

**Alnmouth Parish Council**

# **Alnmouth Parish Neighbourhood Development Plan**

A report to Northumberland County Council of the Independent  
Examination of the Alnmouth Parish Neighbourhood  
Development Plan

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30 December 2020

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## Summary of Main Findings

This is the report of the Independent Examination of the Alnmouth Parish Neighbourhood Development Plan. The plan area comprises the entire administrative area of Alnmouth Parish Council within the Northumberland County Council area. The plan period runs to 2036. The Neighbourhood Plan includes a policy relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

This report finds that the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Plan should proceed to a local referendum based on the designated Neighbourhood Area.

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Alnmouth Parish Neighbourhood Development Plan (the Neighbourhood Plan) has been produced by Alnmouth Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Alnmouth Parish Neighbourhood Area which was formally designated by Northumberland County Council (the County Council) on 15 October 2019.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to the County Council. The County Council arranged a period of publicity between 22 October 2020 and 18 December 2020 and subsequently submitted the Neighbourhood Plan to me for independent examination.

## Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the County Council including a recommendation that the Neighbourhood Plan should proceed to a local referendum. The County Council will decide what action to take in response to the recommendations in this report.

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<sup>1</sup> Paragraph 29 National Planning Policy Framework (2019)

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

6. The County Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and the decision taken to put the plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application<sup>3</sup>.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>4</sup>, unless the County Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan<sup>5</sup>. The Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted<sup>6</sup>.
8. I have been appointed by the County Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the County Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan, and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of neighbourhood plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.
9. As independent examiner, I am required to produce this report and must recommend either:

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<sup>3</sup> Paragraph 48 of the National Planning Policy Framework 2019 explains full weight is not given at this stage

<sup>4</sup> Section 3 Neighbourhood Planning Act 2017

<sup>5</sup> Section 156 Housing and Planning Act 2016

<sup>6</sup> Paragraph 12 National Planning Policy Framework 2019

- 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.

10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>7</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>8</sup>

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>9</sup> The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.*”

12. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary, I proceeded on the basis of written representations. Given the nature of the Neighbourhood Plan and its policy, and the content of the Regulation 16 representations, I did not consider a visit to the plan area necessary, particularly as I have visited the area previously, most recently in 2019.

## Basic Conditions and other Statutory Requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>10</sup> A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;

<sup>7</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

<sup>10</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>11</sup>

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.<sup>12</sup> All of these matters are considered in the later sections of this report titled 'The Neighbourhood Plan taken as a whole' and 'The Neighbourhood Plan Policy'.

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>13</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was designated by the County Council as a neighbourhood area on 15 October 2019. A map of the Neighbourhood Plan area is included as Map 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Alnmouth Parish Council boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>14</sup> and no other neighbourhood development plan has been made

<sup>11</sup> 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".

<sup>12</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998

<sup>13</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

<sup>14</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

for the neighbourhood area.<sup>15</sup> All requirements relating to the plan area have been met.

17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>16</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>17</sup> The Neighbourhood Plan includes one policy relating to the development and use of land and does not include provision about excluded development. I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>18</sup> The front cover of the Submission Version Plan clearly states the Plan period is 2020-2036.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>19</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to

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<sup>15</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

<sup>19</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019



conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.

22. I have not recommended any modifications to the Neighbourhood Plan as I do not consider any need to be made as the plan meets the Basic Conditions and the other requirements I have identified.<sup>20</sup>

## Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Alnmouth Parish Neighbourhood Plan 2020-2036 Submission Version October 2020
- Consultation Statement for Alnmouth Parish Neighbourhood Plan Submission Version 2020-2036 October 2020 [*In this report referred to as the Consultation Statement*]
- Basic Conditions Statement for the Alnmouth Parish Neighbourhood Plan Submission Version 2020-2036 October 2020 [*In this report referred to as the Basic Conditions Statement*]
- Alnmouth Parish Neighbourhood Plan Strategic Environmental Assessment (SEA) Screening Opinion February 2020
- Habitats Regulations Assessment Report of Alnmouth Neighbourhood Plan 2020-2036 Pre-Submission Version March 2020
- Alnmouth Parish Principal Residence Background Paper (October 2020)
- Other information and background documents available on the Alnmouth Parish Council and Northumberland County Council websites
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the County and Parish Councils, including the initial letter of the Independent Examiner dated 17 December 2020 and the Parish Council response to the representations of other parties which I received on 21 December 2020
- Alnwick District Core Strategy Adopted October 2007
- Saved Policies from the Alnwick District Wide Local Plan 1997
- The emerging Northumberland Local Plan (submission draft May 2019)
- National Planning Policy Framework (February 2019) updated [*In this report referred to as the Framework*]

