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and examinations

Report on Peover Superior Neighbourhood Plan 2019 - 2030

An Examination undertaken for Cheshire East Council with the support of the Peover Superior Parish Council on the November 2019 Regulation 15 submission version of the Plan.

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Main Findings - Executive Summary

From my examination of the Peover Superior Neighbourhood Plan 2019-2030 (the Plan) and its supporting documentation including the representations made, I have concluded that, subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – Peover Superior Parish Council;
- The Plan has been prepared for an area properly designated – the Peover Superior Parish Council area, as shown on by Figure A on Page 5 of the submitted Plan;
- The Plan specifies the period to which it is to take effect: 2019–2030; and
- The policies relate to the development and use of land for a designated neighbourhood area.

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

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

1. Introduction and Background

Peover Superior Neighbourhood Plan 2019-2030

- 1.1 The Peover Superior Parish Council administers the parish of Peover Superior, also known as Over Peover. The area is rural in nature.
- 1.2 The decision to produce the Plan was taken by the Parish Council in 2016 and follows the previous completion of a Parish Supplementary Planning Document in 2011. Work on the new Plan was led by a Neighbourhood Plan Steering Group which has sought to gain the views of the Parish residents in shaping the objectives and content of the Plan, through the use of public meetings, surveys and questionnaires.
- 1.3 The Plan has identified a number of key parishioner issues and contains a Vision and a set of objectives for the area.¹ These recognise the value of the open countryside and the existing environmental and heritage assets whilst noting matters affecting transport, accessibility, infrastructure and new development. The suite of Plan policies is tailored to address the Vision and objectives.

¹ Chapter 4 of the Plan.

The Independent Examiner

- 1.4 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Peover Superior Neighbourhood Plan 2019-2030 by Cheshire East Council, with the agreement of the Peover Superior Parish Council.
- 1.5 I am a chartered town planner and former government Planning Inspector, with experience of local and neighbourhood plan examinations. I am an independent examiner, and do not have an interest in any of the land that may be affected by the Plan.

The Scope of the Examination

- 1.6 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.7 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;
 - Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development';

- it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
 - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended)('the 2012 Regulations').

1.8 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

1.9 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters.

1.10 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. ²

² This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

2. Approach to the Examination

Planning Policy Context

- 2.1 Planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published on 19 February 2019 and has been subject to further amendment. All references in this report are to the 2019 NPPF and its accompanying PPG.³
- 2.2 The development plan for this part of Cheshire East Council, not including documents relating to excluded minerals and waste development, is the Cheshire East Local Plan Strategy 2010-2030 (CELPS) and relevant saved policies from the Macclesfield Borough Local Plan (adopted 2004). The District Council has consulted⁴ on its Publication Draft Site Allocations and Development Plan Policies Document (SADP), which will form the second part of the Local Plan. It will set non-strategic and detailed planning policies to guide planning decisions and allocate additional sites for development to assist in meeting the overall development requirements set out in the CELPS. The outcome of the consultation is under consideration by Cheshire East Council and the document has not been submitted for Examination; as such it does not currently form part of the development plan for the area.

Submitted Documents

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the Peover Superior Neighbourhood Plan 2019-2030 [November 2019];
 - Figure A of the Plan which identifies the area to which the proposed Neighbourhood Development Plan relates;
 - the Consultation Statement, November 2019;
 - the Basic Conditions Statement, November 2019;
 - all the representations that have been made in accordance with the Regulation 16 consultation;
 - the Strategic Environmental Assessment Screening Report prepared by Cheshire East Council (August 2019); and
 - the clarifications received from Peover Superior Parish Council and Cheshire East Council to my correspondence of 4 February 2020⁵.

³ See paragraph 214 of the NPPF. The Plan was submitted under Regulation 15 to the local planning authority after 24 January 2019.

⁴ Closed 30 September 2019.

⁵ View at: [LPA/QB replies need adding]

<https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-plans-n-z/over-peover-neighbourhood-plan.aspx>

Site Visit

- 2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 4 February 2020 to familiarise myself with it, and visit relevant locations referenced in the Plan and the supporting evidential documents.

Written Representations with or without Public Hearing

- 2.5 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum.

Modifications

- 2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The Peover Superior Neighbourhood Plan 2019-2030 has been prepared and submitted for examination by Peover Superior Parish Council, which is a qualifying body for an area that was designated by Cheshire East Council 5 April 2017.
- 3.2 It is the only neighbourhood plan for Peover Superior and does not relate to land outside the designated Neighbourhood Plan Area.

Plan Period

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2019 to 2030. This aligns with the end of the CELPS plan period.

Neighbourhood Plan Preparation and Consultation

- 3.4 As referenced in the Plan, the supporting Consultation Statement and the Basic Conditions Statement, the Parish Council commenced work on the Plan in 2016. The Parish Council has explained its determination to ensure

that residents should be kept advised as to progress and also given every opportunity to inform the process of plan production. A steering group was established to guide the formulation of the Plan and a variety of methods were employed to encourage and obtain engagement in its content. These included public meetings, drop-in sessions, newsletters and a questionnaire. The Neighbourhood Plan Area⁶ was designated by Cheshire East Council on 5 April 2017.

