

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Cabinet

8th August 2023

TITLE:	Biddulph Neighbourhood Plan and Biddulph Neighbourhood Development Order
PORTFOLIO HOLDER:	Councillor Darren Price - Deputy Leader of the Council - Regeneration & Planning
CONTACT OFFICER:	Holly Jones – Planning Policy Adviser
WARDS INVOLVED:	Biddulph West, Biddulph East, Biddulph South, Biddulph North and Biddulph Moor;

Appendices Attached

Appendix 1 - Examiner's report of the independent examination of the Biddulph Neighbourhood Development Plan and Neighbourhood Development Order (February 2022)

Appendix 2 – Addendum sheet for the Examiner's report of the independent examination of the Biddulph Neighbourhood Development Plan and Neighbourhood Development Order (August 2022)

Appendix 3 – Biddulph Parish Neighbourhood Plan Submission Version (February 2020) https://www.staffsmoorlands.gov.uk/media/6686/Biddulph-Neighbourhood-Plan/pdf/Biddulph_Neighbourhood_Plan.pdf?m=1626175185923

Appendix 4 – Biddulph Parish Neighbourhood Development Order Submission Version (February 2020)

Appendix 5 – Full list of modifications to Biddulph Neighbourhood Plan

- 1. Reason for the Report**
 - 1.1 To consider the findings of the Examiner's report of the independent examination of the Biddulph Neighbourhood Development Plan and Biddulph Neighbourhood Development Order to determine if they meet the "basic conditions" required for them to proceed to referendum.
- 2. Recommendation**

- 2.1 That the Council notes the findings of the Examiner's report and addendum sheet.
- 2.2 That subject to the modifications identified in this report, that the District Council be satisfied that the basic conditions as required by Paragraph 8 (1) (a) of Schedule 4B to the Town and Country Planning Act 1990 have been met for the Biddulph Neighbourhood Development Order and that a Decision Statement is published to confirm this.
- 2.3 That the Council invites representations for a period of six weeks on four revisions to the modifications to the Biddulph Neighbourhood Plan (Policies LE2, NE3, HOU1 & DES1) as set out by the Examiner and considered in this report.
- 2.4 That the Council considers representations on the revised modifications to the Neighbourhood Plan within five weeks of the consultation period to determine if the Neighbourhood Plan should proceed to referendum or if it should be referred to further independent examination.
- 2.5 That the Council concurs with the Examiner's recommendations on the remainder of the Neighbourhood Plan as set out in this report other than the timeframe of the Neighbourhood Plan.

3. Executive Summary

- 3.1 The Neighbourhood Plan Area was designated on the 16th February 2016. The Draft Neighbourhood Plan and Neighbourhood Development Order were consulted on between 15 July - 27 August 2021. The Independent Examination of the Biddulph Neighbourhood Plan and Neighbourhood Development Order commenced on 12th October 2021.
- 3.2 The Neighbourhood Plan sets out planning policies for the Biddulph Neighbourhood Area concerning: enterprise and tourism development, Albion Mill conversion, mills triangle policy area, new community facilities, existing community facilities, natural environment features, urban edge, local green space, Biddulph Valley Way, protection of views of local importance, housing, infill housing, critical road junctions, sustainable drainage, community infrastructure, design, public realm, car parking and movement.
- 3.3 The Neighbourhood Development Order (NDO) grants planning permission for the replacement of shop fronts subject to compliance with the conditions and parameters set out.
- 3.4 The Examiner's report was received by the Council on 2nd February 2022. It finds that, subject to specified modifications, the Neighbourhood Plan meets the basic conditions and other requirements. It also finds that, subject to specified modifications, the Neighbourhood Development Order meets the basic conditions and other requirements. It is recommended by the Examiner that both documents should proceed to a local referendum based on the plan area. However, the decision as to whether the basic conditions and legal

requirements have been met and therefore if the documents can proceed to referendum rests with the District Council.

- 3.5 Having reviewed the Examiner's report and related regulations, and following discussions with Biddulph Town Council, it is recommended that the District Council concurs with the Examiner's advice in relation to the Neighbourhood Development Order. The majority of the Examiner's recommendations regarding the Neighbourhood Development Plan are also accepted with some exceptions as discussed in this report. A statutory six week period for representations must be held if the Council decides not to accept all of the Examiner's recommendations. Only following this period can the Council determine if the plan should proceed to referendum.

4. How this report links to Corporate Priorities

- 4.1 The Biddulph Neighbourhood Plan and Biddulph Neighbourhood Development Order will have implications for the following aims of the Corporate Plan (2019-2023). Aim 1 - To help create a safer and healthier environment for our communities to live and work, Aim 3 - To help create a strong economy by supporting further regeneration of towns and villages and Aim 4 - To protect and improve the environment and respond to the climate emergency.

5. Alternative Options

- 5.1 Option 1 (recommended) – that the Council agrees with the recommendations set out in Section 2 of this report. This option is recommended as the Neighbourhood Development Order (as modified) is considered to have met the necessary requirements in order to proceed to referendum. Conversely, whilst the majority of the Examiner's recommendations regarding the Neighbourhood Plan are accepted, revised modifications have been identified as being necessary in order to meet the basic conditions or to address errors.
- 5.2 Option 2 (not recommended) – that the Council does not concur with the recommendations set out in Section 2 of this report . This is not recommended as the modifications as set out in this report are considered to be necessary in order for the Neighbourhood Development Order and Neighbourhood Plan to meet the basic conditions or to address errors.

6. Implications

- 6.1 Community Safety - (Crime and Disorder Act 1998)

None direct.

- 6.2 Workforce

None direct

- 6.3 Equality and Diversity/Equality Impact Assessment

An Equalities Impact Assessment has been completed for this project.

6.4 Financial Considerations

Within 2023/24, Local Planning Authorities can claim £20,000 once they have issued a decision statement detailing their intention to send a Neighbourhood Development Order to referendum (as set out under Regulation 25 of the Neighbourhood Planning (General) Regulations 2012). The date for the referendum does not have to be set in order to make this claim. This funding can be used to help meet the cost of holding the referendum and the Examiner's fees incurred to date (£10,251.57).

6.5 Legal

The Neighbourhood Planning (General) Regulations 2012 (as amended) define the requirements for neighbourhood planning under the provisions of sections 61E, 61F, 61G, 61K, 61L, 61M and 71A of, and paragraphs 1, 4, 7, 8, 10, 11, 12 and 15 of Schedule 4B and paragraphs 3 and 11 of Schedule 4C to, the Town and Country Planning Act 1990, and sections 38A, 38B and 122(1) of the Planning and Compulsory Purchase Act 2004

More specific legal issues are considered in section 7 of this report.

6.6 Climate Change

Taken as a whole, policies in the proposed Neighbourhood Plan are considered to be beneficial in terms of climate change mitigation and adaptation. Flooding is particularly addressed in Policy INF2 and Policy DES2 promotes sustainable transport methods. The Neighbourhood Development Order is not considered to have any significant implications for climate change.

