

# **OAKENSHAW NEIGHBOURHOOD PLAN 2020-2035**

Oakenshaw Neighbourhood Plan Examination  
A Report to Durham County Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

August 2020



**Contents**

**1, Summary**

**2, Introduction**

**3, Basic Conditions and Development Plan Status**

**4, Background Documents and the Oakenshaw Neighbourhood Area**

**5, Public Consultation**

**6, The Neighbourhood Plan: Introductory Section**

**7, The Neighbourhood Plan: Policies**

**8, The Neighbourhood Plan: Other Matters**

**9, Referendum**

## **1. Summary**

- 1 Subject to the recommendations within this Report, made in respect of enabling the Oakenshaw 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, European Union (EU) obligations; and
  - 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.
  
- 2 Taking the above into account, I find that the Oakenshaw Neighbourhood Plan meets the basic conditions<sup>1</sup> and I recommend to Durham County Council that, subject to modifications, it should proceed to Referendum.

---

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

## **2. Introduction**

### **The Neighbourhood Plan**

- 3 This Report provides the findings of the examination into the Oakenshaw Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by the Oakenshaw Neighbourhood Plan Steering Group on behalf of Greater Willington Town Council.
- 4 As above, the 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 Durham County Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Oakenshaw Neighbourhood Area.
- 5 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.”*  
(Paragraph 29, National Planning Policy Framework)
- 6 As confirmed in Paragraph 2.6 on page 7 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Greater Willington Town Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 7 Paragraph 2.6 on page 7 of the Basic Conditions Statement confirms that the Neighbourhood Plan relates only to the designated Oakenshaw Neighbourhood Area and that there is no other neighbourhood plan in place in the Oakenshaw Neighbourhood Area.

- 8 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2019<sup>2</sup>) and Planning Practice Guidance (2014).

### Role of the Independent Examiner

- 9 I was appointed by Durham County Council, with the consent of the Qualifying Body, to conduct the examination of the Oakenshaw Neighbourhood Plan and to provide this Report.
- 10 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 11 I am a chartered town planner and have eight years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 12 As the Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that 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 relevant legal requirements.

---

<sup>2</sup> Work commenced on the Oakenshaw Neighbourhood Plan in 2015/16. A replacement National Planning Policy Framework was published in July 2018 and amended in 2019. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans, where those plans were submitted on or before the 24<sup>th</sup> January 2019. The Oakenshaw Neighbourhood Plan was submitted to Durham County Council after this date and consequently, it is appropriate to examine the policies of the Neighbourhood Plan against the most recent version of the National Planning Policy Framework.

- 13 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Oakenshaw Neighbourhood Area to which the Plan relates.
- 14 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

#### Neighbourhood Plan Period

- 15 A neighbourhood plan must specify the period during which it is to have effect.
- 16 The title page of the Neighbourhood Plan provides a clear reference to the plan period, 2020-2035. Also, paragraph 2.8 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan states that:  
  
*"The Plan identifies a 15-year period to which it relates as 2020 to 2035..."*
- 17 Taking the above into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

#### Public Hearing

- 18 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 19 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 must be held.

- 20 Further to consideration of the information submitted, I determined not to hold a public hearing as part of the examination of the Oakenshaw Neighbourhood Plan.
- 21 However, in order to clarify a number of points in respect of the examination, I wrote to the Qualifying Body and to Durham County Council and this examination has taken the responses received to that letter into consideration.

### **3. Basic Conditions and Development Plan Status**

#### **Basic Conditions**

- 22 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*<sup>3</sup> following the Localism Act 2011. 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, European Union (EU) obligations; and
  - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 23 Regulations 23 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28<sup>th</sup> December 2018, applies to neighbourhood plans:
- 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.<sup>4</sup>

---

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

<sup>4</sup> *ibid* (same as above).



- 24 In examining the 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), 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 (under Section 61G of the Town and Country Planning Act 1990 (as amended));
  - 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.
- 25 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>5</sup>
- 26 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan and this sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

---

<sup>5</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 27 I am satisfied, in 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.
- 28 In the above regard, 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.

European Union (EU) Obligations

- 29 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 Guidance<sup>6</sup>)
- 30 This process is often referred to as “screening”<sup>7</sup>. If likely environmental effects are identified, an environmental report must be prepared.

---

<sup>6</sup> Planning Guidance, Paragraph 027, Ref: 11-027-20150209,.

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

- 31 Durham County Council carried out a Strategic Environmental Assessment (SEA) screening assessment of the Neighbourhood Plan. This concluded that:

*"...the ONP (Oakenshaw Neighbourhood Plan) will not require Strategic Environmental Assessment."*

- 32 The statutory bodies, Historic England, Natural England and the Environment Agency have all been consulted and none of these organisations has demurred from the conclusions of Durham County Council in respect of SEA.
- 33 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. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information<sup>8</sup>. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.
- 34 A screening assessment was carried out by Durham County Council and this concluded that the Neighbourhood Plan does not require:

*"...Appropriate Assessment under the provisions of the Habitats Regulations."*

- 35 As above, the statutory bodies have been consulted and none of them has raised any concerns, issues or objections to the screening process or to the conclusions of Durham County Council.
- 36 Further to the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets 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 Guidance<sup>9</sup>).*

---

<sup>8</sup> Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

<sup>9</sup> *ibid*, Paragraph 031 Reference ID: 11-031-20150209.

- 37 In carrying out the work that it has and in reaching the conclusions that it has, Durham County Council has not raised any concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.
- 38 I also note that, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta ("People over Wind")*, 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.
- 39 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.
- 40 The changes to regulations allow 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 planning application. These changes came into force on 28<sup>th</sup> December 2018.
- 41 I am mindful that evidence has been submitted to demonstrate that the above has been considered in an appropriate manner by Durham County Council and taking this and everything else into consideration, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

#### **4. Background Documents and the Oakenshaw Neighbourhood Area**

##### Background Documents

- 42 In undertaking this examination, I have considered various information in addition to the Oakenshaw Neighbourhood Plan.
- 43 Information considered as part of this examination has included (but has not been limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2019)
  - Planning Practice Guidance (2014, as updated)
  - Town and Country Planning Act 1990 (as amended)
  - The Localism Act (2011)
  - The Neighbourhood Plan Regulations (2012) (as amended)
  - The saved policies of the Wear Valley District Local Plan (Adopted 1997. Saved 2007)
  - Basic Conditions Statement
  - Consultation Statement
  - Representations received
  - Oakenshaw Neighbourhood Plan Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report (February 2020)
- 44 In addition, I spent an unaccompanied day visiting the Oakenshaw Neighbourhood Area.

Oakenshaw Neighbourhood Area

- 45 The boundary of the Oakenshaw Neighbourhood Area is identified on a plan provided on page 7 of the Neighbourhood Plan.
- 46 Durham County Council designated the Oakenshaw Neighbourhood Area on 26<sup>th</sup> November 2015.
- 47 This 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).