- 3.5 A presentation to the community was held on 27 September 2017 which enabled attendance by approximately 40 residents who helped identify a number of issues and concerns. Subsequently, a short survey of residents was held with all Parish households with a response rate of 41% which was reported in a follow up newsletter. A more detailed resident questionnaire was developed in early 2018 which helped to identify and develop the issues and concerns facing the Parish and also informed the commissioning of background evidence. Thereafter, the questionnaire results were analysed and policy ideas emerged which were subject to drop in meetings for discussion (July 2018).
- 3.6 As detailed in the Consultation Statement, liaison with Cheshire East Council continued and the production of the draft Plan was subject to a 6 week consultation under Regulation 14 of the 2012 Regulations between 19 August and 30 September 2019. This entailed:
- consultation with statutory bodies;
 - notification on where, when and how to view and comment on the Plan which was deposited at libraries, the village pubs, the village show and at drop in events at the village hall;
 - information on how and when to make representations;
 - email notification to interested parties and notification to all Parish households; and
 - consultation with other Parish councils and bodies.
- 3.7 Following consideration of the 34 comments (13 consultees) received in relation to the Regulation 14 consultation, the Parish Council updated the Plan prior to further consultation under Regulation 16. The subsequent consultation ran from 29 November 2019 to 13 January 2020 and 11 further responses were received⁷ which made a number of specific comments, to which I have had regard.
- 3.8 I am satisfied that a transparent, fair and inclusive consultation process has been followed for the Plan that has had regard to advice in the PPG on plan preparation and is procedurally compliant in accordance with the legal requirements.

⁶ Figure A of the Plan.

⁷ See Summary of Regulation 16 Consultation Responses. View at: <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-plans-nz/over-peover-neighbourhood-plan.aspx>

Development and Use of Land

- 3.9 The Plan, as recommended to be modified, sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

Excluded Development

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

Human Rights

- 3.11 The Basic Conditions Statement concludes that the Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and I note that Cheshire East Council is satisfied that the Plan does not breach 'Human Rights' (within the meaning of the Human Rights Act 1998). From my independent assessment of all the available evidence, including the Consultation Statement which identifies the endeavours taken to include the whole Parish community in the process of plan production and the subsequent Parish Council correspondence⁸, I agree.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The Peover Superior Neighbourhood Plan 2019-2030 was screened for Strategic Environmental Assessment (SEA) by Cheshire East Council (August 2019) which found that it was unnecessary to undertake a SEA. Whilst this screening was undertaken in relation to the Regulation 14 version of the Plan, subsequent changes to the submission version of the Plan were minor. The Parish Council consider that the prepared SEA Screening Report remains fully valid and applicable to the submitted Plan. No statutory consultee, including Natural England, the Environment Agency and Historic England, when consulted, disagreed with that SEA screening assessment. Having read the SEA Screening Report, I conclude that a SEA is not required.
- 4.2 The Plan was also screened for Habitats Regulations Assessment (HRA) which concluded that a HRA was not required. The site is not in close proximity to any European designated nature site. From my independent assessment of this matter and with regard to Natural England's comments, I agree.

⁸ See footnote 4.

Main Issues

- 4.3 Following the consideration of whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the Basic Conditions; particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance with all the Plan's policies.
- 4.4 As part of that assessment, I consider whether the policies in the Plan are sufficiently clear and unambiguous, having regard to advice in the PPG. A policy 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 evidence⁹. I recommend some modifications as a result.
- 4.5 Accordingly, having regard to the Plan, the consultation responses, written evidence and the site visit, I consider that the main issues for this examination are whether the Plan policies:
- have regard to national policy and guidance;
 - are in general conformity with the adopted strategic planning policies; and
 - would contribute to the achievement of sustainable development.

Following the sequence within the Plan, I shall assess these issues on the basis of the Plan's policy chapters: Vision and Housing; Local Character and Design; Natural Environment; Heritage; Infrastructure and Community Facilities and Rural Economy.

Vision and Housing (Policy H1)

- 4.6 The CELPS sets the development plan strategy and settlement hierarchy for housing provision across the Cheshire East area including the Neighbourhood Plan Area. This takes account of the designated areas of Green Belt which apply to Peover Superior Parish and which were recognised as of importance to local residents.
- 4.7 The village of Over Peover falls within the definition of 'Other Settlements and Rural Villages' of the settlement hierarchy (CELPS Policy PG 2) which applies to the Plan area. Consequently, development "should be confined to proportionate development at a scale commensurate with the function

⁹ PPG Reference ID: 41-041-20140306.

and character of the settlement and confined to locations well related to the existing built-up extent of the settlement”.

