must operate in the public interest. I have recommended a modification to clarify important views relate to views that can be seen from locations to which the general public have free and unrestricted access.
101. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core

Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

102. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 5:  
In Policy 6**

- **replace “Development proposals must demonstrate regard to” with “To be supported development proposals must demonstrate they will not significantly harm”**
- **after “important views” insert “where seen from publicly accessible locations”**
- **replace “maps” with “illustrated map”**

**Policy 7 Preservation of the historic environment**

103. This policy seeks to establish that development within the Conservation Area will only be supported where it preserves or enhances those elements which contribute to its special character.

104. The policy duplicates national and strategic policy without adding any additional level of local detail. I have recommended a modification in this respect so that the policy represents a distinct local approach.

105. The setting of a heritage asset is an important consideration. The Framework recognises the importance that setting can have in the significance of a heritage asset. The contribution of setting to the significance of any asset should be understood to inform the appropriate development response. The Glossary to the Framework defines setting of a heritage asset as *“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral”*.

I have recommended a modification so that the policy refers to the setting of the Conservation Area.

106. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and as recommended to be modified provides an additional level of detail or distinct local approach to that set out in the strategic policies.

107. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 6:  
In Policy 7**

- after “within” insert “or affecting the setting of”
- continue the Policy with “including those heritage assets identified in the Radstock Conservation Area Assessment Strategic Policy adopted in March 1999”

**Policy 8 Preserving the locally important heritage assets**

108. This policy seeks to identify key locally important heritage assets and establish a presumption in favour of safeguarding them from loss.

109. Table 1 in the supporting text to the policy identifies a “*Proposed asset of community value*”. This phrase does not provide clarity how a designation should occur. The Bath & North East Somerset Council website includes information regarding Assets of Community Value and a nomination form. Designation of an asset of community value is concerned with ownership of a property and is not a land use planning matter that can be dealt with in a neighbourhood plan policy. A proposal for designation of an asset of community value is a community aspiration. 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.*” It is consistent with this guidance and appropriate for the Neighbourhood Plan to include issues raised in consultation processes that do not have a direct relevance to land use planning. The Guidance states, “*Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.*” I have earlier in my report stated I am satisfied the colour-coding approach adopted in the Neighbourhood Plan, and the separation of policies and community aspirations in the index, adequately differentiates the community actions from the policies of the Plan and has sufficient regard for the Guidance. I have recommended a modification so that it is clear Policy 8 does not seek to identify an Asset of Community Value but this matter is instead dealt with as a community aspiration.

110. Strategic Policy HE1 states “*proposals affecting non-designated heritage assets, including unscheduled archaeology, unlisted buildings and local parks and gardens, should ensure they are conserved having regard to their significance.*” The Guidance states it is the role of the local planning authority to recognise non-designated heritage assets.<sup>45</sup> The B&NES Council website states “*The process of identifying non-designated heritage assets is ongoing.*” The Locally Listed Heritage Assets Supplementary Planning Document Consultation Draft (January 2018), which B&NES Council consulted on until 4 June 2018, states “*Many of the District’s non-designated heritage assets are also highly regarded and often much-cherished local elements of the area ranging from historic street furniture to redundant but locally important historic buildings. They may be identified for conservation during the development management process or other planning processes to assess local character. These include conservation area and village character appraisals, emerging Neighbourhood Plans and where assessing potential urban and rural development sites. Following identification, they can be added to a local list of non-designated heritage assets.*” It is appropriate for a community to use the neighbourhood plan preparation process to identify buildings and structures of local interest, and to include policies to require particular consideration of those assets in the determination of planning applications. It is not appropriate to imply

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<sup>45</sup> Planning Practice Guidance Reference ID 18a-041-20140306

those assets identified will be recognised by B&NES Council as heritage assets. The Policy is satisfactory in this latter respect.

111. Paragraph 135 of the Framework states “*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*” Based on extensive local consultation Policy 8 is seeking to establish that the assets listed are of such heritage significance that their loss should not be supported. The policy does not refer to harm that is less than loss, but there is no requirement that it should. National and strategic policy provide a basis for determination of proposals resulting in harm to the assets identified.

