

HIGH PEAK BOROUGH COUNCIL

Council

25 October 2023

TITLE:	Whaley Bridge Neighbourhood Plan - Referendum and Decision Statement
EXECUTIVE COUNCILLOR:	Councillor Godfrey Claff - Executive Councillor for Community Safety and Planning
CONTACT OFFICER:	Claire Sansom - Planning Officer (Policy)
WARDS INVOLVED:	Whaley Bridge

Appendices Attached –

Appendix 1 Examiner’s report of the independent examination of the Whaley Bridge Neighbourhood Development Plan (September 2023)

Appendix 2 – Whaley Bridge Neighbourhood Plan Submission Version (November 2022)

1. Reason for the Report

- 1.1 To consider the findings of the examiner’s report of the independent examination of the Whaley Bridge Neighbourhood Development Plan to determine if the plan has met the “basic conditions” required for the plan to proceed to referendum.

2. Recommendation

- 2.1 It is recommended that Council:
- a) accepts the Examiner’s modifications in respect of the Whaley Bridge Neighbourhood Plan and notes that the basic conditions as required by Paragraph 8 (2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) have been met and that a Decision Statement is published to confirm this.
 - b) approves the Examiner’s recommendation that the Whaley Bridge Neighbourhood Plan, as modified by recommendation a) should be submitted

to a referendum in the Parish of Whaley Bridge expected to be on 7th December 2023.

3. Executive Summary

- 3.1 The Neighbourhood Plan Area was designated by High Peak Borough Council on the 24th October 2013 and by Peak District National Park Authority on 13th September 2013. The Draft Neighbourhood Plan was consulted on between 11 May – 22 June 2023. The Independent Examination of the Whaley Bridge Neighbourhood Development Plan commenced on 6th July 2023.
- 3.2 The Neighbourhood Development Plan sets out planning policies for the Whaley Bridge Neighbourhood Area concerning: Town Centre and Economy; Community Facilities; Residential Development; Heritage; Peak Forest Canal; Transshipment Shed and Canal Basin; Sustainable Design; Minor Villages and Rural Settlements; Natural Environment; Rural and Landscape Character; Local Green Space; Transport and Movement; and Active Travel.
- 3.3 The Examiner's report was received by the Council on 1st September 2023. It finds that, subject to specified modifications, the Neighbourhood Development Plan meets the basic conditions and other requirements. It is recommended by the Examiner that the Neighbourhood Development Plan 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 Borough Council.
- 3.4 Having reviewed the Examiner's report and related regulations, it is recommended that the Borough Council concurs with the Examiner's advice in relation to the Neighbourhood Development Plan. As the Peak District National Park Authority is also the local planning authority for parts of this Parish, they also need to take a decision to send the plan to referendum. They agreed to send the plan to referendum on 6th October 2023. If the Borough Council also agrees, then provisions can be put in place for the plan to be subject to referendum in the Parish, anticipated to take place on 7th December 2023.

4. How this report links to Corporate Priorities

- 4.1 Aim 3 - Protect and create jobs by supporting economic growth, development and regeneration and
Aim 4 - Protect and improve the environment including responding 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 Plan (as modified) is considered to meet the necessary requirements in order to proceed to referendum. This will enable the community

to determine whether the Neighbourhood Plan should be used to determine relevant planning applications in the Parish.

- 5.2 Option 2 (not recommended) – that the Council does not concur with the recommendations set out in Section 2 of this report or the Examiner’s report. This is not recommended as the Neighbourhood Plan (as modified) is considered to have met the relevant requirements to proceed to the referendum stage. If the Council were to pursue this option and not follow the advice of the Examiner, it must notify the Parish Council, previous consultation bodies and parties which had submitted representations to the Examiner to invite further representations.

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)

None direct.

6.2 Workforce

Staff time and resource will be required from the Election Services team to prepare for the referendum.