- 4.8 The Vision within the Plan identifies that “...Development will be at a slow and steady pace, maintaining the serenity and character of Peover Superior and being in keeping with the environment...”. Given the limited scale of the Parish population, existing settlement size and available facilities/infrastructure, the indication that development will be ‘slow and steady’ is nonetheless a positive statement of sustainable intent which I consider to be adequately consistent with national policy and the extant development plan.
- 4.9 Mindful that the CELPS addresses adequately the provision of housing for the wider administrative area, there is no indication of unmet needs for specific local housing provision in the Neighbourhood Plan Area. The Plan makes no housing allocation but Policy H1 ‘New Housing’ adopts a positive approach to limited infill within a defined village infill boundary. This boundary is clearly shown in Figure C and follows the built up extent of Over Peover.
- 4.10 The Plan needs to be in general conformity with the strategic policies of the CELPS and the relevant saved policies from the Borough of Macclesfield Local Plan (2004). Whilst the Plan has been prepared in this context, I note that regard has also been given to the emerging SADP and its evidence, which is understandable and reflects the advice in the PPG.¹⁰
- 4.11 The emerging SADP¹¹ identifies Over Peover as an ‘infill village’ and this approach has informed the Plan. Whilst the SADP is still to be submitted for Examination and is therefore some time from likely adoption, the similar approach of the Plan appears reasonable. On the basis of the available evidence, I find the principles that underpin Policy H1, in conjunction with Figure C, to be justified. This is consistent with the strategic approach towards housing envisaged by the CELPS.
- 4.12 Policy H1 itself is clear in its intentions and is consistent with CELPS Policy PG 6. The definition of ‘limited infilling’ identifies potential sites as occupying ‘a relatively small gap between existing buildings’. This is not further clarified in the Plan and could be subject to some differences in interpretation as to what ‘relatively small’ actually means. Nonetheless, I am satisfied that the application of policy H1 would require the exercise of appropriate professional judgement and it may be the case that, should the SADP proceed to adoption, further clarification may be given within it as to how such a phrase may consistently be interpreted and applied across Cheshire East as a whole.

¹⁰ PPG Reference ID: ID: 41-009-20190509.

¹¹ Which included a Settlement and Infill Boundaries Review (2019).

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- 4.13 Policy H1 specifically prohibits scope for 'backland and tandem' forms of development. There is no specific evidence which justifies such an approach, which I note does not form part of the emerging SADP, and could represent appropriate 'infill'. In any event, such a prohibition is rendered largely unnecessary in light of the three criteria subsequently cited in the policy which, through their application, would ensure appropriate forms of development that do not give rise to unacceptable impacts. I therefore modify the policy to ensure its effective application (**PM1**) which includes clarification to the supporting justification and its relationship to the development plan.
- 4.14 Therefore and with the recommended modification, I consider that the Plan's Vision and approach to housing is in general conformity with the strategic policies of the adopted development plan, including Policies SD 1 and 2, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Local Character and Design (Policies LCD1 to LCD7)

- 4.15 Following on from the community consultation and as reflected in the Consultation Statement, one of the objectives of the Plan is to ensure new development is in keeping with the local character of Peover Superior. As a consequence, the Plan contains 7 relevant policies.
- 4.16 National policy advocates high quality buildings and places whilst identifying that development plans should, at the most appropriate level, set out a clear design vision and expectations whereby design policies should be developed with local communities reflecting local aspirations. The importance of Neighbourhood Plans is noted¹².
- 4.17 Policy SE 1 of the CELPS requires development proposals to make a positive contribution to their surroundings by reference to a range of criteria. The justification for such an approach indicates the need to afford particular attention in rural areas to landscape character, the local vernacular and any peculiar characteristics of the locality.
- 4.18 It is against this background that Plan Policies LCD1 to LCD7 fall to be assessed. The Plan is helpfully informed by the Spatial Character Assessment of Peover Superior (2018), the Cheshire Landscape Character Assessment (2008) and the Cheshire East and Over Peover Design Guides, albeit it appears that sections of the latter have been simply carried forward into the policies of the Plan. As explained by the Parish Council, the Over Peover Design Guide was produced, refined and published on the

¹² NPPF Section 12, including paragraphs 125-127.

village website in April 2018 albeit no separate adoption process has been undertaken of its content.