## **5. Public Consultation**

### **Introduction**

- 48 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 49 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.

### **Oakenshaw Neighbourhood Plan Consultation**

- 50 A Consultation Statement was submitted to Durham County Council 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*<sup>10</sup>.
- 51 On behalf of Greater Willington Town Council, a Neighbourhood Plan steering group, comprising Oakenshaw Community Association committee members and co-opted residents, was created and an open public meeting was held in April 2015. The meeting's attendees gave unanimous support for the preparation of the Neighbourhood Plan.
- 52 Residents were asked for their views at various events during the course of 2016 and a handout summarising residents' comments was distributed at an Oakenshaw Neighbourhood Plan Open Day held in December 2016. A series of focus groups were hosted by residents and the outcomes of these were duly recorded. Separate meetings were also held with landowners and local businesses.
- 53 Comments received were collated and analysed, informing a series of topic papers. Further progress on the plan-making process was then reported via two Newsletters and also, at two public meetings, which were held in the Spring and Autumn of 2017.

---

<sup>10</sup> Neighbourhood Planning (General) Regulations 2012.

- 54 Further to a meeting with Durham County Council in May 2018, an early draft plan was published on the Greater Willington Town Council website. An open day was held during July 2018. This was attended by more than 50 people. Feedback was encouraged and duly recorded. Further feedback was also received and recorded during an Annual Family Fun Day, which took place in August 2018.
- 55 The draft plan was then produced and this was consulted upon during October and November 2019. Public consultation was supported by an open day and a separate drop-in session. Responses were recorded and considered prior to the production of the Submission version of the Neighbourhood Plan.
- 56 As well as making use of the Greater Willington Town Council website and the Oakenshaw Community Association Facebook page, public consultation was supported via posters, the hand-delivery of flyers and information and by the distribution of emails and letters.
- 57 The Consultation Statement provides evidence to demonstrate that public consultation formed an important part of the plan-making process. There were plentiful opportunities for anyone who wanted to have a say, to have a say. Consultation was publicised and matters raised were duly considered.
- 58 Taking all of the above into account, I am satisfied that the Oakenshaw Neighbourhood Plan was supported by a consultation process that was robust and which complied with the neighbourhood planning regulations referred to above.



## **6. The Neighbourhood Plan – Introductory Section**

- 59 The Contents page refers to Section 6.0. This Section sets out why, in the plan-makers' view, the Neighbourhood Plan "*complies*" with local and national policy and guidance. Whilst I note that this is a turn of phrase, the basic conditions, as referred to earlier, have been carefully worded and rather than compliance, require Neighbourhood Plans to have regard to and be in general conformity with, national policy and local strategic policy, respectively.
- 60 As the Basic Conditions Statement sets out how, in the view of plan-makers, the Neighbourhood Plan meets the basic conditions, there is no need to repeat this information within the Neighbourhood Plan itself. In any case, it is the purpose of examination to determine whether or not the Neighbourhood Plan meets the basic conditions.
- 61 Taking the above into account, I recommend:
- **Page 3, delete reference in Contents to Section 6.0**
  - **Delete Section 6.0**
- 62 Part of Section 1. has been overtaken by events and I recommend:
- **Page 4, delete second paragraph and last sentence of third paragraph ("This Consultation...process." "...We also invite...2035")**
  - **Pages 4 and 5, delete sentence "There has been a degree...by the group."**
- 63 A Consultation Statement was submitted alongside the Neighbourhood Plan in accordance with the Regulations<sup>11</sup>. Whilst Paragraph 1.2.2 of the Neighbourhood Plan summarises the content of the Consultation Statement, it does not comprise the Consultation Statement itself and I recommend:
- **Page 5, change title to "*Consultation*"**

---

<sup>11</sup> Neighbourhood Planning (General) Regulations 2012.

- 64 In response to the Submission Consultation period, Historic England has suggested changing the reference to a *“non-designated asset”* on page 9 of the Neighbourhood Plan to a *“non-designated heritage asset.”* This change would add to the clarity of the Neighbourhood Plan and has regard to Chapter 16 of the National Planning Policy Framework (the Framework), which makes specific reference to *“non-designated heritage assets.”*
- 65 I therefore recommend:
- **Change fifth line on page 9 to *“...non-designated heritage asset...”***
- 66 For clarity in respect of the Neighbourhood Plan's development plan status and noting that the Neighbourhood Plan is not a tool for the purpose of funding bids, I recommend:
- **Page 12, Para 1.5, change second sentence to *“This Neighbourhood Plan meets statutory requirements and forms part of the development plan used for determining planning applications.”***
  - **Page 13, Para 1.5.3 change last sentence to *“The ONP should be considered as a whole and be read in conjunction with national and local planning policies.”***
- 67 Part of Paragraph 1.6 has been overtaken by events and taking into account the function of the Neighbourhood Plan, I recommend:
- **Page 14, change first line to *“Amongst other things, the Neighbourhood Plan, which has emerged through local activity, aims to protect and improve green...”***
- 68 For clarity, I recommend:
- **Page 14, Para 1.6.1, change first sentence to *“...formulate the following overall vision for the Oakenshaw Neighbourhood Plan.”***
  - **Para 1.6.1, last sentence, change to *“...community and embracing of...”***
- 69 The deletion of Section 6.0 is recommended above. Taking this into account, I also recommend:
- **Delete last sentence on page 15 (*“Chapter 6.0...Policy.”*)**

## **7. The Neighbourhood Plan – Neighbourhood Plan Policies**

### Village Environment

#### **Policy ONP ENV1 – Maintaining the Open Rural Character and Areas of Separation**

- 70 Policy ONP ENV1 establishes a settlement boundary around Oakenshaw village, within which development proposals will be supported.
- 71 This part of the Policy provides a clear focus for sustainable growth and establishes a positive framework for the consideration of planning proposals. In this way, the Policy contributes to the achievement of sustainable development, having regard to Paragraph 15 of the Framework, whereby:
- “...plans should provide a positive vision for the future of each area...and a platform for local people to shape their surroundings.”*
- 72 There is no need for the Policy to cross reference other development plan policies, as the adopted development plan must be considered as a whole.
- 73 Policy ONP ENV1 goes on to identify locations where *“development will not be permitted.”*
- 74 Durham County Council, rather than the Neighbourhood Plan or the Qualifying Body, is the Local Planning Authority responsible for determining planning applications. The Neighbourhood Plan cannot pre-determine planning applications.
- 75 Notwithstanding this, neither national or local planning policy seeks to identify areas in which any form of development will be prevented. The introduction of such an approach within the Neighbourhood Area is not supported by any substantive reasoning or evidence in justification of such a fundamental departure from national or local policy.