6.3 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 Plan 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. As the neighbourhood area is split between High Peak and Peak District National Park plan areas, this grant will be shared. The Borough Council will be reimbursed for the full cost of the Referendum and the Examiner’s fees. Any of the £20,000 grant remaining will be divided between High Peak Borough Council and Peak District National Park Authority at a ratio to be agreed between the Councils.

6.5 Legal

Under the Town and Country Planning Act 1990 (as amended), the Council has a statutory duty to assist communities in the preparation of Neighbourhood Development Plans. The Neighbourhood Plan as proposed, is considered to meet the basic conditions which were set out in law following the Localism Act 2011. Only a draft neighbourhood Plan that meets each of a set of basic conditions can be put to a referendum and be made. Should the Council decide to accept the recommendations in this report; a Decision Statement will be prepared and published on the Council’s website and preparations will be made for a referendum in accordance with the Neighbourhood Planning Referendum Regulations 2012.

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. Sustainable design is addressed in Policy WB-E1 which supports use of local, recycled or low-embodied-energy materials, encourages innovative and creative design solutions for new-build or extensions, especially where they incorporate superior environmental performance and requires development to include positive design features to reduce carbon impact. Transport policies WB-T1 and WB-T2 encourage sustainable transport and require the provision of electric vehicle charging points within development that provides new parking spaces.

6.7 Consultation

The Neighbourhood Plan was subject to formal consultation in accordance with Regulations 14 and 16.

6.8 Risk Assessment

The risks are considered in section 7.

Neil Rodgers
Executive Director (Place)

Web Links and Background Papers

<https://www.highpeak.gov.uk/article/660/Whaley-Bridge-and-Furness-Vale-Neighbourhood-area>

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

Contact details

Claire Sansom
Planning Officer (Policy)
claire.sansom@staffs Moorlands.gov.uk

7. Detail

Background and process

- 7.1 Whaley Bridge Parish was designated as a Neighbourhood Area by the Borough Council and the Peak District National Park Authority on 24th October 2013 and 13th September 2013 respectively. Both authorities are required to approve the designation of the area and fulfil statutory duties as local planning authorities in the process as the Parish boundary spans the boundary of the National Park. The designation of the area was a key stage in the statutory process of preparing the Neighbourhood Plan.
- 7.2 Subject to the outcome of the potential referendum, the Neighbourhood Plan will form part of the statutory development plan for the Borough and will be used to determine planning applications alongside other adopted documents. At present, the High Peak Local Plan (2016), Chapel-en-le-Frith Neighbourhood Development Plan (2015), Derby and Derbyshire Minerals Local Plan (adopted 2000 amended 2002) and Derby and Derbyshire Waste Local Plan (2005) form the development plan for High Peak outside of the National Park.
- 7.3 The Whaley Bridge Neighbourhood Development Plan has 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 Borough Council and Peak District National Park Authority 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 14¹” consultation between 20th May – 2nd July 2022. 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 Borough Council’s response at this stage provided detailed comments on the policies with the aim of improving their clarity and ensuring they were compliant with the NPPF and Local Plan.
- 7.5 Subsequently, the Neighbourhood Plan with supporting documents was submitted to the Borough Council and Peak District National Park Authority under Regulation 15(1) of the Town and Country Planning Neighbourhood Planning (General) Regulations 2012 (as amended). Following a report to Economy and Growth Select Committee on 16th March 2023, a report was presented to Executive on 30th March 2023. This considered the Neighbourhood Plan and accompanying submission documents, comprising a Consultation Statement, Basic Conditions Statement; Screening Opinions regarding the need for Strategic Environmental Assessment and Habitats Regulations Assessment and a

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

determination statement. The Executive agreed that the submission documents for the Regulation 15 stage be noted and:

- The Whaley Bridge Neighbourhood Development Plan be approved for public consultation for a six week period (Regulation 16) after the May elections.
- That the commencement of the appointment of an Examiner and organisation of the independent examination be approved.

