

Neighbourhood Plan for Belper Civil Parish 2019 - 2035

Submitted to LPA for examination

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Report to the Amber Valley Borough Council on the Independent Examination of the submission draft Neighbourhood Plan for Belper

November 2020

Examiner: John R. Mattocks BSc DipTP MRTPI FRGS

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Summary of main findings

0.1 It is a requirement of the Localism Act that this report should contain a summary of its main findings. The reasons for each of the recommendations are given in the following sections of the report.

0.2 The principal findings in this report are that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in the Town and Country Planning 1990 Act (as amended), does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights.

0.3 It is recommended that the plan, as modified, be submitted to a referendum and that the referendum area need not be extended beyond that of the neighbourhood area. 34 recommendations (some multiple) are made for modifications to the plan policies and text. Most are of a relatively minor nature to achieve clarity in policy application. The more significant recommendations, in summary, are:-

- That the plan end of 2035 be revised to 2028;
- That a larger scale plan should be provided to show the Built Framework Boundary;
- That all policy criteria in the plan which refer to harm to the Outstanding Universal Value of the Derwent Valley Mills World Heritage Site being weighed against public benefit be clarified to apply only when the harm is identified as being 'less than substantial';
- That criterion 1a) in Policy NPP3 be amended to relate more clearly to the Statement of Outstanding Universal Value and the effect of development on the World Heritage Site;
- That the policy applying within areas of Local Green Space should be amended with larger scale plans included to show the relevant areas.

Section 1 - Introduction

Appointment

1.01 I have been appointed by the Amber Valley Borough Council (AVBC), acting as the Local Planning Authority (LPA), under the provisions of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, to carry out an independent examination of the Neighbourhood Plan for Belper Civil Parish 2019 – 2035, to give it its full title. The plan was submitted to the LPA by the Belper Town Council (BTC) in March 2020. The BTC have themselves abbreviated the plan title to 'NP4B' and I will adopt the same abbreviation within the text of this report.

1.02 The AVBC carried out publicity for the proposed plan, giving details of how representations might be made, in accordance with Regulation 16 of the Neighbourhood Plans (General) Regulations 2012 ('the 2012 Regulations')¹. The six week consultation period commenced on 20th March and ended on 7th May 2020².

1.03 I was sent copies of the submission documentation on 25th June 2020, as required under Regulation 17. I also received copies of the representations made under Regulation 16. The examination commenced in early July 2020.

1.04 I have taken that documentation and all of the representations into account in carrying out the examination, along with additional material submitted during the examination as listed in Appendix B to this report.

1.05 I am a Chartered Town Planner (Member of the Royal Town Planning Institute) with over 49 years post-qualification professional experience in local and central government and latterly as a sole practitioner specialising in development plan policy work. I am independent of the Belper Town Council and of the Local Planning Authority. I have no land interests in any part of the plan area.

¹ All subsequent reference to a Regulation followed by a number is a reference to the Neighbourhood Planning (General) Regulations 2012 (as amended).

² See also paragraph 3.04 of this report.

My role as an examiner

1.06 The terms of reference for the independent examination of a Neighbourhood Plan are statutory. They are set out in the Localism Act 2011 and in the 2012 Regulations. As an examiner I must consider whether the plan meets what are called 'the basic conditions'³. In summary, these require me to consider:-

- whether, having regard to national policies and to advice contained in guidance issued by the Secretary of State, it would be appropriate to make the plan;
- whether the making of the plan would contribute to the achievement of sustainable development;
- whether the making of the plan would be in general conformity with the strategic policies contained in the development plan for the area; and to ensure that:-
- the making of the plan would not breach, and would otherwise be compatible with EU obligations⁴ relating to Strategic Environmental and Habitats Assessment and that the plan would be compatible with Convention rights, within the meaning of the Human Rights Act 1998; and
- that 'prescribed conditions' would be met and 'prescribed matters' would be complied with in plan preparation and submission.

1.07 Legislation requires that my report on the draft plan should contain one of the following recommendations:-

- a) that the draft plan is submitted to a referendum, or
- b) that modifications are made to the draft plan and the modified plan is submitted to a referendum, or
- c) that the proposal for the plan is refused.

I may make recommendations for modifications which I consider need to be made to ensure that the plan meets the basic conditions or for compatibility with EU obligations and (Human Rights) Convention Rights. The only other modifications which I may recommend are those to correct errors.

³ These are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as introduced in Schedule 10 of the Localism Act 2011)

⁴ The United Kingdom has formally left the European Union but, at the time of writing, is in the 'transition period' during which all existing EU obligations and Convention Rights continue in effect under UK legislation.

Section 2 – Statutory compliance and procedural matters

2.01 Upon application by the Belper Town Council (BTC) in October 2014 and following public consultation, the AVBC formally designated the parish of Belper as a Neighbourhood Area on 12th February 2015. The submitted plan relates solely to the designated area and has been submitted by the BTC as the 'qualifying body'.

2.02 A statutory requirement⁵ is that the plan 'must specify the period for which it is to have effect'. This is included within the formal title of the plan itself as 2019 to 2035 and so that requirement has been met, although I comment later on the appropriateness of the end date. Other requirements which are satisfied are: a) the plan does not include provision about development which is 'excluded development' and b) a plan showing the area to which the Neighbourhood Plan relates has been submitted as required by Regulation 15(1)(a).

2.03 The legislation states that the 'general rule' is that the examination of the issues by the examiner should take the form of the consideration of written representations. However, an examiner must hold a hearing 'for the purpose of receiving oral representations about an issue' where he or she considers a hearing 'is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case'⁶. Before deciding whether a hearing would be required, on 21st July 2020, I issued a list of written questions seeking clarification and further information by way of justification for the plan policies. I received responses to those questions from the BTC on 14th September 2020 and I confirmed by e-mail on 17th September that a hearing would not be required.

2.04 I visited Belper on 28th and 29th July 2020 in order to gain a full appreciation of the character of the town, focusing in particular on the attributes of the Derwent Valley Mills World Heritage Site and its buffer zone as well as the setting of the built-up area within its landscape setting. On arrival on the afternoon of the 28th I drove from Milford Mill along Chevin Road and approached the town centre by way of Bridge Foot. I later walked through Belper Meadows looking more closely at the mills and other sites identified in the plan including those identified as Local Green Spaces. On the morning of the 29th I drove more widely to the east of the town stopping to appreciate views across the town. I also walked across the fields in the Bullsmoor Area by way of the public footpaths.

⁵ These statutory requirements are to be found in Section 38B of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011),

⁶ Paragraph 9 of Schedule 4B to the 1990 Act (as in reference 2 above)

2.05 The BTC have submitted a Basic Conditions Statement in accordance with the Regulations⁷. It includes tabulated commentary related to each of the basic conditions as summarised in paragraph 1.3. A large part of the statement, in section 3, deals with 'Conformity with National and District Policy' although Tables 1 and 2 focus entirely on a comparison between the objectives and policies in the plan with national policy as to be found in the National Planning Policy Framework (NPPF). (National) Planning Practice Guidance (PPG) is referenced in paragraph 3.5 in the context of the basic condition seeking 'general conformity' of a neighbourhood plan with strategic policies in the development plan. I consider this briefly in the following paragraph. Section 4 in the statement deals with the contribution to sustainable development. In addition, there is a sustainability matrix in section 8 (Appendix A). Section 5 outlines the compatibility with EU obligations, including Strategic Environmental Assessment (SEA); Habitats Regulation Assessment (HRA) and Human Rights. There is also a separate update note dealing with SEA and HRA. Finally, section 6 and Table 3 outline general conformity with policies in the statutory development plan for the area (saved policies in the Amber Valley Local Plan) (AVLP). I am satisfied that the submitted Basic Conditions Statement meets the requirements of Regulation 15.

2.06 It is appropriate at this point to make reference to the position with regard to the development plan for the area. The saved policies of the Amber Valley Local Plan⁸ constitute the statutory development plan for the area. The Local Plan was adopted in 2006 and there is general acceptance that at least the time-related policies are significantly out-of-date. At that time the national, and regional, planning policy context will have been significantly different to that which applies today. The plan pre-dates the original NPPF issued in 2012 and the current (2019) version which represents an over-arching statement of what the Government regards as sustainable development. Nevertheless, the LPA have confirmed⁹ that, with the exception of policies EN3, H7, LC4 and LC5, all of the AVLP policies are considered to be 'strategic'. In this examination it will be necessary for me to consider the question of 'general conformity' of the NP4B with those LP policies in the context of the NPPF and the achievement of sustainable development.

⁷ Regulation 15(1)(d)

⁸ In addition the saved policies in the Derbyshire Minerals (2000/2) and Waste (2005) plans also apply.

⁹ Email 2nd July 2020

2.07 It is not uncommon for neighbourhood plans to be prepared in a situation where the statutory development plan is out-of-date, perhaps 'pre NPPF', but in most cases a replacement local plan is in an advanced stage of preparation and there is an up-to-date evidence base for the new local plan which can be used in support of the approach taken in the emerging neighbourhood plan. Indeed, to a certain extent, that is the position in Belper as mentioned in paragraphs 3.5 and 3.6 of the Basic Conditions Statement. However, what is unusual is that a new local plan had been submitted for examination but withdrawn in May 2019 by the Amber Valley Borough Council themselves. As that plan was intended to replace the adopted AVLP I shall refer to it in this report by the abbreviation wRLP.

2.08 The implications of this for the NP4B are explained in paragraph 2.7 of the Basic Conditions Statement. In short, the withdrawal of the draft local plan resulted in there being a need for a reappraisal of the draft NP4B and a second consultation under Regulation 14 of the Neighbourhood Plan Regulations. It also means that there is no up-to-date strategic context for the neighbourhood plan. In general, it is good practice to ensure that a neighbourhood plan is, as far as possible, consistent with an emerging local plan so as to obviate the need for an early review. But in this case, work on a new local plan by the AVBC had not progressed far enough at the time the NP4B was submitted for such an approach to be taken. The implications of that are referenced in several representations and will be considered later in this report.

Compatibility with the EU Obligations

2.09 The term 'EU obligations' applies to those Directions relating to Environmental Assessment and Habitats given effect through UK Regulations as well as having regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) given effect through the Human Rights Act 1998.

2.10 Dealing first with the European Convention on Human Rights, it is stated in paragraph 5.12 of the Basic Conditions Statement that, throughout the preparation of the plan, great care has been taken to ensure that the views of the whole community were embraced to avoid any unintentionally negative effects on particular groups. There is recognition of the right to family life and to prevent discrimination. No representations have been made to suggest that the plan discriminates between different groups in society or poses any threat to the fundamental rights guaranteed under the convention. From my own assessment I have no reason to conclude otherwise. I conclude that the plan is compatible with Convention rights within the meaning of the Human Rights Act 1998.