- 76 The Policy refers to “*sensitive areas.*” This is different to the reference in Figure 4 to “*Village Character/Environmental Asset Protection Area.*” The Policy goes on to reference “*VV2.1, VV2.2 and VV2.3,*” none of which are referred to in Figure 4. This all amounts to a confusing approach, lacking in clarity, contrary to Paragraph 16 of the Framework, which states that plans should:

*“...contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.”*

- 77 Figure 4 also includes reference to “*valued views.*” These simply appear as arrows and are not supported by any substantive information – for example, where the views are from and precisely what they are of. Views can change annually, seasonally and even hourly and the quality and content of views can be a highly subjective matter. Without detailed information, it not possible to understand what it is that the views seek to retain or how development proposals might respond in an appropriate manner.
- 78 The recommendations below recognise that, whilst there is evidence to demonstrate that the community values the character and qualities of land to the east, west and south of Oakenshaw as identified by light green shading in Figure 4, there is no substantive evidence to justify an approach which prevents any form of development taking place there.
- 79 Whilst Policy ONP ENV1 refers to green corridors and areas of separation, the Neighbourhood Plan does not identify the specific location of these. The supporting text does not provide clarity in this regard, but appears to “*lump*” valued views, the Village Character/Environmental Asset Protection Area, sensitive areas, green corridors and areas of separation all into one.
- 80 Thus, whilst it is recognised that the Neighbourhood Plan seeks to afford protection to much of the countryside immediately surrounding the settlement boundary, Policy ONP ENV1 seeks to achieve this in an ambiguous manner and as such, it lacks the appropriate clarity for a land use planning policy.
- 81 However, the aims of the Policy are clear and taking all of the above into account, I recommend:
- **Change the first sentence of Policy to “*New development will be focused within the Oakenshaw Settlement Boundary, as defined on the ONP Proposals Map (Figure 4). Sustainable development proposals within the settlement boundary will be supported.*”**

- Delete the remainder of the Policy and replace with ***“Development must respect the character and appearance of the Sensitive Areas shaded in light green on the Proposals Map and retain Oakenshaw’s qualities as a distinct linear settlement surrounded by open countryside. The enhancement of the Neighbourhood Area’s biodiversity, green corridors and environmental quality will be supported.”***
- Change the plan on page 17 to show ***“Local Green Space”*** designations, the ***“Additional Car Parking”*** allocation and ***“Local Plan Settlement Boundary”*** only
- Figure 4 Legend, change ***“Village Character / Environmental Asset Protection Area”*** to ***“Sensitive Areas”***
- Figure 4, delete Valued View references and arrows
- Page 21, change second sentence of first para of supporting text to ***“This approach provides for sustainable growth in Oakenshaw, for which there is no current housing allocation.”***
- Page 21, delete third para of supporting text (***“This...views.”***) which refers to an emerging policy, which may or may not be adopted in its current form, and elements of the Policy recommended for deletion
- Page 21, five lines up from bottom of page, change to ***“...land east of the village is considered to be particularly important...”***
- Page 21, last sentence, change to ***“The Sensitive Areas around the settlement include areas rich in biodiversity. Sensitive Areas are locally valued for, amongst other things, supporting wildlife, providing green corridors, reducing noise and pollution, encouraging recreation and contributing to the settlements distinctive and separate identity. Strong settlement...begins.”*** (delete final sentence (***“All three...Assessment.”***))

**Policy ONP ENV2 – Local Green Spaces**

82 Local communities can identify areas of green space for special protection.

83 Paragraph 99 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.”*

84 The Framework requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts (Paragraph 101, the Framework). 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.

85 Given the importance of the designation, it is appropriate that areas of Local Green Space are clearly identified in the Neighbourhood Plan. Figure 4 provides an indicative plan, showing the general location of each Local Green Space, but the scale and reproduction of the plan does not enable the precise identification of boundaries. This could lead to future difficulties and I make a recommendation in this regard, below.

86 The designation of land for Local Green Space must meet the tests set out in Paragraph 100 of the Framework.

87 These are that the 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), tranquility or richness of its wildlife; and that it is local in character and is not an extensive tract of land.

88 The Neighbourhood Plan designates three areas of land as Local Green Space. These have emerged through public consultation and pages 22 and 23 of the supporting text establish how each site meets the appropriate national policy tests and is therefore appropriate for designation.

- 89 National Policy requires that policies for managing development within a Local Green Space should be consistent with those for Green Belts.
- 90 In addition to including the phrase "*will not be permitted,*" which runs the risk of pre-determining planning applications, the proposed wording of Policy ONP ENV2 does not have regard to national Green Belt policy, but rather, it seeks to introduce a different planning policy approach which is not justified through any substantive reasoning. The Policy also includes an ambiguous reference to development providing "*significant benefits for the community as a whole,*" without setting out what these comprise, or the basis upon which they might be judged and who by.
- 91 Taking all of the above into account, I recommend:
- **Change Policy ONP ENV2 to "*The areas shown on Figure (Proposals Map) and Figure 5 (Local Green Space) are designated for protection as Local Green Space. Within Local Green Space, the management of development will be consistent with that for development within Green Belts.*"**
  - **Figure 4 Legend, change to "*Local Green Space*" (delete reference to "in Village and Nature Reserve" which appears confusing)**
  - **Figure 4 Key, replace "1. 2. 3." (which does not accord with the Figure) with "*LGS1. LGS2. LGS3.*" This will enable clearer identification of each Local Green Space on the Proposals Map**
  - **Create a new plan, "*Local Green Space.*" This should be at a scale which allows for the clear and precise identification of the boundaries of each area of Local Green Space so that there can be no confusion.**
  - **Page 22, first line of supporting text, delete "the CDP 2019 (Policy 27) and"**

**Policy ONP ENV3 – Green Infrastructure and Natural Landscape**

- 92 Chapter 15 of the Framework, "*Conserving and enhancing the natural environment,*" requires planning policies to contribute to and enhance the natural and local environment by:

*"...recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services...minimising impacts on and providing net gains for biodiversity."*

(Paragraph 170, the Framework)

- 93 Generally, Policy ONP ENV3 seeks to ensure that development respects and contributes towards the attributes of the local landscape and protects the area's biodiversity. In this way, the Policy has regard to the Framework.
- 94 As set out, the Policy is framed around a "*will not be permitted*" approach which does not meet the basic conditions for reasons set out elsewhere in this Report. It also includes references, such as "*unacceptable landscape impact*" and "*high landscape or amenity value,*" which appear subjective as they are unsupported by detailed information in respect of how such things might be judged and who by. This results in an ambiguous Policy, contrary to the requirements of Paragraph 15 of the Framework which requires plans to provide for clarity.
- 95 The Policy goes on to require all development to be in keeping with Oakenshaw's natural surroundings and include features which contribute to the conservation, enhancement or restoration of local features. There is no evidence to demonstrate that such a requirement is deliverable, having regard to Paragraph 15 of the Framework, which requires plans to be deliverable; or that this part of the Policy meets the requirements of national policy, whereby planning obligations must be necessary, directly related to the development and be fairly and reasonably related in scale and kind to the development, as set out in Paragraph 56 of the Framework.
- 96 For example, it could well be that the majority of planning applications in the Neighbourhood Area relate to householder applications for say, residential extensions and there is nothing to suggest that these, nor any other development proposals, could viably meet the requirements set out in Policy ONP ENV3, nor why they should be expected to do so.



