

# **DURHAM CITY NEIGHBOURHOOD PLAN 2020-2035**

**Report to Durham County Council of the Independent Examination**

**By Independent Examiner, Tony Burton CBE BA MPhil (Town Planning) HonFRIBA FRSA**

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**July 2020**

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# **1. Executive Summary**

1. I was appointed by Durham County Council with the support of City of Durham Parish Council to carry out the independent examination of the Durham City Neighbourhood Plan.

2. I undertook the examination by reviewing the Plan documents and written representations, and by making an unaccompanied visit to the Neighbourhood Area. The visit was delayed by travel restrictions implemented as a response to the Covid-19 pandemic and took place as soon as it was practical.

3. I consider the Plan to be an adequate expression of the community's views and ambitions for Durham. It is based on an effective programme of public consultation which has informed an Overall Vision and six Themes (each with their own Vision and Objectives) for the Neighbourhood Area. These are translated into planning policies dealing with issues distinct to the locality. There is a commitment to regular monitoring of the Plan, supported by 14 indicators. The Plan is supported by a Consultation Statement, Basic Conditions Statement and a Sustainability Appraisal which includes a Strategic Environmental Assessment. There is relevant information on how the Plan meets Habitats Regulations requirements. Supporting evidence is provided on most aspects of the Plan, including primary evidence produced during the Plan's preparation. I identify where the available evidence is insufficient to support the policy approach in my comments on individual policies. There is good evidence of community support and of the involvement of the local planning authority.

4. I have considered all the 30 representations made on the submitted Plan and addressed them in this report as appropriate.

5. Subject to the recommended modifications set out in this report I conclude that the Durham City Neighbourhood Plan meets all the necessary legal requirements, including satisfying the Basic Conditions. I make a small number of additional recommendations.

6. I recommend that the modified Plan should proceed to Referendum and that this should be held within the Neighbourhood Area.

## 2. Introduction

7. This report sets out the findings of my independent examination of the Durham City Neighbourhood Plan. The Plan was submitted to Durham County Council by City of Durham Parish Council as the Qualifying Body.

8. I was appointed as the independent examiner of the Durham City Neighbourhood Plan by Durham County Council with the agreement of City of Durham Parish Council. My selection was facilitated by the Neighbourhood Planning Independent Examiner Referral Service.

9. I am independent of both City of Durham Parish Council and Durham County Council. I do not have any interest in any land that may be affected by the Plan. I possess the appropriate qualifications and experience to undertake this role.

10. My role is to examine the Neighbourhood Plan and recommend whether it should proceed to referendum. A recommendation to proceed is predicated on the Plan meeting all legal requirements as submitted or in a modified form, and on the Plan addressing the required modifications recommended in this report.

11. As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the Basic Conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
- contribute to the achievement of sustainable development; and
- be in general conformity with the strategic policies of the development plan in the area; and

- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations, including the Conservation of Habitats and Species Regulations 2017.

12. I am also required to make a number of other checks under paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990.

13. In undertaking this examination I have considered the following documents as the most significant in arriving at my recommendations:

- the submitted Durham City Neighbourhood Plan
- the Basic Conditions Statement
- the Statement of Community Consultation
- the Sustainability Appraisal and responses
- City of Durham Local Plan saved policies
- the emerging County Durham Plan to 2035 and proposed modifications following the Examination hearings completed in February 2020
- representations made on the submitted neighbourhood plan
- relevant material held on the City of Durham Parish Council and Durham County Council websites
- National Planning Policy Framework
- Planning Practice Guidance
- relevant Ministerial Statements

14. The Durham City Neighbourhood Plan was submitted in October 2019 and the National Planning Policy Framework (February 2019) applies for the purposes of my examination.

15. Having considered the documents provided and the representations on the submitted Plan I was satisfied that the examination could be undertaken by written representations without the need for a public hearing.

16. I carried out an unaccompanied visit to the Neighbourhood Area on a weekday during June. The visit was delayed due to Covid-19 restrictions and was undertaken as soon as practical in light of Government guidance that *“Where site visits are required or necessary, they should be undertaken in line with the Government’s guidance on social distancing and safety requirements”* (Written Ministerial Statement, Virtual working and planning – Responding to Covid-19 Restrictions, 13 May 2020). I considered a site visit necessary, in particular to assess the merit of some of the Local Green Space proposals. I visited the main locations identified on the Proposals Maps, including the housing and employment sites, proposed Local Green Spaces, Green Belt areas for improvement, parts of the Emerald Network, selected heritage assets and the City Centre.