Strategic Environmental Assessment (SEA)

2.11 SEA screening of the emerging plan was initially undertaken by the Enfusion in September 2018 when it was concluded that the plan would not give rise to significant environmental effects. Nevertheless, a decision was taken to commission a full Environmental Report (ER). The Report was prepared by AECOM and consulted upon in parallel with the neighbourhood plan at both Regulation 14 stages. The conclusions of the SEA/ER process are set out in paragraphs 9.63-7 of the report. It is that the NP4B performs relatively well overall against the SEA themes with positive effects in relation to most SEA topics. There is particular emphasis on the integration of new development with the unique heritage characteristics of the area, landscape and architecture.

2.12 There has been some criticism through public consultation of certain aspects of the approach taken to the consideration of alternatives in the SEA suggesting that this does not accord with regulatory requirements. Regulation 12(2) in the SEA Regulations states that the Environmental Report 'shall identify, describe and evaluate the likely significant effects on the environment of ... b) reasonable alternatives taking account of the objectives and geographical scope of the plan or programme.'

2.13 Sections 5, 6 and 7 in the Environmental Report set out in some detail the approach which has been taken to the consideration of alternative sites to accommodate the housing requirements identified from the Housing Needs Assessment (HNA) up to the original plan end date of 2028, but not until 2035. That is an important caveat which I consider further in paragraphs 4.12-13 of this report in relation primarily to housing provision. The identification of which alternatives are 'reasonable' is a proper reflection of the objectives of the plan with its strong focus on the protection of the environment in and around the World Heritage Site.

2.14 With the caveat about the time period covered by the plan, the SEA Environmental Report can be considered to have been properly prepared. It establishes that the plan, if made, would not breach and would otherwise be compatible with EU Regulations in this respect.

Habitats Regulations Assessment

2.15 A basic condition relating to habitats is prescribed in Regulation 32, Schedule 2, paragraph 1 of the 2012 Neighbourhood Planning Regulations. This has been amended by the 2018 Amendment Regulations¹⁰ to read:-

The making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats of Species Regulations 2017.

2.16 As stated in paragraph 5.5 of the Basic Conditions Statement a screening opinion was obtained in September 2018. It states that work for the local plan established that there are no 'European sites'¹¹ within the Amber Valley Borough Council Area. It concludes that in consideration of the small geographical area of the NP4B; the scale of development likely to arise and the distance of Belper from any European Sites outside the LPA boundary, the plan was not likely to have significant effects on EU designated sites either alone or in combination with other plans and projects.

2.17 On that basis I am satisfied that the making of the neighbourhood plan would not breach the requirements of Chapter 8 in Part 6 of the requisite regulations and that the prescribed basic condition is met.

¹⁰ SI 2018 No. 1307

¹¹ Special Protection Areas, Special Areas of Conservation or Ramsar Sites.

Section 3 - Preparation of the plan and the pre-submission consultation processes

3.01 As required by legislation¹², the BTC have submitted a Consultation Statement. It had been decided to arrange a series of topic-based presentations between January and April 2016. A second round followed in through May to July that year. The statement describes the measures taken to involve local groups, businesses and organisations as well as the workshops and surveys undertaken. Articles were published in the 'Belper News'. There was also an exhibition at various local events in 2017 and 2018 and regular attendance at Belper Farmers' Market.

3.02 Formal consultation on the draft plan under Regulation 14 took place for 6 weeks from 21st March 2019 and the comments received and amendments made to the plan as a result are tabulated in Appendix I to the statement. The inclusion of three new policies and the changes to the plan made necessary by the withdrawal of the Local Plan in May 2019 resulted in a second Regulation 14 consultation in October and November last year. The comments and responses are included at Appendix L to the statement.

3.03 The Consultation Statement adequately demonstrates the measures taken to involve the public, statutory bodies and local organisations during the various stages of plan preparation in accordance with guidance and good practice in dealing with such matters. The relatively small number of public comments on the final draft plan is, perhaps, a reflection of this. I am satisfied that all of the necessary requirements for pre-submission consultation have been met.

3.04 By way of comment I note that the Planning and Design Group have expressed concerns about the adequacy of the Regulation 16 consultation process on the plan undertaken by the AVBC. However, their representation was made before the revision to paragraph 41-107 in the Planning Practice Guidance issued on 13th May 2020 in which it is stated that consultation documents may be made available online, as they have been for the NP4B, and that 'It is not mandatory for copies of documents to be made available in a physical location.' I have no reason to consider that the online availability and other publicity given to the Regulation 16 consultation will have seriously disadvantaged any interested party.

¹² The Neighbourhood Planning (General) Regulations 2012, Regulations 15(1)(b) and 15(2)

Section 4 - The Plan, meeting the basic conditions

4.01 This section of my report sets out my conclusions on the extent to which the submitted plan meets those basic conditions which are set out in the first three bullet points in paragraph 1.03 above. If I conclude that the inclusion of a policy in the plan means that, as submitted, it does not meet one or more of the basic conditions, I recommend a modification to the plan policy in order to ensure that the plan, taken as a whole, does meet those conditions. Where such a recommendation is made this is identified by the use of **bold text**. I also make recommendations for the correction of errors, using standard text.

4.02 The representations on the plan submitted during the Regulation 16 consultation period (see paragraph 1.01 above) form a starting point for my examination of the plan but I am not limited by the scope of those representations in considering the degree to which the submitted plan meets the basic conditions.

4.03 As indicated in paragraph 2.03 above, from my initial consideration of the representations I considered that a number of matters required clarification or further comment and justification by the BTC although the AVBC were also invited to comment as appropriate. From the material submitted in response to all of the queries raised I take the view that there are 3 key issues which arise in my examination of the plan against the basic conditions, in particular those relating to general conformity with the strategic policies in the development plan; the achievement of sustainable development and the regard which has been had to national policies and guidance. In so far as the objectives for sustainable development, as set out in paragraph 8 of the National Planning Policy Framework (NPPF), are delivered through plan-making and the implementation of the policies in the Framework there is clearly a strong synergy between the last two conditions.

4.04 The key issues I have identified are:-

1. Whether the evidence base is sufficiently robust to support a plan period extending to 2035;
2. Whether the NP4B may be regarded as contributing to the achievement of sustainable development given the position with regard to the development of the identified brownfield sites; the need to consider conservation objectives for a World Heritage Site and the reliance placed on the role of the emerging Local Plan to make good any shortfall in housing provision.
3. In general, the extent to which the wording of individual policies provides clarity for the purpose of decision-making on planning applications having regard to national policy and guidance, taking a positive approach to the achievement of sustainable development.

THE KEY PLANNING ISSUES

Key planning issue 1 – Whether the evidence base is sufficiently robust to support a plan period extending to 2035.

4.05 When much of the initial evidence gathering for this plan was undertaken it was in the context of the then emerging local plan for Amber Valley, the wRLP. I questioned (Q1) the basis for the extension of the plan period for the NP4B from 2028, as in the earlier drafts, to 2035. The response from the BTC is that to plan only to 2028 'is not a very long time frame' and that a further seven years would be more a more appropriate timescale for the 'ambition' set in the NP4B. I understand that a significant element of that ambition is, as stated in Community Objective 9, to give priority to the redevelopment of the brownfield sites identified in the plan. That accords with the first strategic policy in the AVL, policy LS1. However, objective 9 needs to be read within the context provided by the wider community vision which includes bringing forward a balance of housing to meet local as well as wider needs. Policy NPP1, in defining what is 'sustainable development', also refers to meeting development needs.

4.06 Although it is the case that many of the policies in the plan, particularly those relating to local environmental considerations, are not time-related, the NP4B does make 'provision for housing' in the sense that policies provide for the development of brownfield sites including a housing element, but see paragraph 4.25 below. It is stated in Planning Practice Guidance that 'the housing requirement figure and its origin is expected to be set out in the neighbourhood plan ...' and that 'Neighbourhood Plans are encouraged to plan to meet their housing requirement ...'¹³

4.07 As the AVL makes provision for housing only until 2011 it is most definitely out-of-date in that respect. The AVBC did not provide an indicative housing requirement figure for Belper^{14,15} and, consequently, the BTC commissioned a Housing Needs Assessment (HNA) from the consultants AECOM. The conclusions of that assessment¹⁶ are quoted in paragraph 94 of the NP4B but it is notable that it relates to the period until 2028, not 2035.

¹³ Quotes taken from PPG Paragraph 103, ref. ID 41-103-20190509

¹⁴ Confirmed in email from the AVBC, 23.09.20. The HNA work was undertaken in 2016 under NPPF 2012.

¹⁵ PPG Paragraph 105, ref. ID 41-105-20190509 applies

¹⁶ Dated September 2016

4.08 At the request of the BTC AECOM produced an update statement on the HNA¹⁷. The statement gives a variety of reasons why it was not considered necessary or appropriate to update the HNA to the 2019 base figure. It refers to the fact that the NP4B does not rely on the 'quantity' figure as a defined housing target or policy objective but 'simply cites it as context'. The statement continues: *It (the NP4B) does not allocate sites to meet the exact number of dwellings specified in the quantity figure nor does it use that figure as justification to limit future residential development.* Nevertheless, the statement recognises that the NP4B plan period has been extended to 2035 since the 2016 HNA and states that the identified need for approximately 80 dwellings per year still stands and would equate to a need for 1280 new dwellings 2019-2035 rather than the 1360 dwellings 2011-2028 quoted in plan paragraph 94.

4.09 Even though the BTC have presented evidence¹⁸ showing that the average annual increase in households in Belper between 2011 and 2020 has been 87, that is clearly influenced by the amount of new housing which has been completed. It is not necessarily an accurate measure of need. AECOM rightly identify a range of factors which can influence calculations of need and I accept that there may not currently be the data to allow a full update. However, household formation rates vary with time owing to changes in the age structure of the population such that the current formation rate is not a totally reliable indicator of need from 2028 onwards. The ageing population structure will also affect the availability of dwellings within the existing stock. The robustness of the HNA decreases the further ahead it is taken.

4.10 In answer to my question 4 the BTC have updated the figures to take account of data on completions and commitments (planning permissions) as at 1st April 2019. In that regard, paragraph 94 in the plan should be updated. The update shows a 'shortfall' (that is 'unmet need') to 2028 of 622. As indicated above, I have some reservations about a simple 'roll forward' of the current completion rates (see paragraph 4.13 below), the figure of 80 dwellings per annum, representing an additional 560 in the 7 years 2028 to 2035 would mean the 'unmet need' would become 1182 dwellings (622+560). That would be a significant shortfall.

¹⁷ Dated 13 September 2019

¹⁸ Table 1 in response to my question 4

4.11 It is correct, as the BTC state, that there are constraints within the Belper area, most especially the WHS and Green Belt, which may limit the supply of suitable land for housing development. However, Government policy places a significant amount of weight on meeting housing need. As emphasised in paragraph 8 of the NPPF, it is part of the social objective towards achieving sustainable development. Protecting and enhancing the natural, built and historic environment is part of the third objective but the framework stresses that the three overarching objectives of sustainable development are interdependent and need to be pursued in mutually supportive ways.