- 4.19 As such, Policy LCD1 sets out a reasonable and logical expectation that development proposals should have considered the content of the extant Design Guide advice in their formulation. As presented however, the Policy should be clarified for effective implementation through the use of a single sentence which is recommended in **PM2**.
- 4.20 Policy LCD2 similarly places a reasonable expectation that development proposals should consider the applicable character area affected and relevant building typologies. This is supported adequately by the policy justification and the evidence base, in particular the Over Peover Design Guide, which provides additional detail on the key features and characteristics of the Parish. To aid clarity for implementation and consistency with Policy LCD1, I firstly recommend a modification to require demonstrable evidence that proposals fulfil the policy aims and, secondly, to introduce some reasonable flexibility in the consideration of the identified landscape features (**PM3**), without which the policy would be unreasonably rigid and potentially inappropriate in its implementation.
- 4.21 Policies LCD3 to LCD6 replicate in large part the content of the Over Peover Design Guide. As drafted the policy requirements are especially prescriptive and in certain instances do not allow flexibility of implementation which may limit their effectiveness in their reasonable application; particularly where potentially acceptable innovative and/or contemporary design solutions may be presented.
- 4.22 Policy LCD3 contains 5 criteria requirements applicable to the extension and remodelling of buildings. Whilst design policies can be helpful in guiding expectations for the production of good quality outcomes, care should always be taken to avoid over prescription in policies, rather than guidance, which affect the design process and to avoid conflicting with the NPPF requirement that innovation or change should not necessarily be discouraged¹³. I note that this was acknowledged by Urban Imprint in April 2018¹⁴. Policy LCD3.1 aims to avoid overbearing impacts on neighbouring properties which is a reasonable objective but requires that extensions or remodelling to be limited in scale. It is unclear specifically what 'limited in scale' may represent. A limitation of scale to some degree may often be a necessary requirement to avoid overbearing effects but it may not always be so, for example in more spacious plot circumstances and with high quality design. The policy aims would be secured regardless

¹³ NPPF paragraph 127(c).

¹⁴ Urban Imprint Briefing Note 17.4.18. View at: http://www.overpeover.com/wp-content/uploads/2018/03/18-003_brn_001_PolicySuggestions_170418.pdf

of the phrase and to assist in the clear and effective application of the policy I recommend its deletion, mindful that the Design Guide retains its useful role as a source of informative guidance (**PM4**).

- 4.23 Policy LCDC3.2 requires extensions to be subservient to the original building with front elevations set back. This reflects the advice of the Design Guides and is commonly a commendable design option. Nonetheless, as phrased and in isolation it would be unduly prescriptive as a development plan policy and could unreasonably stymie good quality architectural solutions, which may offer an acceptable alternative design approach.
- 4.24 I note that potential exceptions to the requirements of LCDC3.2 are feasible to some extent under the provisions of Policy LCDC3.4, which I find to be justified and necessary in principle with regard to both national policy and the effectiveness of the Plan. Nonetheless, as worded LCDC3.4 only provides for exceptions where contemporary design is promoted; high quality architecture that may not strictly fall within the remit of being 'contemporary' may also offer appropriate solutions to the matters addressed by the preceding policy requirements. I therefore recommend a modification to allow for such an eventuality (**PM5**). Furthermore, as currently written, the exceptions of Policy LCDC3.4 can logically only be exceptions to the requirements of Policy LCDC3.2. In the alternative, the exceptions could be argued to allow for overbearing effects (LCDC3.1) and loss of privacy/amenity (LCDC3.3). My recommendation therefore includes wording to clarify the application of Policy LCDC3.4 in the interests of effective implementation.
- 4.25 Policy LCDC3.5 seeks to remove permitted development rights¹⁵ for 'ancillary' buildings where they have been included in the area or volume calculations for justifying replacement buildings which do not include equivalent facilities, in conjunction with a statement that no such ancillary buildings shall be permitted within 10 years of the development. In this context, I am mindful that the Parish lies within the designated Green Belt and that, in addition to national policy, CELPS Policy PG 3 clarifies that the replacement of a building, provided it is in the same use and not materially larger than the one it replaces, would not be inappropriate development by definition.
- 4.26 Notwithstanding paragraph 6.5 of the Plan, there is minimal evidence to support the need for the details of the policy as worded. Indeed, the example cited appears to relate to a different set of circumstances where planning permission for a new stable block was sought following the grant of permission for the conversion of a pre-existing stable building.

¹⁵ The Town and Country Planning (General Permitted Development) (England) Order 2015.

Nevertheless, CELPS Policy PG 3 does establish, in line with national policy, that a replacement dwelling will only not be inappropriate when not materially larger than the one it replaces. Therefore, there may be site specific circumstances where the uncontrolled construction of ancillary buildings may cause harm to the purposes of Green Belt designation alongside other potential harm. Consequently, it is reasonable for consideration to be given within policy to potentially removing permitted development rights but, as advised by national planning guidance¹⁶, not on an area wide basis and only where the tests of necessity and reasonableness for planning conditions are met. I recommend a modification of Policy LCDC3.5 accordingly (**PM6**). There is no justification for the embargo period of 10 years referenced within the policy. This would not accord with national policies or advice and may prohibit sustainable forms of development. I therefore recommend its deletion.

