

# Whaley Bridge Neighbourhood Development Plan

A report to High Peak Borough Council and the Peak District  
National Park Authority of the Independent Examination of the  
Whaley Bridge Neighbourhood Development Plan

Copy to Whaley Bridge Town Council

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## Summary of Main Findings

This is the report of the Independent Examination of the Whaley Bridge Neighbourhood Development Plan that has been prepared on behalf of Whaley Bridge Town Council. As the Whaley Bridge Town Council administrative area (the Civil Parish area) lies within two Local Planning Authority Areas it was designated as a Neighbourhood Area by the Peak District National Park Authority on 13 September 2013 and by High Peak Borough Council on 24 October 2013. The plan period runs until 2032. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

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

# Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. Paragraph 29 of the National Planning Policy Framework 2021 (the Framework) states that “neighbourhood planning gives communities the power to develop a shared vision for their area”.
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan and wider development plan, unless material considerations indicate otherwise.
3. The Whaley Bridge Neighbourhood Development Plan (the Neighbourhood Plan), also referred to as “Vision4Whaley”, has been prepared on behalf of Whaley Bridge Town Council (the Town Council). As the Whaley Bridge Town Council administrative area (the Civil Parish area) lies within two Local Planning Authority areas it was designated as the Whaley Bridge and Furness Vale Neighbourhood Area by the Peak District National Park Authority on 13 September 2013 and by High Peak Borough Council on 24 October 2013. The draft plan has been submitted by the Town Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Neighbourhood Area. The Neighbourhood Plan has been produced initially by a Working Group of Town Councillors and residents and since 4 September 2018 by a Neighbourhood Plan Steering Group “Vision4Whaley” (the Steering Group) made up of two Town Councillors and other volunteers from the local community. The Steering Group has been supported by the Town Council and appointed consultant Urban Vision Enterprise.
4. The submission draft of the Neighbourhood Plan and accompanying documents were, on 13 October 2022, approved by the Town Council for submission to High Peak Borough Council and the Peak District National Park Authority. In liaison with the Peak District National Park Authority, High Peak Borough Council arranged a period of publication between 11 May 2023 and 22 June 2023 and subsequently submitted the Neighbourhood Plan to me for independent examination which commenced on 6 July 2023.

## Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan. The report makes recommendations to High Peak Borough Council and the Peak District National Park Authority including a recommendation as to whether the Neighbourhood Plan should proceed to a local referendum. High Peak Borough Council and the Peak District National Park Authority will decide what action to take in response to the recommendations in this report.
6. The Borough Council and the National Park Authority will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the Local Planning Authorities outlining their intention to hold a neighbourhood plan referendum, it must be considered and can be given significant weight when determining a planning application, in so far as the plan is material to the application.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area unless the Borough Council and the National Park Authority subsequently decide the Neighbourhood Plan should not be made. Section 156 of the Housing and Planning Act 2016 requires a Council report recommending a grant of planning permission, or permission in principle, to identify any conflict with a made neighbourhood plan. Paragraph 12 of the Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted. Paragraph 30 of the Framework states “once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-statutory policies in a local plan covering the neighbourhood area, where there is a conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.
8. I have been appointed by the Borough Council and the National Park Authority with the consent of the Town Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Town Council, Borough Council, and the National Park Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan.

9. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. As a Chartered Town Planner, I have held national positions, had private sector experience, and had a total of 35 years' experience at Director or Head of Service level in several local planning authorities. I have been a panel member of the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) since its inception, and have undertaken the independent examination of neighbourhood plans in every region of England, and in the full range of types of urban and rural areas.
10. As independent examiner, I am required to produce this report and must recommend either:
- that the Neighbourhood Plan is submitted to a referendum, or
  - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
  - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.
11. I make my recommendation in this respect and in respect to any extension to the referendum area, in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.
12. The Planning Practice Guidance (the Guidance) states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing” (paragraph 56 reference ID 41-056-20180222) The examiner can call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. This requires an exercise of judgement on my part. All parties have had the opportunity to state their case and no party has indicated that they have been disadvantaged by a written procedure. Regulation 16 responses clearly set out any representations relevant to my consideration whether the Neighbourhood Plan meets the Basic Conditions and other requirements. Those representations; the comments of the Town Council; the level of detail contained within the submitted Neighbourhood Plan and supporting documents; and the responses to my request for clarification of matters have provided me with the necessary information required for me to conclude the Independent Examination. As I did not consider a hearing necessary, I proceeded based on examination of the submission and supporting documents; consideration of the written representations; and an unaccompanied visit to the Neighbourhood Area undertaken on 19 August 2023.

13. This report should be read as a whole, and has been produced in an accessible format.

## **Basic Conditions and other Statutory Requirements**

14. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions.” A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

15. With respect to the penultimate Basic Condition the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for a continuation of primary and subordinate legislation, and other enactments in domestic law. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights, which has the same meaning as in the Human Rights Act 1998. All these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan Policies.’ Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind.

16. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (in sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)). I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in respect to the Neighbourhood Planning

(General) Regulations 2012 as amended (the Regulations) which are made pursuant to the powers given in those sections.

17. The Neighbourhood Plan relates to the area that was designated by the National Park Authority on 13 September 2013 and by the Borough Council on 24 October 2013. A map of the Neighbourhood Area is included on page 7 of the Submission Version Plan. The Neighbourhood Plan does not relate to more than one neighbourhood area, and no other neighbourhood development plan has been made for the neighbourhood area. All requirements relating to the plan area have been met.
18. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area; and the Neighbourhood Plan does not include provision about excluded development (principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment, and nationally significant infrastructure projects). I can confirm that I am satisfied that each of these requirements has been met.
19. A neighbourhood plan must also meet the requirement to specify the period to which it has effect. The front cover of the Neighbourhood Plan states the plan period is 2022-2032. The end date of the Plan is confirmed in section 1.2 of the Neighbourhood Plan. The High Peak Local Plan period is 2011-2031 and the Peak District National Park Local Development Framework Core Strategy has a plan period up to 2026. The Regulation 16 representation of the Borough Council queries the Neighbourhood Plan period selected. The representation of Treville Properties Ltd states the plan period should either align with the High Peak Local Plan or the development needs for the Whaley Bridge area beyond 2031 should be identified and planned for. The Town Council has stated it wanted the Neighbourhood Plan to run for as long a period as possible and “the Neighbourhood Plan does not have to run concurrent to the Local Plan, but may have to be updated as a new Local Plan emerges.” I have not recommended any modification in this respect as the selection of a plan period is not a matter for my consideration.
20. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans. It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.



21. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
22. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have meaning and significance to people living and working in the area.
23. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified. I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

## Documents

24. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:
- Whaley Bridge Neighbourhood Development Plan 2022 to 2032 Submission Version 8 November 2022
  - Whaley Bridge Neighbourhood Plan Basic Conditions Statement [In this report referred to as the Basic Conditions Statement]
  - Vision4Whaley Neighbourhood Plan Consultation Statement [In this report referred to as the Consultation Statement]
  - Screening Assessment of Whaley Bridge Draft Neighbourhood Plan – Habitats Regulations Assessment Final Report
  - Screening Assessment Whaley Bridge Draft Neighbourhood Plan - Strategic Environmental Assessment Final Report
  - Information available on the Whaley Bridge Town Council website; the High Peak Borough Council website; the Peak District National Park Authority website; the Vision 4 Whaley website; and the Whaley Bridge Community website.
  - Representations received during the Regulation 16 publicity period
  - Correspondence between the Independent Examiner and High Peak Borough Council, the Peak District National Park Authority and the Town Council including: the initial letter of the Independent Examiner dated 6 July 2023; the letter of the Independent Examiner dated 21 July 2023 the comments of the

Town Council on the Regulation 16 representations on 3 August 2023; the letter of the Independent Examiner seeking clarification of various matters dated 4 August 2023; and the responses of the Town Council, High Peak Borough Council and the Peak District National Park Authority which I received on 23 August 2023

- National Planning Policy Framework (2021) [In this report referred to as the Framework]
- Peak District National Park Local Development Framework Core Strategy Development Plan Document - Adopted October 2011
- Development Management Policies Part 2 of the Local Plan for the Peak District National Park - Adopted May 2019
- High Peak Local Plan (2016)
- Vision4Whaley Neighbourhood Plan Design Code Document Aecom February 2021
- Whaley Bridge Local Green Space Audit
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [In this report referred to as the Permitted Development Guidance]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [In this report referred to as the Guidance]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- European Union (Withdrawal) Act 2018
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species Regulations 2017
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

## Consultation

25. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here several key stages of consultation undertaken in order to illustrate the approach adopted.
26. A Phase One consultation period focussed on building awareness, and gathering views and opinions. This included holding public events at venues and establishing a dedicated website and social media presence. Engagement with local schools and use of posters, leaflets and emails were important elements of engagement that enabled key issues to be identified and a vision and aims to be drafted. Four working groups were established to consider traffic and transport; countryside; commerce; and housing. A Local Green Space audit was undertaken, and a Design Code was prepared with technical support. A Clean Air Survey involved the three local primary schools. A well-publicised Household Questionnaire resulted in 873 responses.
27. Phase Two consultation took place between May 2020 and August 2021 and was targeted at helping develop specific elements of the emerging plan. A Local Green Space consultation was held in the period July to September 2021 and special interest groups, including Biodiversity Whaley and Whaley Active, were engaged with. All engagement to that point informed the preparation of the pre-submission version plan.
28. In accordance with Regulation 14 the Town Council consulted on the pre-submission version of the draft Neighbourhood Plan from 20 May 2022 until 2 July 2022. The consultation on the pre-submission draft Plan was publicised through: a series of events in the town; via email, a website, and social media; display of posters and coverage in the Parish Magazine; through interviews with the Buxton Advertiser, Glossop Chronicle and High Peak Review; and written consultation with statutory consultees, owners of proposed Local Green Spaces, and other stakeholders. A questionnaire was developed to capture feedback either online or via paper copies. Hard copy consultation documents were made available at the Mechanics Institute. The Regulation 14 consultation resulted in 257 responses including submissions from the Borough Council and the National Park Authority. Appendices 9 and 10 of the Consultation Statement set out details of the representations received and a response and any action taken, including modification and correction of the emerging Neighbourhood Plan. Suggestions have, where considered appropriate, been

reflected in several changes to the Plan that was submitted by the Town Council to the Borough Council and the National Park Authority.

29. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 11 May 2023 and 22 June 2023. The submission plan documents could be viewed online, and paper copies were available to view at the Mechanics Institute, Horwich End Post Office, and Furness Vale Community Centre within the Neighbourhood Area, and at Buxton Town Hall. The period of publication was also the subject of a news item on the Town Council website, and featured on the Vision4Whaley website. Representations were submitted from a total of 13 different parties.
30. The Borough Council submitted representations regarding general text and Policies WB-G1; WB-G2; WB-G3; WB-H1; WB-E1; WB-E3; WB-E4; WB-E6; and WB-T1. The Borough Council has also commented on the Infrastructure Priorities presented in section 3.6 of the Neighbourhood Plan.
31. The National Park Authority submitted representations regarding general text, wider policies, and Neighbourhood Plan Policies WB-H1; WB-E1; WB-E2; and WB-E5.
32. Derbyshire County Council commented in respect of Policy WB-G3 and suggested several matters relating to environment and climate change, and transport and movement that could be the subject of additional policies. The County Council also provided information regarding school capacity which is relevant to bullet point 6 of part 3.6 of the Neighbourhood Plan relating to Infrastructure Priorities.
33. The Environment Agency commented in respect of wider policies and Neighbourhood Plan Policies WB-G3 and WB-E1. The Canal and Rivers Trust confirmed it has no further comments. The Coal Authority and Natural England have no specific comments. Historic England and United Utilities Water Limited offered general advice. United Utilities also referred to wider policies and made a representation relating to two sites proposed for designation as Local Green Space in Policy WB-E5.
34. Gladman Developments Limited submitted representations relating to legal requirements, national policy and guidance, and the relationship of the Neighbourhood Plan to Local Plans. This representation included comment on the Vision and Aims of the plan and submissions relating to Policies WB-G2; WB-G3; WB-E1; WB-E3; and WB-E4.
35. A representation on behalf of High Peak Developments Ltd promoted residential development of two sites within the Neighbourhood Area located north and south of the Tesco store at Buxton Road, Whaley Bridge. The representation referred to the plan period, and stated the plan should identify sites for development to maximise growth and contribute towards meeting housing needs of High Peak. The

representation commented on the aims of the Neighbourhood Plan and included submissions relating to Policies WB-G1; WB-G2; WB-G3; WB-E1; WB-E3; and WB-T2.

36. A representation on behalf of the Shuker Partnership promoted the development of land at Wheel Farm and Shallcross Bridge. This representation commented on the Aims of the Neighbourhood Plan and included comment on Policies WB-G1; WB-G2; WB-G3; WB-H1; WB-E1; WB-E2; WB-E3; and WB-T2.

37. A representation on behalf of Treville Properties Ltd promoted development of land at Bridgemont and Linglongs Road, Taxal. This representation commented on the Aims of the Neighbourhood Plan and includes comment on Policies WB-G1; WB-G2; WB-G3; WB-E1; WB-E2; WB-E3; WB-E5 and WB-T2.

38. I have been sent each of the Regulation 16 representations. In preparing this report I have taken into consideration all the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole in my report. Some representations, or parts of representations, are not relevant to my role which is to decide whether the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. Where the representations suggest additional policy matters or other content that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Having regard to *Bewley Homes Plc v Waverley District Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6) where representations raise concerns or state comments or objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations.

39. I provided the Town Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Town Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Town Council has commented on some Regulation 16 representations. I have taken the comments of the Town Council into consideration when preparing my report.

40. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:

- a) contains details of the persons and bodies who were consulted about the

- proposed neighbourhood development plan;
- b) explains how they were consulted;
- c) summarises the main issues and concerns raised by the persons consulted;  
and
- d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.

41. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

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

### **Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017**

43. The Basic Conditions Statement states the draft plan proposal meets human rights requirements. I have considered the European Convention on Human Rights and in particular Article 6 (fair hearing); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property). The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European

Convention on Human Rights into UK law. Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Town Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. An Equalities Assessment is presented as Appendix 2 of the Basic Conditions Statement and does not identify any negative impacts. From my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

44. The objective of EU Directive 2001/42 (a Directive in the field of Environmental Protection) (transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004) is:

“To provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”

The Neighbourhood Plan falls within the definition of ‘plans and programmes’ (Defined in Article 2(a) of Directive 2001/42) as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result (Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012).

45. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Town Council, as the Qualifying Body, to submit to High Peak Borough Council and the Peak District National Park Authority either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.

46. The submission documents include:

- Screening Assessment Whaley Bridge Draft Neighbourhood Plan - Strategic Environmental Assessment Final Report
- Screening Assessment of Whaley Bridge Draft Neighbourhood Plan – Habitats Regulations Assessment Final Report

47. I have examined the Strategic Environmental Assessment (SEA) Screening Report and have no reason to disagree with its conclusion. The SEA Screening Report includes consultation responses received from the statutory consultees and all agree that an SEA is not required. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
48. I have also examined the Habitat Regulation Assessment Screening Report and have no reason to disagree with its conclusion. I have noted there are no European (now Habitats) sites within the Neighbourhood Area. The nearest sites, the South Pennine Moors Special Area of Conservation, and the Peak District Moors (South Pennine Moors Phase1) Special Protection Area, are located outside and south of the Neighbourhood Area being approximately 340m distance at the closest point. The report includes a consultation response from the statutory consultee, Natural England confirming agreement that the Neighbourhood Plan either alone or in combination would not be likely to result in a significant effect on any European (now Habitats) Site or the environment and therefore no further assessment work would be required. I am satisfied that the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.
49. There are several other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
50. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
51. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met for the draft neighbourhood plan to progress. The Borough Council and the National Park Authority as Local Planning Authorities must decide whether the draft neighbourhood plan is compatible with EU environmental law obligations (directives and regulations) incorporated into UK domestic law by the European Withdrawal Act 2018 (EUWA):
- when they take the decision on whether the neighbourhood plan should proceed to referendum; and
  - when they take the decision on whether to make the neighbourhood plan (which brings it into legal force).



**Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development**

52. I refer initially to the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.” The requirement to determine whether it is appropriate that the plan is made includes the words “having regard to.” This is not the same as compliance, nor is it the same as part of the tests of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy.”
53. Lord Goldsmith has provided guidance (Column GC272 of Lords Hansard, 6 February 2006) that ‘have regard to’ means “such matters should be considered.” The Guidance assists in understanding “appropriate.” In answer to the question “What does having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”
54. The most recent National Planning Policy Framework (the Framework) published on 21 July 2021 sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance (the Guidance) was most recently updated on 24 June 2021. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance.
55. The Table presented at section 4.2 of the Basic Conditions Statement sets out a brief explanation of how the Neighbourhood Plan policies have regard to relevant parts of the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.
56. The Neighbourhood Plan includes in section 2.3 a positive vision for Whaley Bridge with economic, social, and environmental dimensions. Section 2.4 of the Neighbourhood Plan sets out six aims, the achievement of which will help support delivery of the vision. The aims, which provide a framework for the policies that have been developed, include economic dimensions (economic opportunity; employment; meeting the needs of businesses; and attracting investment and visitors), and social components (meeting housing needs; and meeting need for local facilities), whilst also referring to environmental considerations (historic, built, and natural character; design; climate change; and habitats wildlife and biodiversity). Whilst several Regulation 16 representations comment on the aims of the Neighbourhood Plan, I consider the aims are consistent with the Plan meeting the Basic Conditions and

other requirements I have identified. The Borough Council has suggested it is unusual that objectives are not identified, and that it would be helpful for the Neighbourhood Plan to refer to monitoring and review. Whilst I agree with those points, I am unable to recommend a modification in those respects as such inclusions are not necessary to meet the Basic Conditions and other requirements I have identified.