6.7 Consultation

The Neighbourhood Plan and Neighbourhood Development Order have been subject to formal consultation in accordance with Regulation 14 and 16. It is proposed that a further six week period for representations is now commenced on the revised modifications to the Neighbourhood Plan.

6.8 Risk Assessment

Risks are considered in section 7.

Neil Rodgers
Executive Director (Place)

Web Links and Background Papers

<https://www.staffs Moorlands.gov.uk/article/6721/Biddulph---Notice-of-Submitted-Plan--Neighbourhood-Development-Order-Proposals>

<https://www.gov.uk/guidance/neighbourhood-planning--2#key-stages-in-neighbourhood-planning>

<https://www.biddulph.co.uk/neighbourhood-plan/>
<https://www.biddulph.co.uk/neighbourhood-development-order/>

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7. Detail

Background and process

- 7.1 Biddulph Parish was designated as a Neighbourhood Area by the District Council on 16th February 2016. The designation of the area was a key stage in the statutory process of preparing the Neighbourhood Plan and Neighbourhood Development Order.
- 7.2 Subject to the outcome of the examination and potential referendum, the Neighbourhood Plan and Neighbourhood Development Order will form part of the statutory development plan for the District and will be used to determine planning applications alongside other adopted documents. At present, the Staffordshire Moorlands Local Plan (2020), Minerals Local Plan for Staffordshire (2015-2030) Staffordshire and Stoke-on-Trent Waste Local Plan (2010 to 2026) form the development plan for Staffordshire Moorlands outside of the National Park.
- 7.3 The Biddulph Neighbourhood Plan and Neighbourhood Development Order have been prepared by the Parish Council under powers introduced in the 2011 Localism Act. This enables Town and Parish Councils or “neighbourhood forums” in areas without such authorities to establish planning policies for their area provided that the plan meets the basic conditions and is supported by the majority of votes at a referendum. The District Council have supported the Parish Council through this process.
- 7.4 The Neighbourhood Plan was informed by consultation undertaken by the Parish Council with the local community and stakeholders. This included the statutory “regulation 14”¹ consultation between 23rd September and 4th November 2019. A summary of the comments submitted to the Parish Council is provided in the “Consultation Statement” which is available on the neighbourhood plan website (link above). The District Council’s response at this stage expressed concern as to whether a combination of policy wording and the proposed designation of 75 Local Green Spaces in the Parish would undermine future plan preparation by increasing pressure on the Green Belt to

¹ Regulation 14 of the Neighbourhood Planning (General) Regulations 2012

meet future development needs. Detailed comments were provided on the policies with the aim of improving their clarity and ensuring they were compliant with the NPPF and Local Plan.

- 7.5 The Neighbourhood Development Order was also informed by consultation undertaken by the Parish Council with the local community and stakeholders. This included the statutory “regulation 14” consultation between 23rd September and 4th November 2019. A summary of the comments submitted to the Parish Council is provided in the “Consultation Statement” which is available on the neighbourhood plan website (link above). The District Council’s response gave guidance as to how wording could be made more precise to assist end users of the Neighbourhood Development Order.
- 7.6 Subsequently, the Neighbourhood Plan and Neighbourhood Development Order with supporting documents was submitted to the District Council under Regulation 15(1) of the Town and Country Planning Neighbourhood Planning (General) Regulations 2012 (as amended). A report to the District Council’s Cabinet on 29th June 2021 considered the Neighbourhood Plan, Neighbourhood Development Order and accompanying submission documents for each, comprising a Consultation Statement, Basic Conditions Statement; Screening Opinions regarding the need for Strategic Environmental Assessment and Habitats Regulations Assessment and a determination statement. The Cabinet agreed that:
- The draft Biddulph Neighbourhood Plan and draft Biddulph Neighbourhood Development Order could be published for public consultation for a minimum of six weeks;
 - The Head of Development Services is authorised to appoint an independent Examiner in consultation with Biddulph Town Council; and
 - That the Cabinet notes the process and estimated timescales for taking the documents forward in line with the regulations.
- 7.7 Both documents were then formally published for comments by the District Council for a period of six weeks closing on 27th August 2021. The Neighbourhood Plan that was published at this stage sets out planning policies for the Biddulph Neighbourhood Area concerning: enterprise and tourism development, Albion Mill conversion, mills triangle policy area, new community facilities, existing community facilities, natural environment features, urban edge, local green space, Biddulph Valley Way, protection of views of local importance, housing, infill housing, critical road junctions, sustainable drainage, community infrastructure, design, public realm, car parking and movement.
- 7.8 The Neighbourhood Development Order (NDO) that was published at this stage grants planning permission for the replacement of shop fronts subject to compliance with the conditions and parameters set out.
- 7.9 Responses to the Neighbourhood Plan were received from the British Horse Society, Canal & River Trust, Coal Authority, Environment Agency, Highways England, Historic England, National Grid, National Trust, Natural England,

Seabridge Developments Ltd, Severn Trent, Sport England, Staffordshire County Council, Staffordshire Moorlands District Council, Staffordshire Police, Theatres Trust and United Utilities. Most did not request changes to wording in the plan. The most significant objections were from Seabridge Developments Limited, (who wished to see a proposed Local Green Space designation to land within their ownership removed, alongside associated policy amendments) and the District Council (who requested amendments to a number of policies for clarity and to comply with national policy – these issues were also raised during the previous Reg 14 consultation).

- 7.10 Responses to the Neighbourhood Development Order were received from the Canal & River Trust, Highways England, Historic England, Natural England and Staffordshire Moorlands District Council. Most had no comments. The District Council suggested further amendments to the wording to give clarity to the end user.
- 7.11 In agreement with Biddulph Town Council, John Slater BA (Hons) DMS MRTPI, was appointed as the independent Examiner. The Examination in Public commenced on 12th October 2021 by written representations and the Examiner's report was submitted to the Council on 2nd February 2022. An addendum to the report was subsequently issued by the Examiner in August 2022 to correct an erroneous paragraph number reference made in relation to the National Planning Policy Framework.

Examiner's report

- 7.12 The Examiner's role is to consider whether the Neighbourhood Plan and Neighbourhood Development Order meet the legislative and procedural requirements. This includes determining whether the plan and order meet the "basic conditions". Only when they are considered to have met the basic conditions, convention rights and legal obligations can they be put to referendum and be made. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:
- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
 - b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
 - c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
 - d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.

e. the making of the order (or 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).

f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.

g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

7.13 In addition to the basic conditions, the Examiner's report also considers:

- whether a Neighbourhood Plan / Neighbourhood Development Order is compatible with the Convention Rights²
- whether the Neighbourhood Plan / Neighbourhood Development Order complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.

7.14 The Examiner's report must recommend either:

- that the Neighbourhood Plan and / or Neighbourhood Development Order is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan and / or Neighbourhood Development Order is submitted to a referendum, or
- that the Neighbourhood Plan and / or Neighbourhood Development Order does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

7.15 Whilst the Examiner's report must address the issues above, it is the responsibility of the local planning authority to ensure that all of the regulations appropriate to the nature and scope of the draft Neighbourhood Plan and draft Neighbourhood Development Order submitted have been met in order for the draft Neighbourhood Plan and draft Neighbourhood Development Order to progress.