- 4.27 Policies LCD4 to LCD6 repeat the Design Guide advice. The Design Guide is a most helpful document and fulfils the aims of the PPG in setting out the general design principles and standards that development proposals should follow. However, the Plan would have the effect of elevating the guidance to specific policy provisions which would introduce a level of inflexibility which is not justified and may prove ineffective in implementation. I therefore recommend modifications to the Plan which reaffirm the role of the Design Guide, whilst ensuring a degree of flexibility within the policies to maximise the likelihood of appropriate and high quality design proposals (**PM7**). I also note that Policy LCD6 refers to the small front gardens with low brick walls in the Peover Heath Area which, following my site visit and with some larger residential exceptions, appears to be a broadly accurate description of the locality, especially in close proximity to The Dog public house.
- 4.28 Policy LCD7 relates to the conversion of farm buildings to residential properties and sets out a reasonable and effective approach to design considerations. For the reasons set out above (paragraph 4.26) there is no justification for the blanket removal of permitted development rights albeit such an outcome may be reasonably considered depending on the specifics of an affected site. There is no justification for the effective embargo on replacement buildings for the period of 10 years as proposed by the policy. I recommend a modification accordingly to ensure effective implementation and with due regard to national policy (**PM8**).
- 4.29 On the evidence before me, and with the recommended modifications PM2 – PM8, I consider that the Plan’s policies and approach to local character and design are in general conformity with the strategic policies of the adopted development plan, including Policy SE 1, have regard to national

¹⁶ PPG Reference ID: 21a-017-20190723.

guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Natural Environment (Policies ENV1 to ENV 3)

- 4.30 The Plan is supported by the 'Protecting and Enhancing Over Peover's Natural Environment' study completed in 2019. Policies ENV1 (Biodiversity), ENV2 (Trees, Hedgerows and Watercourses) and ENV3 (Access to the Countryside) would operate in conjunction with CELPS Policies, in particular Policies SE 3, SE 5 and SE 6 with which they are in general conformity. Policy ENV1 is broadly positive and consistent with the extant development plan. However, reference is made to 'change in agricultural practices' which may not constitute 'development' controlled by the Planning Acts and thereby would not fall to be considered by the policies of the development plan. As a consequence, this phrase should be deleted for clarity and to ensure effective implementation of the policy (**PM9**).
- 4.31 Policy ENV2 refers to features which make a 'significant contribution to the amenity, biodiversity and landscape character of the area'. Such features are not specifically identified within the Plan but I am satisfied that the exercise of reasonable professional judgement in conjunction with the formulation and determination of development proposals is capable of ensuring that the implementation of the policy will be effective. The policy seeks to remove permitted development rights in certain circumstances but once again, with regard to national advice and as set out above, such a requirement as worded is not justified. I recommend a modification to resolve this in the interests of clarity, effectiveness and consistency with national policy (**PM10**).
- 4.32 Policy ENV3 supports access to the countryside. It includes reference to proposals to divert public rights of way. There are different means by which a public right of way may be stopped or diverted and for the purposes of land use policy, the Plan would only apply to propositions arising from the use of land to which the Planning Acts apply. For this reason, a modification is necessary to clarify that the policy is based on land use (**PM11**). To avoid confusion with the application of the 'very special circumstances' requirements which applies to development in the Green Belt, this modification includes a requirement for such proposals to be 'fully justified'. In other regards, the policy has sufficient regard to national policy and is in general conformity with the strategic policies of the development plan.
- 4.33 With the recommended modifications PM9 - PM11, the Plan's natural environment policies are in general conformity with the strategic policies of the adopted development plan, including those in Chapter 13, have

suitable regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions

Heritage (Policy HA1)

4.34 Plan Policy HA1 refers to the preservation of heritage assets within the Parish and is supported by a list of known heritage assets at Appendix 1. I am mindful that the CELPS Policy SE 7 provides a broader and detailed background to Policy HA1. Policy HA1 does not differentiate between designated and non-designated assets¹⁷ albeit Appendix 1 only contains the former. As a consequence, whilst the policy reasonably refers to heritage assets in the round, the policy intention to support proposals which only demonstrate substantial benefits when weighed against any harm or loss to significance is not consistent with national policy which adopts a more nuanced approach¹⁸. For example, substantial benefits are not required to be shown if the harm to a designated asset is less than substantial. Nevertheless, subject to a necessary recommended modification to ensure consistency with the NPPF which addresses designated heritage assets, Policy HA1 meets the Basic Conditions (**PM12**).

Infrastructure and Community Facilities (Policies INF1 to INF7)

- 4.35 The Plan recognises, through its objectives and Policies INF1 to INF7 the importance of appropriate infrastructure and a range of community facilities for the area.
- 4.36 Policy INF1 seeks to mitigate significant harm to existing infrastructure from development proposals. Subject to a necessary modification to its wording to clarify that it applies to development proposals and to ensure flexibility in any possible means of mitigation, Policy INF1 will complement the CELPS, including Policies IN 1 and IN 2, such that it meets the Basic Conditions (**PM13**).
- 4.37 Policy INF2 supports improvements to telecommunication and electricity infrastructure in a manner that has due regard to national policy and is consistent with the CELPS.
- 4.38 The management of surface water is addressed by Plan Policy INF3, which must be read in the context provided by the CELPS Policy SE 13. The two are largely complementary albeit the latter makes clear that it is not sustainable to dispose of surface water via public sewer systems unless there are no other more viable options. To ensure clarity on this point and to mitigate against risks of confusion in implementation, it would be

¹⁷ See NPPF Section 16.