4.12 This brings me back¹⁹ to the approach taken in the consideration of alternatives in the SEA, Environmental Report (ER). It does list, under paragraphs 5.8 and 5.14, a significant number of greenfield sites which were considered as part of the formulation of the wRLP and evaluated in the SEA produced for that plan. Only one of those sites, 28 The Fleet, was selected as a 'reasonable alternative' and included as 'option 2'. All of the others were discounted. It is stated in paragraph 5.12 of the ER that the combined housing development potential of the brownfield sites identified in Table 5.2 of the SEA, and allocated in the NP4B, as 'at a minimum' 849 dwellings²⁰. I will examine that figure under the next main issue. The capacity figure of 849 is stated to be 'slightly short' of the identified need for 2016 to 2028 of 957 dwellings.²¹ It is to be noted that reference is made in paragraph 5.10 to a site at Far Laund and that it would have the potential for 400 homes but that would 'exceed the housing needs figure established by the HNA.'

4.13 It is clear from this that the SEA work has been set in the context of a plan period extending only to 2028. It has not evaluated any possible additional alternatives which would be required to meet identified housing needs in the extended period to 2035. The underlying assumptions are valid only until 2028. It would be possible to require further SEA work to be undertaken to fully evaluate alternative options for development to 2035 but the SEA is only part of the evidence base for the plan.

4.14 In so far as the evidence in support of the plan was undertaken by the AVBC for local plan purposes, where it is time-related it only looks to 2028. It is only the Derbyshire County Council Study on Older People's Housing,

¹⁹ See paragraph 2.13 of this report

²⁰ Taken from AECOM Viability Assessment report, Tables 11 and 12.

²¹ 2016-2028; HNA paragraphs 163 and 164.

Accommodation and Support which extends to 2035. It supports some aspects of Policy NPP13 but that policy deals only with housing mix and type and is not specifically time-related.

4.15 It is stated in the PPG²² that proportionate, robust evidence should support the choices made and the approach taken (in the plan). Extending the plan period appears not to have resulted in additional evidence gathering other than that provided by AECOM on the HNA as discussed above. The evidence largely supports the policies until 2028 but cannot be relied upon in the same way thereafter. Furthermore, as I discuss below, the reliance placed upon the emerging local plan to identify any additional land required to meet the identified housing needs, over and above the sites included in the NP4B, will almost certainly require a review of the NP4B well before 2028. Where a NP policy is not time-related it would not 'lapse' at the end of the plan period but would continue in effect unless or until it is replaced by a subsequent LP or NP policy²³.

4.16 For all of the reasons given above I conclude on the first issue that there is insufficient evidence to support the plan period extending beyond 2028. For the plan to be adequately reflective of Government guidance in that respect the end date of the plan should be 2028 rather than 2035.

Recommendation 1.

Replace all references to the plan end date of 2035 to a revised end date of 2028, including in the full title of the plan; also update the figures in paragraph 94 to a 2019 base.

²² Reference ID: 41-040-20160211

²³ NPPF, paragraph 30

Key planning issue 2 - Whether the NP4B may be regarded as contributing to the achievement of sustainable development given the position with regard to the development of the identified brownfield sites; the need to consider conservation objectives for a World Heritage Site and the reliance placed up the role of the emerging Local Plan to make good any shortfall in housing provision.

Contribution to the achievement of sustainable development in terms of housing provision

4.21 Representations on the plan by developer interests are strongly critical of the approach taken in the NP4B to the provision of housing. That is because the plan, although identifying a need for housing through the HNA, places complete reliance on a new local plan for Amber Valley, which is not currently programmed for submission until April 2022²⁴, to make up any shortfall against need. That is argued to fail the basic conditions because the approach is not in line with Government policy or guidance and, by failing to meet housing need, would not contribute to the achievement of sustainable development.

4.22 As the BTC have stated, sites are not allocated to meet the HNA figure (see paragraph 4.08 above). Nevertheless, I have examined the estimated development capacity for those sites and asked for an update which has been provided in response to my question 5. In fact, housing figures are given in policy for only three of the sites: Ada Belfield; Milford Mill and North Derwent Street with a density figure for the eastern edge of the West Mill site. The figure for Milford Mill was based on an unimplemented planning permission with the landowners now saying it is not viable. Otherwise, if a figure is mentioned at all it is as an indication in the text only. Significant questions are raised in the AECOM viability study about the North and East Mills and Dalton Fuchs sites.

4.23 This assessment leads me to the conclusion that there remains a great deal of uncertainty about the scale of development which could be accommodated on the identified sites. The 849 capacity figure is almost certainly too high and there is no clear indication in the plan of the likely delivery timescale, although there is ongoing developer interest in a number of the sites. Some, most noticeably the North and East Mills, would seem unlikely to be delivered at all without significant grant aid. I cannot conclude with any certainty that even the 2019 based figure of

²⁴ AVBC resolution 29 January 2020; adoption indicated as March 2023.

622 dwellings for the 'unmet need' is likely to be met by 2028 even though the recent planning permissions ('windfalls') for 36 dwellings on Holbrook Road and 118 at Belper Lane (on appeal) will undoubtedly assist.

4.24 In essence, what the plan is doing is to signal that the priority, first and foremost, in line with community aspirations, is the redevelopment of the identified brownfield sites. There is no clear timescale involved. It is, perhaps, for that reason that a longer plan period was seen to be desirable but, as indicated above, that would emphasise the shortfall in housing provision against need.

4.25 In normal circumstances I would take the view that there are so many uncertainties regarding the delivery of the sites listed in Chapter 23 that they do not justify allocation as such, especially as several are allocated in the extant 2006 Local Plan and would remain so for the time being, subject to the more detailed policy criteria in the NP. However, for all of the reasons I have outlined, I do not regard the primary purpose of the suite of policies in Chapters 23 and 24 of the NP to be that of 'making provision for housing'. The policies set criteria for development, often for mixed uses, taking account of the particular characteristics of each site and constraints. For those sites included in Chapter 23 in particular, the criteria relate to conservation objectives for the Derwent Valley Mills World Heritage Site (DVMWHS) and its buffer zone, the Belper Conservation Area and listed buildings. Furthermore, parts of some of the sites are within higher risk flood zones from the River Derwent. Those factors warrant full policy treatment, most especially in the light of the Outstanding Universal Value (OUV) of the World Heritage Site and the 'highest significance' attached to the conservation and enhancement of that heritage asset²⁵. Thus, although housing needs may not be fully met the NP4B policies will provide clear guidance to developers of the preferred brownfield sites which is in line with paragraph 118c. of the NPPF. I consider that taken in the round the approach taken in this plan will contribute to the achievement of sustainable development.

4.26 I consider the position in this plan to be analogous to that covered by the PPG in paragraph 41-043, in the sense that the Qualifying Body is not in any way seeking to duplicate the work which will need to be undertaken by the LPA in planning to meet the housing needs of the Borough as a whole. However, such an approach leaves a gap in the development plan context for decision-making,

²⁵ NPPF, paragraph 184

especially for housing, which will remain until such time as the emerging Local Plan has been adopted, a gap of over 2 years. It has to be recognised that during that time a decision-maker will need to take account of paragraph 14 of the NPPF in so far as criterion b) will not have been met. In addition, the wording of criteria a) and b) in Part 2 of Policy NPP2 provides scope for the consideration of proposals adjoining the Built Framework Boundary.

Longer term strategic policy (the emerging Replacement Local Plan)

4.27 I consider it right that a decision on the overall scale of housing development which it is appropriate to accommodate in Belper should be taken at the strategic (local plan) level rather than through the neighbourhood plan in isolation. Even though this particular plan covers a relatively large geographical area and Belper is one of the large towns in Amber Valley Borough, its setting within the Derwent Valley Mills World Heritage Site is a factor which is of the highest order of significance in both plan-making and for decision-taking. Not only that but the work undertaken for the wRLP identified the need for a review of the green belt, including that around Belper. Although it has been established that neighbourhood plans may make adjustments to green belt boundaries, green belt by its nature is a strategic planning policy tool as made clear in paragraph 136 of the NPPF. To establish the exceptional circumstances necessary to justify changes to existing boundaries, or to create new areas of green belt, it is necessary to consider alternative strategies to accommodate growth. Such reviews tend to be controversial and there can be no certainty as to the outcome.

4.28 For these reasons the decision of the BTC not to seek to overlap with the role of the AVBC by looking to the allocation of green field sites is an understandable one. However, it is also necessary to ensure that other aspects of neighbourhood plan policy do not unreasonably constrain options for future development.

The identification of a 'Built Framework Boundary' (Map 2)

4.29 I have considered the concerns expressed in representations about the implications of the identification in Map 2 of a Built Framework Boundary and the policy implications of that set out in criterion 1(h), 2(a) and 2(b) in Policy NPP1. Map 2 is shown on page 25 of the plan at a very small scale although footnote 43 gives a link to an online version which can be enlarged on screen. Given the significance of the boundary for the plan user it is important that it should be clearly shown, including on the paper version. A replacement plan showing both

the parish boundary and the Built Framework Boundary in bolder colour, and thus easier to read, has been produced by the LPA²⁶ and should replace that on page 25 in the final version for clarity. Printing it as a folded A3 plan would assist.

4.30 The first part of Policy NPP1 is clearly intended as an over-arching policy to define the factors contributing to sustainable development. Criterion 1(h) gives effect to paragraph 99 in the plan text which I discuss below. The second part is more in the nature of a development plan policy. In essence, the first priority for meeting development needs is within the Built Framework Boundary and then (criterion 2(a)) adjoining it, subject to criterion b). On its face that criterion could restrict any development beyond the boundary and a reference to the areas of high or medium landscape sensitivity (Map 4) would clarify the intent. (See also paragraph 4.26 above).

4.31 In section 28 of the plan, paragraph 328, there is recognition that the NP will need to be reviewed no more than 5 years after it is 'made'. However, as the NP4B was prepared in general conformity with the AVLPL but was overtaken by the withdrawal of the wRPL there will be a need to consider the extent to which the plan remains in 'general conformity' with the eLP, once it has been adopted in 2023. In saying that, I assume that the NP4B will be 'made' before the adoption of the eLP.

4.32 I understand that the eLP is to have an end date of at least 2038. That accords with Government guidance that local plan should, as far as possible, provide for development up to 15 years from adoption. It will require a re-appraisal of the overall housing requirements for Amber Valley in line with the Government's latest standard housing need methodology. It is impossible at this point to know what the implications of that may be for Belper. It appears that the approach outlined in paragraph 99 and in Policy NPP1(h) is a means to provide flexibility so that a review of the NP is not triggered at that point.