112. The terms “*presumption in favour of safeguarding*” and “*adverse*” are imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

113. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

114. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 7:**

**Replace Policy 8 with “Development proposals that will result in the loss of the key locally important heritage assets listed in the Table below will not be supported.”**

**Table 1 and Table 2 should be combined into a single Table headed Locally Important Heritage Assets and the details in respect of the Railway Inn should be restricted to details of heritage value.**

**A Community Aspiration should be inserted in the Neighbourhood Plan identifying the Railway Inn as a building to be proposed as an Asset of Community Value.**

**The policy appears as “Preserving the Assets of Community Value” in the index of policies and community aspirations. This should be corrected to correspond with the policy title in the main body of the Plan.**

### **Policy 9 Development of employment**

115. This policy seeks to establish support for the proposed expansion of Westfield Industrial Estate subject to four stated criteria.

116. In a representation B&NES Council states “*Officer’s recommend a minor rewording of the first sentence of the policy to read: Proposals for the expansion of Westfield Industrial Estate will be supported subject to the following criteria:’ This amendment is recommended for the purposes of clarity; reflect that proposals for the expansion of the Industrial Estate are emerging and not currently subject to a planning application or allocation; and that the policy is intended to operate as a criteria-based policy against which planning applications (or proposals) will be determined.*” I have recommended this modification should be made so that the policy provides a practical framework within which decisions on planning applications can be made throughout the Plan period with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

117. The policy refers to Placemaking Plan Policy ED2A which identifies Westfield Industrial Estate as a strategic industrial estate. Policy ED2A sets out a planning policy approach to apply within the strategic and primary industrial estates. Policy 9 relates to the expansion of the Westfield Industrial Estate. The policy does not specify any direction of expansion and cannot therefore be deemed to be an allocation of land. The fourth criterion requires a proposal to demonstrate that there is a clear need for expansion. This requirement does not have regard for national policy as set out in the Framework

which states “*Planning should operate to encourage and not act as an impediment to sustainable growth.*” The fourth criterion also requires a proposal to include provision for a contribution to the car parking requirements of the Industrial Estate as a whole. This requirement does not have sufficient regard for viability as required by paragraph 173 of the Framework nor does it have sufficient regard for planning obligations to be directly related to the development proposed as required by paragraph 204 of the Framework. The reference to “*an alternative use class*” in the first criterion is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

118. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

119. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; promoting sustainable transport; and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 8:  
In Policy 9**

- **delete “The proposed” and Insert “Proposals for the”**
- **delete “an alternative use class is proposed the proposal” and insert “the use class proposed”**
- **replace the fourth criterion with “The proposal demonstrates it will not result in on-street parking.”**



## **Policy 10 New business development on land already in commercial use**

120. This policy seeks to establish support, subject to criteria, for new business development providing employment on land already in business use.
121. In a representation Radstock Co-operative Society states “*This policy supports business development on land already in business use and providing employment which is the case for the Radco site. It is considered that the emerging concept for the Radco store entirely accords with this policy. A purpose-built, modern convenience shopping facility is proposed to replace the existing under-utilised and outdated store. In addition to the new store, the concept will deliver office space and retail / cafe space, to help boost local business and economic activity in the town centre*”. Whilst the representation expresses an opinion it is a matter for the Local Planning Authority to determine the extent to which a proposed development complies with any adopted policy of the Development Plan. It is not necessary for the policy to refer to any specific emerging development scheme.
122. The fourth criterion requires a proposal to not add significantly to peak period road congestion. The Framework states development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. I have recommended a modification in this respect so that the policy has regard for national policy.
123. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
124. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy and promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 9:**