¹⁸ NPPF paragraphs 193-198 et al.

prudent for the Plan to cross reference Policy SE 13 and I recommend accordingly so that the Basic Conditions are met (**PM14**). This includes deletion of part of paragraph 9.19 which does not relate specifically to surface water management.

- 4.39 Policy INF4 identifies where justified receipts from Section 106 obligations or the Community Infrastructure Levy may be expended. On balance, this can be considered to be a justified land use policy which is supported by the Over Peover Traffic Study (2018) albeit the finer details of any physical scheme, such as road crossings, would fall to be resolved at the appropriate planning stage. The policy would not fetter alternative justified expenditure plans for CIL receipts.
- 4.40 Plan Policy INF5 supports the principle of sustainable forms of transportation and sets out the need for Transport Assessments and Travel Plans. This is in general conformity with the CELPS Policy CO 4 and meets the Basic Conditions.
- 4.41 Policy INF6 supports potential proposals for a new village hall close to the Primary School on green field land, notwithstanding that no site has been identified and a new village hall proposition is not advanced (eg in timescale/design/funding). I appreciate the Parish desire to ensure that the available Hall facilities are fit to serve its users into the future. However, as drafted and without a specific site identified, Policy INF6 is an aspirational statement which runs the risk of pre-empting, without any evidence, any fair deliberation of site specific matters including whether very special circumstances may exist to justify an otherwise inappropriate form of development in the Green Belt. As such, whilst the commitment and support for a new hall can reasonably be reflected within the Plan, it would be suitably served simply by a policy of in principle support. I recommend accordingly to ensure the Basic Conditions are met (**PM15**).
- 4.42 Three Local Green Spaces are identified by Plan Policy INF7 and Figure L. With due regard to the evidence cited in the Plan and the table at paragraph 9.47, I am satisfied that the three areas satisfy the criteria of paragraph 100 of the NPPF for Local Green Spaces and the Basic Conditions are met.
- 4.43 Overall and with the recommended modifications PM13 – PM15, I consider that the Plan’s infrastructure policies are in general conformity with the strategic policies of the adopted development plan, including Policies IN 1 and 2, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Rural Economy (Policy ECON 1)

- 4.44 Plan Policy ECON 1 establishes a positive approach towards new economic development in the Parish and does not preclude support for any particular form of appropriate development. The replication of national policy and other parts of the development plan is appropriately avoided and sufficient regard has been had to national policy. It is in general conformity with the CELPS, including Policy EG 2. The Basic Conditions are met.

5. Conclusions

Summary

- 5.1 The Peover Superior Neighbourhood Plan 2019-2030 has been duly prepared in compliance with the procedural requirements. My examination has assessed whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether the referendum area should be extended beyond the designated area to which the Plan relates. The Peover Superior Neighbourhood Plan 2019-2030 as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary thereby requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

Overview

- 5.4 In conducting the examination, I have enjoyed reading the Plan, familiarising myself with the area and the issues affecting the Parish and its residents. The Plan is concise and follows a clear structure. The Consultation Statement and the Basic Conditions Statement were helpful. The Parish Council, the Steering Group and other volunteers and contributors are to be commended for their efforts in producing the document which, incorporating the modifications I have recommended, will make a positive contribution to the development plan for Cheshire East and will assist in creating sustainable development as envisaged by national policy.

Andrew Seaman
Examiner

		development sites and are within the open countryside. Limited infilling will be supported within infill boundaries and is defined as the development of a relatively small gap between existing buildings. The draft policy PG 10 states that limited infilling will only be permitted where it is in keeping with the scale, character and appearance of its surroundings and the local area; does not give rise to unacceptable impacts; and does not involve the loss of undeveloped land that makes a positive contribution to the character of the area. <i>Policy H1 reflects this approach and Figure C defines the village infill boundary which is in conformity with Local Plan Strategy Policy PG 6.</i>
PM2	Page 13	<p>POLICY LCD1 – LOCAL CHARACTER AND DESIGN</p> <p>To ensure that buildings, characteristic features and materials are representative of the settlement character of Peover Superior; the design and layout of new developments should demonstrate consideration of the Cheshire East Design Guide (2017) and the Over Peover Design Guide (2018) or any updated versions.</p>
PM3	Page 13	<p>POLICY LCD2 – NEW DEVELOPMENT</p> <p>New development <i>proposals</i> should <i>demonstrably</i> consider the character area to which the scheme relates and where relevant the building typologies. The following landscape features should, <i>where applicable and as appropriate</i>, be retained and where appropriate enhanced in order to positively contribute to the Parish’s character.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Hedgerow boundaries; <input type="checkbox"/> Mature trees and vegetation; <input type="checkbox"/> Historic field boundaries; <input type="checkbox"/> Areas of dense woodland; <input type="checkbox"/> Mosses, meres and other water bodies; <input type="checkbox"/> Dispersed farms; <input type="checkbox"/> Hamlets; <input type="checkbox"/> Green gaps between settlements; <input type="checkbox"/> Open rural views.