- 97 Similarly, the requirement for all development to “*ensure planting of hedgerows, trees and woodland*” also appears onerous and unsupported by reasoned justification, taking account of Paragraphs 15 and 56 of the Framework.
- 98 Policy ONP ENV1 establishes a Settlement Boundary to prevent encroachment and sprawl, and to retain Oakenshaw’s linear form. There is therefore no need for Policy ONP ENV3 to seek to prevent encroachment, urban sprawl or the loss of Oakenshaw’s linear form.
- 99 Taking all of the above factors into account and noting that Policy ONP ENV1 already seeks to protect the character of the landscape around the Settlement Boundary, I recommend:
- **Change Policy ONP ENV3 to “*Development must respect the Neighbourhood Area’s distinctive landscape character (as described in the County Durham Landscape Character Assessment 2008) and should not result in the loss of, or damage to, hedgerows, trees or other forms of biodiversity value. Should the removal of a tree or group of trees be demonstrated to be necessary, such trees should be replaced with a similar number of trees in an appropriate nearby location, using native disease resistant species. The planting and/or enhancement of trees and hedgerows and net gains in biodiversity will be supported.*”**
  - **Page 23, delete from fourth line of supporting text “...CDP 2019 (Policy 27)...”**
  - **Page 23, line 6 of supporting text, change to “...hedgerows and encourage the planting of more trees...nearby location, although this is not ideal as habitat that is destroyed can take a long time to re-establish.”**
  - **Page 24, end supporting text on line 3 of second para, “...agricultural fields close to the *village*.” Delete “Development on the...stage of development.” which reads as though it is a policy requirement (but it is not)**

## Housing

### **Policy ONP H1 – Small Scale Housing Development**

100 Chapter 5 of the Framework, “*Delivering a sufficient supply of homes,*” supports the Government’s objective of:

*“...significantly boosting the supply of homes...”*  
(Paragraph 59, the Framework)

101 Whilst the Neighbourhood Plan does not allocate land for housing – and there is no requirement for it to do so - Policy ONP H1 establishes a supportive policy framework for smaller scale (less than 30 dwellings) residential development within Oakenshaw’s settlement boundary. In this way, the Policy provides for sustainable growth and has regard to the Framework.

102 A representation has been submitted, promoting an area of land for the allocation of housing. However, as above, the Neighbourhood Plan does not seek to allocate housing land and it is not required to do so.

103 In respect of the wording of the Policy, it is important to note that the Local Planning Authority – and therefore the decision-making body - is Durham County Council and that consequently it is not within the scope of the Neighbourhood Plan for its Policies to pre-determine planning applications. The use of the phrase “*permission will be granted*” does not therefore meet the basic conditions and this is a matter addressed in the recommendations below.

- 104 Policy ONP H1 presents a list of criteria against which proposals for smaller scale residential development will be considered. Some of these appear superfluous, repetitious and ambiguous and/or seek to introduce requirements without justification. As such, part of the Policy is contrary to national planning guidance<sup>12</sup>, which requires a neighbourhood planning policy to 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.”*

- 105 The Policy is limited to smaller-scale development within the settlement boundary. It is therefore unnecessary to also require development to be contained and to relate to and be proportionate to, the settlement.
- 106 Further, neither the Neighbourhood Plan nor any supporting evidence defines areas of undeveloped land that contribute *“to the character of the village”* and consequently, this part of the Policy is not clear. Also, there is no precise information in respect of *“the communities identified needs,”* just vague references to some types of housing that some residents would like to see. On a similar basis, the phrase *“appropriate type”* appears as a subjective and ambiguous reference unsupported by relevant detail.
- 107 A requirement for all residential development to *“enhance its immediate setting”* goes beyond policy requirements for even, say, a Conservation Area and the requirement is not supported by substantive justification or evidence in respect of deliverability.
- 108 The phrase *“does not significantly adversely affect”* is not supported by information in respect of how this might be judged or who by and as a consequence, it appears subjective and vague.
- 109 The requirement for all residential development to secure energy efficiency and achieve zero carbon emissions is reflective of an important aspiration, but it is not supported by any evidence in respect of deliverability or viability. This is a matter addressed in the recommendations below.

---

<sup>12</sup> Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

110 Developments of ten dwellings or less do not need to contribute towards the delivery of affordable housing. Paragraph 63 of the Framework states that:

*“Provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas.”*

111 There is no evidence that the Neighbourhood Area is a designated rural area and the requirement set out in part 8. of the Policy does not, therefore, have regard to national policy.

112 In addition to changes to the Policy, the recommendations below include changes to supporting text, taking the following points into account.

113 The Neighbourhood Plan, once made, will form part of the development plan. It is not the role of the Neighbourhood Plan to predict when the emerging Durham County-wide Local Plan will be adopted and nor can it pre-determine what the adopted Policies of the emerging Durham County-wide Local Plan might be.

114 Build rates over recent decades provide background information and there is no substantive detailed evidence to justify an approach whereby future build rates need to be *“be in accordance”* with past build rates.

115 Neighbourhood Plan policies must have regard to the basic conditions. Whilst it is appropriate for plan-makers to take account of emerging planning policy, especially where it is at a relatively advanced stage, there is no requirement for policies to be *“compliant”* with emerging planning policy which, prior to adoption, is subject to change.

116 Taking all of the above into account, I recommend:

- **Change Policy ONP H1 to *“Infilling and small-scale (less than 30 dwellings) residential development within the settlement boundary will be supported where it:***

- 1 is of high quality design;***
- 2 respects local character, including the linear form of the settlement and its rural character and setting;***
- 3 respects residential amenity***
- 4 is not in an area of flood risk***

*New homes should be energy efficient and the incorporation of renewable energy measures, including solar panels will be supported, as will the development of homes with zero carbon emissions."*

- Pages 25 and 26, change from last line on page 25, to *"Policies in the ONP will, as part of the development plan, help to provide the basis for considering windfall proposals in the Neighbourhood Area. The Neighbourhood Plan seeks to encourage opportunities to respond positively...consultation (see key issues below)."*
- Page 26, change bullet point 1. To *"New housing should take account of the rate of build over the last 10 years (approximately 15 to 20 houses) and be proportionate..."*
- Page 28, delete second para (*"Housing development...objectives identified above."*)
- Page 29, delete final para, which is not an adopted Durham County-wide policy requirement and which conflicts with national policy.