7.16 Schedule 4B to the Town and Country Planning Act 1990 requires that the local planning authority must—

- (a) consider each of the recommendations made by the report (and the reasons for them), and
- (b) decide what action to take in response to each recommendation.

7.17 The only modifications that the local planning authority may make are:

² The Convention Rights has the same meaning as in the Human Rights Act 1998

- (a) modifications that the authority consider need to be made to secure that the draft order meets the basic conditions mentioned in paragraph 8(2),
- (b) modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights,
- (c) modifications that the authority consider need to be made to secure that the draft order complies with the provision made by or under sections 61E(2), 61J and 61L
- (d) modifications specifying a period under section 61L(2)(b) or (5)
- (e) modifications for the purpose of correcting errors.

7.18 The local planning authority must publish the decisions it makes in relation to the Examiner's recommendations, the reasons for making those decisions and such other matters relating to those decisions and to notify the qualifying body and other relevant bodies.

7.19 If the local planning authority propose to make a decision which differs from that recommended by the Examiner, and the reason for the difference is (wholly or partly) as a result of new evidence or a new fact or a different view taken by the authority as to a particular fact, the authority must notify prescribed persons of their proposed decision (and the reason for it) and invite representations from the Qualifying Body (the Town Council), anyone whose representation was submitted to the Examiner and any consultation body that was previously consulted. If the authority consider it appropriate to do so, they may refer the issue to independent examination.

7.21 If the local planning authority invites representations on different conclusions from the Examiner, such representations must be submitted within six weeks. Once the period for representations is over, the local planning authority must issue its final decision within five weeks, or within five weeks of receipt of the Examiner's report if the issue was referred to examination.

7.22 Schedule 4B of the Town and County Planning Act 1990 (as inserted by Section 141 of the Housing and Planning Act 2016) makes provisions for the Town Council to request that the Secretary of State intervenes in the following instances:

- where the local planning authority has failed to take a decision to send a plan or Order proposal to referendum within 5 weeks of receipt of the Examiner's report, or within 5 weeks of the end of the period for representations;
- where the authority does not follow all of the Examiner's recommendations; or
- where the authority modifies the plan or Order in a way that was not recommended by the Examiner (except where the modification is to ensure compatibility with EU or human rights obligations or to correct an error).

7.23 Such requests for intervention from the Secretary of State by the Town Council must be made within six weeks of the publication of the local planning

authority's decision. There is no time limit for intervention requests that relate to the local planning authority failing to decide whether the plan or order should be put to referendum. Biddulph Town Council have agreed to an extension of time beyond the receipt of the Examiner's report in order to enable their concerns to be properly considered. It is recommended that the District Council continues to liaise with the Town Council in order to proceed in a timely manner to reduce the risk of the intervention of the Secretary of State.

7.24 The Examiner's recommendations for both documents are provided below alongside a recommended response from the District Council. The Examiner's full report and associated addendum sheet are available at Appendix 1 and 2 respectively.

Requirement	Examiner's recommendations	District Council's response
<p>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</p>	<p>I am satisfied that the basic conditions regarding compliance with European legislation, including the more recent basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the Plan has no conflict with the Human Rights Act.</p>	<p>SMDC accepts the Examiner's recommendations.</p>
<p>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</p>	<p>I can confirm that my overall conclusions are that both the Neighbourhood Plan and the Neighbourhood Development Order, if amended in line with my recommendations, meets all the statutory requirements including the relevant basic conditions tests and that it is appropriate, if successful at referendum, that the Plan and the Order, as amended, be made.</p> <p>On the question of the sustainable development basic condition test, I have concluded that the policies in the plan, when read as a whole, will deliver sustainable development.</p>	<p>SMDC accepts the Examiner's recommendations, subject to revisions to some of the Examiner's modifications to the Neighbourhood Plan as outlined in this report.</p> <p>There is one modification which SMDC does not accept relating to the timeframe of the Neighbourhood Plan.</p>
<p>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</p>	<p>I am generally satisfied that the neighbourhood plan and the provisions of the NDO are in general conformity with the strategic policies set out in the recently adopted Local Plan and therefore meets that</p>	<p>SMDC accepts the Examiner's recommendations.</p>

Requirement	Examiner's recommendations	District Council's response
any part of that area)	basic condition test.	
Whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.	I can confirm that the area of the Biddulph Neighbourhood Plan and Neighbourhood Development Order as designated by Staffordshire Moorlands District Council on 16th February 2016, namely the whole parish, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.	SMDC accepts the Examiner's recommendations.

7.25 As highlighted in the table above, the Examiner has recommended modifications to the Neighbourhood Plan in order to meet the basic conditions. Following receipt of the Examiner's report, discussions have taken place with Biddulph Town Council which has expressed concerns regarding a number of the Examiner's conclusions and recommended modifications. The table below details the each of the Examiner's recommended modifications and his reasoning for them alongside comments from the Town Council and the recommended conclusions of the District Council. Whilst it is the District Council's responsibility to consider the Examiner's recommendations and determine if the plan can proceed to referendum, the Town Council's views have been carefully considered as part of this process.