PM4	Page 13	LCDC 3.1 Extensions to and remodelling of existing buildings should be limited in scale to avoid any <i>unacceptable</i> overbearing impact on neighbouring properties.
PM5	Page 13	LCDC3.4 Exceptions to <i>LCDC3.2</i> may be acceptable, <i>for example</i> , where contemporary design is promoted and a high standard of design, materials and detailing can be demonstrated. Where a contemporary or contrasting <i>alternative</i> design approach is adopted the scale and massing of the original building should be respected and the proposal must respect existing scale, form and patterns within the street scene.
PM6	Page 13 Page 15 Paragraph 6.5	LCDC3.5 Where garages and outbuildings are included in the area or volume calculations for justification of replacement buildings that do not include equivalent facilities, then <i>consideration may be given to the withdrawal of specific Permitted Development rights where necessary and reasonable.</i> will be withdrawn and no such ancillary buildings shall be permitted within 10 years of the development. Given the Parish is washed over by Green Belt, land for residential use commands a premium. There have been several instances where existing agricultural or equestrian buildings have been converted to residential use only for replacement buildings to be erected shortly afterwards under the exceptions allowed by the National Planning Policy Framework (NPPF). <i>Where reasonable and necessary, consideration will be given to removing permitted development rights granted by The Town and Country Planning (General Permitted Development)(England) Order (2015) when determining replacement development proposals.</i> One such example is the conversion of stables to residential use followed by application for a new stable block (e.g. 10/0407M Conversion of stables to residential use followed by 16/6148M application for new stables). The principle of the NPPF is against new development in the Green Belt except for specific exceptions or in very special circumstances. The 10 year

		<p>time limit is included as a deterrent to prevent the NPPF exceptions being used in a way that results in additional residential accommodation being created with no net loss of agricultural or equestrian buildings.</p>
PM7	Page 14	<p>POLICY LCD4 – ALTERATION TO ROOFS</p> <p>The way in which attic conversions are designed will depend on the house typology. <i>Generally, a</i>Attic conversions should not introduce an additional storey when viewed from the highway – but should complement the existing roof profile. <i>Generally, D</i>developments proposing dormer roofs should be pitched and, where appropriate, should replicate those which exist on the dwelling or neighbouring properties.</p> <p>All roof alterations must be delivered in a sensitive manner in relation to house type and character area. The choice of materials should be in keeping with the existing material and colour pallet., for example, replacing Welsh slates or Hardrow slates with interlocking tiles is unacceptable.</p> <p>POLICY LCD5 – ALTERATIONS TO OPENINGS</p> <p>Any alterations to openings on buildings must <i>should</i> retain the character and design of the existing profile. Where the original property has a symmetrical form, the size and shape of new windows or openings may vary in shape but must <i>should</i> remain symmetrical, and respect elements of the existing property. Exceptions may be made where <i>fully justified and where</i> proposals deliver high quality, <i>for example</i> contemporary, design, respecting which respects the surrounding character.</p> <p>POLICY LCD6 – FRONT & REAR BOUNDARIES</p> <p><i>Generally, D</i>dwellings should be set back from the highway with strong vegetated boundaries to provide visual screening between the road and the dwelling. Boundary treatments should primarily be vegetated – however this may depend on the location of</p>

		the property. Front boundaries in the Peover Heath area should retain the strong visual relationship with Well Bank Lane which <i>often</i> consists of small front gardens with low brick walls in front of planting forming the property boundary. Any new housing should avoid rear boundaries bordering the highway.
PM8	Page 14	<p>POLICY LCD7 – AGRICULTURAL, EQUESTRIAN AND OTHER CONVERSIONS</p> <p>The conversions of farm <i>and other</i> buildings to residential properties must ensure that any characteristic features of the original building are retained and integrated within the design of the proposed development, that the urbanisation of the development is kept to a minimum, that there is sufficient parking and that the development can be safely accessed, and that development is kept to the footprint of the original buildings as far as possible.</p> <p>Permitted development rights will be removed <i>Where reasonable and necessary, consideration will be given to removing permitted development rights granted by The Town and Country Planning (General Permitted Development)(England) Order (2015) to ensure reasonable controls exist over future extension and modification of buildings converted to residential uses in the interests of protecting the landscape and character of the Parish.</i></p> <p>Where agricultural buildings, stables, domestic outbuildings or garages have been converted to residential use, no replacement buildings of a similar nature will be permitted for a period of 10 years.</p>
PM9	Page 21	<p>POLICY ENV1 – BIODIVERSITY</p> <p>Development should not significantly adversely affect the local wildlife site along the Peover Eye Valley of Great Wood and Spinney Wood (Figure F), the areas of high or medium distinctiveness identified in Figure G, or the wildlife corridors identified in Figure H. The enhancement of these areas will be</p>