## **Policy ONP H2 – Large Scale Housing Development Requirements**

- 117 Policy ONP H2 provides a supportive planning policy framework for the development of larger residential developments of 30 or more dwellings. Whilst not clear within the Policy itself, the supporting text indicates that the Policy relates to land within the settlement boundary<sup>13</sup>.
- 118 In this respect, the Policy has regard to the national policy aim of boosting, significantly housing supply.
- 119 The Policy goes on to set out design criteria aimed at ensuring that new housing development respects its surroundings. Consequently, the first five criteria of the Policy (after the introduction, which is incorrectly presented as a criterion) have regard to Chapter 12 of the Framework, "*Achieving well-designed places*," which recognises the importance of good design and which supports policies that are:
- "...developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics."* (Paragraph 125, the Framework)
- 120 The seventh criterion of the Policy, relating to affordable housing, is entirely reliant upon a policy in the emerging Local Plan. Notwithstanding that policies within the Local Plan are beyond the control or responsibility of the Neighbourhood Plan, the policy referred to is, in any case, subject to change and may or may not be adopted in the form that it was in when the Neighbourhood Plan was submitted for examination.

---

<sup>13</sup> Lines 7 and 32 on page 31 of supporting text to Policy ONP H2 state "*...any new development taking place is...contained within the existing settlement boundary*" and "*...support contained development that conformed to the current form of the village*," respectively. Whilst the first para on page 31 of the supporting text refers to development within the settlement boundary "*...or on land not designated as a local green space or sensitive green area*," no land outside the settlement boundary is identified for large scale housing and the vast majority of the Neighbourhood Area outside the settlement boundary comprises land not designated as a local green space or sensitive area. Large scale residential development in the open countryside would conflict with national and local development policy.

121 Further, the Neighbourhood Plan is not supported by any substantive evidence justifying the requirement set out in criterion 8, whereby Section 106 funds must be prioritised to invest in on-site and off-site amenities and facilities for the benefit of the village. Notwithstanding the absence of any information in respect of viability and deliverability, there is no information that demonstrates that such a requirement has regard to paragraph 56 of the Framework in respect of the relevant tests that must be met wherever planning obligations are sought:

*“a) necessary to make the development acceptable in planning terms;  
b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.”*

122 Taking the above into account, I recommend:

- **Change the first line of Policy ONP H2 to *“Large scale proposals for 30 dwellings within the settlement boundary will be supported where:”***
- **Change the numbering of the five criteria that follow from 2-6 to *“1 – 5”***
- **Delete criteria 7 and 8. Add new criteria *“6. All housing development will be required to provide affordable housing in accordance with development plan policy.”***
- **Page 31, change line two to *“...boundary whilst maintaining the linear form of the village. This...”***
- **Page 31, delete first sentence of second para and replace with *“The ONP aims to ensure that any new development in Oakenshaw is of high quality design and contained within the existing settlement boundary. Dwellings built...”***
- **Page 31, fourth para, delete last sentence (*“A proportion...policy 15.”*)**
- **Page 32, delete first para (*“NPPF 19...developments.”*)**

**Policy ONP H3 – Housing Development Outside of the Existing Settlement Boundary of Oakenshaw**

- 123 The first sentence of Policy ONP H3 effectively repeats that part of Policy ONP ENV1 which states that development “*will not be permitted*” in Sensitive Areas. It is noted earlier in this Report that that element of Policy ONP ENV1 does not meet the basic conditions. Recommendations in respect of Policy ONP ENV1 recognise the importance to the local community of maintaining Oakenshaw’s linear form surrounded by open countryside.
- 124 As set out, the second part of Policy ONP H3 would appear to “*permit*” any form of residential development in the open countryside (other than in Sensitive Areas adjacent to Oakenshaw) subject only to such development maintaining unidentified wildlife corridors and enhancing “*the landscape context of Oakenshaw set in open countryside.*”
- 125 As a consequence, the Policy could be read as providing support for large scale residential development anywhere in the Neighbourhood Area’s open countryside, so long as such development does not impact on the linear form of the village and enhances the Sensitive Areas surrounding the village.
- 126 Such an approach appears in conflict with the supporting text, which refers to “*restricting housing*” outside of the defined Settlement Boundary, and in so doing, largely appearing to seek to limit development in the open countryside to isolated dwellings for rural workers.
- 127 The approach set out in Policy ONP H3 appears in conflict with Paragraphs 77 to 79 of the Framework, which establish that housing should be located where it will enhance or maintain the vitality of rural communities and which also establish a set of criteria providing for the appropriate development of isolated homes in the countryside. Policy ONP H3 does not have regard to national policy. It appears vague and confusing and conflicts with both national policy and its own supporting text.
- 128 However, in response to the Examiner’s “*Letter of Clarification,*” referred to earlier, plan-makers have provided clarity in respect of the Neighbourhood Plan’s approach to providing for sustainable development, whereby new housing will be supported within the Settlement Boundary and only residential development appropriate to a countryside location will be supported elsewhere. This is clear and is reflected in other parts of the Neighbourhood Plan and in associated recommendations in this Report.



129 Taking this and all of the above into account, I recommend the deletion of Policy ONP H3. Whilst the Policy does not meet the basic conditions, plan-makers can be reassured that other Policies within the Neighbourhood Plan, along with existing planning policies, meet the aims of the community as have emerged through the plan-making process. I recommend:

- **Delete POLICY ONP H3**
- **Delete supporting text on pages 32 and 33**

**Policy ONP H4 – Community Led Housing Provision for Older or Disabled People**

- 130 Policy ONP H4 sets out a local community aspiration for the development of community-led housing for older or disabled people. This has regard to Chapter 5 of the Framework, *“Delivering a sufficient supply of homes,”* which requires planning policies to provide a range of new homes for different groups in the community, including older people and people with disabilities.
- 131 The Policy then goes on to state that a new development will be provided, setting out various detailed criteria. However, there is no information in respect of where this development will take place, nor evidence setting out how it will be delivered. Whilst it is noted that the Community Association is keen to provide such development, this is reflective of a local aspiration and at this early stage, it is not something that is supported by sufficient evidence to form part of a deliverable land use planning policy in the Neighbourhood Plan.
- 132 The recommendations below are aimed at ensuring that this important aspiration is not lost, whilst providing a Policy which meets the basic conditions.
- 133 Taking all of the above into account, I recommend:
- **Policy ONP H4, change to *“The development of level access community-led housing development designed to meet the social housing needs of older and/or disabled people will be supported.”* (delete rest of Policy)**
  - **Page 33, change first para of supporting text to *“This ONP Policy refers to a specific need in Oakenshaw. The Census data...public consultations. In addition to Policy ONP H4, the OCA has an aspiration to build centrally...networks. The OCA’s aims in this regard are set out below.”***
  - **Provide a new sub-heading, *“Community Action - New Community Homes”***

- Below heading add sentence *“This Community Action is not a Neighbourhood Plan Policy but sets out an important local aspiration to deliver new community homes, to be led by the OCA.”*
- Below this, add the text from line three of second para on page 34 to end of the third para (“A community led development...and commuted sums.”)