57. Section 3.6 of the Neighbourhood Plan sets out eight priorities for spending infrastructure monies. These matters are largely outside the remit of planning policy in a neighbourhood plan. The plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, “Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan. The approach adopted to set out infrastructure priorities is entirely satisfactory. I am satisfied the inclusion of the infrastructure priorities in a separate final part of the plan document sufficiently differentiates these community priorities from the policies of the Neighbourhood Plan. I have noted the Borough Council state “that the scope for developer contributions associated with new developments is set out in Local Plan Policy CF7 Planning Obligations and Community Infrastructure Levy” and “earlier this year the Borough Council conducted a public consultation upon a draft Developer Contributions SPD that, once adopted (this is imminent) will accompany this policy”. The identification of local priorities for infrastructure expenditure is likely to have greatest influence in respect of any locally determined infrastructure resources becoming available throughout the plan period. Derbyshire County Council state with respect to point 6 that evidence provided demonstrates that expansion of places at schools is not required. I have recommended a modification in this latter respect in order to correct an error.

#### **Recommended modification 1**

**In section 3.6 of the Neighbourhood Plan continue bullet point 6 with “where the latest evidence confirms expansion is necessary”**

58. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary

of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that except for those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”

59. At the heart of the Framework is a presumption in favour of sustainable development which should be applied in both plan-making and decision-taking. The Guidance states:

“This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic, and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced, or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions” (paragraph 072 reference ID 41-072-20190509).

60. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

61. The Framework states there are three dimensions to sustainable development: economic, social, and environmental. Section 3 of the Basic Conditions Statement demonstrates ways in which the Neighbourhood Plan supports the economic, social, and environmental aspects of sustainable development. The statement does not highlight any negative impacts of the Neighbourhood Plan or its policies.

62. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality to contribute to economic and social well-being; whilst also protecting important environmental features of the Neighbourhood Area. I consider the Neighbourhood Plan as recommended to be modified seeks to:

- Establish support for proposals for main town centre uses within the defined Town Centre;
- Establish conditional support for community facilities in the Town Centre and other specified locations;
- Establish conditional support for live/work units within the defined Town Centre;
- Establish criteria for loss of existing community facilities;
- Establish that identified outdoor spaces should be retained;
- Establish conditional support for residential development in identified locations outside the Peak District National Park, and establish provisions relating to specified types of accommodation;
- Establish requirements for all residential development;
- Establish conditional support for extensions to historic buildings;
- Establish conditional support for reinstatement of shopfronts;
- Establish that development should preserve or enhance the Shallcross Incline;
- Establish principles for development affecting and in the vicinity of the Peak Forest Canal;
- Establish conditional support for the continuing use and development for community uses as a visitor facility of the Transshipment Shed, Canal basin and setting;
- Establish design principles for development;
- Establish principles for development in Taxal, Fernilee, Horwich End and Bridgemont;
- Establish that development should preserve or enhance identified elements of the natural environment;
- Ensure development does not adversely affect the rural and landscape character;
- Designate Local Green Spaces and establish a basis for determination of development proposals affecting them;
- Ensure development facilitates sustainable and appropriate transport and movement; and
- Establish that development should not encroach onto or have adverse impact on active travel routes, and should take opportunities to create new links and access to active travel routes.

63. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

**Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)**

64. The Framework states:

“Plans should make explicit which policies are strategic policies” (Paragraph 21).

“Neighbourhood Plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan” (Paragraph 29).

“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area” (Footnote 18).

“Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies” (Paragraph 29).

65. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The Borough Council and National Park Authority have confirmed the development plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan comprises:

- In the part of the Neighbourhood Area within the Peak District National Park - the Peak District National Park Local Development Framework Core Strategy Development Plan Document - Adopted October 2011, and the Development Management Policies Part 2 of the Local Plan for the Peak District National Park - Adopted May 2019;
- In the part of the Neighbourhood Area not within the Peak District National Park - the High Peak Local Plan (2016).

66. The Guidance states:

“A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.” (Paragraph 077 Reference ID 41-077-20190509).

The Borough Council has confirmed to me that Policies S1 – S7 inclusive of the High Peak Local Plan (2016) are regarded as strategic policies, and the National Park Authority has confirmed all the Core Strategy (2011) policies are regarded as strategic.

67. The National Park Authority is reviewing all the Development Plan policies but has not started formal consultation yet. The Borough Council has conducted a five-year review of the Local Plan and concluded that Policies S3, S4 and H4 are considered out of date when considered against the latest national policy and evidence and therefore will be given less weight when determining planning applications. This has triggered a full Local Plan Review of which an early engagement stage has been completed in March 2023. Neither the emerging National Park Authority review of policies nor the emerging Borough Council Local Plan review are part of the Development Plan. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states

“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan.” (Paragraph 009 Reference ID 41-009-20190509).

68. In considering a now-repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there to introduce a degree of flexibility” (Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31). The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan, rather than the whole of the development plan.

69. The Guidance states:

“When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.” (Paragraph 074 Reference ID 41-074-20140306).

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

70. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. I have taken into consideration the Table presented at section 5.3 of the Basic Conditions Statement that seeks to demonstrate the relationship of the policies of the Neighbourhood Plan to Development Plan policies. Subject to the modifications I have recommended, I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## **The Neighbourhood Plan Policies**

71. The Neighbourhood Plan includes 13 policies as follows:

- Policy WB-G1 Town Centre and Economy
- Policy WB-G2 Community Facilities
- Policy WB-G3 Residential Development
- Policy WB-H1 Heritage
- Policy WB-H2 Peak Forest Canal
- Policy WB-H3 Transhipment Shed and Canal Basin
- Policy WB-E1 Sustainable Development
- Policy WB-E2 Minor Villages and Rural Settlements
- Policy WB-E3 Natural Environment
- Policy WB-E4 Rural and Landscape Character
- Policy WB-E5 Local Green Space
- Policy WB-T1 Transport and Movement
- Policy WB-T2 Active Travel

72. Paragraph 29 of the Framework states:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct, and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.” (Footnote 18 of the Framework states “Neighbourhood plans must

be in general conformity with the strategic policies contained in any development plan that covers their area.)”

73. Paragraph 15 of the Framework states:

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

74. Paragraph 16 of the Framework states:

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

75. The Guidance states:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise, and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.” (Paragraph 041 Reference ID 41-041-2-140306).

“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan.” (Paragraph 040 Reference ID41-040-20160211).

A neighbourhood plan should contain policies for the development and use of land.



“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).” (Paragraph 004 Reference ID 41-004-20190509).

“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.” (Paragraph 040 Reference ID 41-040-20160211).

“A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.” (Paragraph 042 Reference ID 41-042-20170728).

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

### **Policy WB-G1 Town Centre and Economy**

77. This policy seeks to establish support for proposals for retail, restaurants, cafes, cultural uses, visitor facilities or recreational uses and other uses open to the public within the defined Town Centre. The policy also seeks to establish conditional support for cultural uses, visitor facilities, and recreational uses in accessible locations outside the Town Centre. The policy also seeks to establish conditional support for live/work units within the Town Centre.

78. Paragraph 86 to 91 of the Framework state:

“Planning policies should define the extent of town centres and support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management, and adaptation. Planning policies should:  
(a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can

respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;

(b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;

(c) retain and enhance existing markets and, where appropriate, re-introduce or create new ones;

(d) allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least 10 years ahead. Meeting anticipated needs for retail, leisure, office, and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;

(e) where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and

(f) recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.”

“Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”

“When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.”

“This sequential approach should not be applied to applications for small scale rural offices or other small scale rural development.”

“When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). This should include assessment of:

(a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

(b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).”

“Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused.”

79. Paragraph 84 of the Framework states “Planning policies and decisions should enable: (a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; (b) the development and diversification of agricultural and other land-based rural businesses; (c) sustainable rural tourism and leisure developments which respect the character of the countryside; and (d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.”

80. Paragraph 85 of the Framework states “Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”

81. The Borough Council state point 2 of Policy WB-G1 should include reference to the scale of development being consistent with the strategic settlement hierarchy set out in Local Plan Policy S2 where Whaley Bridge is defined as a market town, Furness vale as a larger village, and the other settlements as part of the other rural area. The National Park Authority state “The proposed policy currently conflicts with NPA strategic policy. The proposal is now more restrictive than PDNP policy (in that it is worded that none would be allowed in the national park). Remove the PDNP reference and instead state that the policy does not refer to PDNP.”

82. The representation of High Peak Developments Ltd states the defined Town Centre boundary is very tightly drawn with few development opportunities. The representation refers to the High Peak Retail Leisure and Town Centre Study 2022 and its identification of retail floorspace needs. The representation identifies land at Hogs Yard, Buxton Road, Whaley Bridge as having potential for retail, leisure and/or tourism development and requests the requirement for a sequential test should be

removed. The Shuker Partnership and Treville Properties Ltd express concern the policy will detract from the aim of meeting housing needs of the area. These representations also request the requirement for a sequential test in respect of visitor and recreational facilities should be removed.