- 7.6 The Peak District National Park Authority signed off these documents under a delegated decision.
- 7.7 The Neighbourhood Plan was then formally published for comments by the Borough Council and Peak District National Park Authority for a period of six weeks closing on 22nd June 2023. The Neighbourhood Plan that was published at this stage sets out planning policies for the Whaley Bridge Neighbourhood Area concerning: Town Centre and Economy; Community Facilities; Residential Development; Heritage; Peak Forest Canal; Transhipment Shed and Canal Basin; Sustainable Design; Minor Villages and Rural Settlements; Natural Environment; Rural and Landscape Character; Local Green Space; Transport and Movement; and Active Travel.
- 7.8 Responses to the Neighbourhood Plan were received from Canal & River Trust, Coal Authority, Derbyshire County Council, Environment Agency, Gladman Developments Ltd, High Peak Borough Council, High Peak Developments Ltd, Historic England, Natural England, Peak District National Park Authority, The Shuker Partnership, Treville Properties Ltd and United Utilities. Most requested changes to wording in the plan. The policies which attracted the most requests for wording amendments were WB-E1 (Sustainable Design), WB-G2 (Community Facilities), WB-G3 (Residential Development), WB-E3 (Natural Environment) and WB-G1 (Town Centre and Economy). The most significant objections were from developers on behalf of clients with land within the neighbourhood area so their suggested wording changes were in relation to this and the Borough Council and PDNPA (who requested amendments to a number of policies for clarity and to comply with national policy).
- 7.9 In agreement with the Peak District National Park Authority and Whaley Bridge Town Council, Christopher Collison BA(Hons) MBA MRTPI MIED IHBC was appointed as the independent Examiner. The Examination in Public commenced on 6th July 2023 by written representations and the Examiner's report was submitted to the Council on 1st September 2023.
- 7.10 Note that there is a statutory requirement for the Council to decide what action to take in response to each of the Examiner's recommendations either within five weeks of when the Local Planning Authority receives the Examiner's report or on a date agreed by the Local Planning Authority and the Qualifying Body (in this case Whaley Bridge Town Council). As this Council meeting falls outside of the five week period, this decision date has been agreed with Whaley Bridge Town Council.

Examiner's report

7.11 The Examiner's role is to consider whether the Neighbourhood Plan meets the legislative and procedural requirements. This includes determining whether the plan meets the "basic conditions". Only when a Neighbourhood Plan is considered to have met the basic conditions can it 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 in relation to a Neighbourhood Plan are:

- 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.
- 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 2017²

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

- whether a Neighbourhood Plan is compatible with the Convention Rights³
- whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.

7.13 The Examiner's report 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.

² This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition "the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects".)

³ The Convention Rights has the same meaning as in the Human Rights Act 1998.

7.14 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 submitted have been met in order for the draft Neighbourhood Plan to progress.

7.15 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.

The local planning authority must publish the decisions it makes in relation to the Examiner’s recommendations (a ‘Decision Statement’), the reasons for making those decisions and such other matters relating to those decisions and to notify the qualifying body and other relevant bodies.

7.16 A summary of the Examiner’s key findings is provided below alongside a recommended response from the Borough Council. The Examiner’s full report is available at Appendix 1.

Requirement	Examiner’s Recommendation	Borough Council’s Response
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	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.	HPBC accepts the Examiner’s recommendations.
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	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.”	HPBC accepts the Examiner’s recommendations.

Requirement	Examiner's Recommendation	Borough Council's Response
contributes to the achievement of sustainable development	I conclude that the Neighbourhood Plan (as recommended to be modified), by guiding development to sustainable solutions, 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)	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.	HPBC accepts the Examiner's recommendations.
Whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.	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.	HPBC accepts the Examiner's recommendations.