### **Policy ONP H5 – Parking Standards for New Residential Development**

134 Policy ONP H5 begins with a set of new proposed minimum parking standards. The proposed standards are not supported by any detailed information, such as for example, a substantive local evidence base, but have been extracted from a Northern Ireland design guidance document dating from 2000<sup>14</sup>.

135 In the absence of any detail, it is not clear why this information provides an appropriate evidence base for Oakenshaw, resulting in the standards set out appearing somewhat arbitrary and subjective.

136 The Policy goes on to set out detailed requirements based on these guidelines. Again, there is no information establishing why a twenty-year old Northern Irish design guidance document provides relevant criteria for Oakenshaw and consequently, it is not possible to conclude that the requirements are supported by appropriate evidence and:

*“...reflect local aspirations, and are grounded in an understanding and evaluation of each area’s defining characteristics.”* (Paragraph 125, the Framework)

137 The Policy goes on to state that it will “*encourage*” provision of a parking area and “*suitable*” cycle parking or storage. No indication is provided of what might comprise suitable cycle parking or storage, leading the Policy to appear ambiguous in this regard. Similarly, no information is provided in respect of who might “*encourage*” the development envisaged or on what basis.

138 Notwithstanding the above, Policy ONP H5 appears to allow for no parking spaces to be provided if there is a lack of market demand, or if such provision would undermine scheme viability. This adds to the ambiguous nature of the Policy and leaves the potential open for development to be provided without parking facilities, contrary to the plan-makers’ aims of addressing local concerns around the availability of residential car parking spaces.

---

<sup>14</sup> “*Creating Places: Achieving quality in residential environments*” Northern Ireland Planning Service (DOE) & Roads Service (DOE). 2000.

139 As set out, Policy ONP H5 does not meet the basic conditions and taking all of the above into account, I recommend:

- **Change Policy ONP H5 to “*New residential development must provide off-road parking, taking into account the type and mix of the development and the need to prevent increases in on-road parking to the detriment of highway safety. All new dwellings must provide electric vehicle plug-in points and provision for cycle parking or storage.*”**
- **Change title of Policy to “*Car Parking and Provision for Electric Vehicles and Cycles*”**
- **Page 35, second para, change second line to “*...should provide for off-road parking commensurate with the scale and type of housing provided. Cycling and electric vehicles provide for sustainable forms of transport and the Policy seeks to encourage more sustainable patterns of movement by ensuring that new housing provides for these.*” (delete rest of para)**
- **Page 35 delete third para of text (“Housing...1.4.”)**
- **NB, delete footnotes on page 35**

Community Development

**Policy ONP VC.1 – Community Hub**

140 Policy ONP VC1 supports the provision of a community hub building. In general terms, the Policy has regard to Chapter 9 of the Framework, “*Promoting healthy and safe communities,*” which requires planning policies and decisions to help deliver healthy, inclusive and safe places which:

*“...promote social interaction...are safe and accessible...enable and support healthy lifestyles...”*

and to

*“...plan positively for the provision and use of shared spaces, community facilities...to enhance the sustainability of communities and residential environments...”*

(Paragraphs 91 and 92, the Framework)

141 As set out, the Policy includes references to “*a suitable site*” and to a “*feasibility study.*” No specific site has been identified and no feasibility study was submitted in support of the Neighbourhood Plan. Consequently, there is nothing to provide certainty in respect of the deliverability of the hub as envisaged.

142 Whilst this in itself does not prevent the Policy providing a supportive land use planning framework for the provision of a community hub, it does place uncertainty over the viability and deliverability of the detailed requirements set out in parts 1. to 8. of the Policy. This results in that part of the Policy failing to have regard to Paragraph 16 of the Framework, which requires plans to be deliverable.

- 143 Further to the above, some of the requirements set out appear ambiguous in the absence of detail. For example, it is not clear what *“significant benefits for the community as a whole”* comprise, how they will be judged and who by. Breaking this down further, what is *“the community as a whole”* – does the hub need to provide significant benefits, whatever they may be, to every resident and how might this be achieved ?
- 144 Is there a location which can provide parking in a central accessible location *“well away from dwellings ?”* Whilst such a location may well exist, no such site has been identified in the Neighbourhood Plan and consequently, it is not possible to conclude that this part of the Policy is deliverable.
- 145 Similarly, it is not clear, in the absence of any information, how the hub might prevent vehicles being parked on nearby footways, verges or open spaces.
- 146 Taking all of the above into account, I recommend:
- **Change the wording of Policy ONP VC.1 to *“The development of a Community Hub in Oakenshaw will be supported. The Community Hub should be located in an easily accessible location within the settlement boundary, with safe and convenient access for all users and it should be designed to respect local character, residential amenity and highway safety.”***
  - **Page 39, line five, delete *“...CDP (Policy 10 Development in the Countryside, paragraph f) and...”* which does not comprise an adopted policy**
  - **Replace last sentence of supporting text (*“There is more...feasibility study”*) with *“The Town Council and Community Association will seek to identify an appropriate location for a Community Hub further to detailed feasibility work.”***

**Policy ONP VC.2 – Community Use of the Field West of New Row**

- 147 Policy ONP ENV.2 of the Neighbourhood Plan designates the village green and a small copse to the south western edge of the green as Local Green Space (LGS2).
- 148 Whilst, confusingly, the title of Policy ONP VC.2 uses a different name for LGS2 to that of the designation in Policy ONP ENV.2, Policy ONP VC.2 seeks to establish community uses that would be supported within the LGS2 designation.
- 149 Having regard to national policy, designated areas of Local Green Space must be managed for development purposes in a manner consistent with that for Green Belts.
- 150 National Green Belt policy, as set out in Chapter 13 of the Framework, *“Protecting Green Belt land,”* does not seek to simply prevent development. Rather, it supports forms of development that are not inappropriate in the Green Belt, whilst recognising that the:
- “...fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”*  
(Paragraph 133, the Framework)
- 151 Paragraph 145 of the Framework states that a local planning authority should:
- “...regard the construction of new buildings as inappropriate in the Green Belt”*
- 152 Thus, in very simple terms, Policy ONP VC.2's provision for *“opportunities for indoor recreational activity, small scale commercial activity”* could be seen to conflict with Green Belt requirements as it would require the construction of a new building within a Local Green Space. Also, as set out, the Policy effectively seeks to pre-determine the planning application process by stating that such development *“will be permitted.”*
- 153 However, as above, national planning policy does not simply prevent development in the Green Belt. In addition to identifying exceptions to inappropriate development in the Green Belt, the Framework also provides scope for the approval of otherwise inappropriate development in cases where *“very special circumstances”* exist.



- 154 The Neighbourhood Plan and its supporting information identify significant community demand for the provision of a Community Hub in Oakenshaw. National policy promotes:

*"...the development of accessible local services and community facilities..."*

in rural areas (Paragraph 83, the Framework) and requires planning policies and decisions to:

*"...plan positively for the provision and use of...community facilities..."*  
(Paragraph 92, the Framework).