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
<p>That the end date of the Neighbourhood Plan should be 2033.</p>	<p>The plan period for the neighbourhood plan runs two years longer than the local plan's plan period which ends in 2033. The Neighbourhood Plan is proposing an end date of 2035. For the final two years of the neighbourhood plan period, the policies will not be guided by any strategic framework set by the local plan. I can see no justification for the neighbourhood plan having a different plan period than the local plan. Having a longer plan period could affect the amount of housing expected to be delivered in the town over the longer period. I am also conscious that the local plan is likely to be subject to an early review. I will therefore be recommending that the two end dates should be the same, i.e., that the neighbourhood plan period should run until 2033.</p>	<p>The preference of the Town Council is for 2035. A new Local Plan would be adopted well before 2033, providing updated strategic level policy. If this wasn't the case, then it would be even more important for the NP to still be in place. In reality, the Neighbourhood Plan would also be renewed also, well before this time.</p> <p>The Biddulph Housing Needs Assessment that has informed the Neighbourhood Plan considers the period up to 2035.</p>	<p>SMDC notes the Examiner's recommendations but does not accept in this instance.</p> <p>The Local Plan sets the housing requirement for the neighbourhood plan area. This requirement covers the period up to the year 2033.</p> <p>In relation to matters raised by the Town Council, it is agreed that both the Local Plan and Neighbourhood Plan are likely to have been updated before 2033. It is also acknowledged that some of the evidence that has informed the Neighbourhood Plan relates to the period up to 2035.</p> <p>Whilst it recognised that the Examiner's recommendation is a logical modification to the plan in order to ensure greater consistency and conformity with the timeframes of the Local Plan, it is not an issue of general conformity and therefore we do not propose to accept the Examiner's recommendation.</p> <p>The consultation on the modifications will retain the Neighbourhood Plan running to 2035.</p>
<p>Policy HCT1: Enterprise and Tourism Development: The Business, Enterprise and Tourism Development</p>	<p>I consider that as the focus of the policy is intended to be on the diversification of the economy of the rural parts of the plan area, the policy should explicitly state that it applies to the area beyond the settlement boundary. In which case, Green Belt policy allows new employment</p>	<p>All of the suggested modifications are supported.</p>	<p>SMDC accepts the Examiner's recommendations.</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
<p>policy be clarified so that it is clear that it only applies, outside the settlement boundaries where it requires proposals to be consistent with Green Belt policy.</p>	<p>space to establish through the change of use of an existing rural building or indeed to allow for a replacement of existing building for a use within the same Use Classes so long as the replacement building is not materially larger or in the case of the redevelopment of previously developed sites, there is no greater impact on the openness of the Green Belt.</p>		
<p>Policy LE1: Biddulph Town Centre:</p> <p>The Biddulph Town Centre provisions to reflect the recent changes to the Use Classes Order. Where changes to residential uses take place at ground floor level there should be a requirement to retain any shop window.</p>	<p>The position regarding retail and other town centre uses has changed since the submission version of the neighbourhood plan was finalised. In September 2020, the Government introduced amendments to the Use Classes Order which included a new updated Use Class E, covering uses which had previously been within Classes A, B1 and some Class D uses. That therefore gives greater flexibility for changes of use to take place within the town centre than would have been possible under the previous version of the Use Classes Order.</p> <p>The response of the Town Council was to suggest revised policy wording, the first part includes support for uses "where they support and cause no harm to its vitality and viability". I consider that to be an appropriate test.</p> <p>The second element of the policy relates to residential uses. As submitted, the policy prohibits residential uses at ground floor level, but again recent changes in the planning secondary legislation will have a material impact on the policy. New permitted development rights allow the conversion of small vacant shop units to residential use subject to some prior approval conditions being met. Therefore, it may not be possible to prevent the principle of such changes of use if it prevents empty shops remaining vacant for long periods which itself has a deleterious effect on the viability or vitality of the town centre. The policy, as recommended by the Town Council, requires that changes to premises which will no</p>	<p>All of the suggested modifications are supported.</p>	<p>SMDC accepts the Examiner's recommendations.</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
	<p>longer be open to the public, including residential uses, can be permitted where planning permission is actually required, subject to provision or retention of a shopfront. Whilst retaining a large window area can pose issues for the privacy of the people now living within the former shop units, these are not considered to be an insurmountable obstacle and indeed, there are many examples across the country where residential conversions have taken place behind a retained shop front and window. I consider that this criterion can be retained to help achieve the Town Council's aspirations for a lively town centre.</p>		
<p>Policy LE2: Albion Mill Conversion:</p> <p>The Albion Mill policy is amended to permit residential uses at ground floor level.</p> <p>Delete the text in the interpretation section.</p> <p>Move map from appendix to main body of report.</p> <p>In the first bullet, delete 'above ground floor only'.</p>	<p>The policy interpretation section refers to Policy DSB 2 of the Local Plan but Albion Mill is not one of the mills identified in that policy which only applies to Yarn Mill and Minster Mill.</p> <p>The policy is entitled Albion Mill Conversion, so the policy is supporting the retention and conversion of the building. However, the building is not a listed building, and is not in a conservation area, but it is a non-designated heritage asset. Therefore, there is no statutory provisions which prevent the building being demolished. I know that planning permission has previously been granted for the building's redevelopment for housing. However, the policy by indicating that if conversion proposals were to come forward, in accordance with the range of uses set out in the various bullet points, then planning permission is likely to be granted. The policy does not prevent the redevelopment of the site being supported.</p> <p>Following my site visit, I concluded that there was no overriding planning justification for explicitly preventing residential uses on the ground floor. I consider that there is no overwhelming case for requiring the incorporation of a mixture of uses allowed in the policy, although a mix containing business and enterprise space, tourism</p>	<p>Deletion of the interpretation section would create an inconsistent format. Also, it is important to link this to the relevant Local Plan policy, to make clear that it augments rather than replacing that policy. Suggest amending wording to refer to 'adopted' Local Plan.</p>	<p>The District Council concurs with the Examiner's recommendations to move the map from an appendix to main body of report and in the first bullet, delete 'above ground floor only'.</p> <p>In relation to the Examiner's recommendation to delete the text in the interpretation section, the District Council agrees with the concerns of the Town Council that this would create an inconsistency in the plan as all other policies are accompanied by an interpretation.</p> <p>However, the Examiner's concern that the interpretation as provided in the current Neighbourhood Plan erroneously references Local Plan Policy DSB2 is also valid.</p> <p>As such, the District Council proposes an alternative modification to the Neighbourhood Plan in order</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
	<p>related uses, cultural and entertainment uses and tourism related retail uses, could be permissible, but do not need to be required elements of a conversion. The insistence on uneconomic uses could affect the overall viability of any conversion works. Within these parameters I consider the policy, which seeks to offer support for the building's conversion for any of the uses proposed is sensible and I will recommend accordingly. I agree with the Town Council that the map showing the location of Albion Mill would be better located alongside the policy rather than within a separate appendix.</p>		<p>to rectify what may be deemed an erroneous omission from the plan. It is proposed that the interpretation section is retained but that the text is replaced with the following:</p> <p>"This policy should be applied in conjunction with Policies SS6, E1, E4 and H1 of the Local Plan."</p> <p>Necessary to comply with basic condition: e)the making of the order 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)</p>
<p>Policy CF1: New Community Facilities</p> <p>No comments</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>
<p>Policy CF2: Existing Community Facilities:</p> <p>The amendment of the policy which seeks to support proposals which affect community facilities to allow those proposals that enhance their community value to be permitted and also to incorporate into the policy a test if a community facility is to be lost. Also, that reference to the Sainsbury Community</p>	<p>I consider that a policy which supports developments that "affect existing community facilities" is somewhat ambiguous. It could be that a neighbouring development could <i>affect</i> a community facility, possibly in an adverse way.</p> <p>The intention of the policy would be clearer, if it stated that development which enhanced the community value of the premises, will be supported. The exceptions to the general presumption in favour of the protection of the facility, namely, if it is demonstrated that there is or will be a similar quality of or better facilities provided nearby, should be included as part of the test of the policy rather</p>	<p>All of the suggested modifications are supported.</p>	<p>SMDC accepts the Examiner's recommendations.</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
Room be removed.	<p>than being referred to in the supporting text, which will not have the same weight as a development plan policy.</p> <p>I understand that the Sainsbury Community Room was not provided pursuant to any planning requirements and it forms part of the overall retail planning unit of the store. Therefore, the change of use of that part of the building to retail related uses would not constitute a material change of use and would not require planning permission. . Therefore, reference to the Sainsbury's Community Room within the policy serves no purpose as its retention would not be a matter for planning control.</p>		
<p>Policy NE1: Natural Environment Features:</p> <p>Replace the policy with:</p> <p>“The neighbourhood plan identifies the sites shown on the following maps to be of particular significance for biodiversity and ecological interest and development affecting such sites will be considered against the following policies of the Staffordshire Moorlands Local Plan:</p> <ul style="list-style-type: none"> Local wildlife sites to be covered by Policy NE1 (4) are shown on the map entitled Nature Conservation Sites within 	<p>The policy requires all developments to preserve or enhance the special rural character of the area. Whilst the areas outside of the town, have a special rural character, I would describe what I saw within the town centre and its residential areas as having an essentially urban character.</p> <p>The policy places the same expectations on the ecological and environmental features of the area, irrespective of their significance. In effect, it would mean at the test of the impact on a local nature reserve site will be the same as local wildlife sites which are lower down the hierarchy. That is contrary to the approach set out in the NPPF which refers to policies protecting and enhancing sites of biodiversity value, in a manner commensurate with the statutory status or identified quality in the development plan.</p> <p>The concerns expressed by objectors are that the policy as drafted does not give the decision maker guidance as</p>	<p>A Neighbourhood Plan may not apply policies of a Local Plan. Only adoption of the Local Plan can achieve this. In other instances, Examiners have deleted policies that have sought to apply Local Plan policy.</p> <p>The suggestion to move plans to the relevant policies in the main body of the plan is supported.</p>	<p>SMDC accepts the Examiner's recommendations.</p> <p>The Neighbourhood Plan can cross reference to relevant policies in the adopted Local Plan. Indeed it does elsewhere in the document.</p> <p>The Examiner's modifications address the concerns raised by objectors in terms of conflict with the NPPF and are supported</p> <p>Necessary to comply with basic condition: a). having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
<p>Biddulph parish.</p> <ul style="list-style-type: none"> • Wildlife corridors/network, watercourses ponds and lakes to be covered by Policies C2 and C3 are shown on the Ecological/Wildlife Corridors Map. • Priority habitat protected by Policy NE 1 (8) are shown on the Habitat Distinctiveness Map and Habitats Maps. • Sites containing protected species which are protected by Policy NE1(8) are shown on the Protected Species within Biddulph Map. • Areas with opportunities to enhance or create new habitat links to be covered by Policy C3 are shown on the Nature Recovery Map.” <p>Insert the appropriate maps into the main body of the plan rather than in Appendices.</p>	<p>to how a proposal affecting these sites, is to be considered, beyond an absolute requirement that the proposal must preserve the features.</p> <p>It has also been pointed out that the evidence set out in the plan is high-level information which is appropriate for plan making but that the policy in terms of development proposals should be supplemented by specific surveys on individual sites.</p> <p>Recommend a policy modification whereby the neighbourhood plan identifies the sites within the plan area that are natural features of significance and their proposed status and the policy then directs the decision maker to the specific requirements set out in Local Plan Policy NE 1 (and Policy C2 and C3) which stipulates the tests that should apply to any proposals affecting the status of the site.</p> <p>By providing a local context within the polices through identifying sites which are covered by an existing Local Plan policy, the recommended policy will meet the Secretary of State's requirements for a hierarchical approach to biodiversity matters and it will therefore meet the basic conditions.</p>		

