

ABRAM COMMUNITIES TOGETHER (ACT) NEIGHBOURHOOD PLAN 2022 - 2037

Abram Communities Together (ACT) Neighbourhood Plan Examination
A Report to Wigan Council

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1. Summary of Main Findings

- 1 This is the Report of the Independent Examination of the Abram Communities Together (ACT) Neighbourhood Development Plan, prepared by Abram Ward Communities Together (ACT) Forum.
- 2 The ACT Neighbourhood Plan includes policies relating to the development and use of land. It does not seek to allocate land for development.
- 3 Subject to the detailed recommendations set out within this Report and made in respect of enabling the ACT Neighbourhood Plan to meet the basic conditions, I confirm that:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
 - the making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
- 4 Taking the above and the detailed content of this Report into account, I find that the ACT Neighbourhood Plan meets the basic conditions¹.
- 5 I recommend to Wigan Council that, subject to modifications, the ACT Neighbourhood Plan should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the ACT Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction and the Role of the Examiner

6 This Report provides the findings of the examination into the ACT Neighbourhood Plan (referred to below as the Neighbourhood Plan) prepared by Abram Ward Communities Together (ACT) Forum (referred to below as the ACT Forum).

7 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development by influencing local planning decisions as part of the statutory development plan.”

(Paragraph 29, National Planning Policy Framework)

8 As above, this Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally made by Wigan Council.

9 The made Neighbourhood Plan would then form part of the relevant development plan and as such, it would carry statutory weight and be used to help determine planning applications and guide planning decisions in the ACT Neighbourhood Area.

10 The ACT Neighbourhood Area includes the majority of the electoral Ward of Abram, within the Metropolitan Borough of Wigan. As a result of Ward boundary changes in 2022, the Neighbourhood Area now includes very small parts of Ince Ward and Hindley Green Ward.

11 Wigan Council is the Local Planning Authority.

Role of the Independent Examiner

- 12 I was appointed by Wigan Council to conduct the examination of the Abram Neighbourhood Plan and to provide this Report of the independent examination.
- 13 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the relevant Local Authorities. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 14 As a Member of the Royal Town Planning Institute, I am a chartered town planner. I have twelve years' direct experience of the independent examination of neighbourhood plans and orders. I have completed the independent examination of neighbourhood plans across all regions of England and across a full range of rural and urban areas.
- 15 I have over thirty years' land, planning and development experience, gained in local, regional and national roles across the public, private and community/partnership sectors.
- 16 As the Independent Examiner, I must make one of the following recommendations:
 - that the Neighbourhood Plan should proceed to Referendum; or
 - that modifications are made and the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the necessary legal requirements.
- 17 It is also a requirement that my Report must contain a summary of its main findings and give reasons for each of its recommendations.
- 18 My recommendation in respect of the Abram Neighbourhood Plan is set out in the introductory and concluding Chapters of this Report.

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only. The Planning Practice Guidance states that:

“...it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing...”²

- 20 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing can be called for. This is a matter for the judgement of an Examiner.
- 21 Further to consideration of the information submitted, I decided not to hold a public hearing as part of the examination of the ACT Neighbourhood Plan. I am satisfied that all parties have had the opportunity to state their case and I am mindful that no party has indicated that they have been disadvantaged by the written procedure, or that they consider a public hearing to be necessary.
- 22 I also note that, following my consideration of the submission documents, I wrote a letter to the Qualifying Body in respect of matters where I sought further clarification or information. At the same time, in line with good practice, the Qualifying Body was provided with an opportunity to respond to representations received during the Submission consultation process.
- 23 All submitted information, including responses to questions set out in my letter of clarification, has been taken into account as part of the examination of the ACT Neighbourhood Plan.

² Planning Practice Guidance, Paragraph 056, Ref: ID 41-056-20180222.

3. Basic Conditions and Statutory Requirements

- 24 This section of the Report considers the submitted information and the extent to which the Neighbourhood Plan as a whole meets the basic conditions and other statutory requirements. The Report goes on to consider the Neighbourhood Plan's introductory chapters and land use planning policies against the basic conditions.

Basic Conditions

- 25 As part of this process, the Independent Examiner must consider whether a neighbourhood plan meets the "*basic conditions.*" These were *set out in law*³ following the Localism Act 2011.

- 26 Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations.⁴

- 27 In respect of the above, I note that the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for the continuation of primary and subordinate legislation, and other enactments in domestic law.

³ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

⁴ *ibid* (same as above).

- 28 Also, for information, Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation. Of these, the basic condition referred to in the last bullet point above was brought into effect on 28th December 2018.

Statutory Requirements

- 29 In recommending that the Neighbourhood Plan should go forward to Referendum, I must consider whether the Referendum Area should extend beyond the ACT Neighbourhood Area to which the Neighbourhood Plan relates and I set out my consideration in this regard in the concluding Chapter of this Report.
- 30 In examining the Neighbourhood Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act) and Sections 61F and 61G of the Town and Country Planning Act 1990 (as amended), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a Qualifying Body;
 - has been prepared for an area that has been properly designated for such plan preparation;
 - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one Neighbourhood Area and that:
 - its policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 31 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. A Basic Conditions Statement should identify the Qualifying Body and should provide evidence to demonstrate how the Neighbourhood Plan meets the basic conditions.
- 32 The ACT Forum submitted a Basic Conditions Statement alongside the Neighbourhood Plan. This sets out how the Neighbourhood Plan meets the Basic Conditions.