- 155 Taking the above into account, it may well be the case that an application for the development of a community facility at LGS2 could be supported by evidence demonstrating very special circumstances, thus taking Green Belt policy into account.
- 156 To some considerable extent, Policy ONP VC.2 seeks to provide a supportive land use planning policy framework for the delivery of a Community Hub in Oakenshaw and this and all of the above is taken into account in the recommendations set out below.
- 157 In addition to the recommendations below, I also note that Paragraph 146 of the Framework is explicit in recognising that development brought forward under a Community Right to Build Order (CRTBO) or a Neighbourhood Development Order (NDO) is not inappropriate development in the Green Belt, provided such development preserves its openness and does not conflict with the purposes of including land within it. Thus, even were it not possible to demonstrate very special circumstances, a Community Hub might still be developed at LGS via the CRTBO or NDO process.
- 158 In addition to the above, part of Policy ONP VC.2, as drafted, refers to types of development that are not inappropriate within the Green Belt and therefore, within LGS2.
- 159 For example, mowing a field and planting flowers does not require planning permission. It is recommended below that changes are made to the supporting text to reflect this and the points above.

160 I recommend:

- **Change title of Policy ONP VC.2 to “Community Use of LGS2, ‘The Green’”**
- **Change Policy ONP VC.2 to “The development of community facilities and services at LGS2 (known as ‘the green’) will be supported, including, where very special circumstances can be demonstrated, the development of a new Community Hub.”**
- **Change start of second para on page 40 to “This Policy recognises that the appearance and use of ‘the green’ would be improved by landscaping, improving drainage, enhancing the wildlife habitat and fencing the field to prevent vehicles driving over it and...picnics. In addition, the Policy also recognises that the Oakenshaw community would benefit significantly from the provision of a multi-use hub building, providing indoor space linked to outdoor play and seating areas.**

***The Policy is therefore supportive of the development of a Community Hub at LGS2 subject to meeting the national planning policy requirement in respect of demonstrating very special circumstances for new development in a Local Green Space.”***

Village Economy

**Policy ONP Econ 1 – Home-based working and rural diversification**

161 Chapter 6 of the Framework, "*Building a strong, competitive economy,*" states that planning policies should:

*"...allow for new and flexible working practices...enable a rapid response to changes in economic circumstances."*

(Paragraph 81, the Framework)

162 Generally, Policy ONP Econ 1 supports development to accommodate home working and businesses run from the home and this has regard to national policy promotion of flexible working.

163 As set out, the Policy prevents small scale development to accommodate home working and businesses run from home outside the Settlement Boundary. This fails to have regard to national policy, which makes no such distinction but rather, is explicit in its support for:

*"...the sustainable growth and expansion of all types of businesses in rural areas..."*

(Paragraph 83, the Framework)

164 The Policy goes on to set out a detailed set of criteria against which small-scale extensions would be judged. Notwithstanding that, as with some proposals for small scale extensions, some proposals to provide for home working and home businesses will not require planning permission, for those that do, Policy ONP Econ 1 requires small scale extensions to be "*proportionate to the size of the settlement.*" In the absence of any information, it is not clear how this might be judged, nor why it is a relevant requirement.

- 165 The Policy also requires all such small-scale developments to enhance both their immediate setting and the rural character of the village. This is an onerous requirement and in the absence of any detail in support of it, it is not possible to conclude that it has regard to the need for plans to be deliverable (Paragraph 15, the Framework) and for planning obligations to meet the appropriate tests set out in Paragraph 56 of the Framework and referred to elsewhere in this Report.
- 166 It is not clear, in the absence of any information, what a parking space *“commensurate with the size of the business and the expected number of client visits”* is; nor what *“client traffic movements that will adversely affect residential amenity”* or *“adequate arrangements for deliveries”* are; nor what level or type of *“noise from the businesses”* that would require soundproofing, would be. Nor is there any information in respect of how these matters would be measured and judged, or who by. This part of the Policy appears ambiguous and does not provide for the clarity required by national policy (Paragraph 15, the Framework).
- 167 There is no need for the Neighbourhood Plan to set out what it does not do and consequently, the penultimate paragraph of the Policy is unnecessary. Also, the final part of the Policy goes beyond the scope of the Neighbourhood Plan and runs the risk of pre-determining the planning application process, and this is a matter addressed in the recommendations below.
- 168 There is no substantive evidence to demonstrate that rural diversification would have a necessarily harmful visual impact on the village if it was not located *“away from the settlement,”* whatever that might mean. It is noted earlier in this Report that there is no detailed information in respect of what *“valued views”* comprise. Also, earlier Policies in the Neighbourhood Plan consider the Neighbourhood Area's landscape character and *“Sensitive Areas.”*
- 169 I recommend:
- **Change the wording of Policy ONP Econ 1 to *“The diversification of agricultural and other land based rural businesses and small-scale development to accommodate home working and businesses run from the home will be supported, subject to it being demonstrated that development would respect local character, residential amenity and highway safety.”***

- **Change the title of the Policy to *“Home based working and rural diversification”***
- **Page 43, supporting text, delete last sentence (*“This policy...building.”*)**
- **Page 44, top of page, change to *“Some types of extensions, garden offices and workshops within...”***
- **Page 44, line 5, change to *“The Policy seeks to ensure that new development is compatible with...the built environment. Other factors to be taken into account will include highway safety matters, such as safe access and car parking and respecting the residential amenity of neighbours. This could include paying attention to the positive benefits of tranquility and preventing undue noise and disturbance.”***
- **Page 44, delete paras two and three of supporting text (*“Within the...rural character.”*)**

**Policy ONP Econ 2 – Improving Digital Connectivity**

170 Chapter 10 of the Framework, “*Supporting high quality communications,*” recognises that:

*“...high quality and reliable communications infrastructure is essential for economic growth and social well-being.”*

(Paragraph 112, the Framework)

171 National policy goes on to establish that:

*“The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.”*

*“Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development.”*

(Paragraphs 113 and 115, the Framework)

172 The Neighbourhood Plan recognises the importance of providing infrastructure to support the digital economy and in this respect, has regard to the strong support for such as set out within national policy.

173 In its use of the phrase “*will be permitted,*” Policy Econ 2 runs the risk of pre-determining the planning application process and this is a matter addressed in the recommendations below.