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<sup>20</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated [*In this report referred to as the Guidance*])
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016
- The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
- Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020

## Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

25. In accordance with Regulation 14 the Parish Council consulted on the

pre-submission version of the draft Neighbourhood Plan between 5 March 2020 and 20 April 2020. Publicity included an article in the Northumberland Gazette; notices in the Alnmouth Village Newsletter; public notices posted in prominent locations throughout the Parish; a letter sent to consultation bodies; deposit of hard copies of the Plan in two locations; and a drop-in event at Hindmarsh Hall. Twelve responses were received.

26. As the Regulation 14 consultation had taken place whilst Covid 19 related restrictions were in place a second round of pre-submission consultation was undertaken between 20 July 2020 and 16 September 2020. A notice was published in the Alnmouth Village Newsletter; public notices posted in prominent locations throughout the Parish; a letter sent to consultation bodies; the draft Plan and supporting documents were published online; and hard copies of the documents were available on request to people without access to the internet or who were shielding in respect of the Covid 19 pandemic. Nine responses were received.
27. The representations arising from the responses to the two Regulation 14 consultations are presented in Appendix 5 of the Consultation Statement where responses and changes made to the Neighbourhood Plan are set out. Suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the County Council.
28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publicity between 22 October 2020 and 18 December 2020. A total of six representations were submitted during the period of publicity. I have been provided with copies of each of those representations. In preparing this report I have taken into consideration all of the representations submitted during the Regulation 16 period even though they may not be referred to in whole, or in part. Where representations suggest additional matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Where representations relate to the policy, I refer to these later in my report when considering the policy.
29. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an

opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council responded to the opportunity to comment by setting out a statement in respect of the Regulation 16 representations. I have taken the Parish Council response into account in preparing my report. I advised the County Council that the Regulation 16 representations and the Parish Council response should be published on their website.

30. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a Consultation Statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
  - b) explains how they were consulted;
  - c) summarises the main issues and concerns raised by the persons consulted; and
  - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>21</sup>
31. The submitted Consultation Statement contains information in respect of each of the requirements set out in the Regulations, including a description of how issues and concerns raised by other parties have been considered, and where relevant, addressed in the proposed Neighbourhood Plan. I am satisfied the requirements have been met. The Parish Council, has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

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

32. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the Development Plan for the area. The plan policy is

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<sup>21</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

considered in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

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

33. The Basic Conditions Statement states, at paragraph 4.33 the Neighbourhood Plan *“is fully compliant with the European Convention on Human Rights. There is no discrimination stated or implied, or threat to the fundamental rights and freedoms guaranteed under the Convention.”* I have considered the European Convention on Human Rights and in particular Article 8 (right to respect for private and family life, home, and correspondence); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>22</sup> Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. My consideration in respect of Article 8 and Policy 1 (Principal Residence Housing) has been informed by the Approved Judgement R (RLT Built Environment Ltd) v Cornwall Council.<sup>23</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst no Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan, from my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

34. The objective of EU Directive 2001/42<sup>24</sup> is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of*

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<sup>22</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

<sup>23</sup> R (RLT Built Environment Ltd) and Cornwall Council and St Ives Town Council [2016] EWHC 2817 (Admin) Case Number CO/2241/2016

<sup>24</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

*plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>25</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>26</sup>

35. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Northumberland County Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.

36. A Strategic Environmental Assessment (SEA) Screening Opinion Report dated February 2020 has been prepared by the County Council for the Parish Council. The report concludes, *“In the opinion of Northumberland County Council, having regard to the criteria set out in Schedule 1 of the SEA Regulations, Alnmouth Neighbourhood Plan is unlikely to have any significant positive or negative effects on the environment. Therefore, Strategic Environmental Assessment is NOT required for the Alnmouth Neighbourhood Plan for the following reason: • The Plan covers a relatively small rural area and does not allocate sites for development or expressly support further development in the Alnmouth Neighbourhood Area. Accordingly, significant positive or negative effects on the environment are considered unlikely to arise as a result of the introduction and implementation of the Neighbourhood Plan”*. The report includes Appendix 1 presenting copies of statutory consultation responses from the Environment Agency, Historic England, and Natural England all of which agree with the conclusion reached. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