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
<p>Policy NE2: Urban Edge</p> <p>At the end of the second sentence of the Interpretation section, add "unless adequately screened / softened by landscaping."</p>	<p>I consider the use of fencing etc can, as acknowledged by the Police increase householders' sense of security and it can, in some situations, be an appropriate means of enclosure, if its harsh visual impact is softened by planting on the external side of the fence. I will recommend that the interpretation section be amended to the effect that hard boundary treatments would not be appropriate unless adequately screened / softened by landscaping.</p>	<p>All of the suggested modifications are supported.</p>	<p>SMDC accepts the Examiner's recommendations.</p>
<p>Policy NE3: Local Green Space:</p> <p>Deleting a number of local green spaces and clarifying the test of development that takes place on local green spaces to that which is consistent with national Green Belt policy.</p>	<p>The plan is proposing a significant number of local green spaces (75) even for a town the size of Biddulph.</p> <p>A number of these already enjoy the LGS status through the Local Plan's own designation and there is no value in duplicating them.</p> <p>A number of areas of highway verge are proposed for designation. I imagine that many of these were being chosen because of their contribution to the Biddulph in Bloom. However, works in the public highway tend to be covered by highway legislation and enjoy permitted development rights. As the policy could not influence a planning application, this policy would not be capable of being utilised. I am therefore proposing that these sites are excluded from the list of LGS.</p> <p>One of the Secretary of State stipulations is that the designation of local green space should be consistent with the delivery of sustainable development and can be expected to be capable of being retained as green space beyond the plan period. There are three sites which the Town Council has proposed for designation as local green spaces which have also been identified by the District Council as deliverable housing sites within the SHLAA. These are Gillow Fold Field (Site 57), the Gas</p>	<p>With regard to the suggested policy wording, we are unsure that the Examiner's wording accurately reflects the wording in the NPPF. Therefore, we suggest adding the following to the interpretation: 'National policy states that Local Green Space has similar protection to Green Belts. It should be noted that the purpose of Local Green Space designation is related to community value, so is different to the five purposes for Green Belts'.</p>	<p>SMDC accepts the Examiner's recommendations for revisions to the policy and designated sites.</p> <p>SMDC accepts the Examiner's recommendation to delete the two sites as they are not considered to be consistent with the local planning of sustainable development.</p> <p>Necessary to comply with basic condition: a). having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).</p> <p>Support the addition proposed by the Town Council.</p> <p>Further to the above, a typographical error has been identified with part of the Examiner's recommendation modification. Local Green Space number 86. is incorrectly named Cherry <i>Garden</i> Lane. The correct</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
	<p>Works (Site 85) and Knypersley Green Space (Site 25). Two of the sites are currently within the Green Belt and may therefore be considered already protected. However I do note that the Local Plan states that in any future Local Plan review, if development requirements dictate, both sites would be considered for development.</p> <p>It is not for me to express a view as to whether these two sites should be released from the Green Belt but in light of the conclusions of the SHLAA, I consider that it would be premature to grant LGS status on these areas, pending the local plan review as it could prevent the delivery of sustainable development. If I had recommended the confirmation of LGS status it would mean that the sites, which the SHLAA recognises as being deliverable, will essentially then be sterilised well beyond the current plan period. The two sites will remain within the Green Belt, as currently drawn but to declare them as local green space, would not, in my opinion, meet the tests set out in paragraph 101³ of the Framework.</p> <p>The final SHLAA site is the Gas Works. From what I saw on my site visit this is a fully enclosed urban site and I am not satisfied from what I have seen that it possesses such a richness of wildlife to be considered "demonstrably special" for that reason to the local community. I consider that it could be appropriately developed, in line with current policy to make best use of urban brownfield land for residential purposes. I will</p>		<p>name is Cherry Tree Lane. Accordingly, the District Council proposes a revision to the modification to correct this error.</p>

³ Examiner's report dated February 2022 erroneously referred to paragraph 103 of the Framework. His subsequent addendum dated August 2022 corrected this reference to read paragraph 101.