- 174 Impacts can be positive and/or negative and consideration of them often involves subjective evaluations. Policy Econ 2 does not distinguish between different types of impacts and it is not supported by information in respect of how, where or when telecommunications infrastructure might have noise or visual “*impacts*” on noise or views. Further, the “*valued views*” referred to in the Neighbourhood Plan are vague and relate only to arrows on Figure 4, pointing away from the village to the east, west and south. This adds to the ambiguous nature of the first paragraph of the Policy.
- 175 The second paragraph of the Policy aims to prevent telecommunications masts from causing visual or other harm to residential occupiers. However, as worded, the Policy would actually support the provision of masts that result in such harm wherever this “*is the only technical solution available.*” This could serve to have the opposite effect of the Policy intention and is a matter addressed by the recommendations below.
- 176 Part of the first paragraph of the supporting text reads as though it comprises a Policy, which it does not. The supporting text also refers to an emerging plan, which may or may not be adopted in its current form.
- 177 I recommend:
- **Change first para of Policy to “*The digital economy is important to Oakenshaw and the provision of sympathetically designed telecommunications infrastructure that respects local character and residential amenity will be supported.*”**
  - **Change second para of Policy to “*New telecommunications masts or antennae should be located outside the settlement boundary.*”**
  - **Change line three of the first para of supporting text to “*...connections. Subject to the requirements of Policy ONP Econ 2, there is general support for the erection of a new...NPPF 19 (Section 10).*”**
  - **Delete second paragraph of supporting text (“The ONP...5.293).”**

**Policy ONP Econ 3 – Tourism Development**

178 Chapter 6 of the Framework, *“Building a strong, competitive economy,”* states that:

*“Planning policies and decisions should help create the conditions in which businesses can invest...The approach taken should allow each area to build on its strengths...”*

(Paragraph 80, the Framework)

179 Chapter 6 continues to require planning policies to enable:

*“...the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings; the development and diversification of agricultural and other land-based rural businesses; sustainable rural tourism and leisure developments which respect the character of the countryside; and the retention and development of accessible local services and community facilities...”*

(Paragraph 83, the Framework)

180 In addition to the above, in seeking to promote healthy and safe communities, the Framework is supportive of improvements to public rights of way and states that:

*“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks.”*

(Paragraph 98, the Framework)

181 Policy ONP Econ 3 presents a supportive policy framework for tourism development, including the conversion of buildings into holiday accommodation and improvements to public rights of way. In this way, the Policy has regard to national policy and meets the basic conditions.

182 Policy ONP Econ 3 includes the phrase *“will be permitted”* and as noted earlier, the Neighbourhood Plan cannot pre-determine planning applications. This is a matter addressed in the recommendations below.



183 The phrase “*encourages tourism focused activities*” appears ambiguous and could result in support for unforeseen forms of development – for example, the development of an industrial waste incinerator or other high impact proposal might encourage tourism focused activities by providing a contribution towards the provision of a nature trail, but may not necessarily be the kind of development the Neighbourhood Plan seeks to encourage. The recommendations below ensure that the Policy relates directly to tourism development.

184 There is no substantive evidence to demonstrate that an agricultural building which might already form part of a valued view cannot be converted without harming such a view. Further, it is not clear how “*limiting scale of development*” might be judged, who by, or on what basis; nor how tranquility might be preserved by “*location and orientation.*” No tranquility base-level information has been provided and there is no indication in the plan, or its supporting evidence, of the ways in which location and orientation could impact on such.

185 I recommend:

- **Change Policy ON Econ 3 to “*Small scale tourism development, including dedicated holiday accommodation, a café, improvements to public pathways and the provision of nature trails, will be supported.*”**

***The conversion of barns into holiday accommodation will be supported where development respects local character, residential amenity and highway safety.***

***The development of new and/or improved public rights of way, including the provision of interpretation boards, improved surfacing, signage and access for all users, will be supported in the following locations:***

- 1) Between the old railway to the east and historic public rights of way continuous with Park View;***
- 2) On Stockley Lane between the nature reserve and the old railway line to the east;***
- 3) Between Oakenshaw and Willington.”***

- **Delete last para of supporting text on page 47 (“ONP...infrastructure) which refers, unnecessarily, to emerging policy amongst other things.**

**Policy ONP Econ 4 – Community Renewable Energy and Enterprise Projects**

- 186 Oakenshaw holds national renown as a community which benefits from its pro-active, positive approach to promoting green energy generation and investing proceeds back into the village.
- 187 Policy ONP Econ 4 of the Neighbourhood Plan seeks to reflect this positive approach by establishing a supportive policy framework for renewable energy development.
- 188 The approach set out has regard to Chapter 10 of the Framework, *“Meeting the challenge of climate change, flooding and coastal change,”* which, in planning for climate change, supports:
- “...community-led initiatives for renewable and low carbon energy, including developments outside areas identified in local plans or other strategic policies that are being taken forward through neighbourhood planning.”*  
(Paragraph 152, the Framework)
- 189 As worded, the first part of the Policy includes ambiguous references to addressing *“any potential negative impact...potential for cumulative impacts.”* Such an approach is unclear and fails to provide for a balanced consideration of a proposal, whereby the benefits of development could greatly outweigh any harm (or vice-versa). The recommendations below provide clarity in this respect.
- 190 Whilst the second part of Policy ONP Econ 4 refers to the local aspiration for community enterprise projects to come forward at some stage in the future, this section of the Policy would effectively *“permit”* any form of development that does not harm the landscape or biodiversity, so long as it provides local employment, training or any community benefit at all.
- 191 Notwithstanding the Neighbourhood Plan's inability to pre-determine planning applications, in the absence of substantive detail, as presented, this approach could give rise to support for unforeseen and potentially inappropriate forms of development. It is also noted that a community enterprise project may not necessarily comprise development.

192 However, it is clear that Oakenshaw has benefited from a positive approach to community enterprise and the recommendations below reflect this, having regard to paragraph 83 of the Framework, which supports the development of new community facilities.

193 I recommend:

- **Change ONP Econ 4 to “*Development of renewable community energy development, district heating systems, solar farm, new or replacement wind turbines and new green energy technologies will be supported where they:*”**
  - 1) *Demonstrate community support; and***
  - 2) *Generate income for the benefit of the community; and***
  - 3) *Respect local character and residential amenity, also taking into account, where appropriate, cumulative landscape and visual impacts.***

***The development of new community facilities will be supported.”***

- **Page 48 of supporting text, delete from third line “...in accordance with CDP 2019 Policy 35: Wind Turbine Development” (which is not an adopted policy)**

## **8. The Neighbourhood Plan: Other Matters**

194 The recommendations made in this Report will have a subsequent impact on Contents, including Policy, Figure, paragraph and page numbering.

195 I recommend:

- **Update the Contents and where necessary, Policy, Figure, paragraph and page numbering, to take into account the recommendations contained in this Report**

## **9. Referendum**

196 I recommend to Durham County Council that, subject to the recommended modifications, **the Oakenshaw Neighbourhood Plan should proceed to a Referendum.**

### **Referendum Area**

197 I am required to consider whether the Referendum Area should be extended beyond the Oakenshaw Neighbourhood Area.

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

199 Consequently, I recommend that the Plan should proceed to a Referendum based on the Oakenshaw Neighbourhood Area approved by Durham County Council on the 26<sup>th</sup> November 2015.

**Nigel McGurk, August 2020**  
**Erimax – Land, Planning and Communities**



EST. 2011