7.17 As highlighted in the table above, the Examiner has recommended modifications to the Neighbourhood Plan in order to meet the basic conditions. They are:

Recommended Modification	Reason	Borough Council's Response
<p>Recommended modification 1:</p> <p>In section 3.6 of the Neighbourhood Plan continue bullet point 6 with “where the latest evidence confirms expansion is necessary”</p>	<p>To correct an error - Derbyshire County Council state with respect to point 6 that evidence provided demonstrates that expansion of places at schools is not required. (page 17 of Examiner’s Report – to meet Basic Conditions)</p>	<p>HPBC accepts the Examiner’s recommendations.</p>
<p>Recommended modification 2:</p> <p>In Policy WB-G1:</p> <ul style="list-style-type: none"> • 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. 	<p><u>Part 1</u> 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.</p> <p><u>Part 2</u> 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</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
	<p>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.</p> <p>(page 28 of Examiner’s Report – to meet Basic Conditions)</p>	
<p>Recommended modification 3:</p> <p>In Policy WB-G2</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> a. in locations that are accessible for users; b. where there is no 	<p>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</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
<p>significant adverse impact on the amenities of residential occupiers, or on the open character of the countryside; and</p> <p>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.”</p> <ul style="list-style-type: none"> • 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” <p>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</p>	<p>should react to development proposals” as required by paragraph 16d) of the Framework.</p> <p>(page 30 of Examiner’s Report – to meet Basic Conditions)</p>	

Recommended Modification	Reason	Borough Council's Response
<p>area.</p> <p>In the Interpretation section refer to this policy augmenting High Peak Local Plan Policy CF5.</p> <p>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.</p>		
<p>Recommended modification 4: In Policy WB-G3</p>	<p>The Borough Council 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. I have</p>	<p>HPBC accepts the Examiner's recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
<ul style="list-style-type: none"> • 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 	<p>recommended a modification so that it will be necessary to consider the issue at the time of preparation and determination of development schemes.</p> <p>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.</p> <p>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.</p> <p>Gladman Developments Ltd 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</p>	

Recommended Modification	Reason	Borough Council's Response
<p>boundary”.</p> <p>Replace the first paragraph of the Interpretation section with:</p> <p>“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.</p> <p>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.”</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>(page 36 of Examiner’s Report – to meet Basic Conditions)</p>	
<p>Recommended modification 5: In Policy WB-H1</p>	<p>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</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
<ul style="list-style-type: none"> • 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” <p>In the Interpretation section insert the point that Policy WB-H1 is intended to augment High Peak Local Plan Policy EQ7.</p>	<p>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.</p> <p>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.</p> <p>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. (page 38 of Examiner’s Report – to meet Basic Conditions)</p>	

Recommended Modification	Reason	Borough Council's Response
<p>Recommended modification 6:</p> <p>In Policy WB-E1</p> <ul style="list-style-type: none"> • 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 	<p>The National Park Authority state “The proposed policy potentially conflicts with national and PDNP strategic policy. 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.</p> <p>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.</p> <p>High Peak Developments Ltd, Shuker Partnership and Treville Properties objected to the wording in Policy WB-E1 (part 3) regarding development should enhance the architectural diversity of the area. Suggested an amendment of “Development should seek to enhance architectural diversity” [their addition]. They consider that</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
<p>replace “need to” with “may”</p>	<p>the requirement to enhance in every case is excessive and does not allow for consideration of site-specific circumstances. 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. They 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” [their 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. (page 42 of Examiner’s Report – to meet Basic Conditions)</p>	
<p>Recommended modification 7:</p> <p>In Policy WB-E2</p> <ul style="list-style-type: none"> • 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 	<p>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. (page 44 of Examiner’s Report – to meet Basic Conditions)</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
<p>page 45 of the Neighbourhood Plan”</p> <ul style="list-style-type: none"> • 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” 		
<p>Recommended modification 8:</p> <p>In Policy WB-E3</p> <ul style="list-style-type: none"> • 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.” 	<p>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.</p> <p>(page 46 of Examiner’s Report – to meet Basic Conditions)</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
<ul style="list-style-type: none"> • 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 		
<p>Recommended modification 9:</p> <p>In Policy WB-E4</p> <ul style="list-style-type: none"> • 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- 	<p>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.</p> <p>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</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
<p>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.”</p> <ul style="list-style-type: none"> • 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.” 	<p>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. (page 47 of Examiner’s Report – to meet Basic Conditions)</p>	
<p>Recommended modification 10:</p> <p>In Policy WB-E5</p> <ul style="list-style-type: none"> • 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 	<p>I have recommended the policy should refer to the maps in order to assist users of the Neighbourhood Plan.</p> <p>Part 2 of the policy seeks to establish a policy approach to development proposals affecting the proposed Local Green Spaces. The policy seeks to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not. I have recommended a modification so that the policy has sufficient regard for national policy in this respect.</p> <p>I have also recommended site LGS4 Shallcross Wood is deleted from the policy on the basis the proposed</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
Green Belt.”	<p>designation would permit a more relaxed policy regime than that established in strategic policy as highlighted by the National Park Authority.</p> <p>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.</p> <p>(pages 52/53 of Examiner’s Report – to meet Basic Conditions)</p>	
<p>Recommended modification 11:</p> <p>In Policy WB-T1</p> <ul style="list-style-type: none"> • 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 	<p>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.</p> <p>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</p>	HPBC accepts the Examiner’s recommendations.