37. The County Council has prepared a Habitats Regulations Assessment Report of the submission version Neighbourhood Plan, dated March 2020, which concludes *“The Neighbourhood Plan contains a single policy, which states that proposals for new housing will only be supported where occupation is restricted to permanent residents. This policy will not facilitate new development and therefore cannot cause a*

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<sup>25</sup> Defined in Article 2(a) of Directive 2001/42

<sup>26</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012



*significant effect on any European sites, alone or in combination with any other plans or policies. In accordance with Regulation 106 of the Conservation of Habitats and Species Regulations 2017 as amended, Northumberland County Council concludes that the Alnmouth Parish Neighbourhood Plan Pre-Submission Version (March 2020) is unlikely to have a significant effect on any European sites and therefore it is unnecessary to undertake an appropriate assessment prior to the adoption of the Plan.”* The Habitats Regulations Assessment Report includes, at Section 10, text from a consultation response from Natural England dated 14 May 2020 which advises Natural England agree with the conclusions of the report.

38. I have earlier in my report, in Footnote 11, referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout much of the period of preparation of the Neighbourhood Plan. The Habitats Regulations Assessment Report is dated March 2020. I am satisfied that the Neighbourhood Plan meets the revised Basic Condition. I conclude the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.
39. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
40. 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.
41. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The County Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU obligations:
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and

- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>27</sup>

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

42. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans<sup>28</sup> which requires plans to be “*consistent with national policy*”.

43. Lord Goldsmith has provided guidance<sup>29</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

44. The most recent National Planning Policy Framework published on 19 February 2019 (later updated) sets out the government’s planning policies for England and how these are expected to be applied. In my initial letter published by the County Council I confirmed that I would undertake this Independent Examination of the Neighbourhood Plan in the context of the Framework published in February 2019 (as updated) and the most recent Planning Practice Guidance.

45. The Basic Conditions Statement includes Table 1 which sets out a summary of how the policy of the Neighbourhood Plan has regard to the Framework. I am satisfied the Basic Conditions Statement

<sup>27</sup> Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

<sup>28</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>29</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)



demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.

46. I am satisfied that the need to ‘*have regard to*’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that 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.*”

47. At the heart of the Framework is a presumption in favour of sustainable development<sup>30</sup> which should be applied in both plan-making and decision-taking.<sup>31</sup> The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*”<sup>32</sup>.

48. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

49. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement states “*The single policy proposes to limit new housing to that which has a principal residence restriction. This has*

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<sup>30</sup> Paragraph 10 National Planning Policy Framework 2019

<sup>31</sup> Paragraph 11 National Planning Policy Framework 2019

<sup>32</sup> Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

*been introduced as a response to both the number, and the significant increase in the number of second and holiday homes in the Parish. At the same time the population of the Parish has decreased. The policy will therefore contribute towards the social element of sustainable development by seeking to resist any further loss of population thereby increasing the sense of community and supporting local services and facilities.”* The appraisal does not highlight any negative impacts.

50. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development.

51. I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

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

52. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.<sup>33</sup> Plans should make explicit which policies are strategic policies.<sup>34</sup> “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”<sup>35</sup>. “*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.<sup>36</sup>

53. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.*”<sup>37</sup>

54. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the

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<sup>33</sup> Paragraph 13 National Planning Policy Framework 2019

<sup>34</sup> Paragraph 21 National Planning Policy Framework 2019

<sup>35</sup> Footnote 16 National Planning Policy Framework 2019

<sup>36</sup> Paragraph 29 National Planning Policy Framework 2019

<sup>37</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

authority (or any part of that area). The County Council has informed me that the Development Plan applying in the Alnmouth Parish Neighbourhood Area and relevant to the Neighbourhood Plan is the Alnwick District Core Strategy (2007) and the “saved” strategic policies from the Alnwick District Wide Local Plan (1997). The County Council state the strategic policies for the Neighbourhood Plan are:

Alnwick District Local Development Framework, Core Strategy  
Development Plan Document, Adopted October 2007.