83. Part 1 of Policy WB-G1 has sufficient regard for paragraph 86 of the Framework which includes “Planning policies should define the extent of town centres and support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management, and adaptation.” I have not seen evidence that confirms the changes of use defined in the policy in the area defined will prevent housing needs being met in the Neighbourhood Area. Part 1 of Policy WB-G1 does not have sufficient regard for the definition of main town centre uses included in Annex 2: Glossary to the Framework. The Interpretation section seeks to introduce an element of policy in respect of Use Class E which it may not. The term “other uses open to the public” is imprecise. The final sentence of part 1 of the policy does not have sufficient regard for paragraph 86 parts a and f of the Framework which require a balanced consideration of proposals that would result in loss of residential accommodation in the Town Centre. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
84. I agree with the National Park Authority and the Borough Council that Part 2 of Policy WB-G1 is not in general conformity with the strategic policies of the Development Plan. Part 2 of the policy seeks to introduce a sequential approach in respect of the location of non-intensive recreational uses which does not have sufficient regard for national policy, and which has not been sufficiently justified. Paragraphs 87 to 91 inclusive set out national policy in respect to proposals for main town centre uses which are not in an existing centre, nor in accordance with an up-to-date plan. Section 8 of the Framework sets out national policy relating to location of recreational and cultural facilities and services. Paragraph 16f of the Framework states plans should “serve a clear purpose, including unnecessary duplication of policies that apply to a particular area (including policies in this Framework), where relevant.” The term “in accessible locations” is imprecise. I have recommended a modification in these respects so that the policy is in general conformity with the strategic policies, has sufficient regard for national policy including being “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d of the Framework.
85. I am satisfied Part 3 of the policy has sufficient regard for Paragraph 82 of the Framework which states planning policies should allow for new and flexible working

practices such as live-work accommodation, and the approach to ensuring the vitality of town centres set out in section 7 of the Framework.

86. I have noted the Town Council and the Borough Council agree with my proposed modification and the National Park Authority have no further comments. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policy S2 of the High Peak Local Plan (2016), and Policies DS1 and HC5 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
87. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

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

##### **In Policy WB-G1**

- **in part 1 replace the text before “will be” with “Proposals for main Town Centre uses (as defined in Annex 2 of the National Planning Policy Framework)”**
- **in part 1 delete the final sentence**
- **delete part 2**

**In the Interpretation section delete the second sentence.**

##### **Policy WB-G2 Community Facilities**

88. This policy seeks to establish support for proposals for community facilities and other uses open to the public within the defined Town Centre. The policy also seeks to establish conditional support for community facilities in accessible locations outside the Town Centre. The policy also seeks to establish criteria for loss of existing community facilities, and establish that identified outdoor spaces should be retained.
89. The Borough Council state point 2 of the policy should include reference to the scale of development being consistent with the strategic settlement hierarchy set out in Local Plan Policy S2 where Whaley Bridge is defined as a market town, Furness vale as a larger village, and the other settlements as part of the other rural area. The National Park Authority state “The proposed policy currently conflicts with NPA strategic policy. The proposal is now more restrictive than PDNP policy (in that it is

worded that none would be allowed in the national park). Point 3 - PDNP DMP document also has policy DMS2 which has marketing requirements, working with community and exploring other community uses before a community use is lost. Remove the PDNP reference and instead state that the policy does not refer to PDNP." I have recommended a modification in these respects so that the policy is in general conformity with the strategic policies of the Development Plan.

90. The Borough Council states it is assumed that landowners of sites listed in point 4 of the policy have been contacted to make them aware of the proposal. In this respect the Town Council has stated "see consultation statement of NP." I have earlier in my report concluded consultation in plan preparation has been satisfactory.
91. The representation of Gladman Developments Ltd suggests parts 1, 2 and 3 of the policy are removed to avoid duplication of policy with Policy CF5 of the adopted High Peak Local Plan. High Peak Developments Ltd state "As set out above in relation to Policy WB-G1, we consider that this requirement is overly restrictive and should be removed from the Plan. It does not accord with the Framework for the reasons set out above." The Shuker Partnership and Treville Developments Ltd request the requirement for a sequential test in respect of community facilities should be removed.
92. Paragraph 86 of the Framework states planning policies should define the extent of town centres and support the role that town centres play at the heart of local communities. Paragraph 93 of the Framework states planning policies should plan positively for the provision and use of shared spaces, community facilities and other local services to enhance the sustainability of communities and residential environments. Paragraph 93 of the Framework states planning policies should guard against the unnecessary loss of valued facilities and services. Paragraph 93 of the Framework refers to reduction of a community's ability to meet its day-to-day needs.
93. The terms "other uses open to the public" and "in accessible locations" and "close proximity" are imprecise. The list of locations in part 4 of the policy is imprecise without reference to the maps presented on page 26 of the Neighbourhood Plan. The requirement for a facility "to be provided in close proximity" has not been sufficiently justified. There could be proposals for development of community facilities that should be sited in a location outside the town centre, for example, to serve a particular locality. Subject to my recommended modification I am satisfied the policy would not prevent community facilities from being supported where they are required to meet the day-to-day needs of the community. I have recommended a modification in all these respects so that the policy has sufficient regard for national policy and is "clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the

Framework. I am satisfied part 4 of the policy has sufficient regard for paragraph 93e of the Framework in respect of guarding against loss of valued facilities.

94. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policy S2 of the High Peak Local Plan (2016) and Policy HC4 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

95. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 3:**

#### **In Policy WB-G2**

- **in part 1 delete “and other uses open to the public”**
- **in part 1 delete the final sentence**
- **replace part 2 with “In the part of the Neighbourhood Area not in the Peak District National Park and outside the Town Centre community facilities will be supported:**
  - a. in locations that are accessible for users;**
  - b. where there is no significant adverse impact on the amenities of residential occupiers, or on the open character of the countryside;**  
**and**
  - c. where the scale of development is consistent with the role of Whaley Bridge as a market town, Furness Vale as a larger village, and the other settlements as part of the other rural area.”**
- **in part 3 replace “in close proximity” with “or available in an equally accessible location for users”**
- **in part 4 after “locations” insert “identified on the maps on page 26 of the Neighbourhood Plan”**

**In the Interpretation section refer to the scale of development being consistent with the strategic settlement hierarchy set out in Local Plan Policy S2 where Whaley Bridge is defined as a market town, Furness Vale as a larger village, and the other settlements as part of the other rural area.**

**In the Interpretation section refer to this policy augmenting High Peak Local Plan Policy CF5.**

**In the Interpretation section state that within the Peak District National Park the policies of the Peak District National Park Local Development Framework Core Strategy Development Plan Document - Adopted October 2011, and the Development Management Policies Part 2 of the Local Plan for the Peak District National Park - Adopted May 2019 will apply. Draw attention to Core Strategy Policy HC4 which outlines the policy route for community facilities within the National Park and Development Management Policy DMS2 which outlines marketing requirements, working with community and exploring other community uses before a community use is lost.**

### **Policy WB-G3 Residential Development**

96. This policy seeks to establish conditional support for residential development in identified locations outside the Peak District National Park, and establish provisions relating to specified types of accommodation. The policy also seeks to establish requirements for all residential development.
97. The Borough Council recognise improvement of the policy following earlier comments but state, the wording could still be more specific about the meaning of 'suitable locations' to include distance from shops and services and any other relevant criteria to make this point clearer for the policy user. Whilst it is not within my role to determine on behalf of the community what is a reasonable walking distance, I have recommended a modification so that it will be necessary to consider the issue at the time of preparation and determination of development schemes. I agree with the Borough Council that points 4 and 5 should allow for situations where provision of facilities may not be appropriate, and that point 5 repeats point 3 of Policy WB-T1. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is "clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.
98. The representation of Derbyshire County Council advises reference should be made to national policy relating to First Homes. Paragraph 16 of the Framework states "plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework), where relevant." It is not necessary for the policy to refer to First Homes in order to meet the Basic Conditions.
99. The Environment Agency states "While we are pleased to see that within the interpretation section reference has been made to policy EQ11 we would still recommend that mention is made that parts of Whaley Bridge fall within flood zones 2 and/or 3 and therefore any proposals will need to follow the requirements of both



the NPPF and policy EQ11.” I have recommended an appropriate modification of the Interpretation section in this respect.

100. Gladman Developments Ltd state this policy is unnecessary as most of the elements are duplication of Local Plan Policies H1 and H3 and of national policy, however I am satisfied the policy provides a local level of detail. This representation also suggests use of ‘should’ rather than ‘must’ in parts 4 and 5 of the policy to accommodate situations where requirements are not viable. High Peak Developments Ltd, the Shuker Partnership and Treville Properties Ltd support the initiative of community led housing but note that this needs to actively encourage meeting local housing needs. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d of the Framework.
101. The Regulation 16 representations of High Peak Developments Ltd, the Shuker Partnership, and Treville Properties Ltd promote residential development of identified sites. High Peak Developments Ltd promote residential development of two sites located north and south of the Tesco store at Buxton Road Whaley Bridge; the Shuker Partnership promote the development of land at Wheel Farm, and Shallcross Bridge; and Treville Properties Ltd promote development of land to the west of Bridgemont, and land at Linglongs Road Taxal. The merits or demerits of housing development on alternative sites referred to in the Regulation 16 representations are not a matter for my consideration.
102. Representations state the Neighbourhood Plan should allocate land for residential development. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and has regard for the Guidance. The Guidance states “The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing” (Paragraph 104 Reference ID 41-104-20190509).