		<p>supported.</p> <p>Where development proposals or a change in agricultural practices are likely to have a significant impact on biodiversity, proposals will only be supported where suitable mitigation and/or compensation is provided to address the adverse impacts, or where any residual harm, along with any other harm, is clearly outweighed by the benefits of the development.</p> <p>...</p>
PM10	Page 26	<p>POLICY ENV2 – TREES, HEDGEROWS AND WATERCOURSES</p> <p>...</p> <p><i>Details of b</i>Boundaries fronting the highway should have regard to the advice within the available Design Guides and may will be required to comprise of hedges, rather than walls or fences, to maintain the rural character and permeability for biodiversity. Where proposals for new development involve new boundary treatments, <i>and only where reasonable and necessary, consideration will be given to removing permitted development rights relating to gates, fences and walls granted by The Town and Country Planning (General Permitted Development)(England) Order (2015).</i> permitted developments rights for boundaries should be removed.</p>
7.22	Page 27	<p>The removal of permitted development rights for new developments that involve new boundary treatments was suggested by Cheshire East., and <i>This</i> is considered to be of <i>potential</i> importance to the Parish, as the removal of hedgerows for other boundary treatments such as walls; ornamental railings, gates and gateposts; concrete post and timber fencing in the rural areas can considerably undermine the rural character of the area, which is valued so highly by residents. <i>Where justified, Removing permitted development rights for boundary treatments will have a positive effect on the character and biodiversity of the village.</i></p>
PM11	Page 28	POLICY ENV3 – ACCESS TO THE

		<p>COUNTRYSIDE</p> <p>...</p> <p><i>Development Pproposals</i> which lead to the loss or degradation of any public right of way will not be permitted other than in <i>fully justified very special</i> circumstances.</p> <p><i>Development Pproposals</i> which include the <i>diversion of to divert</i> public rights of way must provide clear and demonstrable benefits for the wider community.</p> <p>...</p> <p>...</p> <p>Measures to be taken to ensure this may be <i>secured by conditions upon planning permissions and could</i> include, for example, separation of pedestrians/cyclists from vehicular traffic where possible, improvements to signage, means of speed reduction or weight limits on specific roads.</p>
PM12	Page 46	<p>POLICY HA1 – PRESERVATION OF HERITAGE ASSETS</p> <p>Proposals which conserve and enhance the Parish’s <i>historic heritage</i> assets and their setting will be supported, particularly if the proposals would help retain the assets in active use. <i>Development pProposals for development potentially affecting such assets</i> must take into account the scale of any possible harm or loss <i>to and</i> the significance of <i>the any</i> heritage assets. <i>With regard to designated heritage assets, support may only be given where the level of harm to the significance of the asset has been sufficiently outweighed by arising public benefits. and will only be supported where it can be demonstrated that substantial benefits will be achieved when weighed against the harm or loss.</i> Measures should be put in place to avoid or minimise impact or mitigate damage.</p>
PM13	Page 31	<p>POLICY INF1 – INFRASTRUCTURE Where development <i>proposals would</i> significantly harms existing services, utilities or infrastructure, mitigation measures must be implemented, <i>for example</i> as a condition of planning permission. If significant harm</p>

		cannot be mitigated against, permission should not normally be granted. ...
PM14	Page 34	<p>POLICY INF3 – SURFACE WATER MANAGEMENT</p> <p>New development should be designed to maximise the retention of surface water on the development site and to minimise runoff. The approach to surface water drainage should be considered in liaison with the <i>Lead Local Flood Agency LLFA</i>, the public sewerage undertaker and where appropriate the Environment Agency.</p> <p>Surface water should be discharged in the following order of priority:</p> <ul style="list-style-type: none"> • An adequate soakaway or some other form of infiltration system. • An attenuated discharge to watercourse or other water body. • An attenuated discharge to public surface water sewer. • An attenuated discharge to public combined sewer. <p><i>Proposals that include surface water discharge to a public sewer will need to submit clear evidence demonstrating why alternative options are not available.</i></p> <p>9.18 Evidence and Justification</p> <p>9.19 The land in Over Peover is very flat and the water table is high as evidenced by flooding in the fields after heavy persistent rain. <i>Attention is drawn to the provisions of the Local Plan Strategy and in particular Policy SC 3 which indicates that surface water disposal to public sewer systems is not sustainable and may only be acceptable where fully justified.</i> The water supply is provided via pumping stations and areas of the village, notably the Mainwaring Road and Parkgate Avenue estates often suffer from low water pressure.</p>
PM15	Page 36	POLICY INF6 – VILLAGE HALL

		<i>Where very special circumstances can be demonstrated, Pproposals for a new village hall in the Parish close to the primary school will be supported in principle even if this is on a greenfield site.</i>
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