**In Policy 10 delete “add significantly to” and insert “result in severe”**

**Policy 11 The provision of any new or additional retail floorspace**

125. This policy seeks to establish conditional support for provision of new or additional retail floor-space in areas identified on a map.
126. In a representation B&NES Council states *“The objective of enhancing the local centre is supported by the PMP in Policy CP12 and SV1. It is considered the policy as drafted needs to be clarified to ensure that it accords with national policy set out in the NPPF, as well as policies in the PMP, relating to the Sequential Test and Impact Assessment for new retail development.”* I have recommended a modification in these respects so that the policy has regard to national policy and is in general conformity with the strategic policies contained in the Development Plan for the area
127. In a representation Radstock Co-operative Society states *“This policy supports the provision of new or additional retail space in the demarcated areas. The Radco store is noted on the policy map ‘Retail areas through Westfield’ on page 60 of the NDP. The emerging concept will serve to enhance Westfield’s shopping offer, adding to the mixture of local services and existing retail space. The concept would revitalise the shopping and leisure experience of residents and visitors by extending and enhancing the public realm and introducing an attractive variety of commercial enterprises to the town centre.”* Whilst the representation expresses an opinion it is a matter for the Local Planning Authority to consider the merits of any scheme and to determine the extent to which a proposed development complies with any adopted policy of the Development Plan.
128. A land use policy with important implications relating to development potential relating to specific areas can only follow identification of the locations concerned. Given the nature of the conditions contained within the policy precise definition is not necessary, however, the retail areas are presented on the map at page 60 in the Neighbourhood Plan at a scale that is insufficient to identify the areas concerned with ease. The Submission Draft Neighbourhood Plan is available in digital form on the B&NES Council website where it is possible to enlarge the map sufficiently so that the areas concerned are identifiable. On this basis I consider the retail

areas concerned have been adequately identified. I recommend a modification so that maps are included in the printed Neighbourhood Plan at a scale sufficient to identify the retail areas with ease.

129. The third criterion requires a proposal to not add significantly to peak period road congestion. The Framework states development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. I have recommended a modification in this respect so that the policy has regard for national policy.
130. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
131. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; ensuring the vitality of town centres; promoting sustainable transport; and promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 10:  
In Policy 11**

- before “The provision” insert “Subject to national policy and Strategic Policies CR1 and CR2 relating to a sequential test and impact assessment”
- delete “add significantly to” and insert “result in severe”

**Maps should be included in the printed Neighbourhood Plan at a scale sufficient to accurately identify the “retail areas through Westfield”.**

## Policy 12 Land usage proposals

132. This policy seeks to establish that proposals for non-employment use of existing employment sites will not be permitted unless one of two stated circumstances exist.
133. In a representation Radstock Co-operative Society states *“The intentions of this policy are acknowledged and welcomed as a means to retaining opportunities for employment within Westfield. The existing store is ageing, inefficient and under-utilised and therefore a new modern, purpose-built store is required. The commitment from the Radstock Co-operative Society is that there will be no net job losses within the store itself, as a result of the development proposal. The redevelopment of the site will vastly increase the quantity, quality and variety of employment opportunities available. The regeneration proposal would provide demonstrable and ongoing economic benefits to the local community. The introduction of ancillary office, retail, and residential uses are essential to enable the delivery of a high-quality design with socio-economic scheme benefits for Radstock. The proposal also promotes making the best-use of redundant brownfield land in a sustainable location, co-locating a sustainable mix of uses, thereby helping to reduce commuting. It is also sequentially desirable to building on greenfield land on the edge of the towns and villages of the Somer Valley.”* This representation offers an opinion relating to an emerging development scheme however there is no requirement for the Policy to refer to this or any other emerging proposal. This representation does not necessitate any consideration of modification of the Policy in order to meet the Basic Conditions.
134. The policy includes the term *“will be permitted”*. It is not appropriate for a policy to indicate that proposals will be permitted or not permitted as all planning applications *“must be determined in accordance with the development plan, unless material considerations indicate otherwise”*.<sup>46</sup> All material considerations will not be known until the time of determination of a planning proposal. I have recommended a modification in this respect.
135. The policy does not make provision for circumstances where sale rather than rental is proposed. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be

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<sup>46</sup> Paragraph 196 National Planning Policy Framework 2012

made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

136. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

137. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 11:  
In Policy 12**

- delete “permitted” and insert “supported”
- on both occasions after “rental” insert “or sale”

**Policy 13 Proposals for recreation and tourism activities**

138. This policy seeks to establish conditional support for recreational and tourism activities.

139. Whilst national policy concerned with conservation and enhancement of the natural and historic environments requires a balancing of harm with public benefit, Policy 13 is limited to consideration of “*siting, design and scale*” of development proposals. In these respects, the policy has regard for those aspects of the Framework that require good design.

140. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

141. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. The policy has regard to the components of the Framework concerned with building a strong, competitive economy; requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. This policy meets the Basic Conditions.

#### **Policy 14 A community facility for Westfield**

142. This policy seeks to establish support for a proposal to develop a facility that meets the social, recreational or cultural needs of the Parish community. Whilst the supporting text refers to a Feasibility Study commissioned by the Parish Council finding the Westhill Recreation Ground to be the most suitable site the Policy is not site specific. There is no requirement for the Policy to be site specific.
143. It is unnecessary and confusing for a policy to state “*where it is in accordance with other policies within this plan*” as this may imply other policies only apply where this is stated. The Development Plan should be read as a whole. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
144. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
145. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended Modification 12:**

**In Policy 14 delete “where it is in accordance with other policies within this plan”**

## **Policy 15 Developer contributions**

146. This policy seeks to identify key infrastructure enhancements that could be funded by Community Infrastructure Levy, Section 106 contributions, or grant funding.
147. It is appropriate to use the Neighbourhood Plan preparation process to determine community support for projects to be treated as priorities for investment in local infrastructure. At the time of use of any funds received, for example to facilitate B&B/Hotel development, it will be necessary to consider whether the use proposed is compliant with the rules and regulations relating to a particular funding stream.
148. The first four projects listed in the Policy include the term *“The Neighbourhood Plan supports”* or *“The Neighbourhood Plan will support”*. It is not clear how these statements relate to the opening text of the Policy. It is in any case confusing that support is stated in four items of the list but not in the other items. In order to achieve clarity, I have recommended a modification in these respects.
149. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
150. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; ensuring the vitality of town centres; promoting sustainable transport; promoting healthy communities; meeting the challenge of climate change and flooding; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended Modification 13:**

**In Policy 15 delete “The Neighbourhood Plan supports” on both occasions and “The Neighbourhood Plan will support” on both occasions.**

## **Policy 16 Broadband provision**

151. This policy seeks to establish that to be supported new residential, employment and education developments must make provision for internet connection to an up to date and realistically upgradeable standard.
152. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
153. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with supporting high quality communications infrastructure. This policy meets the Basic Conditions.

## **Policy 17 Drainage: surface water flooding on the A367**

154. This policy seeks to establish that development that will adversely affect surface water flooding on the A367 will not be supported and that an impact assessment in this respect should accompany proposals for development in the vicinity of the A367.
155. The Framework states *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.”* Evidence has been presented which confirms that the A637 is an area vulnerable to surface water flooding.
156. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
157. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the



Framework concerned with meeting the challenge of climate change and flooding. This policy meets the Basic Conditions.

### **Policy 18 Road dangers**

158. This policy seeks to establish the factors to be included in a Transport Statement or Transport Assessment that must accompany development proposals that are likely to generate significant amounts of movement.
159. The Framework states all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Policy 18 provides an additional level of detail to national policy and in particular requires consideration of impacts arising from development during construction.
160. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
161. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting sustainable transport. This policy meets the Basic Conditions.

### **Policy 19 Air quality**

162. This policy seeks to establish that development proposals must demonstrate that developers have considered air quality impacts and where appropriate provide an air quality management assessment.
163. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) sets out what is required from applicants when submitting planning applications. The 'Guidance on Information Requirements and Validation' document published by the Department for Communities and Local Government Department (DCLG) in 2010 provides more information on the mandatory national information requirements and states that a valid planning application

should include *'information to accompany the application as specified by the local planning authority on their local list of information requirements'*. The use of local lists of information was again promoted in the Framework requiring that local lists be reviewed on a frequent basis to ensure that they remain *'relevant, necessary and material'*. The DMPO states that validation requirements imposed by local planning authorities should only be those set out on a local list which has been published within 2 years before the planning application is made to ensure information requirements are robust and justified on recent research. The Growth and Infrastructure Act 2013 makes clear that local planning authority information requirements must be reasonable having regard to the nature and scale of the proposed development and the information required must be a material consideration in the determination of the application. The policy is seeking to establish information requirements relating to all development proposals and is outside the statutory framework relating to local lists of information to be submitted in support of planning applications.