103. The Interpretation below Policy WB-E3 states “the policy sets out sustainable locations for residential development, in addition to sites allocated in the Local Plan, High Peak Borough Council, April 2016.” Paragraph 4.63 of the Local Plan states that the Local Plan continues to make provision for allocations in the Whaley Bridge and Furness Vale areas as at the time the Neighbourhood Plan was at an early stage of preparation. Policy S3 includes in addition to allocations, provision for 100 dwellings on Whaley Bridge small sites, and 100 dwellings on ‘Villages small sites’ across the whole of the central area. Policy S3 also states “In order to assist in meeting the full objectively assessed housing need of the plan area Neighbourhood Plans should maximise opportunities for housing growth in sustainable locations and, where appropriate, make allocations in their plan to provide at least the same amount of housing land identified in the Local Plan for the relevant parish or Neighbourhood Area.” Appendix 4 Housing Supply of the Local Plan identifies for Whaley Bridge 16 homes under construction and 31 homes not started, total 47 homes. Local Plan Policy DS11 includes a strategic allocation for 75 dwellings at Bingswood, Whaley Bridge; Policy DS12 includes a strategic allocation for 26 homes at Furness Vale Business Park Calico Lane Whaley Bridge; and Policy DS16 includes a strategic allocation for 83 homes south of Macclesfield Road Whaley Bridge

104. High Peak Developments Ltd, the Shuker Partnership and Treville Properties Ltd object to Policy WB-G3 on the basis it is more restrictive than Policy H1 of the adopted High Peak Local Plan which allows for residential development on the edge of settlements if stated criteria are met. High Peak Local Plan Policy H1 supports housing development on unallocated sites within defined built up areas of towns and larger villages and also includes giving “consideration to approving sustainable sites outside the defined built up area boundaries, taking into account other policies in this Local Plan, provided that the development would adjoin the built up area boundary and be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and the development would not lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside; and it would have reasonable access by foot, cycle or public transport to schools medical services, shops and other community facilities; and the local and strategic infrastructure can meet the additional requirements arising from the development.”

105. Policy WB-E3 establishes support for residential development in specified locations. The policy is silent regarding proposals in other locations where strategic policies will apply. High Peak Local Plan Policy H1 will apply in respect of proposals outside the defined Built-up Area of Whaley Bridge. I have recommended a modification so that the Interpretation section should clarify this point. No policy of the Neighbourhood Plan specifically seeks to limit the number of dwellings that can

be developed within the Whaley Bridge Built-up Area Boundary. I am satisfied Policy WB-E3 has sufficient regard for paragraph 29 of the Framework which states “Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.”

106. Whilst the Neighbourhood Plan does not allocate land for housing development Policy WB-G3 is relevant to housing supply. The Guidance states that where neighbourhood plans “contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need” (Paragraph 040 Reference ID 41-040-20160211). In response to my request for clarification of matters I have been informed “The Town Council has not produced a Housing Needs Assessment for Whaley Bridge Parish to support the plan. In 2021, Vision for Whaley asked the Borough Council for the most up to date local housing need assessment as well as how many of the proposed 100 houses (included for Whaley Bridge on small sites in High Peak Local Plan Policy S3) have been granted planning permission. The Borough Council’s response was that the level of growth in the area is set by High Peak Borough Council (in the 2016 Local Plan) which provides the following units in the Neighbourhood Plan area over three sites:

C9 – South of Macclesfield Road (allocated for 83 dwellings) (increased to 107 – currently under construction)

C16 – Furness Vale A6 (allocated for 39 dwellings – decreased to 37 units – permission issued - HPK/2020/0201)

C19 – Furness Vale Business Park (allocated for 26 dwellings – no planning applications received to date)”

“The plan also has a windfall allowance of 100 dwellings on small sites within the Whaley Bridge and Furness Vale built-up area boundaries. There are 45 windfall dwellings that have been granted permission between 1st April 2011 and 31st March 2022 in the Whaley Bridge Parish. The most significant in scale includes the site at Bridgemont (at the rear of Nos. 54-64 Buxton Road, Furness Vale) where 13 affordable housing units within the green belt have now been completed (HPK/2017/0536). (NB please note that the figures above have been updated to 31<sup>st</sup> March 2022, as additional monitoring data has become available since the query from ‘Vision for Whaley’ was originally made)”.

“These figures show that at the time of writing based on the information available there is still a need for additional development in the Parish to meet the area’s proportion of the overall housing requirement set out in the ‘Strategic Housing Development’ Local Plan policy (Policy S3) namely 33 dwellings on small windfall sites (taking into account the net increase of 22 dwellings on the two allocated sites at the planning application stage). Also, the C19 allocation has not yet come forward for development. The High Peak Local Plan is currently in the early stages of review

and in September 2022, the Borough Council published a new 'High Peak Housing and Economic Land Needs Assessment' as an evidence base document to inform this Local Plan Review.[https://www.highpeak.gov.uk/media/7530/High-Peak-HELNA-ISSUE12.09.22/pdf/61492\\_High\\_Peak\\_HELNA\\_ISSUE\\_120922.PDF?m=1663773285323](https://www.highpeak.gov.uk/media/7530/High-Peak-HELNA-ISSUE12.09.22/pdf/61492_High_Peak_HELNA_ISSUE_120922.PDF?m=1663773285323). At this early stage, the Council has not yet taken a decision on the number of houses to be provided in the Borough going forward nor decided how these would be spatially distributed. The response highlights that there is still a need for more new housing in the Whaley Bridge Parish to contribute towards the Borough's housing land supply figures set out in the High Peak Local Plan. It is the Borough Council's view that policy wording should not undermine the delivery of housing set out in High Peak Local Plan strategic policy S3."

"It is the Town Council's view that the Housing policy makes clear that it supports the Local Plan growth strategy and the interpretation makes clear: "The policy sets out sustainable locations for residential development, in addition to sites allocated in the adopted Local Plan, High Peak Borough Council, April 2016.""

107. I am satisfied that in preparing the Neighbourhood Plan particular consideration has been given to the opportunities for allocating small and medium-sized sites suitable for housing in the Neighbourhood Area as required by paragraph 70 of the Framework. I have explained earlier in my report that my role is to assess whether the submission Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. The Guidance states "Neighbourhood plans are not obliged to contain policies addressing all types of development." There is no requirement that the Neighbourhood Plan should include allocation of land for housing development.

108. Given the scale and nature of the form of the settlements in the Neighbourhood Area and past delivery of windfall development, as a matter of planning judgement, I consider there is a likelihood of a further supply of future windfall development during the plan period.

109. I have found the Neighbourhood Plan will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance. The approach taken and the choices made in the Neighbourhood Plan regarding housing provision are sufficiently evidenced and justified and have sufficient regard for the Framework and Guidance. I am satisfied the approach adopted to address the quantity of housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for the Neighbourhood Area and provides the necessary justification that those policies (after recommended modification) that are relevant to housing supply will result in

local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, and will not undermine those strategic policies.

110. I have recommended a modification of Policy WB-G3 and the map on page 24 of the Neighbourhood Plan to refer to the Built-up Area boundary rather than “Settlement Boundary” or “Urban Area” to be consistent with references in the High Peak Local Plan. The Town Council and the Borough Council have requested such a modification. In response to my request for clarification of matters the Town Council and the Borough Council agree that parts 1 c and d of the policy are confusing and imprecise and have expressed support for my modification in these respects.

111. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policies S2 and S3 of the High Peak Local Plan (2016) and Policies DS1 and HC1 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

112. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 4:**

##### **In Policy WB-G3**

- **in part 1 replace the text after supported with “within the defined Whaley Bridge Built-up Area boundary, identified on the map on page 12 of the Neighbourhood Plan, however within the Whaley Bridge defined Town Centre boundary, identified on the map on page 24 of the Neighbourhood Plan, proposals must provide street-frontage ground floor units in uses open to the public.”**
- **in part 2 after “of” insert “access to shops and services and”**
- **in part 3 replace “encouraged, subject to meeting other requirements of this Neighbourhood Plan” with “will be supported where they meet local housing needs”**
- **in part 4 delete “located away from the street frontage”**
- **delete part 5**

**On the map on page 12 of the Neighbourhood Plan replace “Urban Area” with “Whaley Bridge Built-up Area boundary”.**

**Replace the first paragraph of the Interpretation section with:**

**“The Policy sets out an additional level of detail relating to sustainable locations for residential development identified in adopted High Peak Local Plan Policy H1. Reference should continue to be made to Policy H1 of the adopted High Peak Local Plan with respect to the location of housing development, and to Policy H2 of the adopted High Peak Local Plan with respect to sites allocated for residential development.**

**Flood risk requirements are dealt with by Policy EQ11 of the adopted High Peak Local Plan. Parts of Whaley Bridge fall within flood zones 2 and/or 3 and therefore any proposals will need to follow the requirements of both the NPPF and Policy EQ11.”**

### **Policy WB-H1 Heritage**

113. This policy seeks to establish conditional support for extensions to historic buildings and for reinstatement of shopfronts. The policy also seeks to establish that development should preserve or enhance the Shallcross Incline.
114. The National Park Authority state “The proposed policy currently conflicts with national and PDNP strategic policy. Point 1 appears to be more permissive than national and PDNP policy. Policy needs to clarify ‘appropriate size.’ Example text to be included in policy or interpretation text: ‘Proposals for alterations to a heritage asset will be informed by a heritage statement that clearly describes the significance of the asset including the contribution that the setting makes to its significance.’ Point 2 – is addressed in interpretation notes however, it could be improved by adding: ‘The reinstatement of historic shop fronts or original features that have previously been lost will be supported’. I have recommended a modification in these respects so that the policy is in general conformity with the strategic policies of the Development Plan.
115. The Borough Council considers the policy should state it is intended to augment Policy EQ7. It is not necessary for the policy to refer to other policies of the Development Plan as the Development Plan should be read as a whole, although I have recommended the Interpretation section should include this point.
116. The representation of the Shuker Partnership objects to the policy on the basis the policy is not consistent with paragraphs 201, 202 and 203 of the Framework and the reference to only Shallcross Incline which is not a designated heritage asset is not consistent with national policy.