- 33 Section 2.1 of the Basic Conditions Statement confirms that the ACT Forum is the appropriate *Qualifying Body* responsible for the Neighbourhood Plan.
- 34 The boundary of the Neighbourhood Area is identified by Figure 1 on page 8 of the Neighbourhood Plan.
- 35 The Basic Conditions Statement confirms that the Neighbourhood Plan relates to the designated ACT Neighbourhood Area and there is no other neighbourhood plan in place in the ACT Neighbourhood Area.
- 36 The ACT Neighbourhood Area was designated by Wigan Council on 6 August 2015. The designation of the Neighbourhood Area satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).
- 37 The ACT Forum was also designated on 6 August 2015 and was redesignated on 6 November 2020.
- 38 The title page of the Neighbourhood Plan refers to the plan period as “2022 – 2037.” The Basic Conditions Statement confirms that, in this way, the Neighbourhood Plan meets the requirement of specifying the period during which it is to have effect.
- 39 Further to the above, it is also a requirement for examination to consider whether or not a neighbourhood plan is compatible with the Convention rights.⁵
- 40 I am satisfied, noting the absence of any substantive evidence to the contrary, that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998.
- 41 In this respect, I am mindful that information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. A Consultation Statement was submitted alongside the Neighbourhood Plan and the role of public consultation in the plan-making process is considered later in this Report.

⁵ The Human Rights Act 1998 incorporates the rights set out in the European Convention on Human Rights into domestic British law.

Strategic Environmental Assessment and the Habitats Directive

- 42 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*
(Planning Practice Guidance⁶)
- 43 This process is often referred to as “screening”⁷. If likely environmental effects are identified, then an environmental report must be prepared.
- 44 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. Assessment must determine whether significant effects on a European (Natura 2000) site can be ruled out on the basis of objective information⁸. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment⁹ of the implications of the plan for the site must be undertaken.
- 45 A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report and Decision Statement was produced by Wigan Council on behalf of the ACT Forum.
- 46 This recognised the need to assess whether the implementation of the Neighbourhood Plan’s policies might have negative or adverse consequences for social, economic or environmental assets in the area, including European sites.

⁶ Planning Practice Guidance, Paragraph 027, Ref: 11-027-20150209.

⁷ The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

⁸ Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

⁹ In the case *People Over Wind & Sweetman v Coillte Teoranta (“People over Wind” April 2018)*, the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means that if a likely significant effect is identified at the screening stage of a habitats assessment, an appropriate assessment of those effects must be undertaken. In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, allowing neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an appropriate assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or a planning application.

47 In this latter regard, the Screening Report recognises that whilst there are no European sites within the Neighbourhood Area, the Manchester Mosses Special Area of Conservation (SAC) is situated within around 6.5km of the south-east boundary of the Neighbourhood Area.

48 However, the Screening Report goes on to note that connections or functional links between the Neighbourhood Area and the SAC are limited and the Screening Report concludes that:

"...on this basis an Appropriate Assessment is not deemed to be required."

49 In respect of Strategic Environmental Assessment (SEA), the Screening Report states that the Neighbourhood Plan:

"...will accord with the strategic policies contained within the Wigan Council statutory development plan (Core Strategy 2013 and associated Sustainability Appraisal), and therefore the non-site-specific policies are not anticipated to generate significant environmental effects. However, the plan seeks to designate a limited number of sites within the Neighbourhood Area as Local Green Space, three of which are situated within the Green Belt. These designations are not expected to have any significant effects on the environment."

50 The statutory bodies, Historic England, Natural England and the Environment Agency, were consulted on the findings of the SEA and HRA Screening Report and none demurred from the conclusions above.

51 Natural England stated:

"It is our advice...that there are unlikely to be significant environmental effects from the proposed plan.

...we can confirm that in our view the proposals contained in the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect."

- 52 In addition to all of the above, I am mindful that national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan is compatible with EU obligations lies with the local planning authority:

“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)” (Planning Practice Guidance¹⁰).

- 53 Wigan Council has not identified any outstanding concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.
- 54 Noting this and the clear conclusions of the Strategic Environmental Assessment Screening Report, along with all of the above, and taking into account the recommendations set out in this Report, I am satisfied that the Neighbourhood Plan meets its statutory requirements and obligations and that it meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2023) and Planning Practice Guidance (as updated).

¹⁰ ibid, Paragraph 031 Reference ID: 11-031-20150209.