Policy S1: Location and scale of new development  
Policy S2: The sequential approach to development  
Policy S3: Sustainability criteria  
Policy S4: The phased release of housing land  
Policy S6: Provision of affordable housing  
Policy S8: Economic Regeneration  
Policy S9: Employment land allocation  
Policy S10: Tourism development  
Policy S11: Locating development to maximise accessibility and minimise impact from travel  
Policy S12: Protecting and enhancing biodiversity and geodiversity  
Policy S13: Landscape character  
Policy S14: Development in the open countryside  
Policy S15: Protecting the built and historic environment  
Policy S17: Town centres  
Policy S18: Provision of social and community facilities  
Policy S20: Providing for open space, sport and recreation  
Policy S21: Renewable energy  
Policy S22: Energy efficiency  
Policy S23: Planning obligations

Alnwick District Wide Local Plan, 1997

Policy RE6: Protection of Sites of Nature Conserve Importance  
Policy RE7: Protection of Local Nature Reserves  
Policy RE16: Protection of the AONB  
Policy RE20: Rural diversification proposals  
Policy RE21: Control of new agricultural buildings  
Policy BE2: Regional and local archaeological significance  
Policy H1: Housing in the minor settlements to meet exceptional local needs  
Policy TT1: Controlling the redevelopment of public transport facilities  
Policy TT2: Protection of route of A1 dualling from development  
Policy ED4: Providing a broader base of job opportunities on designated commercial site  
Policy CD32: Controlling development that is detrimental to the environment and residential amenity

55.A Local Plan document is currently being prepared by the County Council. It will include the planning policies that will be used to guide

and determine future planning applications in Northumberland, detail the scale and distribution of new development and include land allocations and designations. The Northumberland Local Plan was submitted to the Secretary of State for Housing, Communities and Local Government on 29 May 2019 and is currently undergoing examination. The Guidance states *“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.”*

56. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the future Northumberland Local Plan when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan unless the latter plan states otherwise.

57. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*<sup>38</sup>. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

58. In considering a now-repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated *“the adjective ‘general’ is there to introduce a degree of flexibility.”*<sup>39</sup> The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

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<sup>38</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

<sup>39</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P & CR 31

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

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”<sup>40</sup>*

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

60. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and the plan policy below. This consideration has been informed by Table 2 of the Basic Conditions Statement which includes comment on the conformity of the Neighbourhood Plan policy with relevant strategic policies. I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## The Neighbourhood Plan Policy

61. The Neighbourhood Plan includes one policy.

62. Paragraph 29 of the Framework states “*Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies*”. Footnote 16 of the Framework

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<sup>40</sup> Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

*states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*

63. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*
64. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”*
65. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*<sup>41</sup>
66. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*<sup>42</sup>

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<sup>41</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

<sup>42</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016



67. A neighbourhood plan should contain policies for the development and use of land. *“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”*<sup>43</sup>

## **Policy 1 Principal Residence Housing**

68. The policy seeks to establish that new housing including that created by change of use and by sub-division of existing dwellings (but excluding replacement dwellings) will only be supported where occupation is restricted in perpetuity to ensure that each new dwelling is occupied only as a principal residence. The policy also states new second homes will not be supported. The policy includes a definition of principal residence and policy implementation details.

69. Paragraph 61 of the Framework states that within the context of Paragraph 60 of the Framework *“the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies...”* Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance. The Guidance states *“Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing”*.<sup>44</sup> Policy 1 does not seek to influence the scale of housing development to occur within the Neighbourhood Area throughout the plan period. Policy 1 does not seek to place any cap on the number of dwellings that can be built or created, nor does the policy seek to influence the size of dwellings or the tenure of housing. Policy 1 does not seek to limit provision for different groups in the community including those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent

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<sup>43</sup> Planning Practice Guidance Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019

<sup>44</sup> Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision 09 05 2019

their homes, and people wishing to commission or build their own homes. Policy 1 meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework.

70. Policy 1 has sufficient regard for paragraph 77 of the Framework in that it is responsive to local circumstances and supports housing developments that reflect local needs. The Policy also has sufficient regard for Paragraph 78 of the Framework which refers to maintenance of vitality of rural communities and support of local services, and has sufficient regard for Paragraph 92 of the Framework that states planning policies should *“plan positively for the use of community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities”*. Policy 1 also has sufficient regard for the part of Paragraph 92 of the Framework that states planning policies should *“guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its everyday needs.”*

71. The Alnwick District Core Strategy identifies the challenge resulting from pressure for second homes and holiday homes. Core Strategy Policy S1 identifies Alnmouth as a ‘Sustainable Village Centre’ which are centres with a strong service base. Core Strategy Policy S10 seeks to ensure new tourism development will avoid an adverse impact on the well-being of communities. The Alnwick District Wide Local Plan, 1997 does not refer to the pressures created by second and holiday homes. Policy H13 of the plan allows restrictive occupancy conditions to be removed where there is no longer a need for the restriction. The supporting text in paragraph 4.13.1 indicates the context of that policy relates to homes associated with an enterprise. Policy H13 is not relevant to the formulation of policy, and is in any case a non-strategic policy which is not relevant to the basic conditions.