Recommended Modification	Reason	Borough Council's Response
<p>for all new development, including new homes, should include provision of infrastructure to facilitate installation of electric vehicle charging points.”</p> <ul style="list-style-type: none"> • delete part 7 • redesignate part 2 to 6 as sub-parts a to e 	<p>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. (page 54 of Examiner’s Report – to meet Basic Conditions)</p>	
<p>Recommended modification 12:</p> <p>In Policy WB-T2</p> <ul style="list-style-type: none"> • 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” 	<p>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. 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</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

Recommended Modification	Reason	Borough Council's Response
	<p>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. (page 55 of Examiner’s Report – to meet Basic Conditions)</p>	
<p>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.</p> <p>The Borough Council suggest:</p> <ul style="list-style-type: none"> • 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” 	<p>Supporting text must be adjusted to achieve consistency with the modified policies.</p> <p>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.</p> <p>(page 57 of Examiner’s Report – to meet Basic Conditions)</p>	<p>HPBC accepts the Examiner’s recommendations.</p>

- 7.18 The Examiner's report concludes by stating that: *"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."*
- 7.19 The submitted plan was accompanied by a Strategic Environmental Assessment Screening Report, and a Habitats Regulations Assessment Screening Report. None of the modifications set out above are considered to necessitate revisiting any of these assessments.

Next Steps

- 7.20 Given the above, it is recommended that the Borough Council agrees to send the Neighbourhood Plan (as modified) to referendum. As the Peak District National Park Authority is also the local planning authority for parts of this Parish, they also need to agree to send the plan to referendum, which they did on 6th October 2023. If the Borough Council agrees, then the Neighbourhood Plan will proceed to referendum.
- 7.21 Should the Council agree to the recommendations of this report, it will need to issue a decision statement which sets out the decision taken by the Borough Council that the plan should proceed to referendum.
- 7.22 The Borough Council is responsible for making the necessary arrangements for the referendum to be held. A notice of the referendum will need to be issued. In line with the Neighbourhood Planning (referendums) Regulations 2012, Schedule 1, the following question will be asked:
- "Do you want High Peak Borough Council and the Peak District National Park Authority to use the neighbourhood plan for Whaley Bridge to help it decide planning applications in the neighbourhood area?"
- 7.23 The referendum is expected to be held on 7th December 2023.
- 7.24 A neighbourhood plan attains the same legal status as a Local Plan (and other documents that form part of the statutory development plan) once it has been approved at a referendum. At this point it comes into force as 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).
- 7.25 If a majority of votes is in favour of the Neighbourhood Plan, the plan comes into force as part of the statutory Development Plan for the Borough. The Council must ensure that the plan is "made" within eight weeks of the referendum for the plan to take effect. An exception to this time limit is when the decision made by the Council to proceed to referendum is submit to legal challenge. The risk of challenge is considered to be low as the plan has been subject to scrutiny by Council officers to help ensure that it fulfils the statutory requirements.