164. Paragraph 124 of the Framework states *"Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas."* The requirement of Policy 19 to demonstrate that air quality impacts have been considered does not provide a basis for decision taking in relation to the acceptability of a proposal, nor is it clear under what circumstances it would be appropriate to provide an air quality management assessment. Policy 19 merely requires submission of information and does not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

165. Strategic Policy PCS3: Air Quality states *"1. Development will only be permitted where the proposal: a does not give rise to polluting emissions which have an unacceptable adverse impact on air quality, health, the natural (in particular designated wildlife sites) or built environment or local amenity of existing or proposed uses from air polluting activities, or b is not located where it would be at unacceptable risk from, or be adversely affected by existing sources of odour, dust and /or other forms of air pollution. 2. New development located within an Air Quality Management Area should be consistent with the local air quality action plan. Where an air quality assessment*

*is necessary to support an application, it should be proportionate to the nature and scale of development proposed.” Strategic Policy PCS3 seeks to ensure that the effects of a development on the local air quality are properly considered. Policy 19 does not provide an additional level of detail or distinct local approach to that set out in the strategic policy. Policy 19 does not meet the basic conditions. I recommend it is deleted.*

**Recommended Modification 14:  
Delete Policy 19**

**Policy 20 Parking: domestic dwellings**

166. This policy seeks to establish off street parking standards to be achieved in new residential developments.

167. In a representation B&NES Council states *“Officers remain concerned that the reworded Parking Standards policy is still contrary to Policy ST7 of the PMP. Policy 20 differs from PMP ST7 in that it excludes garages from the prescribed minimum standard and increases visitor parking from 0.2 to 0.5 per dwelling. Policy ST7 is considered to be a Strategic Policy in that it applies district-wide level and is an important component of the strategy for managing traffic and parking provision. The effect of excluding garages from the parking standards is particularly significant in relation to smaller dwellings e.g. parking provision for two or three-bed dwellings is different by a magnitude of 50% between PMP Policy ST7 and Policy 20 of the Westfield Neighbourhood Plan. It is recognised that parking is an important issue within the Parish and that the Steering Group/Draft Plan is reflecting the strong views of the local residents, however, Officers are concerned that removing garages from the prescribed minimum standard and increasing visitor spaces would be to the detriment of good design and undermine other strategic policies within the B&NES Development Plan; (PMP Policy D4 Streets and Spaces: “Car parking and highways design should not dominate the design of the development or the public realm”, and PMP Policy ST1 Promoting Sustainable Travel: “reducing the growth and the overall level of traffic”; “reduce dependency on the private car”). It is also considered that evidence for justifying this policy approach is lacking. The pictures included within the draft Neighbourhood Plan and the responses to previous consultations do demonstrate evidence of existing parking pressure within the Neighbourhood Area. Policy 20*

would only apply to new development within the Neighbourhood Area. It is considered, therefore, that these existing problems would be best managed through introducing parking control measures, for example double yellow lines to keep junctions clear. Measures such as these would be outside of the remit of Planning Control/Neighbourhood Planning.”