Background Documents

- 55 In completing this examination, I have considered various information in addition to the ACT Neighbourhood Plan. I also spent an unaccompanied day visiting the ACT Neighbourhood Area.
- 56 Information considered as part of this examination has included the following main documents and information:
- The Neighbourhood Plan
 - National Planning Policy Framework (referred to in this Report as “*the Framework*”) (2023)
 - Planning Practice Guidance (as updated)
 - Relevant Ministerial Statements
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022-2039 (2024) (referred to in this Report as “*the JPDP*”)
 - Wigan Local Plan Core Strategy (2013)
 - Basic Conditions Statement
 - Consultation Statement
 - Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report and Decision Statement
 - Local Green Space Assessment
 - Other Supporting Documents
 - Representations received

4. Public Consultation

Introduction

- 57 As land use plans, the policies of neighbourhood plans comprise part of the development plan and such, they form part of the basis for planning and development control decisions. Given this, legislation requires the production of neighbourhood plans to be supported by public consultation.
- 58 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Abram Neighbourhood Plan Consultation

- 59 A Consultation Statement was submitted alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *Regulations*¹¹.
- 60 The Consultation Statement addresses these matters in a clear and proportionate manner.
- 61 The ACT Neighbourhood Forum brought together key stakeholders from residents and groups within Abram, Platt Bridge, Bamfurlong, Bickershaw and Spring View. During 2016, initial engagement comprised five meetings, which took place over five days in five different locations across the Neighbourhood Area and involved 149 people.
- 62 This was followed by three more events held in Bamfurlong, Bickershaw and Platt Bridge during 2017 and attended by 110 people. More in-depth surveys took place over five days during May 2018, involving 118 people; and a six-month long "Picture This" project involved engagement with people and businesses between November 2018 and April 2019.

¹¹ Neighbourhood Planning (General) Regulations 2012.

- 63 All of the information gleaned from consultation was brought together and a draft plan was consulted upon during November and December 2022. Consultation was supported by drop-ins and a survey.
- 64 Responses and submissions were duly recorded and helped to inform the submission version of the plan.
- 65 In addition to all of the above I note that during the plan-making stages, consultation was supported by, amongst other things, a dedicated website, social media and community groups.
- 66 Taking the Consultation Statement and the above into account, I find that community engagement and public consultation have been demonstrated to have formed an important part of the plan-making process. There were opportunities for people to have a say, people were encouraged to engage with plan-making, and responses and matters raised were duly considered.
- 67 Having regard to all of the above, I am satisfied that the consultation process for the ACT Neighbourhood Plan was robust and that it complied with the neighbourhood planning regulations.

5. The Neighbourhood Plan – Introductory Section

- 68 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.
- 69 Overall, the Neighbourhood Plan appears as an impressive and comprehensive document. Its introductory sections are highly informative and they present the reader with clear and relevant background information, providing context to the Policies that follow.
- 70 For clarity and accuracy, I recommend the following changes to the introductory (pre-Policy) sections of the Neighbourhood Plan:
1. **Page 6, 2.1, fourth para, for clarity and precision, delete: “, ultimately conforming to policies set out in the National Planning Policy Framework 2023”**
 2. **Page 8. Figure 1 (and other plans throughout the document). I noted in the Clarification Letter to the Qualifying Body that the reproduction of plans in the document was unclear. In this respect, Wigan Council has confirmed that it is helping to produce revised plans in the interests of clarity.**
 3. **Page 20, Figure 8 (and other plans). I also noted in the Clarification Letter that Figure 8 (and other plans) included designations outside the Neighbourhood Area. The Neighbourhood Plan can only plan for the designated Neighbourhood Area and I recommend that these annotations be deleted. Again, I note that Wigan Council is helping to produce revised plans in the interests of clarity.**
 4. **Page 25, third para, line four, change to: “...This *plan* supports...”**
 5. **Page 26, main para, line 9, for clarity (and add a space after full stop), change to: “...after historic *or significant* events. Developments...”**
 6. **Page 26, last line, for clarity, add: “...and *the fabric*...”**

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Policy BEC1: Business, Enterprise and Community Facilities

- 71 Chapter 6 of the Framework, "*Building a strong, competitive economy*," states that significant weight should be placed on:

"...the need to support economic growth and productivity..."

- 72 In Paragraph 88, the Framework requires planning policies to:

"...enable the sustainable growth and expansion of all types of business in rural areas...(and enable) the development and diversification of agricultural and other land-based rural businesses."

- 73 Paragraph 97 of the Framework goes on to require planning policies and decisions to:

"...plan positively for the provision and use of...community facilities (such as local shops...to enhance the sustainability of communities and residential environments (and) ensure that established shops, facilities and services are able to develop and modernise."

- 74 Policy JP-J1 of the JDPD ("*Supporting Long-Term Economic Growth*") promotes economic growth and diversity and JDPD Policy JP-P3 ("*Cultural Facilities*") affords protection to cultural and community facilities.

- 75 In general terms, Policy BEC1 seeks to set out a policy framework that supports the provision of new employment space and community facilities; that promotes the diversification of employment space outside the urban area; and that seeks to prevent the loss of valued facilities. In these ways, the Policy has regard to national policy and is in general conformity with local strategic policy.

- 76 However, as set out, Policy BEC1 appears to confuse national policy requirements in respect of Green Belt and rural diversification.