117. Paragraphs 189 to 208 of the Framework establish national policy relating to conserving and enhancing the historic environment. Paragraph 206 of the Framework states Local Planning Authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance.
118. The term “high quality” is imprecise. Part 4 of the policy does not have sufficient regard for national policy and is unreasonable with respect to development proposals distant from the Shallcross Incline. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework. I am satisfied reference to the Shallcross Incline in both this policy and Policy WB-T2 is appropriate in that those references serve different purposes.
119. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policy L3 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
120. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:  
In Policy WB-H1**

- **replace part 1 with “Extensions to historic buildings will be supported where: they are of a size in proportion to the original building; their design and materials are high quality; and they complement the character of the original building. This includes support for creative and green interventions that complement the character of the original building. Proposals for alterations to a heritage asset will be informed by a heritage statement that clearly describes the significance of the asset including the contribution that the setting makes to its significance.”**
- **in part 2 after “reinstatement of” insert “historic”**
- **in part 4 replace “preserve or” with “not adversely affect, and where possible”**

**In the Interpretation section insert the point that Policy WB-H1 is intended to augment High Peak Local Plan Policy EQ7.**

### **Policy WB-H2 Peak Forest Canal**

121. This policy seeks to establish principles for development affecting and in the vicinity of the Peak Forest Canal.
122. The policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
123. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy WB-H3 Transshipment Shed and Canal Basin**

124. This policy seeks to establish conditional support for the continuing use and development for community uses as a visitor facility of the Transshipment Shed, Canal basin and setting. The policy also seeks to establish that development adjacent to a defined area of the Transshipment Shed should preserve or enhance and cause no harm to its setting or links and access to the site.
125. The policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
126. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy WB-E1 Sustainable Development**

127. This policy seeks to establish design principles for development.
128. The National Park Authority state "The proposed policy potentially conflicts with national and PDNP strategic policy. Point 8 – it is not clear that point 8 and



WBNP H1 are aligned. Point 8 – does not clearly align to PDNP Design Guide which outlines that there may be circumstances where traditional design needs to be followed.” The Borough Council state the use of the word “must” is too restrictive and question whether points 2 to 9 should be sub-bullets of point 1. I agree these points necessitate modification of the policy. It is confusing and unnecessary to state “where the requirements of WB-H1 are met” as the Neighbourhood Plan should be read as a whole. The term “are encouraged” does not provide a basis for the determination of development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

129. The representation of High Peak Developments Ltd states part 9 of the policy is overly vague as it is unclear how this would be quantified. The representation of the Environment Agency states “The NHP should also include within this sustainable design policy a requirement for all new residential development to meet the tighter water efficiency measures of 110 litres per person per day. Producing mains water, treating waste water and in-home water heating has significant embedded energy and requires chemical inputs, therefore reducing water demand per capita by requiring the tighter standard of 110 l/p/d could lead to significant reductions in the associated carbon emissions.” Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these. The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: “From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”. Whilst the policy relates to all development it is likely a significant proportion of new development will be dwellings. I have recommended a modification in this respect. I have recommended modification of parts 8 and 9 of the policy for this reason.

130. Gladman Developments Ltd state “Gladman support the general principles set out in the above policy, however, consider that this is an unnecessary duplication of Part L of the emerging building regulation that will be introduced in 2025 and Policy EQ6 of the adopted High Peak Local Plan, and therefore, should be deleted in line with paragraph 16(f) of the Framework. In addition, the adopted High Peak Design Guide SPD is not referenced and would be worth sign posting readers to this document.” It would be inappropriate to modify the Neighbourhood Plan based on anticipated change to the Building Regulations and there is no requirement for reference to the SPD referred to in order to meet the Basic Conditions. The policy

serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in Policy EQ6.

131. High Peak Developments Ltd state “Policy WB-E1 (part 3) states that development should enhance the architectural diversity of the area. We object to the wording of this policy and consider that it should be amended to state: “Development should seek to enhance architectural diversity” [our addition]. The requirement to enhance in every case is excessive and does not allow for consideration of site-specific circumstances. Local Plan Representations Whaley Bridge Neighbourhood Plan 20 June 2023 15 3. Policy WB-E1 (part 4) states that schemes should incorporate high quality and well-functioning green infrastructure and public realm as an integral part of the design and layout. We object to the wording of this policy and consider that it should be amended to state: “Schemes should incorporate high quality and well-functioning green infrastructure and public realm as an integral part of the design and layout where appropriate and necessary” [our addition]. The requirement to incorporate green infrastructure may not be appropriate for smaller scale schemes and therefore the policy should allow for some flexibility. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
132. The Shuker Partnership and Treville Properties Ltd object to the requirements of the policy to enhance architectural diversity in every case stating this is excessive and does not allow for consideration of site-specific circumstances. I have recommended a modification in this respect. The Shuker Partnership also state the requirements of part 4 of the policy may not be appropriate or necessary in every scheme. I have recommended a modification of part 1 of the policy to clarify application of requirements of the other parts of the policy is limited to circumstances where they are appropriate and necessary. The Shuker Partnership consider part 9 of the policy to be overly vague however the modification I have recommended avoids the need for quantification.
133. Paragraph 127 of the Framework states “Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.” That paragraph states design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area’s defining characteristics. Policies should be clear about design expectations and how these will be tested.
134. Paragraph 130 of the Framework states “Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are

visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

135. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan in particular Policy GSP1 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

136. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

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

##### **In Policy WB-E1**

- **in parts 1, 2, and 5 replace “must” with “should”**
- **in part 1 after “policy” insert “where they are appropriate and necessary and “**
- **in part 3 after “should” insert “seek to”**
- **in part 4 after “realm” insert “appropriate to the scale of development”**
- **replace part 8 with “Design solutions will not be prevented purely because they are innovative or creative”**
- **replace part 9 with “Development proposals that include positive design features to reduce carbon impact will be supported”**
- **redesignate parts 2 to 9 as parts a to h respectively**

**In the penultimate paragraph of the Interpretation commence the paragraph with “Not all of these matters will be relevant to the determination of a planning application.” and replace “need to” with “may”**

## **Policy WB-E2 Minor Villages and Rural Settlements**

137. This policy seeks to establish principles for development in Taxal, Fernilee, Horwich End and Bridgemont.
138. Paragraph 127 of the Framework states “Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.” That paragraph states design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area’s defining characteristics. Policies should be clear about design expectations and how these will be tested.
139. The representation of the Shuker Partnership and the representation of Treville Properties Ltd states it is unclear whether the policy is limited to development only within the settlement boundaries or whether it applies to for instance a rural exception site outside the defined boundaries. The National Park Authority state “The included maps have the potential to undermine PDNP strategic policy. Concerns over the ‘character area’ shown for Taxal and Fernilee. The policy needs to refer to the maps to make it clear what these boundaries are, or they need to be explained in the interpretation text.”
140. I am satisfied the policy seeks to identify characteristics of each identified character area that any development being proposed within that area must take account of. I have recommended a modification to refer to the maps identifying the character areas so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework. Whilst representations refer to settlement boundaries this is not correct as the policy is referring to character areas. The policy only applies to any development proposal within those areas. I am satisfied the Interpretation section clarifies that any proposal will be considered in the context of other relevant Development Plan policies.
141. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policy S2 of the High Peak Local Plan (2016) and Policy DS1 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
142. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’

neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 7:**

##### **In Policy WB-E2**

- in part 1 replace “Taxal” with “the Taxal character area identified on the map on page 45 of the Neighbourhood Plan”
- in part 2 replace “Fernilee” with “the Fernilee character area identified on the map on page 45 of the Neighbourhood Plan”
- in part 3 replace “Horwich End” with “the Horwich End character area identified on the map on page 46 of the Neighbourhood Plan”
- in part 4 replace “Bridgemont” with “the Bridgemont character area identified on the map on page 46 of the Neighbourhood Plan”

##### **Policy WB-E3 Natural Environment**

143. This policy seeks to establish that development should preserve or enhance identified elements of the natural environment.