72. The Guidance states *“A wide range of settlements can play a role in delivering sustainable development in rural areas, so blanket policies restricting housing development in some types of settlement will need to be supported by robust evidence of their appropriateness”*<sup>45</sup> and *“Any neighbourhood plan policies on the size or type of housing*

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<sup>45</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 67-009-20190722 Revision 22 07 2019



*required will need to be informed by the evidence prepared to support relevant strategic policies, supplemented where necessary by locally-produced information.”<sup>46</sup>*

73. The Alnmouth Parish Principal Residence Background Paper (October 2020) states the population of the Neighbourhood Area has fallen by 20% between the 2001 Census and the 2011 Census. The Background Paper also states Census data shows the number of households with no residents in the Neighbourhood Area rose by 15.0% between 2001 and 2011, to reach 35.1%. This rate is more than five times greater than the County average of 6.4%. Table 2 shows the percentage rise of 15% between 2001 and 2011 is surpassed by only one other parish in the north of the County. The Background Paper also states Council Tax records in April 2016 identified 72 second homes in Alnmouth representing 22.1% of registered residential properties, and business rates information for November 2016 shows 48 properties in the Neighbourhood Area were registered as self-catering holiday units, and that this had risen to 68 by November 2019. The Background Paper states that by bringing these pieces of information together it is calculated that in 2016 the proportion of second homes and holiday lets in Alnmouth was 38.3% of household spaces.
74. The Second and Holiday Homes Technical Paper, which is part of the evidence base supporting the emerging Local Plan, shows that in the NE66 postcode area, which includes the Neighbourhood Area, the house price to income affordability ratio in 2016 was 8.6.
75. I am satisfied the policy is justified by robust evidence. As a matter of planning judgement, I consider that uncontrolled growth of second and holiday homes would damage the Neighbourhood Area as a sustainable community. Where significant numbers of residential properties are unoccupied for parts of the year the number of potential participants in community activity is likely to be reduced, and the economic support for local services and facilities is likely to be lessened to the detriment of the social and economic well-being of the community. A high proportion of empty properties for parts of the year is not consistent with the promotion of social interaction referred to in paragraph 91a) of the Framework, nor is it consistent with the achievement of safe areas where crime or the fear of crime do not undermine the quality of life or community cohesion referred to in paragraph 91b) of the Framework. I am satisfied the policy approach

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<sup>46</sup> Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision 09 05 2019

to only support new housing where occupation is restricted in perpetuity to ensure that each new dwelling is occupied only as a principal residence has been sufficiently justified

76. I have earlier in my report referred to the part of the Guidance which states *“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.”* The emerging Northumberland Local Plan recognises second homes and holiday homes do provide some economic benefits, but identifies adverse impact on the social fabric of communities, particularly along the coast, arising from increased numbers of second and holiday homes. Policy HOU 10 of the emerging Local Plan seeks to introduce a policy approach whereby new market homes will only be supported where they will be occupied as principal residence homes in areas identified in the most recent census as having 20% or more household spaces with no usual (ie permanent) residents. Policy ENV5 of the emerging Local Plan requires the special qualities of the AONB, much of which the Neighbourhood Area lies within, to be conserved or enhanced having regard to the current management plan and locally specific design guidance.
77. The policy is in general conformity with the strategic policies included in the Alnwick District Core Strategy (2007), and the “saved” strategic policies from the Alnwick District Wide Local Plan (1997), applying in the Alnmouth Parish Neighbourhood Area and relevant to the Neighbourhood Plan, and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
78. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, and promoting healthy and safe communities, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan.
79. Policy 1 meets the Basic Conditions.

## Summary and Referendum

80. I am satisfied that the Neighbourhood Plan<sup>47</sup>:

- is compatible with the Convention Rights; and
- meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990, and meets the Basic Conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - does not breach, and is otherwise compatible with, EU obligations; and
  - the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>48</sup>

**I recommend to Northumberland County Council that the Alnmouth Parish Neighbourhood Development Plan for the plan period up to 2036 should be submitted to referendum.**

81. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>49</sup> I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”<sup>50</sup>. I have seen nothing to suggest the referendum area should be extended

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<sup>47</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

<sup>48</sup> 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 (5) are amended

<sup>49</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>50</sup> Planning Practice Guidance Paragraph: 059 Reference ID: 41-059-20140306 Revision 06 03 2014

for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Northumberland County Council as a Neighbourhood Area on 15 October 2019**

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30 December 2020  
REPORT ENDS