- 77 The first part of the Policy affords equal support for new employment space, whether within an urban location or within the Green Belt. This results in conflict with Green Belt policy. The second part of the Policy simply supports the diversification of existing businesses in the rural area whereas, as noted above, national policy supports the growth and expansion of all types of business and the diversification of agricultural and land-based businesses. No justification for such a departure from national policy is provided in support of Policy BEC1's approach.
- 78 Further, whilst the last part of Policy BEC1 affords protection to local facilities, its reference to "enterprise" facilities appears vague without further definition. The term introduces scope for confusion in respect of its distinction from business uses.
- 79 This detracts from the concise nature of the Policy and does not have regard to national guidance, which requires planning policies to be clear, concise and precise¹²:

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

- 80 Further, as worded, Policy BEC1 is not entirely clear in respect of the types of development that it is intended to control. This was a matter considered by the Qualifying Body in response to the Examiner's Clarification Letter and in response to representations made by Wigan Council and the recommendation set out below provides for clarity and precision in this respect.
- 81 Also, as set out, Policy BEC1 includes requirements for there to be "no adverse impact...no harm...no significant harm..."
- 82 Amongst other things, sustainable development provides for an appropriate balance between harm and benefits arising from development. Degrees of harm can vary and can often involve subjective interpretations on behalf of decision makers.

¹² Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

- 83 In this case, there is no information to help a decision maker understand the difference between no adverse impact and no *significant* adverse impact. This is contrary to Paragraph 16 of the Framework, which requires policies to:

“...be clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.”

- 84 Notwithstanding this and in any case, the approach set out in Policy BEC1 would not allow for any possible harm or adverse impact to arise, no matter how small and there is no substantive evidence to either support or to demonstrate that such an approach would contribute to the achievement of sustainable development.
- 85 Whilst I am mindful of this part of the Policy's aim in seeking to prevent inappropriate development from harming local character, it is important to note that the policies of the development plan should be considered as a whole. This avoids the need for potentially cumbersome cross-references, or for every supportive policy to state that development should take account of local character, residential amenity, highway safety and so on.
- 86 Neighbourhood Plan Policy DES1, considered later in this Report, promotes sustainable design and provides the opportunity, alongside existing development plan policies, to address these matters.
- 87 Taking all of the above into account, I recommend:

- **Policy BEC1, change the wording of the Policy to:**
 - “1. In the urban area, the provision of new business and community uses (Use Class E, F1 and F2) will be supported.***
 - 2. Outside the urban area, development supporting the expansion of existing businesses and the development and/or diversification of agricultural and land-based businesses will be supported, subject to such development not being inappropriate in the Green Belt.***
 - 3. Development resulting in the loss of existing business uses or community facilities (Use Class E, F1 and F2) will not be supported unless such uses are replaced by equivalent or better facilities provided in at least as equally an accessible and sustainable location; or that it has been demonstrated that the existing use is no longer required or viable.”***

- **Interpretation, first line, delete: “(Use Class E)”**
- **Interpretation, fifth line, delete: “obviously”**
- **Interpretation, delete: last paragraph (“Given the...five villages.”).** The Neighbourhood Plan does not have the power to impose planning conditions or to require the Local Planning Authority to consider the imposition of planning conditions.

Residential Development

Policy RD1: Residential Development

- 88 Chapter 5 of the National Planning Policy Framework (the Framework), *“Delivering a sufficient supply of homes,”* sets out:

“...the Government’s objective of significantly boosting the supply of homes...”

(Paragraph 60, the Framework)

- 89 The Neighbourhood Plan does not allocate any land for residential development and there is no requirement for it to do so.
- 90 National planning policy, in Paragraph 60 of the Framework, goes on to support the delivery of:

“...an appropriate mix of housing types for the local community.”

- 91 Further, together JDPD Policies JP1-H1 (*“Scale, Distribution and Phasing of New Housing Development”*) and JP-H3 (*“Type, Size and Design of New Housing”*) support the delivery of a mix of new homes that are of good quality, design and adaptability and which meet local needs.
- 92 Policy RD1 supports the provision of all forms of new housing on brownfield land and within urban infill sites and in this way, it meets the basic conditions.
- 93 However, part 2 of the Policy goes on to state that various forms of housing will be supported and encouraged. As noted above, the Neighbourhood Plan does not allocate land for development. It does not for example, identify any sites for the various forms of housing identified and similarly, there is no evidence to demonstrate the deliverability of such.
- 94 Nor does the Neighbourhood Plan include any evidence of how it might *“encourage”* the delivery of the forms of housing identified.

95 At the same time, noting that the Policy supports the provision of all forms of development in the way that it does, there is nothing to prioritise or indeed “*encourage*” the provision of the types of housing referred to in part 2 of the Policy – albeit the types of housing referred to are, in any case, already “*supported*” by the first part of the Policy.

96 Whilst I note that there is an intention to support the delivery of a mix of housing types and tenures, in line with national and local strategic policy, Paragraph 16 of the Framework requires plans:

“...to be aspirational but deliverable.”

97 By way of example, in the absence of any evidence to the contrary and further to visiting the Neighbourhood Area, it appears to me that infill and brownfield housing sites, as supported by Policy RD1, are most likely to comprise relatively small windfall sites. Sites for less than ten dwellings need not provide any affordable housing and consequently, whilst there might be a general wish for affordable housing to be delivered, the Neighbourhood Plan does not provide any delivery mechanism for such.