168. In a representation Radstock Co-operative Society states “This policy proposes the parking standards within the Parish for new residential developments. These are proposed to be one space per 1-bed dwelling, two spaces per 2 or 3-bed dwelling, three spaces per 4-bed dwelling and above, and half a space per dwelling for visitor parking. The policy excludes garages from the prescribed minimum standards on the basis that most people use their garage for storage. These NDP proposed parking standards are more onerous than the adopted BANES standards, which include garages and seek 0.2 spaces per dwelling for visitor parking. In our opinion, uniformly applying parking standards across an area does not give consideration to the context and bespoke access and movement strategy for each individual site. The Radco site is a town centre site and has ease of pedestrian access to a range of employment opportunities, services and facilities. An access and movement strategy which is overly reliant on the private car will potentially undermine the use of sustainable public transport options, make it easier for out-commuting the Parish and could potentially serve to increase congestion on problematic routes such as the A367, which is highlighted multiple times throughout the NDP. It is suggested that the NDP policy is revised to reflect the standards set out in the BANES Placemaking Plan or appropriate flexibility incorporated to reflect consideration of each residential site on a case-by-case basis.”

169. The Framework states “If setting local parking standards for residential and non-residential development, local planning authorities should take into account: • the accessibility of the development; • the type, mix and use of development; • the availability of and opportunities for public transport; • local car ownership levels; and • an overall need to reduce the use of high-emission vehicles.” Whilst the Framework is silent with respect to the setting of parking standards in neighbourhood plans no evidence has been submitted to suggest the factors to be taken into account should be different to those to be taken into account by local planning authorities when they are setting parking standards. I am aware that is some neighbourhood plan areas

the case for increased visitor parking standards has been accepted based on consideration of general accessibility and limited availability or absence of public transport, for example in particularly rural areas. The justification for Policy 20 is based on car ownership levels, and local opinion which reveals a depth of concern regarding parking standards. There is no explicit consideration of the availability of public transport. Justification in the Submission Plan document for the exclusion of garages from the minimum standards is limited to the comment of one individual regarding the size of garages, and the comment of one other individual regarding use of garages for storage rather than for parking of a car. The Guidance states "*Proportionate, robust evidence should support the choices made and the approach taken*". The exclusion of garages from the minimum standards is not sufficiently evidenced, however it is appropriate to ensure a garage is sufficiently large to normally function as a parking space. I have recommended a modification of the Policy in these respects.

170. Subject to the proposed modification the policy is in general conformity with the strategic policies included in the Development Plan applying in the Westfield Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan) and provides an additional level of detail or distinct local approach to that set out in the strategic policies with respect to provision for cycle parking.

171. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended Modification 15: In Policy 20**

- **delete "half a space" and insert "0.2 spaces"**
- **after "Garages are excluded from the prescribed minimum standards" insert "unless it is demonstrated they are sufficiently large to conveniently park an average sized family saloon car"**

## Summary and Referendum

206. I have recommended 15 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

207. I am satisfied that the Neighbourhood Plan<sup>47</sup>:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990 and meets the Basic Conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
  - 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>48</sup>

**I recommend to Bath and North East Somerset Council that the Westfield Neighbourhood Development Plan for the plan period**

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<sup>47</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

<sup>48</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

**up to 2036 should, subject to the modifications I have put forward, be submitted to referendum.**

**208.** 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>49</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>50</sup>. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Bath and North East Somerset Council as a Neighbourhood Area on 23 April 2015.**

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

**209.** A number of consequential modifications to the general text, and in particular the justification of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies. As an example, the final sentence of the Economy, Industry and Jobs section of the Plan should be deleted.

**210.** I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>51</sup> I recommend the following minor change only in so far as it is to correct an error or where it is necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework:

In a representation Bath & North East Somerset Council state “Informal comments received on the consultation draft plan have suggested that the title of the map on page 21 of the plan, currently worded as “Allocated housing sites” requires amending for clarity. Whilst the plan shown at 5.5/page 21 is correct in terms of the sites shown are allocated in the B&NES PMP, the description of these sites as “Allocated Housing Sites” is not correct (given some sites are

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<sup>49</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>50</sup> Planning Practice Guidance Reference ID: 41-059-20140306

<sup>51</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

allocated for uses other than housing) and should be amended to read as: 'Allocated Sites from the B&NES Placemaking Plan". I agree this modification should be made.

**Recommended modification 16:  
Modification of general text will be necessary to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.**

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18 June 2018  
REPORT ENDS