4.33 Under current legislation there is no mechanism whereby a geographical boundary related to a neighbourhood plan policy can be amended through a local plan. In part that is because of the way the Local Plan Regulations are framed. Once the NP is 'made' any boundaries which illustrate the geographical extent to which a policy applies will need to be shown on the 'adopted policies map' held by the LPA. The map itself is not part of any development plan but has the status of a

²⁶ Copied to me by email 23.09.20

Local Development Document²⁷. The position would be as stated in paragraph 30 of the NPPF: a strategic local plan policy, such as the allocation of land adjoining the Belper Built Framework, would take precedence in the case of conflict; it would supersede the NP. There would be no need to amend the NP until it was subsequently reviewed, although the contradiction would suggest that it would be desirable sooner rather than later. Although, as the BTC point out in response to my question 8, the legislation provides for minor (non-material) amendments to be made to neighbourhood plan policies at any time I consider it unlikely that an amendment to a development boundary, especially if relating to a sizeable area of land, would come within that definition. Ultimately, what is 'non-material' would be a matter for interpretation on the facts of the case.

4.34 Although I appreciate the effort to provide flexibility I have to recommend deletion of the words in brackets in criterion 1(h) of Policy NPP1 because it is not procedurally correct. For the same reason I recommend amendments to the wording of the final sentence in paragraph 99 of the plan text to provide clarity, including deletion of the underlined words. The reference to 'Borough policies' can only mean in the eLP once adopted. In place of the underlined words there should be a summary of the procedures referenced in paragraph 30 of the NPPF whereby the local plan policy (allocation) would supersede that of the neighbourhood plan.

4.35 Other amendments to the wording of Policy NPP1, for clarity, are considered in paragraphs 4.37-45 below and in recommendation 5.

Recommendation 2

Delete the final sentence in paragraph 99 of the plan text and replace it by revised wording along the following lines:-

It is possible that additional sites will be allocated in the emerging replacement Amber Valley Local Plan to meet identified housing needs. Upon adoption of the replacement local plan the strategic policies within it will supersede those of the neighbourhood plan. If allocations for housing are made in the local plan outside the Built Framework Boundary as shown on Map 2 the boundary will be amended at a subsequent review of the NP4B to encompass the local plan land allocation(s).

²⁷ It is to be noted that the Neighbourhood Plan Regulations make no reference to the status of any maps included within neighbourhood plans. The only map required is one defining the 'neighbourhood area'.

Recommendation 3

Replace Map 2 by a revised map showing the boundaries more clearly (as a in Appendix B to this report).

Recommendation 4

In criterion 1(h) of Policy NPP1, delete the bracketed wording, and in criterion 2(b) delete the semi-colon and insert 'with high or medium landscape sensitivity as shown on Map 4'.

Key planning issue 3 - In general, the extent to which the wording of individual policies provides clarity for the purpose of decision-making on planning applications having regard to national planning policy and guidance, taking a positive approach to the achievement of sustainable development.

4.36 There is a wide range of sub-issues arising in terms of the implementation of individual policies in the plan. Some points are simply a matter of clarification of policy wording, to avoid any uncertainty or ambiguity in application²⁸. There are also examples of unnecessary duplication and overlap. Where a policy would be likely to have the effect of preventing future development it requires special scrutiny to ensure that there is adequate justification for taking a negative approach. I will consider these matters under each policy in turn.

Policy NPP1

(My questions 9 to 17 refer)

4.37 *Borough requirements.* It is not clear from the plan exactly what is meant by the term used in the third line of Part 1. BTC have clarified that it is a reference to the requirements of the 2006 AVLP. However, as explained elsewhere, not only is that plan now very much out-of-date, with any statistical provision only until 2011, but the NP4B is looking forward to 2028 (if recommendation 1 is accepted). I have also drawn attention to the fact that the words 'so long as' at the end of the introductory section in this policy are not always correct in context. The BTC have agreed that the third line should read 'currently identified development needs and by ensuring that:'. It is entirely in line with Government policy that the plan should meet identified needs.

²⁸ PPG Reference ID: 41-041-20140306

4.38 *Criteria 1b) and 1c)*. Representation has been made against the inclusion of the word 'safeguards' in criterion b), indeed questioning what that criterion achieves in view of the inclusion of criterion c). It appears that the two criteria are intended to be read together but whereas b) relates to both the DVMWHS and the (Belper) Conservation Area, criterion c) relates only to the DVMHS even though it is a paraphrase of paragraph 195 in the NPPF which relates to 'substantial harm to (or total loss of significance of) a designated heritage asset' when paragraph 194b) makes it clear that such harm or loss should be 'wholly exceptional'. As the BTC have acknowledged only 'less than substantial harm' (NPPF paragraph 196) might be contemplated in the WHS and then only if the harm to the significance of the heritage asset would outweigh any public benefits. It is not clear why the NP wording reverses that of paragraph 195. It does not add to national policy and could cause some confusion. That national policy applies equally to the Conservation Area, not just the WHS. I note what is said in the DVMWHS Management Plan about the 'tension' between the 'two tier' national policy and Article 6(3) of the World Heritage Convention and the concerns expressed by UNESCO about the potential cumulative effects of development of 'less than substantial harm' but, subject to the recommended adjustment in wording, the plan policy has regard for national policy as it stands. Any 'tension' is a matter for a decision-maker to resolve on the individual facts each case.

4.39 The word 'safeguard' does not appear in any national policy on development affecting the significance of heritage assets. I consider that it has unduly negative connotations and does not properly reflect national policy in paragraph 201 of the NPPF because, as it states, not all (existing) elements within either the WHS or the Conservation Area will necessarily contribute to its significance. Indeed, the wording of Aim01 in section 2.1 of the DVMWHS on Conservation and Planning uses the words 'Protect and Conserve'. Furthermore, the designation of Conservation Areas is to 'preserve or enhance' the character or appearance of such areas.²⁹ . Rather than 'safeguards' I recommend 'protects and conserves' for the WHS and 'preserves or enhances' for the Conservation Area.

4.40 *Criterion 1(d)*. In so far as Policy NPP1 is seen as an 'over-arching' policy to define what is necessary to achieve sustainable development it necessarily overlaps with other more detailed plan policies. I raised a question (14) about the inclusion of the reference to compensatory measures being made elsewhere because that could be interpreted as weakening the protection afforded to the areas mentioned.

²⁹ Planning(Listed Buildings and Conservation Areas) Act 1990, ss69, 71 and 72.

For sites of nature conservation significance, compensatory provision would be a 'last resort'³⁰. Although (public) open space, at least in terms of land area, could be replaced elsewhere it is not appropriate for designated Local Green Space.

4.41 Policy does not need to cover every possibility, certainly not something which is seen as a last resort. It would be a material consideration to set against policy. For the sake of clarity I recommend that the reference to compensatory measures be removed from this criterion.

4.42 *Criterion 2(c)*. This criterion refers to 'identified open spaces' but there is nothing in the plan as submitted to show where they are. This can be rectified by the inclusion of an additional map (to be Map 2A) now submitted at Appendix 8 to the BTC response to my question 15. The plan is attached in Appendix B.

4.43 *Part 3*. It is understood that the redevelopment of brownfield sites is seen as a priority objective for this plan. However, as currently phrased this part of the policy is no more than an informative. As made clear by the inclusion of the green 'flash' at the bottom of every page all of the policies of the plan have to be considered as a whole. To say that something is 'supported' is not, in itself, a statement of land-use policy. The whole paragraph should be removed from the 'policy box' and placed in the supporting text, perhaps as part of paragraph 102.

4.44 *Part 4*. An additional justification for the inclusion of this part of the policy has been given in the BTC response to my question 17. It is clearly Government policy to ensure that new development promotes the creation of a safe and healthy environment although the emphasis in Chapter 8 of the NPPF is on the design and layout of new development to promote healthy lifestyles, such as the provision of green infrastructure, sports and recreational facilities which is more likely to be achieved in larger developments. Air and noise pollution such as might occur from additional traffic generation is referenced in paragraph 170(e) in the NPPF and, in that sense, the particular concern about increasing air pollution on certain routes is something which would be more appropriately included in a Traffic Impact Assessment or Travel Plan.

4.45 An indication that certain types of information should be submitted with planning applications is an informative. It cannot be a policy requirement. The land-use policy is that any residential development of 100 dwellings or more should not cause unacceptable harm to the health of the population. To say 'negative impact' is too strict a requirement because it that may not be sufficient in its own

³⁰ NPPF Paragraph 175(a)

right to justify a refusal of planning permission. The term 'major development' is defined in the Glossary to the NPPF as, for housing, the development of 10 or more homes. To avoid confusion the word 'major' should be deleted. The remaining policy should be included under part 1 of Policy NPP1 as one of the criteria defining sustainable development. As recommended, all of those criteria follow the introductory words '... by ensuring that:'

Recommendation 5

Delete the third line of the introductory text to part 1 of Policy NPP1 and replace it by the words 'currently identified development needs and by ensuring that:'

Delete criterion 1(b) of Policy NPP1 and replace it by:-

'it protects and conserves the World Heritage Site; preserves or enhances the Conservation Area; and'

Delete criterion 1(c) of Policy NPP1 and replace it by:-

'any harm to Outstanding Universal Value of the DVMWHS is less than substantial and that harm is weighed against any public benefits of the proposal; and'

Delete the words 'without compensatory provision being made elsewhere' in the third line of criterion 1(d) of Policy NPP1

Remove part 3 from the policy box for Policy NPP1 and place it in the supporting text.

Delete part 4 of Policy NPP1. Place the reference to the submission of a Health Impact Assessment in the supporting text and move the remaining policy to become one of the criteria in part 1, amended to read as follows:-

'any residential development of 100 dwellings or more does not have a significant effect on population health.'

Insert an additional map (2A) in the plan to show the identified open spaces referenced in criterion 2(c).

Policy NPP2

(My questions 18 to 23 refer)

4.46 *Part 1*. There is an overlap between the second sentence of this part and part 2. The BTC have accepted that Part 1 should be amended to provide clarity.

4.47. *Part 2* requires the achievement of net biodiversity gain but, as the BTC acknowledge, although a 10% gain is proposed to be a statutory obligation in the draft Environment Bill that is not yet on the statute book. Government response to consultation suggests that it will not apply to householder developments and there may be other exemptions such as where a site is already covered by buildings. There is nothing in either the NPPF or PPG which requires net biodiversity gain. Paragraph 9 in the NPPF makes clear that the objectives for sustainable development in paragraph 8 are not criteria against which planning decisions can or should be judged. Paragraph 118(a) referring to net environmental gains is framed in terms of encouragement, not requirement. As things stand, I consider that the policy to require (my emphasis) is a step too far and does not have full regard to Government policy. Policies EN12-14 in the AVLP are phrased in terms of preventing harm. I recommend amended wording 'should, when appropriate' to provide flexibility for any future exemptions. The reference to local and national policy is misplaced and unnecessary.