98 The final part of Policy RD1 states that it gives “*strong encouragement*” to reducing running costs and the environmental impacts of new housing; as well as to residential development that achieves environmental performance in excess of Building Regulations requirements. Whilst Building Regulations and property running costs are matters beyond the control of the Neighbourhood Plan and as set out, “*environmental impacts*” appears as a vague reference, the Policy does not in any case demonstrate how such requirements might be “*encouraged*.”

99 Taking this and all of the above into account, I recommend:

1. **Policy RD1, change the wording of the Policy to:**
“New residential development will be supported on brownfield land and on urban* infill sites within existing frontages. New housing should take account of local housing needs. (Urban area boundaries are shown in Figures 4-8)”
2. **Page 30, last sentence, for clarity change to: “*The following maps show the urban area boundaries for each of the five villages that make up the Neighbourhood Area (as defined in the Wigan Local Plan Core Strategy (2013)) .”***

3. Interpretation, first sentence, delete and replace with: ***“National and local planning policy supports the delivery of a mix of housing types and tenures. The provision of 100% affordable housing schemes; smaller (1, 2, 3 bedroom houses and apartments); housing suitable for older people; special care schemes; and community-led or self-build housing will be particularly welcomed in the Neighbourhood Area. Support for housing schemes...”***

Policy REF1: Refurbishment

100 National policy, in Chapter 12 of the Framework, "*Achieving well-designed and beautiful places,*" recognises the importance of identifying the special qualities of a place and notes that:

"The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve."

(Paragraph 131, the Framework)

101 The Framework goes on to note that:

"Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

(Paragraph 131, the Framework)

102 In general terms, Policy REF1 supports the positive reuse and refurbishment of vacant buildings, improvements to local character and supports refurbishment that is sensitive to heritage assets.

103 However, many forms of refurbishment do not require planning permission and it is recommended below that the Policy recognises this.

104 Part 2 of the Policy includes references to unidentified "*original features*" and to unidentified and subjective "*previous harmful alterations.*" In the absence of detail, it is difficult to understand how a decision maker might be expected to react to a development proposal involving such things, having regard to Paragraph 16 of the Framework.

105 However, the Neighbourhood Plan and its supporting information demonstrates the clear intent of Policy REF1 in respect of supporting the reuse of vacant buildings to address the Neighbourhood Area's identified challenges. Successful reuse can support economic activity and growth in a sustainable manner. The recommendations below take this and the above into account.

- 106 National planning policy for heritage is provided in Chapter 16 of the Framework, *“Conserving and enhancing the historic environment.”* This sets out a careful and nuanced approach to protecting the nation’s heritage assets.
- 107 Policy REF1 requires refurbishment to preserve listed buildings and their settings; and to preserve or enhance the qualities of non-designated assets and their settings. Such an approach differs significantly from national policy, which requires heritage assets to be conserved in a manner appropriate to their significance and goes on to set out how this should be achieved.
- 108 Policy REF1 is far less detailed than national policy and introduces requirements – such as those requiring development to enhance non-designated heritage assets and to preserve and enhance the setting of non-designated heritage assets – which introduce entirely new policy approaches which go well beyond and which do not have regard to, national policy. No clear justification for such a departure is provided.
- 109 I recommend:
1. **For clarity, change the title of the Policy to *“Reuse and Refurbishment”***
 2. **Policy REF1, change the wording of the Policy to:**
 1. ***“1. The reuse of vacant buildings and/or refurbishment requiring planning permission, including for temporary uses, will be supported.***
 2. ***2. The enhancement of the Neighbourhood Area’s urban and industrial character will be supported.***
 3. ***3. Development must conserve heritage assets, including non-designated heritage assets, in a manner appropriate to their significance.”***
 3. **Policy H.3, second para, change to: *“...treatments must respect the surrounding context.”***
 4. **Page 37, Rationale and Evidence, fifth para, line one, change to: *“Bringing long term...outside of the Green Belt is a priority of the Council. Around 80%...”***
(The Neighbourhood Plan cannot determine what Wigan Council might do in the future).

Air Quality

Policy AQ1: Air Quality

110 Paragraph 16 of the Framework requires plans to be:

"...aspirational but deliverable..."

111 Paragraph 31 of the Framework requires that:

"...all policies should be underpinned by relevant and up-to-date evidence...focused tightly on supporting and justifying the policies concerned..."

112 Also, as noted earlier in this Report, Guidance¹³ requires planning policies to be drafted in a way:

"... that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared."

113 Policy AQ1 requires any development that generates vehicle movements, or that has any potential to increase air pollution, to include mitigation measures. In the absence of necessary detail, this is a vague and ambiguous requirement.

114 No indication is provided in respect of what the current level of air pollution within the Neighbourhood Area is. Without a measured and measurable base-line it is difficult to understand how a decision maker might judge what an increase would comprise.

115 Further, the Policy directly equates vehicle movements to air pollution. Vehicles and emissions vary substantially. In the absence of any information, it is not clear why for example, zero emission vehicles would be required to include mitigation measures for air pollution.