144. The Borough Council state point 1 of the policy is not consistent with Local Plan Policy S1 and that use of the words “must” and “open” are inflexible. The representation also states the use of the word “must” in point 2 of the policy is too stringent, the approach to trees requires clarification, and the reference to biodiversity is different to that in the Framework. This representation also states the maps accompanying the policy are difficult to read when zoomed in to sites.

145. The National Park Authority state no conflict with NPA strategic policy. The Environment Agency state “We would like to reiterate our previous comments as while we are encouraged by the inclusion of the requirement for new development to create biodiversity new gain (BNG) we would still recommend that you mention the minimum requirement of 10% net gain and encourage net gain more than the minimum where possible.”

146. The representation of Gladman Developments Ltd suggests removal of parts 1, 2 and 3 of the policy as they represent a rewording of Local Plan policies EQ2 and EQ5 and states parts 3 and 4 of the policy are in effect a duplication of the Environment Act 2021 specifically in relation to biodiversity net gain.

147. High Peak Developments Ltd, the Shuker Partnership and Treville Properties Ltd refer to Local Plan Policy EQ2; and state the meaning of part 1 of the policy is unclear and does not distinguish between the landscape hierarchy.

148. Paragraph 179 of the Framework states plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. Paragraph 174 of the Framework states planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland. Paragraph 131 of the Framework states development schemes should retain existing trees wherever possible. Paragraph 180 of the Framework states development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (for example infrastructure projects including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills, where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists. I am satisfied the approach of Policy WB-E3 as recommended to be modified is appropriate in this policy context.

149. The use of the term “must” does not have sufficient regard for paragraph 2 of the Framework which states planning law requires applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Point 1 of the policy relates to rural and landscape character which is the focus of Policy WB-E4. It is confusing for two policies to seek to address the same matters. The approach of the policy to biodiversity and to trees and woodlands does not have sufficient regard for national policy as set out in paragraph 180 of the Framework. The term “Whaley Bridge’s” is spatially confusing. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework. I have not adopted the recommendation of the Environment Agency to refer to a minimum 10% net biodiversity gain and encouragement of greater gains as this is currently not mandatory for Neighbourhood Plans and the Town Council has stated it has not sought to do this.

150. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policy L2 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

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

the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 8:**

##### **In Policy WB-E3**

- **delete part 1**
- **in part 2 replace “must enhance and have no” with “should seek to minimise”**
- **continue part 2 with “Development resulting in the loss or deterioration of ancient woodland identified on the Map on page 48 of the Neighbourhood Plan will only be supported if wholly exceptional reasons are demonstrated and a suitable compensation strategy is proposed.”**
- **in part 3 replace “have no overall” with “avoid” and replace the second sentence with “Development proposing unavoidable harm to biodiversity must achieve adequate mitigation or as a last resort compensation.”**
- **In part 4 replace “should take” with “proposals should demonstrate they pursue”, and delete “Whaley Bridge’s”, and delete “must”**

#### **Improve the resolution of the maps presented on pages 48 and 49 of the Neighbourhood Plan**

#### **Policy WB-E4 Rural and Landscape Character**

152. This policy seeks to ensure development does not adversely affect rural and landscape character.

153. The National Park Authority state no conflict with NPA strategic policy. The Borough Council state that in points 1, 2 and 3 “should” or similar non-prescriptive wording should be used. The representation states point 2 and point 4 may not be appropriate for small scale development. The representation raises several issues with the references to views in points 3 and 4 of the policy. I agree with all the representations of the Borough Council and have recommended modification to address those matters.

154. The representation of Gladman Developments Ltd suggests removal of parts 1,2, and 3 of the policy to avoid unnecessary duplication of Local Plan Policy EQ2. The representation also suggests reference is made in the policy or interpretation section to the Landscape Character SPD. I am satisfied Policy WB-E4 provides an

additional level of detail or distinct local approach to that set out in Policy EQ2 and that latter policy already includes reference to the Landscape Character SPD.

155. Paragraph 174 of the Framework states planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
156. When considering Policy WB-E3 I have recommended a modification so that only Policy WB-E4 refers to rural and landscape character. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
157. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policy L1 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
158. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 9:**

##### **In Policy WB-E4**

- **in parts 1, 2 and 3 replace “must” with “should”**
- **in parts 2 and 4 after “development” insert “of new buildings or large extensions to existing buildings”**
- **in part 3 replace “, including long-distance views.” with “. Development proposals that are likely to affect the long-distance views identified on the map on page 51 of the Neighbourhood Plan must demonstrate how the form and layout of the development have considered those long-distance views.”**
- **in part 4 replace “take opportunities to enhance and have no” with “have no significant”**
- **insert as part 5 “Development must preserve or enhance and not harm the rural and open landscape character within the Peak District National Park and its setting.”**



## **Policy WB-E5 Local Green Space**

159. This policy seeks to designate 16 specified sites as Local Green Space and establish a basis for determination of development proposals affecting them.
160. The representation of the Borough Council, which refers to Policy WB-E6 but clearly relates to Policy WB-E5, raises several issues with part 2 of the policy and queries whether this is consistent with paragraph 103 of the Framework. The Borough Council confirms proposed designation LGS8 is in the Peak Park and states the site is a graveyard and unlikely to change. The Borough Council also states several of the proposed sites already have one or more existing designations such as green belt, TPO, Conservation Area, countryside or as a heritage asset and consideration needs to be given as to what benefit would be had with the further designation of LGS and how the site meets the NPPF criteria. The Borough Council also identifies seven Local Plan policies that protect sites from future development. The Borough Council state although policy and guidance does not prevent the designation of sites with existing designations, different types of designations are intended to achieve different purposes and where land is already protected by a designation, consideration should be given to whether any additional local benefit would be gained by making the site an LGS. This point is made with respect to proposed designations LGS1, LGS3, LGS4. The Borough Council also state evidence must show that the sites are demonstrably special and hold particular local significance as per NPPF paragraph 102 and question whether this is evidenced with respect to proposed designation LGS15. With respect to the other proposed designations the Borough Council state no objection to the designation of sites LGS2, LGS5, LGS6, LGS7, LGS9, LGS10, LGS11, LGS13, LGS14, and LGS16.
161. The National Park Authority state “The proposed policy currently conflicts with PDNP strategic policy. LGS4 (Shallcross Wood, south of A5004) is designated as Natural Zone so other than in exceptional circumstances relating to management of the Natural Zone of for conservation/enhancement of the PDNP, proposals for development would not be permitted.
162. Treville Properties Ltd object to the designation of site LGS16 Taxal Beeches as a Local Green Space due to their deemed right of way over the proposed designation, both vehicular, on foot and for access to install utilities. The representation also states this is a linear route classified as a public right of way and it is unclear why an additional level of protection is required. The representation also states it remains unclear why the land is demonstrably special, why it holds a particular significance over and above other public rights of way/public footpaths and vehicular routes in the local area, and why designation is necessary.

163. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on individual maps presented on pages 54 to 69 of the Neighbourhood Plan. When viewed electronically the maps can be expanded to better reveal the line of boundaries of the green spaces in question. Even in the absence of such expansion, the scale and discrete nature of the areas of land in question assist in understanding the alignment of boundaries. I am satisfied the areas of land proposed for designation as Local Green Spaces have been adequately identified. I have recommended the policy should refer to the maps in order to assist users of the Neighbourhood Plan.

164. Part 2 of the policy seeks to establish a policy approach to development proposals affecting the proposed Local Green Spaces. Decision makers must rely on paragraph 103 of the Framework that states “Policies for managing development within a Local Green Space should be consistent with those for Green Belts” and the part of the Framework that relates to ‘Protecting Green Belt land’ in paragraphs 147 to 151. That latter part of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. The policy seeks to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not (R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number: C1/2020/0812). I have recommended a modification so that the policy has sufficient regard for national policy in this respect. I have also recommended site LGS4 Shallcross Wood is deleted from the policy on the basis the proposed designation would permit a more relaxed policy regime than that established in strategic policy as highlighted by the National Park Authority. I have not adopted the suggestion of the Environment Agency that the policy should refer to blue infrastructure as I do not consider that is necessary to meet the basic conditions. I have noted the representation of United Utilities with respect to possible need to undertake infrastructure works on land within LGS4 and within LGS15 and the acceptance by the Town Council of modification of the policy wording to refer to this. The modification of the policy I have recommended would accommodate the need to undertake essential infrastructure works.

165. Paragraph 101 of the Framework states “The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs, and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.”