4.48 There is then a reference to the Derbyshire Biodiversity Action Plan. I am sure that is a very authoritative document which may be included as a 'core document' but statutory development plan policy should not seek compliance with policies in another document which has not been subject to scrutiny or as a planning document. Rather than any mitigation or compensatory measures being 'targeted' to benefit the local conservation priorities in the Action Plan, the most that policy should do is to indicate that 'regard' should be had for that Plan. I agree that, for completeness and so that the plan user does not have to refer to another document to understand the intent of NP policy, relevant extracts from the Action Plan should be included as an appendix to the NP. The relevant extracts have now been submitted and are attached in Appendix B to this report.

4.49 I understand that *part 3* was introduced in response to representation by the Environment Agency. I am sure it is highly desirable to provide a passage for salmon to swim beyond the weir. The BTC have acknowledged that it can only apply to sites adjacent to the River Derwent in the vicinity of the weir, which would most likely mean the North Mill (NPP20) and possibly the West Mill (NPP24). As worded the policy states 'Development along the River Derwent should include the provision...' which suggests that the weir itself would be part of an application but

the weir is not shown as part of either site in the aerial photographs in the plan. The BTC state that a planning obligation could require provision but they have not addressed my question as to how that would satisfy the statutory tests for such an obligation as set out in paragraph 56 of the NPPF. I cannot envisage any circumstances under which an obligation would meet either test a) or b). There is, therefore, no means to implement such a policy through the planning system. It is a laudable aspiration but can be no more than that. It is already covered by paragraph 112 in the plan text.

4.50 The BTC have accepted that *part 4* is not a land-use planning policy. Following paragraph 115 in the plan text would be an appropriate place for it. The BTC have clarified that the reference to 'Town Centre sites' in *part 6* is to the town centre as defined on the AVL P Proposals Map Inset Q. For the benefit of doubt I suggest the inclusion of a footnote to that effect. The inclusion of the word 'the' before 'Town Centre' is in error.

4.51 The BTC have accepted that *part 7 and 8* overlap and duplicate the provisions of Policy NPP10 and should be deleted in the interests of clarity and to avoid any inconsistency.

Recommendation 6

Modify Policy NPP2 as follows:-

delete the second sentence in part 1;

delete the first sentence in part 2 and replace by 'Development (excepting householder development) should, when appropriate, achieve a net biodiversity gain. Amend the third sentence to read 'These measures should have regard to the local conservation priorities of the Lowland Derbyshire Biodiversity Action Plan as set out in Appendix (X) to this plan';

delete part 3 and expand on paragraph 112 in the plan text;

delete part 4 from policy and include it in the plan text;

provide a footnote to part 6 to state that 'the Town Centre' is defined on the Proposals Map to the AVL P, Inset Q and delete 'the' before 'Town Centre' in the last line;

delete parts 7 and 8.

Insert the relevant extracts from the Derbyshire Biodiversity Action Plan as an Appendix to the plan. (Appendix B to this report)

Policy NPP3

(My questions 24 to 26 refer)

4.52 The introductory wording to *part 1* of this policy is not ideally phrased in that it is a proposal (this is in a planning application) for development which will need to demonstrate compliance with the criteria. However, the intention is clear enough. To say that these factors are 'required' is too rigid an approach whereas 'should' provides some flexibility to allow for variations where it is not possible to meet the criteria fully. The point was accepted by the BTC after the Regulation 14 consultation but appears not to have been followed for this policy, perhaps in error. The change needs to be made for clarity and to be consistent with the wording of linked policies NPP4 to 9.

4.53 *Criterion 1(a)*. As the title of the policy indicates, this policy is primarily about landscape, not about protecting heritage assets as such. It is Policy NPP11 which fulfils that role. Not all of the parish lies within the WHS itself or the buffer zone although only relatively small area to the north-east and south-east lie outside it (as shown on Map 7). Nevertheless, in view of the importance of the historic landscape around Belper as emphasised in the Statement of Outstanding Universal Value (SOUV)³¹ for the DVMWHS, there clearly is a strong relationship which it would be difficult to separate.

4.54 Simply to state that development should not represent a harmful intrusion in the landscape, without some form of qualification, does not provide the necessary balance with accommodating necessary development. It is unduly negative. I recommend that the word 'unacceptably' should be inserted before the word 'harmful' because that would enable a decision-maker to assess whether the degree of harm in any particular case would be such as to outweigh the presumption in favour of sustainable development. Within the DVMWHS itself and the buffer zone the factors discussed in paragraph 4.38 would come into play. It seems to me that this should be subject to a separate sentence within criterion a) to stress the need for the decision-maker to have particular regard to the SOUV and the effect of the development on the landscape characteristics which are of significance to the DVMWHS. It would need to be read with revised Policy NPP1.1(c).

³¹ Paragraph 2.1 in the DVMWHS Management Plan 2014-19 and paragraph 1.2.1 in the draft 2020 plan.

4.55 The BTC have accepted, in response to my question 26, that *part 2* of Policy NPP3 is not clear and that the wording used in Policy NPP12(3) is preferable, including the reference to views out into the countryside. I recommend accordingly. With such amendment, the same policy need not appear twice in the plan.

4.56 *Part 8*. Although no specific representation has been made on the wording in this criterion it is very similarly worded to that used in the first criterion under Policy NPP9 which I consider in paragraph 4.58 below. I recommend that the word 'maintained' be replaced by 'conserved' in this policy criterion for consistency.

Recommendation 7

Insert the word 'unacceptably' before 'harmful' in the first line of criterion 1a) in Policy NPP3 and place a full stop after '... landscape setting'; delete the second and third lines and replace by the following:-

Within the Derwent Valley Mills World Heritage Site or in its buffer zone, particular regard has been paid to the Statement of Outstanding Universal Value and the effect any development may have on those landscape characteristics which are of significance to the status of the area as a World Heritage Site.

Delete part 2 of Policy NPP3 and replace it by the following:-

Development on the edge of the Built Framework should present a soft boundary to the open countryside (native hedges, low fences and native trees) to minimise the impact of development on the open countryside and to retain views out to the surrounding countryside.

In the first line of criterion 8 replace the word 'maintained' by 'conserved'.

Policy NPP5

(My questions 27 and 28 refer)

4.57 Only minor adjustments to the wording of this policy are needed for clarity. Firstly, the BTC state that the title should refer to 'Belper Town Centre, Mills and Riverside' because that is the full title of LCA 02). That may be corrected as an error. Secondly, in criterion 1(a) there is reference to the Town Centre boundary 'as defined in Borough policies'. I consider that to be too vague because not all Borough policies are set out in the development plan. To provide future flexibility, rather than specifically referring to the boundary as shown on the AVLP Proposals Map, Inset Q (although that could be stated in the text) I recommend stating 'as defined in the local plan'.

Recommendation 8.

Amend the title of Policy NPP5 to 'Protecting the Landscape Character of Belper Town Centre, Mills and Riverside' and in criterion 1(a) replace the words 'Borough policies' by 'the Local Plan'.

Policy NPP9

(My question 29)

4.58 As explained in detail by the BTC in response to my question, the justification for identifying the whole area of LCA 06 stems largely from the Secretary of State's decision on the Bullsmoor appeal. Gladman's are correct in principle to state that those comments can only be taken to refer to the particular site then under consideration and not necessarily to the whole of LCA 06. Nevertheless, the character assessment has been undertaken on a systematic basis and, by definition, identifies similar characteristics for the whole landscape tract. It is not unreasonable in the circumstances to identify it as a 'valued landscape' even though the appeal site is within an area also identified as of 'medium landscape sensitivity', as is the area further south to Sandbed Lane. Much of the remainder of LCA06 is of high sensitivity. It is clearly of significance within the buffer zone of the DVMWHS. On my site visit I found it difficult to distinguish in landscape terms between the land which had been subject to the appeal from the land to the south-east of it. I note the view expressed by the BTC that it is not possible in this area for a development to make 'a positive contribution to the OUV of the DVMWHS' but,

if that were the case, the policy would effectively circumvent the duty of the local planning authority to consider all applications on their individual merit. It must remain for an applicant to seek to demonstrate how the development could meet the policy requirements. The wording does not prevent that.

4.59 The other issue raised is with the requirement that the historic field pattern should be maintained. The same applies to criterion 8 in Policy NPP3. The field pattern is mentioned by the Inspector in the Bullsmoor appeal³² as an important 'cultural' feature related to the Enclosure Acts at about the same time as the mills were being developed. However, to state that something should be 'maintained' does suggest a block on all forms of development, which is unduly restrictive. It is also not the right word to use because maintenance is a building operation. As I have indicated elsewhere the word 'conserve' has more positive connotations in that it could allow for a degree of change without detracting from the fundamental significance of this historical feature.

Recommendation 9

In part 1 of Policy NPP9, first line, replace the word 'maintain' by 'conserve'.

Policy NPP10

(My questions 30 and 31 refer)

4.60 I have drawn attention to two minor errors in the body of the policy which the BTC agree should be corrected. I recommend accordingly. Otherwise, this is an important policy given the position of the allocated sites close to the River Derwent and their relationship to high risk flood zones. In response to my question 30 the BTC have provided copies of correspondence with the Environment Agency on the need for sequential and exception testing in accordance with paragraphs 157 to 161 of the NPPF. The Environment Agency confirmed³³, that sequential testing was not required for sites allocated in the AVLPP but would be for any new sites not otherwise subject to sequential testing through the local plan process. Of those, both Belper Library and Babington Hospital Sites include areas with high risk flood

³² Planning Inspectorate reference APP/M1005/W/17/3183493

³³ Letter 9 May 2019

zones. However, it is made clear in policy NPP25 that no development other than for change of use would be permitted on the hospital site; policy NPP26 provides for a sequential test for redevelopment. On that basis I am satisfied that policy NPP10 taken with the site-specific policies would provide adequate safeguards against any risk at times of river flood.

Recommendation 10

Correct the following errors in the wording of Policy NPP10:-

In the first line following criterion 1(c) delete the word 'they' after 'three' and in the first line of criterion 1(e) insert the word 'or' between 'rate' and 'reduce'.

Text in Chapter 15, including Table 6

(My questions 32 to 38)

4.61 *Paragraph 147.* The BTC have confirmed that the reference to Policy EN29 is to the 2006 Local Plan (the AVLP). However, boundaries of both the DVMWHS and its buffer zone were 'inscribed' by UNESCO in 2001. They are not designated through the local plan process. Indeed, I note from the draft 2020 Management Plan for the WHS that boundary changes are to be recommended to UNESCO. It is would be more accurate to state simply that the current extent of the buffer zone and DVMWHS is shown on Map 7 (of the NP4B).