¹³ Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

- 116 In addition, there is no information in respect of which kinds of development might generate vehicle movements or have the potential to increase air pollution and how this would be measured and judged.
- 117 Further, there is no information in respect of precisely what mitigation measures would be required for precisely what type of development. The Policy is entirely vague and imprecise in this regard.
- 118 Policy AQ1 does not have regard to national policy and guidance. Rather than contribute to the achievement of sustainable development, the Policy would, by imposing vague, unclear and imprecise requirements on development, run the significant risk of placing obstacles in the way of sustainable development coming forward. The Policy does not meet the basic conditions.
- 119 I recommend:

- 1. Delete Policy AQ1**
- 2. Delete text on pages 40 and 41**

Green Spaces

Policy GS1: Local Green Space

120 Local communities can identify areas of green space that are of particular importance to them for special protection. Paragraph 105 of the Framework states that:

“The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”

121 Paragraph 103 of the Framework requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.

122 Given the importance of the designation, Local Green Space boundaries should be clearly identifiable within the Neighbourhood Plan.

123 Policy GS1 designates two areas of Local Green Space and these are indicated on Figure 11 of the Neighbourhood Plan. However, this Figure does not clearly identify the boundaries of each Local Green Space and I address this in the recommendations below.

124 The Local Green Space tests set out in Paragraph 106 of the Framework are that the Local Green Space is in reasonably close proximity to the community it serves; that it is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and that it is local in character and is not an extensive tract of land.

125 The designation of the proposed areas of Local Green Space is supported by a detailed Local Green Space Assessment, submitted alongside the Neighbourhood Plan. Taking this and my own observations into account, I am satisfied that each proposed Local Green Space designation meets the appropriate national policy tests referred to above.

- 126 National policy is explicit in respect of requiring policies for managing development within a Local Green Space to be consistent with those for Green Belts. National Green Belt policy is precise.
- 127 The Policy wording provided in Policy GS1 is not consistent with policies for managing development in Green Belts and no justification is provided in respect of the resulting departure from national policy. This is a matter that is addressed in the recommendations set out below in a manner that reflects a Court of Appeal decision¹⁴, where a Qualifying Body sought to include Local Green Space policy requirements which clearly strayed from the succinct and precise requirements of national policy:
- “Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”*
(Paragraph 107, the Framework)
- 128 Part of the supporting text to Policy GS1 is written as though it comprises Policy requirements, which it does not.
- 129 Also, the Interpretation provides a confusing and incorrect interpretation of Local Green Space policy. This does not have regard to national policy and is a matter addressed in the recommendations below.
- 130 I recommend:

- 1. Policy GS1, change the wording of the Policy to:**
*“The following sites, identified on Figure/Figures (NB, delete and number as appropriate), are designated as Local Green Space and will be protected from development in a manner consistent with the protection of land within the Green Belt:
LGS1: Maypole Wood; LGS2: Platt Bridge Community Green.”*
- 2. Replace Figure 11 with a new Figure or Figures clearly identifying the precise boundaries of each area of Local Green Space. The Figure or Figures should use an Ordnance Survey base which is at an appropriate scale for clear identification of boundaries.**

¹⁴ Lochailort Investments Ltd, R (On the Application Of) Mendip District Council [2020] EWCA Civ 1259. Lord Justice Lewison considered that the Local Green Space policy (Policy 5) in the Norton St Philip Neighbourhood Plan was more restrictive than national policies for managing development within the Green Belt. *“In my judgement that means that it is not consistent with national Green Belt policy. It does not, therefore, comply with...the NPPF...if a neighbourhood plan departs from the NPPF it must be a reasoned departure. No reasons for the departure were given in this case.”*

3. Interpretation, delete the three paragraphs of text and replace with:
“Paragraph 105 of the National Planning Policy Framework states that: “The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”

National policy requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land.”

Policy GS2: Proposed Green Corridor

131 The Framework requires planning policies to contribute to and enhance the natural environment by:

"...minimising impacts on and providing net gains for biodiversity..."
(Paragraph 180, the Framework)

132 JDPD Policy JP-Strat13 (*"Strategic Green Infrastructure"*) promotes the protection and enhancement of green infrastructure, including sites of ecological value.

133 Policy GS2 identifies an area to the east and south of the urban area as a Green Corridor to be protected. The area includes a broad range of land uses and the Interpretation states that the Policy recognises the importance of the area in terms of movement, nature conservation, wildlife, biodiversity and supporting healthy lifestyles.

134 The Policy states that development must not *"disrupt"* or *"compromise"* the area and goes on to require there to be no harm to its *"amenity, safety or accessibility."*

135 In the absence of any definitions, the Policy requirements appear ambiguous. For example, in considering a development proposal it is not clear how *"disrupt"* or *"compromise"* should be interpreted. Similarly, *"amenity"* appears as a broad and subjective term and it is not clear what elements of *"safety"* and *"accessibility"* the Policy is concerned with.

136 Given this, the Policy is not unambiguous, so it is evident how a decision maker should react to development proposals and consequently, it does not have regard to Paragraph 16 of the Framework.