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
	<p>therefore be proposing that the site be deleted from the LGS policy.</p> <p>I am also proposing the deletion of two of the proposed local green spaces as they constitute extensive tracts of land, namely Biddulph Valley Way (Site 16) and land east of Newpool (Site 63), both of which are covered by the proposed Policy NE 4.</p> <p>The purpose of local green space designation is to offer the highest-level protection of green spaces which have to be particularly valued by the community for having special significance. It is not a tool to seek to protect every piece of open space within an area.</p> <p>Some of the spaces are outside the urban area and are already subject to Green Belt policy. However, I need to be conscious of the Secretary of State's advice in Planning Practice Guidance which recognises that "LGS designation could help to identify areas which are of particular importance to the local community" even if they fall within the Green Belt.</p> <p>Turning to the policy as it affects the LGSs for managing development, the policy as submitted does not accord with the approach set out in paragraph 103 of the Framework which sets out that policies for managing development within a LGS should be consistent with those for the Green Belt. I do not consider that say the building of a community building would necessarily accord with Green Belt principles which are essentially</p>		

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
	aimed at keeping the green spaces open. I will propose an amended form of wording which relates more closely to the Secretary of State's approach and would be consistent with Policy DC 4 of the Local Plan.		
<p>Policy NE4: Biddulph Valley Way</p> <p>After "must" insert "where practical"</p>	My only comment on this policy is that it is only development which lies adjacent to the route that should take the opportunity to enhance the route "where practical".	<p>We think that adding 'where practical' to policies is poor practice and provides an easy 'get out' clause for developers.</p> <p>Our preference would be to replace the word 'must' with 'should'.</p>	<p>SMDC accepts the Examiner's recommendations.</p> <p>The policy as written would apply to all development, including extensions and other types of projects for which "taking opportunities to enhance the route" would be impossible. The Examiner's insertion of "where practical" would allow the decision makers to determine if the requirement was applicable on a case by case basis.</p> <p>Necessary to comply with basic condition: a). having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).</p>
<p>Policy NE5: Protection of views of local importance:</p> <p>The Protection of Views policy should only require applicants of major schemes to demonstrate how the layout and form has taken</p>	I consider that this is entirely appropriate for a neighbourhood plan to seek to identify locally important views. I witnessed for myself each of the views which provide essentially long-distance views of the countryside beyond the town. These are shown on the map entitled "Direction of Key Views". I consider that it will be helpful to annotate each of the arrows to cross reference the	We still think the wording of the policy is a little confusing, due to the repetition of the word 'development' so suggest replacing the term 'development' in the last sentence with	<p>SMDC accepts the Examiner's recommendations.</p> <p>The Examiner's suggested modification would be understood by the decision maker and is supported.</p> <p>Necessary to comply with basic</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
account of the views.	<p>number of the photos in the document.</p> <p>The policy implies that all planning applications will be accompanied by Design and Access Statements. However, these are only required in the case of "major" development (there are no conservation areas which are affected by the views so that does not trigger a need for such statements). I will propose a form of wording that requires developments which affect these views to demonstrate how they have taken account of the key view in terms of the form and layout of the development.</p>	'scheme'.	<p>condition:</p> <p>a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).</p>
<p>Policy HOU1: Housing:</p> <p>In the first bullet point, second sentence after "provision", replace "should" with "will be expected to" and at the end of the sentence, insert "if it is feasible to do so".</p> <p>At the end of the policy insert a new bullet point before "Self- build housing" entitled "First Homes".</p>	<p>I appreciate the desire of the Town Council that any affordable housing provided offsite, should nevertheless be provided within the plan area, but equally I concur with the views of the District Council it is better that affordable housing is delivered for those in housing need within the district, rather than being lost, through lack of opportunity within the parish. I will propose a suitable form of wording to cover this.</p> <p>With the introduction of First Homes, a form of housing which offers discounts in the market housing and is expected to be treated as a form of affordable housing, although not required under the transition arrangements, can in accordance with the Town Council's suggested response be included in the list of types of housing which will be particularly welcomed in the parish.</p>	<p>Most of the suggested modifications are supported.</p> <p>We have concern over the suggested addition wording 'if it is feasible to do so'. This would provide an easy 'get out' clause for developers. Better wording would be to add 'where there are robust planning reasons to do so'.</p>	<p>SMDC accepts the Examiner's recommendations with an addition.</p> <p>The Examiner's suggested wording would not be a "get out" as the requirement for affordable housing (and cost to the developer) would still apply.</p> <p>However, to ensure the correct interpretation of the policy and to reduce ambiguity, the following modification is proposed;</p> <p>"If this is not possible, affordable provision will be expected to be provided within the neighbourhood area, except in exceptional circumstances. "</p> <p>Necessary to comply with basic</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
			<p>condition:</p> <p>a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).</p> <p>e)the making of the order 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),</p>
<p>Policy HOU2: Infill housing:</p> <p>The infill housing policy should apply to sites within or adjacent to settlement boundaries.</p> <p>After "small infill sites" insert "within or adjacent to settlement boundaries"</p>	<p>The policy appears to cover the whole plan area, including the areas outside the urban areas of Biddulph and Biddulph Moor. I consider the criteria for those parts of the plan area within the Green Belt should be excluded from the remit of the policy, rather than being referred to within the interpretation section, which does not have the same weight as a development plan policy. National policy allows "limited infilling within villages" which I interpret as applying to villages that are washed over by the Green Belt as opposed to the situation at Biddulph Moor where the village is excluded from the Green Belt. However, the Local Plan does allow in Policy H1, limited infilling on sites <i>adjacent</i> to the settlement boundaries of larger villages which includes Biddulph Moor so I consider that should be reflected in the policy.</p>	<p>The modifications are supported.</p>	<p>SMDC accepts the Examiner's recommendations.</p> <p>The introduction to the housing section in the neighbourhood plan acknowledges that the policies should be read in conjunction with Policy H1 of the Local Plan.</p> <p>In relation to housing proposals for "limited infill" outside of settlement boundaries, the Local Plan Policy H1 states the following requirements for developments outside of towns (e.g. Biddulph), Larger Villages (e.g. Biddulph Moor) and the Green Belt (i.e. all of Biddulph Parish outside of Biddulph and Biddulph Moor).</p> <p><i>"The development will adjoin the boundary of a larger village and be</i></p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
			<p><i>well related to the existing pattern of development and surrounding land uses...</i></p> <p><i>...In all cases the development will not lead to a prominent intrusion into the countryside or have a significant adverse impact on the character and appearance of the countryside...</i></p> <p><i>...When development is located in the Green Belt, national Green Belt Policy will apply."</i></p> <p>The above is intended to safeguard against the type of development that the Town Council is concerned about. The whole of the parish outside of the settlement boundaries of Biddulph and Biddulph Moor is designated as Green Belt. The Examiner's modification is aligned to both the Local Plan and NPPF and is not contrary to the Basic Conditions.</p> <p>Necessary to comply with basic conditions:</p> <p>a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).</p>
Policy INF1: Critical road junctions:	This policy essentially requires transport assessments to assess, in particular, the impact of development on four	Given that a Neighbourhood Plan can set requirements for	SMDC accepts the Examiner's recommendations.