Recommendation 11

Amend the first sentence in paragraph 147 to read:-

The current extent of DVMWHS and the buffer zone is shown on Map 7.

4.62 *Paragraph 157 and Table 6.* As stated in paragraph 157 the non-designated heritage assets listed in Table 6 have been identified in 'the Derwentwise study'. The BTC have furnished me with more information about that study in their response to my question 33 which satisfies me that this was a systematic survey and that the 11 properties identified are thus justified by 'proportionate, robust evidence'. This includes, at No. 5, Whitehouse Farm, which was subject to

representation but since then, an Inspector has commented in the recent 'Belper Lane' appeal case that it warrants treatment as a non-designated heritage asset³⁴.

4.63 The AVBC have made representation against the statement in criterion 2 of policy NPP1 which states that the buildings listed in Table 6 are non-designated heritage assets. They say that it is for the LPA to include such buildings on a 'local list' and refer to guidance from Historic England in support of that stance. They ask that Table 6 be placed in an appendix to the plan as representing a 'community aspiration'. Only the heading to Table 6 has been amended to refer to the buildings as being 'nominated' as non-designated heritage assets. The policy wording has not been amended.

4.64 It transpires that the AVBC have not yet prepared a 'local list'. I note that the 'Belper Lane' Inspector, in IR163, comments on this drawing attention to the fact that, although the definition of a 'non-designated heritage asset' refers to a local list prepared by the LPA, it is not a requirement. It is a process preferred by Historic England. Indeed the PPG, in paragraph 18a-040 contains the following sentence:-

It is important that all non-designated heritage assets are clearly identified as such. In this context, it can be helpful if local planning authorities keep a local list of non-designated heritage assets, incorporating any such assets which are identified by neighbourhood planning bodies.

That is a clear statement. It is open to neighbourhood planning bodies to identify non-designated assets. That is what has been done here. There is no need for them to be on a 'local list' prepared by the LPA. On that basis, I do not consider that the plan fails to meet any basic condition in the way non-designated assets have been identified and listed in Table 6.

4.65 In *paragraph 158* there is reference to 9 buildings having being identified 'that erode the historic character of the town' but no further information has been given on which buildings they are. The BTC explain that the buildings were identified in the Derwentwise study and had been listed in an earlier draft of the plan but they would now prefer not to identify them. They put forward an amended text. In the circumstances I regard it as an error and recommend revised wording as a correction.

³⁴ Planning Inspectorate appeal ref. APP/M1005/W/17/3188009. IR163.

Recommendation 12

Delete paragraph 158 and replace it by the following text:-

Within the Town Centre there are buildings that erode the historic character of the town centre. The NP4B supports the sensitive renovation of buildings and shop fronts to enhance the historic character of the town and will seek grant funding where possible to assist in sensitive renovation.

Policy NPP11

(My questions 39 to 42 refer)

4.66 *Criterion 2.* In view of my conclusion on the status of Table 6 the first sentence is not incorrect. However, the second sentence does not have full regard to paragraph 197 of the NPPF which does not refer to weighing harm with 'benefit'; it is with the significance of the asset. The alternative wording suggested by the BTC would still not be sufficiently precise. Rather than delete the policy, to avoid any ambiguity, the wording should be as in paragraph 197.

4.67 *Criterion 3.* Although there is currently no local list I accept that there could be one in the future.

4.68 *Criterion 4.* The BTC have accepted that this criterion duplicates Policy NPP5(2) and might be deleted in the interests of clarity.

4.69 *Criterion 5.* National policy clearly distinguishes between the approach which should be taken in the consideration of applications for development which would cause substantial harm to the DVMWHS which should be 'wholly exceptional'. The weighing of public benefit against harm is only appropriate for development that is less than substantial within the WHS. It is clearly the intention to apply national policy within the DVMWHS, the buffer zone and the Belper Conservation Area and its setting. I consider that any variation on the precise form of words would be likely to cause difficulties in implementation. Exceptionally, therefore, to avoid any doubt the 'policy' should simply be that national policy applies. There is no need to specifically mention the buffer zone or the setting of the conservation area because the planning consideration for development in those areas is the effect it would have on the heritage asset itself.

Recommendation 13

**Delete the third line in criteria 2 of Policy NPP11 and replace it by:-
having regard to the scale of any harm or loss and the significance of the
heritage asset.**

Delete criterion 4 in Policy NPP11.

Delete criterion 5 in Policy NPP11 and replace it by the following:-

**Proposals which would harm the Outstanding Universal Value of the World
Heritage Site or the character or appearance of the Belper Conservation
Area should be considered in the terms of national policy for development
in such areas as currently set out in paragraphs 193 to 195 in the National
Planning Policy Framework.**

Policy NPP12

(My questions 43 and 44 refer)

4.70 In response to my question 26 on Policy NPP3 (see paragraph 4.55 above) the BTC have agreed that *part 3* of this policy should be deleted to avoid overlap and duplication.

4.71 *Part 6.* As drafted this policy does not clearly relate to development requiring planning permission. 'Retrofit' may involve internal works which do not require such permission although may need listed building consent in certain circumstances. It seems that footnote 77 is intended to cover that. For clarity, the words 'involving development' need to be inserted in the first line.

4.72 *Part 7.* This is an informative not a land-use policy. The BTC have accepted that it be deleted from the policy box and placed in the text in association with paragraphs 175-177. Paragraph 175 will need amendment to clarify that the plan cannot require use of BfL12.

Recommendation 14

Modify Policy NPP12 by:-

the deletion of part 3;

the insertion of the words 'involving development' after the words 'properties/assets' in the first line of part 6;

the deletion of part 7 from the policy box.

Expand paragraphs 175 to 177 in the plan text making clear that the use of BfL12 is encouraged rather than required.

Policy NPP13

(My questions 45 to 49 refer)

4.73. Although the analysis in Table 7 of the house types most closely matching current need derived from the SHMA and the HNA any such study is inevitably a snapshot in time and is already 3 years old. Also, as the BTC have acknowledged, should additional allocations be made through the local plan, it might be expected that any new housing would be meeting a wider need within the HMA not exclusively to meet local need. *Criterion 1* therefore needs to be more flexibly worded so as not to unduly constrain housing delivery contrary to Government policy. That can be achieved by substituting 'should' for 'is required to' in the first line. The cross-reference to Table 7 in policy is unnecessary because it clearly represents need as derived from the most recent HNA but, to maintain credibility, the HNA will need to be kept up to date. I recommend, therefore, that the policy refer to an up-to-date Housing Needs Assessment, rather than the most recent. *Criterion 2* is an important provision in that regard because it will allow up to date evidence of need specifically in relevant to a development proposal to be put to the local planning authority.

4.74 *Criterion 3* in Policy NPP13, as stated in paragraphs 191 and 192, is expressed in terms of 'encouraging' compliance with the lifetime homes standards for new housing. On that basis it would not provide a clear indication to a decision-maker how it should be applied in the consideration of a planning application. Also,

it is made clear in the PPG³⁵ that there would need to be robust evidence to justify applying such standards, primarily by the LPA for local plans. Consequently, the inclusion of this criterion has not paid sufficient regard to Government policy or guidance and does not meet the relevant basic condition in that respect. It should be deleted from policy with paragraph 192 expanded to indicate 'encouragement'. The BTC have accepted that in the light of the Written Ministerial Statement of March 2015, desirable though it may be, lift access to upper floors cannot be secured through planning policy. Therefore, *criterion 4* will also have to be deleted.

4.75 In response to my question 49, the BTC have not provided evidence of the need for level access accommodation on developments within a 5 minute walk of the town centre staging only that 'it is considered appropriate'. It is based on the ease of access to town centre services. The BTC have said that *criterion 5* only requires 'some' level access without a specific quantity. In that case, I consider the policy as worded to be somewhat ambiguous in that it could be interpreted as requiring all dwellings within a 5 minute walk of the centre to have level access. I recommend rewording.

Recommendation 15

In the first line of the first criterion in Policy NPP13 delete the words 'is required to' and substitute the word 'should'; in the second line replace the word 'recent' by 'up-to-date' and delete the third line.

Delete the third and fourth criteria in Policy NPP13.

Modify the fifth criterion in Policy NPP13 by deleting all after 'heritage assets,' and inserting 'proposals for the residential development of sites within a 5 minute walk of the town centre should include provision for some of the dwellings to include level access accommodation (which may include bungalows).'

³⁵ Ref. ID 56-007-20150327

Policy NPP14

(My questions 50 to 54 refer)

4.76 *Map 9* showing the four proposed Local Green Spaces is at a small scale. Although areas 3 and 4 are large enough for them to be seen on the map and area 2 is identifiable, area 1 at only 0.03 ha. Is far too small at this scale. The map needs to be clear enough for site boundaries to be interpreted correctly by decision-makers. To that end I commend the inclusion of the larger scale plans now provided by the BTC as Maps 9a. to 9d. to replace Map 9.

4.77 I am satisfied that the areas chosen meet the tests in paragraph 100 of the NPPF. At 13.6 hectares, area 3 is rather a large area of land but is well contained and not an 'extensive tract'. Furthermore, the proximity of the area to the river and the town together with the historical association with the Strutt family, given the location within the WHS, provides a special justification for the area to be designated as Local Green Space.

4.78 The first part of Policy NPP14 may 'designate' the areas shown on Map 9 as LGS but is not policy as such. The policy to be applied is contained in parts 2 and 3. As an introduction, part 1 should link to the other parts. I recommend revised wording to achieve that. In paragraph 101 of the NPPF it is stated that development management policy for Local Green Space should be consistent with that for Green Belts. In that respect, the first sentence in *part 2* is an approximate definition of what would be 'inappropriate development'. The requirement to demonstrate very special circumstances only applies to inappropriate development. Rather than expressing enhancement as an exception that is better expressed as 'not inappropriate' in so far as development is involved. *Part 3* of the policy, in so far as it refers to recreation, overlaps with part 1. As worded in the submitted plan the reference to 'opportunities for public access' being encouraged is in the nature of an aspiration, more appropriately included in the supporting text. Development which may improve public access to the LGS would likely be located beyond, perhaps adjacent to, the LGS and therefore not covered by this policy.

Recommendation 16

Replace map 9 by maps 9a. to 9d. Showing each of the four Local Green Space areas at a larger scale.

Delete Policy NPP14 and replace it by the following policy:-

The following areas, shown on maps 9a. to 9d. are designated as Local Green Space:-

- A. The Butts, Belper**
- B. Beechwood Close, Belper**
- C. Belper Meadows**
- D. Foundry Lane, Milford**

Within these areas development which would have an adverse effect on their openness or special character would be inappropriate and will not be permitted except in very special circumstances. Development which would enhance the beauty, recreational value, tranquillity and/or richness of wildlife would not be inappropriate.

Move the reference to encouraging public access from part 3 of the policy to the supporting text.