137 Further to the above, a requirement for there to be *"no detrimental impact"* does not allow for the balanced consideration of proposals for development, whereby the degree of any harm might be considered alongside any possible benefits arising. Such an approach runs the risk of placing a significant hurdle in the way of the achievement of sustainable development.

- 138 However Policy GS2 identifies important green infrastructure within the Neighbourhood Area and noting national and local policy, I make the recommendations below aimed at providing a clear land use planning policy framework for decision-making purposes.
- 139 Figure 9 includes annotations outside the Neighbourhood Area, beyond the control of the Neighbourhood Plan. It also includes statutory sites not the subject of Policy GS2. There is a broad reference to these sites in the submitted Policy DES1 and that is a matter I consider later in this Report. I also note that the sites are, in any case, identified on the earlier "*Policies Map*" in the Neighbourhood Plan.
- 140 Taking this and all of the above into account, I recommend:
1. **Policy GS2, change the wording of the Policy to:**
"Development within the Green Corridor identified on Figure 9 must demonstrate how it minimises impacts on, and provides net gains for, biodiversity. Development must not detract from the Green Corridor's accessibility and movement network."
 2. **Figure 9: remove all annotations other than the Green Corridor and change key reference to "*Green Corridor*" (delete "*Proposed*")**

Policy GS3: Recreational and Green Spaces

- 141 Chapter 8 of the Framework, "*Promoting healthy and safe communities,*" supports the provision of sports facilities and the delivery of local strategies to improve health. It goes on to establish that:
- "...a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature..."*
(Paragraph 102, the Framework)
- 142 JDPD Policy JP-P7 ("*Sport and Recreation*") supports the protection and enhancement of a network of high quality and accessible sports and recreation facilities.
- 143 Policy GS3 identifies the Neighbourhood Area's recreational areas for protection and enhancement and in this way, it has regard to national policy and is in general conformity with local strategic policy.
- 144 As presented, the Policy seeks to impose a blanket requirement preventing any harm. Cumulatively, the identified recreational areas cover a wide range of land uses and cover a significant area of land. Recreational needs and requirements change over time and as worded, the Policy could prevent say, the replacement of a poor quality recreational area with a new, higher quality one in an equally or more easily accessible location. This is taken into account in the recommendations below.
- 145 The second part of Policy GS3 requires development to enhance recreational facilities. This is both an ambiguous and an onerous requirement. It is very different to say, support for the enhancement of recreational facilities.
- 146 There is no detailed information in respect of how development should enhance recreational areas and what enhancement should entail, nor any evidence of the deliverability of such a requirement. This part of the Policy is ambiguous and imprecise.
- 147 The reference to "*Green Spaces*" in the Policy title results in some confusion with Policy GS1, earlier in the Neighbourhood Plan. The recommendations below take account of this and the fact that Policy GS3 applies to recreational spaces.

148 I note that representations from United Utilities suggesting additions to the Neighbourhood Plan's Green Space Policies are not necessary in order to enable the Neighbourhood Plan to meet the basic conditions.

149 I recommend:

1. **Policy GS3, change the wording of the Policy to:**
“Development that results in the loss of the Neighbourhood Area’s parks, recreation spaces, play areas and fishing ponds will not be supported unless such loss is replaced by equal or better facilities in an equal or more easily-accessible location. The enhancement of the Neighbourhood Area’s recreational areas will be supported.”
2. **Change the title of the Policy to: “Recreational Areas and Spaces”**
3. **Figure 10: delete the annotated area outside the Neighbourhood Area**
4. **Interpretation, first sentence, line two, delete: “in particular”**

Sustainable Design

Policy DES1: Sustainable Design, Character and Biodiversity

- 150 National policy, in Chapter 12 of the Framework, “*Achieving well-designed and beautiful places,*” recognises the importance of identifying the special qualities of a place and notes that:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.”

(Paragraph 131, the Framework)

- 151 The Framework goes on to note that:

“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

(Paragraph 131, the Framework)

- 152 National policy also recognises the crucial role of Neighbourhood Plans in designing policies that reflect local aspirations and that are “*grounded*” in local knowledge and understanding:

“Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development, both through their own plans and by engaging in the production of design policy, guidance and codes...”

(Paragraph 132, The Framework)

- 153 JDPD Policy JP-P1 (“*Sustainable Places*”) promotes high design quality and requires development to be consistent with, amongst other things, being distinctive to place, respecting its surroundings and being resilient, adaptable, safe and durable.

- 154 Policy DES1 supports good design and in this way, it meets the basic conditions.

155 The sixth bullet point in Policy DES1 imposes a requirement for “*no harm*” which fails to provide for a balanced approach to the consideration of development proposals and consequently, places a potential obstacle in the way of the achievement of sustainable development.

156 A representation has been received from United Utilities suggesting new wording for Policy DES1. However, this is not wording that is required in order to enable the Policy to meet the basic conditions.