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
<p>The need to demonstrate whether there is a severe impact on the four key junctions be restricted to those sites which are required to submit a Transport Assessment.</p> <p>Replace "and" with "an"</p> <p>After "made" insert "in any submitted Transport Assessment"</p>	<p>key junctions along the A527. The test set out in paragraph 111 of the NPPF, is 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 impact on the highway network would be severe".</p> <p>I am pleased that the "severe impact" threshold is included within the policy. I feel that it would be an onerous obligation to be placed on decision-makers to require assessment of development on each junction in respect of all proposals. I consider that it will be relevant for those scheme proposals which require the submission of a Transport Assessment.</p>	<p>development to meet, but cannot set submission requirements, our suggestion would be to add reference to transport assessments to the interpretation, rather than the Policy itself.</p>	<p>The Examiner's modification does not set submission requirements.</p> <p>It states "in any submitted transport assessment" i.e., those that are already required to be submitted, should consider the identified "congestion pressure points"</p> <p>Necessary to comply with basic conditions:</p> <p>a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).</p>
<p>Policy INF2: Sustainable Drainage</p> <p>No recommended modifications</p>	<p>N/A</p>	<p>N/A</p>	<p>SMDC accepts the Examiner's recommendations that no modifications are required.</p>
<p>Policy INF3: Community infrastructure:</p> <p>Deletion of the Community Infrastructure policy but its contents should be moved to the supporting text.</p>	<p>A neighbourhood plan policy is required to be a policy for the use and development of land, which can be used for the determination of a planning application. As written the policy seeks to identify what infrastructure is to be prioritised within the plan area. However, determining how CIL monies are spent is essentially a budgetary decision to be taken by the District Council, apart from those 25% of funds which are allocated to the Town Council, in which case they fall within the direct control of</p>	<p>The suggested modification is supported.</p>	<p>SMDC accepts the Examiner's recommendations.</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
	<p>the Biddulph Town Council.</p> <p>Planning obligations can only be sought to fund infrastructure where the obligation meets all three tests set in Regulation 122 of the Community Infrastructure Levy Regulations 2010, namely that the contribution is required to:</p> <ul style="list-style-type: none"> • Make the development acceptable in planning terms • Is directly related to the development • And is reasonably related in scale and kind to the development. <p>Developers can only be expected to contribute to the infrastructure identified in the policy if it meets each of the three tests. That is reflected in Local Plan Policy SS 12. I have therefore concluded that as a policy to be used to determine applications, this does not meet the basic conditions. However, I do consider that it is reasonable for the Town Council to refer to its priorities for extra spending in the parish. I am therefore recommending that it can be retained but not as a policy but as part of the supporting text under the Infrastructure Chapter.</p>		
<p>Policy DES1: Design:</p> <p>Removing reference to the authenticity and durability of materials from the design policy.</p>	<p>Reference to the authenticity and durability of materials are not necessarily matters that can be determined by a planning decision maker. If the choice of materials complements the local materials used in the vicinity and is an appropriate material for the context, it is not necessary for the decision-maker to have to assess the long-term performance of that particular product.</p>	<p>The suggested deletion of the word 'authentic' is supported.</p> <p>However, we consider that it is important that materials be durable and that this is a key part of ensuring that development is sustainable.</p>	<p>Agreed with the deletion of "authentic"</p> <p>The Examiner's suggestion to delete the final paragraph and 3 associated bullet points is also supported. The current reference to self-build is not relevant to design. As indicated by the Examiner, the other 2 bullet points regarding innovative design and environmental performance are</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
			<p>already addressed in elsewhere in Policy DES1.</p> <p>In relation to the use of the word "durable", it is noted that the term is used in the National Design Guide as a fundamental principle for good design (para. 4) and referenced elsewhere in the document (e.g. para. 30. With this in mind its use is accepted.</p> <p>Necessary to comply with basic condition:</p> <p>a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).</p>
<p>Policy DES2: Public Realm, Car Parking and Movement</p> <p>In the first sentence after "demonstrate" insert "where it is appropriate"</p>	<p>I have no fundamental concerns regarding this policy but as submitted in places this policy applies obligations on all new development in the parish. That would not necessarily be relevant considerations for many projects, so I propose to caveat the policy by applying it "where it is appropriate".</p>	<p>We think that adding 'where it is appropriate' to policies is poor practice and provides an easy 'get out' clause for developers. We consider that the recommendation to add this fails to reflect the NPPF and National Model Design Code.</p>	<p>SMDC accepts the Examiner's recommendations.</p> <p>As written, the absolute requirement would apply to all developments, some of which may not be able to address the respective requirements due to the type and scale of development proposed.</p> <p>For example, an application for a single dwelling would not necessarily be able to comply with the requirement to "provide ease of movement for pedestrian routes and footpaths". A mix of parking</p>

Examiner's recommended modification	Examiner's reason	Town Council's Response	District Council's response
			<p>"including" garages, covered spaces and driveways is also unlikely to be applicable to a proposal for a warehouse extension.</p> <p>Nevertheless, to ensure the correct application of the policy, a further modification is proposed to update the interpretation section to read as follows:</p> <p>The above policy requirements should be applied in a proportionate manner appropriate to the scale and type of development".</p> <p>Necessary to comply with basic condition:</p> <p>a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).</p>

7.26 As highlighted in the table above, the Examiner has recommended modifications to the Neighbourhood Development Order in order to meet the basic conditions. Biddulph Town Council supports the recommended modifications. The recommended modifications are:

Recommended modification	Examiner's reason	District Council's response
Amend Design Parameter D (I) 'Stallriser' by adding at the end "as measured at the midpoint of each stallriser"	Design parameters refer to the height of the stallriser being between 350 mm and 550 mm. However, that raises the question of on a sloping pavement, where that height is to be measured from. The Town Council has suggested, in response to my Initial Comments, that it should be measured at the midpoint. I interpret that, in the case of Shopfront Types 3 and 4, the height should be measured on each side of the doorway at the midpoint of each stallriser. The stallrisers can be the same height relative to the internal floor level so long as the height of each side, measured externally falls within the latitude set in the order.	SMDC accepts the Examiner's recommendations.
Amend Design Parameter D (II) 'Pilasters' replace "slightly" with "by up to 100 mm for the main part of the pilaster"	A requirement which is open to interpretation, relates to the requirement relating to "pilasters" which are expected to "project forward slightly". That begs the question, say in the case of a possible enforcement investigation, whether a new shopfront was authorised or unauthorised, depending on how much the pilaster has been extended forward and an interpretation whether it falls within the limit of being "slightly forward". When the matter was raised with the District Council it has suggested that this should be defined as "not exceeding 100 mm for the main part of the pilaster". I agree that is helpful as it can be measured.	SMDC accepts the Examiner's recommendations.
Delete Design Parameter D (IV) 'Paneling' and replace with a new section entitled "Accessibility for all" and add the following text "Any doors should have a minimum clear opening width of at least 800 mm. Recessed doors should	I do feel that the expectations as it relates to timber panelling would be difficult to be used as a determining factor as to whether consent is or is not required. If constructed and finished to a high standard, it would not be possible for a decision maker to	SMDC accepts the Examiner's recommendations.