Policy NPP15

(My questions 55 to 58 refer)

4.79 As the AVBC have commented, the first part of this policy which is looking to balance the development of renewable resources with the protection of heritage assets, is far from clearly worded. *Part 1* reads as a statement of intent and the first paragraph in *part 2*, in referring to possible substantial harm to the OUV of the WHS, appears not to have regard to paragraph 194b. of the NPPF that such development should be 'wholly exceptional'. The BTC have put forward revised wording for parts 1 and 2(a) removing the apparent conflict with Government policy. It is simple and would provide for ease of application through the development management process, hence meeting the basic conditions. However, it also needs to function as an introductory text to criteria b) to d) in part 2. I recommend accordingly.

4.80 *Part 3* commences with an advisory on details to be submitted with development proposals, which is not land use policy. Otherwise minor wording adjustments are required to ensure clarity of meaning. It needs to be clear that *part 4* of the policy can only apply when planning permission is required for refurbishment works.

Recommendation 17

Delete part 1 and the introductory paragraph and criterion a) in part 2 of Policy NPP15 and replace by the following:-

Development of individual and community scale proposals that use renewable and low carbon energy resources will be supported where the scheme:-

a) has demonstrated compliance with national policy in weighing the benefit in reducing carbon emissions against the impact on heritage assets; and

Delete the first first line of part 3 to Policy NPP15 and the second line to ‘... ancillary buildings’ and move to supporting text. Reword policy to commence: ‘Transmission lines ...open countryside. Measures should be included...’

In part 4, last two lines, after ‘significant refurbishment’ amend to read ‘of an existing building requiring planning permission.’

Policy NPP16

(My questions 59 to 62 refer)

4.81 It is not at all clear how many of the provisions of this policy are intended to be implemented. The BTC have acknowledged that it is largely aspirational. It also appears to have been drawn up largely with the allocated brownfield sites in mind. Where footpath or cycle links can be provided through or directly from a development site it is highly desirable that such links should be provided and are reasonably secured through planning policy. However, where the necessary links are off-site they might only be secured through a planning obligation if the statutory tests in paragraph 56 of the NPPF are met. For these reasons, *part 1* of the policy has to be qualified by ‘where feasible’.

4.82 *Part 2* of the policy is not worded as a planning policy. There are legal processes under the Highways Acts for objection to the loss of public rights of way and making footpaths suitable for cyclists is entirely a matter for the Highway Authority. Revised wording suggested by the BTC is related to development and is recommended. *Parts 3 and 4* also require qualification in that, as currently worded, they would not easily relate to development which is neither close to the town centre nor the riverside. *Part 5* is entirely aspirational and not related to any development proposal. It appears that it may involve the creation of a right of way which is not a planning matter. The background is adequately explained in plan paragraphs 240 and 241.

Recommendation 18

Insert the words 'Where feasible,' before 'development' in the first line of Policy NPP16 and at the start of parts 3 and 4 of the policy;

Delete Part 2 of Policy NPP16 and replace it by the following revised policy:-

The layout of development should minimise the loss of cycleway and footpaths and, where possible, include provision to extend footpaths and cycleway.

Delete Part 5 of Policy NPP16.

Policy NPP17

(My questions 63 and 64 refer)

4.83 The NPPF at both paragraphs 105 and 110 makes reference to the future provision of charging points for low emission vehicles. The inclusion of a policy to require the provision of charging points is consistent with the climate change agenda. However, as worded the policy appears to relate more to the capacity of the electrical distribution system itself rather than to the physical infrastructure such as charging points. The latter may be something which can be influenced through the consideration of a planning application but otherwise is permitted development. I recommend a simpler form of words to avoid duplication and dealing only with aspects which come within planning control. The BTC acknowledge that part 4 in Policy NPP17 is misplaced and more appropriately

included in the plan text although I note the element of support from Network Rail. *Part 5* need not be affected, suitably reworded.

Recommendation 19

Delete parts 1 to 3 of Policy NPP17 and replace by the following policy:-

New development for housing, employment, retail or community uses should include sufficient electrical infrastructure to meet anticipated future needs including either off-road charging points or publicly accessible charging facilities for ultra-low emission vehicles and e-bikes.

Delete part 4 and move to supporting text.

Policy NPP18

(My question 65 refers)

4.84 I consider that this policy, as submitted, could be interpreted to be saying that any development proposal, for whatever purpose, will be 'encouraged' as long as there is some enhancement to the 'tourist offer' which could be only in the provision of a tourist sign board. The basis of my question was that this does not provide the necessary clarity for a decision to be made in confidence. It is somewhat ambiguous³⁶ Changing 'encouraged' to 'supported' would be a marginal clarification in that the action relates to the consideration of a planning application. It needs to be made explicit in the wording that the new build or change of use of an existing building, which term includes 'conversion', is for a tourism related use. Otherwise, this is an example of a policy which must be interpreted in conjunction with others in the plan, as emphasised by the 'green flash' at the foot of the page.

³⁶ PPG Ref. ID 41-041-20140306

Recommendation 20

Modify Policy NPP18 by deletion of the comma after 'new build' and insertion of the words 'or the' before 'change of use'; deletion of the words 'or conversion' and insertion of 'of existing buildings for a tourism related use'; delete 'encouraged' and substitute 'supported'.

Paragraph 256 – Error

4.85 The BTC have confirmed that paragraph 256 is misplaced. It deals with electric vehicle charging points and should appear after paragraph 245 before Policy NPP17. As I am able to recommend the correction of errors I do so in this instance.

Recommendation 21

Move paragraph 256 to follow paragraph 245 in the plan text.

Policy NPP19

(My questions 66 and 67 refer)

4.86 Map 10 on page 79 shows the car parking provision in Belper by category. It is referenced in Policy NPP19 which states that the loss of car parks shown on that map 'will only be supported where an alternative car park is provided'. In practice that means that planning permission for redevelopment of the land currently used as a car park should not be granted unless alternative provision is made. If the landowner does not have alternative land within their ownership or control the policy as worded in the submitted plan would have the effect of preventing otherwise effective use of the land. It could sterilise it. That would be contrary to Government policy and guidance; nor would it contribute to sustainable development.

4.87 Paragraph 251 in the plan refers specifically to an 'unofficial' car park on North Derwent Street and states that 150 spaces 'will not be available once development commences.' I observed on my visit that the land had been fenced off. It is not marked with a red arrow on Map 10 but a revised plan has now been produced which shows it as the red area at the far western end of North Derwent Street. Red denotes that it is owned by the BTC. Paragraph 251 also refers to land adjacent to the Ada Belfield Care Home which is also to be lost when the land is

developed. That site is yellow on Map 10 denoting that it is owned by the AVBC. Presumably both of those car parks are 'temporary' as mentioned in paragraph 252.

4.88 As the temporary car parks are shown on Map 10 Policy NPP19 applies to them, but if the use of land for car parking is only pending redevelopment that suggests that permission has already been granted for redevelopment. In response to my question 67 the BTC have suggested inserting the word 'designated' before 'car parks' in the policy to indicate that it relates to the permanent car parks.

4.89 I consider that the policy can only meet the basic conditions if it does not unreasonably prevent the effective and efficient use of land. Rather than amend the policy as suggested, Map 10 should only show the permanent car parks, that is those to which the policy relates. Accordingly, I recommend amendments to the map.

Recommendation 22

Amend Map 10 by the deletion of the areas of land used for car parking only on a temporary basis.

Paragraph 268. Error. My question 68 refers.

4.90 Paragraph 268 lists those sites which are allocated in the AVLP for mixed uses. The BTC have accepted that for completeness the list should include Milford Mills although Map 11 does not cover Milford.

Recommendation 23

Add Milford Mills to the list of sites allocated in the AVLP, Policy ER1(d).

Paragraph 279. Clarification. My question 69 refers.

4.91 It is stated in this paragraph that the need to safeguard the future of the North and East Mills 'justifies a departure from AVBC Policy' without it being clear which policy is being referred to. It is AVLP Policy ER1(d). I recommend amended wording to make the meaning of this paragraph clear.

Recommendation 24

At the end of paragraph 279 replace the words 'AVBC Policy' by 'adopted local plan policy ER1(d)' and add 'To that end Policy NPP20 allows for residential use of the Mills in whole or in part.'

Policy NPP20

(My questions 71 to 74 refer)

4.92 It has to be acknowledged that the deliverability of the redevelopment scheme for this site will very much depend upon the availability of grant aid. Yet, the north and east mills are such iconic buildings of crucial significance on the approach to Belper across the river from the north that an aspirational policy is fully justified in the context of the World Heritage Site.

4.93 Given the priority to achieve a positive re-use for the historic buildings, care is needed to ensure that certain wider aspirations do not impose unreasonable costs which could further undermine viability and deliverability of the scheme. In that respect the achievement of a more direct pedestrian link from the River Gardens through the site and across that of the west mill (Policy NPP24) to Meadows Edge is an understandable, indeed desirable, ambition but it would be unlikely to meet the tests for either a planning condition or an obligation. It should not, therefore, be included as a policy requirement as it is in Part 1 of Policy NPP20 on a par, for example, with criteria 1(a) to 1(c). For that reason, I recommend that *Criterion 1(f)* be removed from the policy and included in the text as an aspiration, perhaps as an addition to paragraph 280.

4.94 As currently worded *Part 3* of the policy might reasonably be interpreted by a decision-maker to mean that if the existing use of part of the North Mill building as a museum is not 'maintained' ('retained' is a more appropriate word) then the conversion of the remainder of the building for commercial, residential and/or leisure uses should not be permitted. Given the significance of the North Mill building as discussed above that does not appear to be an appropriate balance. The BTC suggestion in response to my question 75 to add 'where possible' suggests that the retention of the museum is desirable rather than a determinant. To clarify the policy meaning I recommend combining the indication of the desired uses with part 2 leaving the reference to the museum use as a free-standing policy objective.

4.95 *Part 6*. In my question 71 I comment on the fact that a similar policy requirement is included in policies NPP21, 22, 23 and 24. There appears to be no site-specific justification for its inclusion. The requirement for a submission of a Design and Access Statement is a statutory one and that would need to provide the necessary information for the Local Planning Authority to decide whether the proposed access arrangements were 'satisfactory' in the circumstances of the case. Safety is clearly an important consideration and the primary concern of the

Derbyshire County Council acting as the Local Highway Authority but the LPA may need to take a balanced approach taking account of heritage considerations for example. A Transport Assessment or Statement would only be justified if there was reason to believe that traffic generation would give rise to problems within the wider highway network requiring mitigation measures.³⁷

4.96 As this paragraph is an advisory which is repeated elsewhere I recommend that it be excluded from the policy box in all of the policies in which it appears and included within the accompanying text. I include below a single recommendation to cover all of the relevant policies. Reference should be made to NPPF 108(b) which requires the provision of a safe and suitable access for all users.