157 I recommend:

1. **Policy DES1, delete Bullet Point 6**
(NB, statutory sites are protected by law and this recommendation does not alter their status and protection in any way)
2. **Policy DES1, Bullet Point 10, change to: “...and recycling *should* be provided.”** (delete cross reference to Policy TM1)
3. **Interpretation: delete last sentence (“Design...been met”)**

Transport and Movement

Policy TM1: Transport and Movement

- 158 Chapter 9 of the Framework, "*Promoting sustainable transport,*" promotes sustainable patterns of movement, including walking, cycling and public transport use.
- 159 Together, JDPD Policies JP-C1 ("*An Integrated Network*"), JP-C5 ("*Streets for All*") and JP-C6 ("*Walking and Cycling*") encourage active movement and safe movement networks along well-designed streets.
- 160 Amongst other things, Policy TM1 promotes walking and cycling and in this way, it meets the basic conditions.
- 161 The first part of the Policy requires development to be supported by "*adequate..balanced...transport provision.*" Whilst a vague, unspecified requirement, I note that the Neighbourhood Plan does not allocate any land for development and does not provide any information to suggest that development of such a scale as to be capable of providing say, contributions towards the provision of public transport, might arise.
- 162 In the absence of any detail or evidence, the first part of the Policy appears vague and undeliverable, contrary to Paragraph 16 of the Framework.
- 163 No information is provided to demonstrate when development might be likely to generate additional journeys. Additional journeys may or may not arise in many different ways and from many different forms of development. Consequently, the Policy does not provide a decision maker with a clear indication of how to react to a development proposal in respect of when secure and covered cycle storage should or should not be provided.
- 164 New employment could arise in many different forms and is not necessarily related to development. There is no information to demonstrate that in every case, new shower and changing facilities would be deliverable wherever there is new employment.

- 165 The final part of the Policy requires parking areas to including charging points. It is not clear whether this requirement is retrospective or whether it relates to public and/or private car parks, to driveways or to parking areas in general. This part of the Policy is ambiguous.
- 166 Much of the Interpretation relates to another Policy in the Neighbourhood Plan rather than to Policy TM1.
- 167 Taking all of the above into account, I recommend:
1. **Policy TM1, change the wording of the Policy to:**
 - “1. The layout of development should prioritise pedestrian safety and convenience.***
 - 2. New dwellings should provide for secure and covered storage for cycles and new buildings providing employment uses should include cycle storage, shower and changing facilities.***
 - 3. New driveways should be surfaced using water permeable materials or be served by sustainable drainage systems.***
 - 4. Parking areas for new dwellings and new buildings providing employment uses should include electric vehicle charging points.”***
 2. **Interpretation, delete and replace with: *“This Policy seeks to promote safe, sustainable patterns of movement, including walking and cycling. It also seeks to support flood mitigation measures and the development of electric vehicle charging points.”***

Policy TM2: Footpaths and Cycleways

168 Paragraph 104 of the Framework requires planning policies to:

“...protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users...”

169 JDPD Policy JP-C6 (“Walking and Cycling”) supports the creation of safe, attractive and integrated walking and cycling infrastructure.

170 Policy TM2 seeks to protect footpaths and cycleways and supports the enhancement of Abram Ward Circular Walks. In this way, the Policy meets the basic conditions.

171 As set out, the Policy suggests support for the re-routing of footpaths and cycleways where development encroaches. Such an approach introduces a lesser form of protection than currently exists for public rights of way and is not justified.

172 The Policy appears repetitive in the way that seeks to protect footpaths and cycleways and this is a matter addressed in the recommendations below.

173 It is not clear, in the absence of any information, how the Neighbourhood Plan can prevent third party landowners from erecting fences on third party land that does not include a footpath or cycleway and consequently, the recommendations below include a change to the Interpretation.

174 I recommend:

1. **Policy TM2, change the wording of the Policy to:**
“The Neighbourhood Area’s footpaths and cycleways will be protected from loss; and their enhancement, including the enhancement of Abram Ward Circular Walks, will be supported.

2. **Interpretation, delete and replace with:**
“The policy protects footpaths and cycleways and supports the improvement of these throughout the Neighbourhood Area.”

7. The Neighbourhood Plan: Other Matters

- 175 The recommendations made in this Report will have a subsequent impact on Contents, including Page, Policy and Figure numbering.
- 176 It is noted in this Report that the Figures require clarifying in a number of ways. If Ordnance Survey maps that are subject to copyright are used, this should be acknowledged.
- 177 It would be helpful if page numbers and list of appendices were included in the Contents pages.
- 178 I recommend:
- **Update the Contents, Page, Policy and Figure numbering**
 - **Clarify presentation of Figures**
 - **If relevant in respect of Figures, reference OS copyright as appropriate, eg: "*Crown copyright and database right 2024. Ordnance Survey licence number XXXXXXXX.*"**

8. Referendum

179 I recommend to Wigan Council that, subject to the recommended modifications, **the Abram Communities Together (ACT) Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

180 I am required to consider whether the Referendum Area should be extended beyond the ACT Neighbourhood Area.

181 I consider the ACT Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

182 Consequently, I recommend that the Plan should proceed to a Referendum based on the ACT Neighbourhood Area which was approved and designated on the 6 August 2015.

Nigel McGurk, November 2024
Erimax Ltd – Land, Planning and Communities