17. Throughout this report my recommended modifications are bulleted. Where modifications to policies are recommended they are highlighted in **bold** print with new wording in “speech marks”. Modifications are also recommended to some parts of the supporting text. These recommended modifications are numbered from M1 and are necessary for the Plan to meet the Basic Conditions. A number of modifications are not essential for the Plan to meet the Basic Conditions and these are indicated by [square brackets]. These optional modifications are numbered from OM1.

18. Producing the Durham City Neighbourhood Plan has clearly involved significant effort over many years led by the Neighbourhood Plan Working Party both before and after the creation of City of Durham Parish Council. There has been significant community involvement. There is evidence of collaboration with Durham County Council and this will continue to be important in ensuring delivery of the Plan. The evident commitment of all those who have worked so hard over such a long period of time to prepare the Plan is to be commended and I would like to thank all those at Durham County Council and City of Durham Parish Council who have supported this examination process.

### **3. Compliance with matters other than the Basic Conditions**

19. I am required to check compliance of the Plan with a number of matters.

#### Qualifying body

20. The neighbourhood planning process was begun prior to the creation of City of Durham Parish Council and was initiated by Durham City Neighbourhood Forum, which was designated in January 2014. The creation of City of Durham Parish Council in May 2018 meant it became the Qualifying Body and the new parish area did not exactly match that of the previously agreed neighbourhood area. Public consultation on aligning the neighbourhood area to the new parish area concluded in January 2019 and supported the approach. I am therefore satisfied that the Plan has been prepared by a suitable Qualifying Body – City of Durham Parish Council – which being a parish council is the only organisation that can prepare a neighbourhood plan for the area.

#### Neighbourhood Area

21. I am satisfied that the Plan relates to the development and use of land for a designated neighbourhood area which comprises the area of City of Durham Parish Council. The earlier neighbourhood area was amended to align with that of the parish council in 2019, following public consultation.

22. A map of the neighbourhood area is included in the Plan as Proposals Map 1. Although details of the neighbourhood area are available online the map provided with the Plan is not of sufficient quality that the detailed location of the boundary can be determined.

- OM1 - [Provide a link to a suitable map which depicts the boundary of the neighbourhood area at an appropriate scale]

#### Land use issues

23. I am satisfied that the Plan's policies relate to relevant land use planning issues.

#### Plan period

24. The period of the neighbourhood plan is referenced only indirectly as being “*over the period to 2035*” (paragraph 2.14). The front cover of the Plan is dated 2019 and it is unclear whether this is the intended start date or simply the year of publication. In response to my request City of Durham Parish Council has confirmed that the intended period is 2020-2035 which aligns with the end date of the new County Durham Local Plan. The front cover also refers to the Plan as a “*Proposal*”.

- OM2 – [Confirm the period of the Plan on the front cover as 2020-2035]
- OM3 – [Delete “*Proposal*” on front cover]

#### Excluded development

25. I am satisfied that the neighbourhood plan makes no provisions for excluded development (such as national infrastructure, minerals extraction or waste).

## 4. Consultation

26. I have reviewed the Consultation Statement and relevant information provided on the Durham City Neighbourhood Plan website, including the consultation documents referenced in the Statement. This provides a clear record of the extensive consultation process undertaken in preparing the Plan since 2014.

27. The consultation process in 2019 was managed by a Neighbourhood Plan Working Party that reported to the Planning Committee of City of Durham Parish Council. This was open to interested individuals many of whom had formed the prior Neighbourhood Forum.

28. Public consultation on the neighbourhood plan was achieved through a range of techniques including a website, public meetings, use of Placecheck, social media, leaflets, surveys, events, door drops and a stall in the Market Place. It included consultation leaflets being delivered to every address within the boundary on two occasions. Documents were made available in local libraries. There was significant coverage in local press. A survey seeking views on priorities received over 160 responses. The consultation process included specific initiatives to engage young people, businesses, pedestrians and those involved in art and culture. Efforts were made to engage with the significant number of students at Durham University. Meetings were held with a range of local organisations and businesses. The Business Improvement District was engaged, including through membership of the group working on the Plan. The Plan includes a Foreword from the then local Member of Parliament.

29. The Plan was subject to two rounds of Regulation 14 consultation in recognition of the slightly amended neighbourhood area consequent on City of Durham Parish Council becoming the Qualifying Body. This consultation included the required statutory and other consultees. Responses were published online. 397 responses were received to the first consultation and 120 to the second through a variety of routes. There is good evidence of sound analysis of the responses and subsequent amendments to the Plan. There is also

evidence of additional consideration being given to sites which gave rise to differing views, such as Observatory Hill Local Green Space.