Recommended modification	Examiner's reason	District Council's response
<p>have a minimum space depth of 300 mm. Access to the shop door shall be step free and if an access ramp is required it shall be no steeper than 1 in 20 and be provided within the shopfront"</p>	<p>easily determine whether a feature formed a constructional panel rather than beading stuck on to give the same appearance. It would only be possible to differentiate if the panel was dismantled and that would be unreasonable. I also consider that the definition of "panelling" which refers to "flat panels surrounded by mouldings or channels or other surfaces in different planes" would not rule out mouldings added to the flat panel.</p> <p>On my site visit I was conscious that Biddulph town centre stands on a hillside and that many of the shopfronts have steps up to the shop doorways. As proposed, the Order would be granting permission for new shopfronts that continue to rely upon a stepped access which means that the premises are not readily accessible to those with mobility requirements such as users of mobility scooters, wheelchairs or parents with children in buggies. This would be contrary to Planning Practice Guidance, which includes a section entitled 'Inclusive Design'. The Town Council's response was that where level access can be provided, for example, when topography allows slopes of 1 in 20 or less should allow for the construction of ramps. It goes on to state that doors should have a minimum clear opening width of at least 800 mm. Recessed doors should have a minimum space depth of 300 mm.</p>	
<p>Delete Design Parameter D (VI) 'Lighting'</p>	<p>It is necessary to understand the difference between what is operational development associated with the installation of a new shopfront and the consideration of any advertisements, whether it be fascia signs or projecting box signs and whether these are internally or externally illuminated or not illuminated at all. All advertisements are covered by the Town and</p>	<p>SMDC accepts the Examiner's recommendations.</p>

Recommended modification	Examiner's reason	District Council's response
	<p>Country Planning (Control of Advertisements) (England) Regulations 2007. These regulations dictate what signs can be installed under its deemed consent provisions and where an express consent to display an advertisement application is required. This is separate from any planning permission granted in respect of a new shopfront. Therefore, it is clear that an NDO which grants planning permission cannot deal with matters which are covered by separate legislation. Therefore, the question of illumination would be covered, in most cases, by the advertisement consent to display provisions as part of the advert application. As such I do not believe that the NDO can impose any requirements relating to external lighting or materials used on any signage, as these are essentially advertisement matters.</p>	
<p>Amend Condition II by replacing "Part 3" with "the Order" and replace "A1, A2, A3, A4 or A5" with "E or premises used as a public house, wine bar and other drinking establishments and hot food takeaways"</p>	<p>The order is conditional upon four conditions being met. The second condition refers to use is falling within what are now the superseded Use Classes A1 to A5. Following the introduction of the Town and Country Planning (Use Classes) (Amendment) Order 2020, I will be recommending that the condition refers to uses falling within Class E of the new order which covers commercial, business and service uses. I would add to that list, specific sui generis uses that fall outside the use class, but which are uses which can be appropriately located within a town centre, such as public houses, wine bars and other drinking establishments and hot food takeaways.</p>	<p>SMDC accepts the Examiner's recommendations.</p>
<p>Amend Condition III (The shopfront must meet the design parameters set out in Part 2.) by replacing "Part 2" with "the Order"</p>	<p>For clarity.</p>	<p>SMDC accepts the Examiner's recommendations.</p>
<p>Add a new Limitation "The Order does not grant planning permission for a</p>	<p>I believe that creating a NDO which relies upon a stepped access which prevents the</p>	<p>SMDC accepts the Examiner's recommendations.</p>

Recommended modification	Examiner's reason	District Council's response
replacement shopfront if it is to be accessed by a step, whether existing or proposed.”	<p>premises from being accessible for all, by retaining what is affect a physical barrier, would not meet the basic condition of having regard to Secretary of State policy and advice, nor would it accord with the requirements set out in Policy SS1 of the Staffordshire Moorlands Local Plan which expects new development to provide “easy access to jobs, shops and transport services by all sections of the community”.</p> <p>I therefore will be recommending that the Order should not apply for shopfronts which rely upon the stepped access from the pavement into the shop and therefore it would be necessary for such shopfronts to have to apply for planning permission. That would then allow the District Council to consider whether other measures could be introduced, to facilitate better access such as handrails, which would be beyond the scope of what could be covered by a Neighbourhood Development Order.</p>	
Delete the section entitled “Responsible Construction”	I do not consider that the order can be a vehicle which can “encourage” responsible construction. Whilst this may be a desirable objective and is only encouraged, it is not a determination as to whether planning permission is granted by the order. In any event these matters are covered by other legislation. I would recommend that it be removed from the Order.	SMDC accepts the Examiner's recommendations.
Amend the plans shown as “Shopfront Types and Details” by adding to the “Stall Riser Height” title the following in parenthesis “as measured at the midpoint of the stall riser”	See above	SMDC accepts the Examiner's recommendations.

7.27 The Examiner's report concludes by stating that; *“I am therefore delighted to recommend to Staffordshire Moorlands District Council that both the Biddulph*

Neighbourhood Plan and the Neighbourhood Development Order, as modified by my recommendations, should proceed, in due course, to referendum”.

Next steps

- 7.28 Given the above, it is recommended that the District Council agrees to send Neighbourhood Development Order (as modified) to referendum.
- 7.29 In relation to the Neighbourhood Plan, as the District Council does not concur with all of the Examiner’s recommendations, it is proposed to notify prescribed persons of the decision to include alternative modifications and invite representations from the Qualifying Body (the Town Council), anyone whose representation was submitted to the Examiner and any consultation body that was previously consulted.
- 7.30 Such representations must be submitted within six weeks of the date of publication. Once the period for representations is over, the local planning authority must issue its final decision within five weeks, or within five weeks of receipt of the Examiner’s report if the issue was referred to examination. If the authority consider it appropriate to do so, they may refer the issue to independent examination.
- 7.31 Should the Council agree to the recommendations of this report, it will need to issue decision statements for each document to set out the decision taken by the District Council and the reasons for them.
- 7.32 It is proposed that a further report is considered by Cabinet following the six week period for representations and before the five week deadline for the District Council to make its final decision on whether the neighbourhood plan should proceed to referendum.
- 7.33 In the interests of efficiency, should the Neighbourhood Plan proceed to referendum, it would be preferable for the referenda on the plan and Neighbourhood Development Order to occur on the same date. As such, it is proposed that the appropriate date for the referendum be considered when the Council makes its final decision in respect of the Neighbourhood Plan.