Recommendation 25

Delete criterion 1(f) in Policy NPP20 and include it as an aspiration in the supporting text;

In part 2 of Policy NPP20, after ‘... solely residential use’ insert ‘and for the conversion of the North Mill for commercial, residential and/or leisure uses’ before ‘will be supported’;

Delete part 3 of Policy NPP20 and substitute ‘The use of part of the North Mill building as a museum should be retained if possible.’

Recommendation 26

Delete the following parts of the relevant policies:-

Policy NPP20, part 6;

Policy NPP21, part 8;

Policy NPP22, part 6;

Policy NPP23, part 5;

Policy NPP24, part 11;

Policy NPP25, part 7;

Policy NPP26, part 7;

Policy NPP27, part 3.

and include the advisory references in the supporting text.

³⁷ NPPF Paragraph 111

Policy NPP21

(My questions 75 to 80 refer)

4.97 The BTC have accepted that there is an error in that the reference at footnote 97 should be to paragraph 6.9 in the AECOM Viability Assessment and also, more significantly, a reference should be included in *criterion 1(b)* for the scheme to include ancillary ground floor commercial/units. The first part of the policy refers to up to 154 dwellings.

4.98 As worded, *part 4* of this policy fails to reflect national policy that substantial harm to the OUV of the DVMWHS should be wholly exceptional. The BTC agree that for consistency the wording of criterion 1(b) in Policy NPP20 should be used.

4.99 The wording of *Part 7* to a large extent reflects the objectives of the Supplementary Planning Guidance (SPG) produced in 2012 in line with Policy ER1(c) of the AVLP. However, since then the Aldi supermarket development to the south has been completed as has recent development on the south side of Derwent Street. A general difficulty arises with policies which require off-site improvements, such as for pedestrian links, which cannot be secured by a developer. If such improvements are necessary to enable a development to take place; directly related to a development, a policy requirement might have the effect of preventing otherwise desirable development. In this policy there is no evidence that any amendment to the junction of Derwent Street with Bridge Street can be achieved. Visibility at that junction is restricted by existing buildings, within the conservation area. That reference should be deleted for the reasons given. Similarly, in *part 5*, although the site abuts Meadows Edge (as does West Mill) the creation of a link between the two would not only be off-site but relates to a wider community aspiration rather than being a pre-requisite of development of the site. Pedestrian access to the Meadows exists from the west end of Derwent Street. Any reference to the provision of additional links should be included in the text, not as policy.

Recommendation 27

Amend footnote 97, page 88, to read 'Para 6.9 Belper NP Viability Study'

In part 1 of Policy NPP21, amend criterion 1(b) by the addition, after '50 dph, the words 'plus ancillary ground floor commercial units';

Delete part 4 of Policy NPP21 and replace it by the following:-

any harm caused by the proposed development to the setting of the World Heritage Site would be less than substantial and would be outweighed by a wider public benefit.

In part 7 of Policy NPP21 delete the words 'via amendments to the A6 junction';

Delete part 9 of Policy NPP21.

Policy NPP22

(My questions 81 and 82 refer)

4.100 By way of update the BTC confirm that *part 2* of this policy may be deleted as the Education Authority no longer requires land on this site. That may be treated as an error. As *part 7* is worded it relates to the provision of a cycleway along the Derwent Valley. However, there is no evidence on the status of such a cycleway. It appears to be in the nature of an aspiration rather than a definite proposal. Access from the site to a cycleway would be reasonable only if there was a definite likelihood of such provision during the plan period. The Design and Access Statement should cover the provision of cycle access to the site. Part 7 should be deleted from policy but may warrant a textual reference.

Recommendation 28

Delete parts 2 and 7 of Policy NPP22.

Policy NPP23

(My question 83 refers)

4.101 *Criterion 1(b)*. The same considerations apply as for Policy NPP21. See paragraph 4.98 above.

Recommendation 29

Delete criterion 1(b) in Policy NPP23 and replace it by the following:-

any harm caused by the proposed development to the setting of the World Heritage Site would be less than substantial and would be outweighed by a wider public benefit; and

Policy NPP24

(My questions 84 to 87 refer)

4.102 As the existing car park for the West Mill is ancillary to the mill any use of that area for public car parking would be likely to constitute a change of use requiring planning permission. As part of the site is within the Green Belt it would be necessary to consider any proposals against national green belt policy. As it stands *part 2* of this policy has not clearly had regard to the national policy. To avoid any ambiguity the BTC have agreed that the wording should refer to the appropriateness of any development. The policy will also need to make allowance for 'very special circumstances'. In respect of the town council's desire to see the provision of public car parking on its site, the range of uses proposed would create a need for parking in their own right. It is not clear, therefore, what potential there might be for additional parking for general public use. *Part 6* is not a policy requirement in its own right; more in the nature of an advisory. However, it does relate to the use of land and goes as far as it reasonably might in the circumstances.

4.103 The wording of *criterion a) in part 3* of the policy is confused and unclear. The BTC have suggested an alternative which I recommend. By way of comment, I note that part 5 looks to the creation of pedestrian and cycle links to Meadows Edge. That would complement the provisions of policies NPP20(1)(f) and NPP21(9) upon which I have already commented. As the creation of a riverside walk from Meadows Edge to the River Gardens is a community aspiration is reasonable for provision to be made for a potential access where the site abuts the Meadows. I note that the policy does not require land to be reserved across the West Mills site to achieve such a link.

Recommendation 30

Delete part 2 of Policy NPP24 and replace it by the following:-

Any inappropriate development on that part of the car park which lies within the Green Belt will not be supported unless very special circumstances are shown to exist.

Delete criterion a) in part 3 of Policy NPP24 and replace it by the following:-

are of a scale, form and design that they safeguard heritage assets and their setting; and

Policy NPP25

(My questions 88 to 90 refer)

4.104 *Criterion 2b*). To align with the revised wording used in other policies (see paragraph 4.98) this criterion needs re-wording as for Policy NPP20(1)(b).

Otherwise, I am satisfied that this policy meets the basic conditions.

Recommendation 31

Modify criterion 2b) in Policy NPP24 to read as for modified criterion 1b) in Policy NPP20.

Policy NPP26

(My questions 91 to 94 refer)

4.105 *Criterion 1b*) as for criterion 2) in Policy NPP25. The wish and desire of the community to retain ease of access to the Meadows from the town centre has been strongly emphasised. However, a permissive path is, as the name suggests one over which there is no public right of way. There are procedures which may be followed to claim such rights. It cannot be secured by a planning policy. However, in the circumstances I consider that a more flexibly worded policy to provide access through the site between the town centre would achieve a similar objective. In other aspects I am satisfied that the policy meets the basic conditions.

Recommendation 32

Modify criterion 1b) in Policy NPP26 to end as for modified criterion 1b) in Policy NPP20.

Replace criterion 1e) in Policy NPP26 by the following:-

a pedestrian route through the site to the Meadows Edge is provided;

Policy NPP27

(My question 95 refers)

4.106 *Criterion 1b*) requires re-wording in line with national policy for development affecting a World Heritage Site, as for other similar policies.

Recommendation 33

Modify the wording of criterion 1b) to read in the same way as the same criterion in Policy NPP20.

Policy NPP28

(My questions 96 to 100 refer)

4.107 This policy refers to starter, mid-size and grow-on units, linking to paragraph 351 where the different sizes are defined, albeit using slightly different terminology to describe the unit type. For the terms of the policy to be clear for the decision-maker those definitions would usefully be included within the policy as the same terms are repeated in part 2 that would be best achieved through numbered annotations. There is also reference to the units being suitable for 'local businesses' although I am assured that it is not intended to restrict the occupancy of any such units. To remove any ambiguity in that respect the word 'local' should be omitted.

4.108 As worded, the policy refers only to B1 and B2 units but the site-specific policies, NPP20, 23 and 24 for the sites mentioned, allow a wider range of uses including B8 and commercial uses. To avoid any uncertainty in policy application BTC agree that those other uses should also be included. Finally, *criterion 1(d)* of this policy requires re-wording having regard to Government policy for development in World Heritage Sites.

Recommendation 34

In paragraph 351 amend the terminology from 'start-up' to 'starter' and link to the term in Policy NPP28, parts 1 and 2, annotated '1' (10-25 sq.m); annotate 'mid-size' units as '2' (100-150 sq.m.) and 'grow-on' units, annotated '3', (up to 1000 sq.m.). Include the numbered annotations against the relevant terms in both parts of the policy. Delete the word 'local' qualifying 'businesses'.

Modify the wording of criterion 1(d) to read in the same way as criterion 1(b) in Policy NPP20.

Section 5 - Formal conclusion and overall recommendations including consideration of the referendum area

Formal Conclusion

5.01 I conclude that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in Schedule 4B to the Town and Country Act 1990 (as amended). It does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights.

Overall Recommendation A.

I recommend that the modifications listed in this report be made to the draft Neighbourhood Plan for Belper Civil Parish and that the draft plan as modified be submitted to a referendum.

The referendum area

5.02 As I have recommended that the draft plan as modified be submitted to a referendum I am also required under s10(5)(a) of Schedule 4B to the Town and Country Planning Act 1990 to recommend whether the area for the referendum should extend beyond the neighbourhood area.

5.03 There have been no representations seeking an extension of the referendum area. The town (parish) boundary is well defined and I find no basis for any extension of the referendum beyond the parish (town) boundary.

Overall Recommendation B.

The area for the referendum should not extend beyond the neighbourhood area to which the plan relates.

Signed:

John R Mattocks

JOHN R MATTOCKS BSc DipTP MRTPI FRGS

13 November 2020

APPENDIX A – ABBREVIATIONS USED IN THIS REPORT

'the 1990 Act'	The Town and Country Planning Act 1990, as amended
'the 2004 Act'	The Planning and Compulsory Purchase Act 2004
AVBC	Amber Valley Borough Council
AVLP	Adopted (2006) Amber Valley Local Plan
BTC	Belper Town Council ('The Town Council')
DVMWHS	Derwent Valley Mills World Heritage Site (WHS)
ECHR	European Convention on Human Rights
eLP	emerging Local Plan
ER	Environmental Report (SEA)
EU	European Union
HNA	Housing Needs Assessment
HRA	Habitats Regulations Assessment
LGS	Local Green Space
LPA	Local Planning Authority (AVBC)
NP	Neighbourhood Plan
NP4B	Neighbourhood Plan for Belper ('The Plan')
NPPF	The National Planning Policy Framework
PPG	Planning Practice Guidance
SEA	Strategic Environmental Assessment
SHMA	Strategic Housing Market Assessment
(S)OUV	(Statement of) Outstanding Universal Value
w(R)LP	withdrawn (Amber Valley) (Replacement) Local Plan
'the 2012 Regulations'	The Neighbourhood Plans (General) Regulations 2012 (any reference to a Regulation number is to these Regulations)