166. In respect of each of the areas proposed for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended Local Green Space designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.
167. Paragraph 102 of the Framework states “The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.” I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably ‘close proximity’ to the community it serves, is local in character, and is not an extensive tract of land.
168. The vision4whaley website includes information relating to the selection of sites for designation as Local Green Space. This information includes, for each site being proposed for designation, a map and a detailed statement setting out reasons why that site is special. There is also a summary table setting out what is regarded as demonstrably special about each site. Whilst this title is not a full description of the requirement a site should be demonstrably special to a local community and holds a particular local significance, I am satisfied the nature of the consultation undertaken has related to the necessary requirement.
169. I have noted the Borough Council queries whether there is sufficient evidence that site LGS15 is demonstrably special to a local community and holds a particular significance. That site is indicated in the table I referred to above as having historical significance, wildlife, and ‘other reason’ for designation and the site-specific statement includes supporting detail. In commenting on the Borough Council representation, the Town Council state “The preservation of wildlife has been identified to be of great importance to the local residents. So, the value of this piece of land as a green space is demonstrably special due to its location. It sits between two water courses and is prime habitat for wildlife and of particular significance there is now an otter population. This area is highlighted in the Derbyshire Wildlife Trust as an area potential area of improvement. So, to keep it as a LGS would encourage the continuation of wildlife to inhabit and thrive in the area. It is easily viewed both via the Buxton and Chapel Road. On the bridge on Chapel Road, it is a particular stopping and viewing point for residents adding to their wellbeing. 95.98% of those who

responded to our survey on Green Spaces thought it should be allocated as an LGS.” Paragraph 102 of the Framework includes examples of the way land can be demonstrably special to a local community and holds a particular local significance. There can be other ways this can be demonstrated, for example if land is used for significant local events such as fetes, or is referred to in locally significant literature. I have noted the response of the Town Council to my request for clarification regarding the historical significance of site LGS15 including references made in ‘The Manchester Man’ book.

170. I conclude I am satisfied relevant reasons for designation are indicated as applying in respect of all 16 proposed sites including matters referred to in the Framework. As a matter of planning judgement, I consider the attributes identified to be relevant and reasonable. The representation of Treville Properties Ltd refers to private rights of way applying to LGS16 but these would not prevent designation as Local Green Space nor would any such rights be varied by a designation. The Guidance states “areas that may be considered for designation as Local Green Space may be crossed by public rights of way. There is no need to designate linear corridors as Local Green Space simply to protect rights of way, which are already protected under other legislation.” The site proposed for designation as LGS at Taxal Beeches does include a public right of way, but the site is more than a public right of way as it includes a straight formation of beech trees that represent a distinctive natural visual feature and are referred to in the evidence base as “a visible line beneath Taxal Edge in PDNP.” The Borough Council advise a TPO is in place. A TPO prevents the cutting down and other works to trees without consent, however such orders can be varied or revoked. The existence of a TPO does not prevent a designation as Local Green Space which has a different purpose. The fact Taxal Beeches are reported in the evidence base to have been purchased by public subscription in the 1900’s is evidence that the site is demonstrably special to a local community and holds a particular significance because of its historic significance.

171. The Neighbourhood Plan and the Background Paper provide sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

172. The Borough Council has drawn attention to several Local Plan policies which protect sites from future development but I do not consider the existence of such policies prevents a designation as Local Green Space. The Borough Council has raised the question what would be achieved by LGS designation where there are existing designations. I had noted a difference between the Borough Council and the Town Council whether site LGS1 has a current SSSI status. In response to my request for clarification it has been confirmed that site LGS1 does not have a current

SSSI status. The Guidance states “different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space” (Paragraph: 011 Reference ID: 37-011-20140306 Revision date: 06 03 2014). With respect to areas already protected as Green Belt the Guidance states “One potential benefit in areas where protection from development is the norm (for example villages included in the green belt) but where there could be exceptions is that the Local Green Space designation could help to identify areas that are of particular importance to the local community.” The regime set out in paragraphs 197, 206, and 208 of the Framework, relevant to the conservation and enhancement of a Conservation Area (including assessment of the desirability of new development ; making a positive contribution to local character and distinctiveness; looking for opportunities for new development to enhance or better reveal the significance of the conservation area; and assessment of the benefits of enabling development) together provide a very different approach to that arising from designation as Local Green Space which is seeking to rule out new development other than in very special circumstances. Similarly other designations referred to by the Borough Council including TPO, countryside, local nature reserve, or as a heritage asset have different purposes to designation as LGS. I have recommended site LGS4 is deleted because of the very special designation that exists in respect of that site however with respect to the other sites I have concluded designation as Local Green Space is appropriate in identifying areas that are demonstrably special to a local community and hold a particular local significance.

173. I find that 15 (LGS1 to LGS3 inclusive and LGS5 to LGS16 inclusive) of the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 101 to 103 of the Framework concerned with the identification and designation of Local Green Space.

174. The policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

175. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification the policy meets the Basic Conditions.

**Recommended modification 10:  
In Policy WB-E5**

- in part 1 after “spaces” insert “that are identified on the maps presented on the maps below”
- delete LGS4 Shallcross Wood
- replace part 2 with “The designated areas will be protected from development in a manner consistent with the protection of land within the Green Belt.”

## **Policy WB-T1 Transport and Movement**

176. This policy seeks to establish that development should facilitate sustainable and appropriate transport and movement.
177. The Borough Council query whether points 2-7 should be sub-bullets of point 1. and state point 3 repeats part of point 5 of policy WB-G3 Residential Development. The representation also states the wording of point 3 is very restrictive and does not allow for situations where it may not be appropriate to mandate the provision of these facilities. The representation questions whether the policy relates to all new employment space or whether a threshold should be applied. I have recommended modifications in these respects.
178. Paragraph 111 of the Framework requires that “development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 104 of the Framework states transport issues should be considered from the earliest stages of plan-making so that the potential impacts of development on transport networks can be addressed and opportunities to promote walking, cycling and public transport use are identified and pursued. Paragraph 106 of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks with supporting facilities such as cycle parking
179. Parts 2 to 7 of the policy are clearly sub-parts of part 1. It is confusing and unnecessary for part 2 to refer to another policy as the Neighbourhood Plan should be read as a whole. I have earlier in my report recommended deletion of part 5 of Policy WB-G3 to avoid duplication with Policy WB-T1. I have recommended part 3 of Policy WB-T1 is modified to allow greater flexibility in responding to circumstances. Part 6 of the policy would require viability assessment and does not have sufficient regard for the enabling approach of paragraph 112 of the Framework. Part 7 of the policy is imprecise and does not provide a basis for the determination of development proposals. Part 7 of the policy does not have sufficient regard for paragraph 111 of the Framework. I have recommended a modification in these

respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

180. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policies T1 to T7 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

181. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 11:**

##### **In Policy WB-T1**

- **in part 2 delete “also meeting the requirements of Policy WB-E1”**
- **replace part 3 with “Proposals for new homes or employment development should either include on-plot secure covered storage for cycles proportionate to the scale of development or demonstrate why such facilities are not required.”**
- **replace part 6 with “Proposals for all new development, including new homes, should include provision of infrastructure to facilitate installation of electric vehicle charging points.”**
- **delete part 7**
- **redesignate part 2 to 6 as sub-parts a to e**

##### **Policy WB-T2 Active Travel**

182. This policy seeks to establish that development should not encroach onto active travel routes and development adjacent to footpaths, cycleways and green routes must have no adverse impact on their safety, amenity, or accessibility. The policy also seeks to establish development should take opportunities to create new links and access to active travel routes.

183. The representations of High Peak Developments Ltd, the Shuker Partnership and Treville Properties Ltd object to parts 1 and 2 of the policy on the basis they are overly restrictive and do not allow for the flexibility required on a case-by-case basis. I have recommended modifications on the basis it is necessary to recognise that

there are procedures available in respect of changes to even the statutory right of way network

184. Paragraph 100 of the Framework states planning policies should protect and enhance public rights of way. Paragraph 106 of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks with supporting facilities such as cycle parking. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

185. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policy T6 of the Peak District National Park Core Strategy (2011). The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

186. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 12:**

##### **In Policy WB-T2**

- **in part 1 replace “must not encroach” with “should seek to avoid encroaching”**
- **continue part 2 with “unless adequate alternative routes or mitigation is provided”**

## **Conclusion and Referendum**

187. I have recommended 12 modifications to the Submission Version Plan. I recommend an additional modification in the Annex to my report. The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them. I am satisfied that the Neighbourhood Plan is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and subject to the modifications I have recommended, meets



all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990, and meets the Basic Conditions:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

**I recommend to High Peak Borough Council and the Peak District National Park Authority that the Whaley Bridge Neighbourhood Development Plan for the plan period up to 2032 should, subject to the modifications I have put forward, be submitted to referendum.**

188. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension. I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area.” I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated as a Neighbourhood Area by the Peak District National Park Authority on 13 September 2013 and by High Peak Borough Council on 24 October 2013.**

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

189. I have only recommended modifications and corrections to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have

identified. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Supporting text must be adjusted to achieve consistency with the modified policies.

190. The Borough Council suggest:

- Page 4 section 1.1 paragraph 4 after “Group” insert “was”
- The last sentence of section 2.1 be amended to state “Peak District National Park 2011 and Development Management Policies (DMP) document 2019”
- Page 22 Interpretation paragraph 2 sentence 2 replace “excepted” with “expected”

I recommend a modification in these respects so that the Neighbourhood Plan has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d of the Framework.

**Recommended modification 13:**

**Modify policy interpretation sections, general text, figures, and images, and supporting documents to achieve consistency with the modified policies, and to achieve updates and correct identified errors.**

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1 September 2023  
REPORT END