30. 30 representations have been made on the submitted Plan including from individuals, statutory bodies, landowners, educational, community, business, development and other interests. These have all been considered and are addressed as appropriate in this report. There is a notable level of support from individuals and a wide range of community organisations, including City of Durham Trust and Extinction Rebellion. Many of these representations express concerns about the lack of a coherent planning policy framework for Durham for many years. They welcome the role being played by the Plan in providing this. Other representations support the replication of national planning policy in the Plan's policies or raise issues about the tone, balance and accuracy of some of the supporting text. National planning policy is clear that development plan policies should be *"avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)"* (NPPF, paragraph 16). The detailed drafting of the supporting text is not a matter for the Examination unless it will result in the inappropriate interpretation of the Plan's policies. I deal with the detailed wording of the supporting text as appropriate in the report.

31. I am satisfied with the evidence of the public consultation undertaken in preparing the Plan over a long period of time. The Plan has been subject to wide public consultation at different stages in its development. The participation rates have been adequate. The process has allowed community input to shape the Plan as it has developed and as proposals have been firmed up. The local planning authority has been engaged throughout the process.

## 5. General comments on the Plan's presentation

### Overall Vision and Themes

32. I have reviewed the Overall Vision and the six Themes which structure the 29 Policies in the Plan. The Overall Vision takes a positive approach to achieving the area's potential through a balanced approach to delivering economic, social and environmental outcomes. This is carried through into the separate visions and objectives for each of the six Themes. The approach reflects the feedback received through consultation and is supportive of sustainable development.

33. The policies are distinguished from the rest of the Plan by the use of grey tinted boxes and "*Policy*" in the title. I am satisfied they are clearly differentiated from other aspects of the Plan.

### Other issues

34. The evidence base for the Plan is provided in extensive references, with links to external sources. These are also included on a website dedicated to the neighbourhood plan.

35. The Plan includes a number of Proposals Maps and these are of varying quality in the printed Plan. Online versions of the maps are available via a link referenced in paragraph 4.4 but this link is not directly accessible from the neighbourhood plan website. The link under "*The Plan*" on the website to view the Plan as "*webpages*" includes a reference to "*Maps*" but not as a live link. Some of the online maps are OpenStreetMap based and City of Durham Parish Council intends that the base maps will be Ordnance Survey. It is important that there is no confusion over the maps and ideally relevant policies will also be integrated by Durham County Council into a single policies map for the development plan.

- OM4 – [Ensure all maps use the same base map and provide a link from the neighbourhood plan website to the maps using that provided in paragraph 4.4. of the Plan <http://npf.durhamcity.org.uk/the-plan/maps> (other appropriate link)]

- OM5 – [Provide a link alongside each Proposals Map to the relevant online Proposals Map]

36. The online Proposals Maps do not provide sufficiently accurate boundaries for a number of the Plan's policies. For example, the boundary of the proposed Local Green Space for Neville's Cross Battlefield cuts through some of the Neville's Cross Primary School buildings and the alignment of the boundary depicted for Flass Vale Local Green Space with the woodland boundary is uncertain. Specific issues of clarity are also addressed in the comments below on specific policies.

- M1 – Review the online Proposals Maps to ensure they accurately depict the boundaries for relevant Plan policies.

37. The Plan is well structured and presented with a comprehensive table of contents and an appropriate hierarchy of headings. There are a small number of inconsistencies between the Contents and the body of the Plan as indicated below. The text is extensive and includes significant extracts from other documents. However, in places the sheer amount of supporting text detracts from the clarity of the Plan but it is not my role to make editing comments.

- OM6 - [In the Contents:
  - Replace "*Master Plans*" with "Masterplans" in title of Policy S2
  - Replace "100" with "101" in page number for Proposals Map 7
  - Replace "114" with "111" in page number for Map 6]

## 6. Compliance with the Basic Conditions

### National planning policy

38. The Plan is required to “*have regard*” to national planning policies and advice. This is addressed in the Basic Conditions statement which relates the Plan’s policies to the National Planning Policy Framework (NPPF) (February 2019).

39. The Basic Conditions statement provides a table that tests compatibility of each of the Plan’s policies with relevant sections of the National Planning Policy Framework. It states that the Plan has been prepared “*with regard*” to the NPPF and concludes that it is in “*general conformity*” with it.

40. There are some areas where the drafting of the Plan’s policies needs to be amended in order to meet the National Planning Policy Framework’s requirement for plans to provide a clear framework within which decisions on planning applications can be made. The policies should give a clear indication of “*how a decision maker should react to development proposals*” (paragraph 16). It is also important for the Plan to address the requirement expressed in national planning policy and Planning Practice Guidance that “*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.*” (NPPG Paragraph: 041 Reference ID: 41-041-20140306). The Plan’s policies do not always meet these requirements and a number of recommended modifications are made as a result.

41. Generally, I conclude that the Plan has regard to national planning policies and guidance but there are exceptions set out in my comments below. These cover both conflicts with national planning policy and the need for some policies to be more clearly expressed and/or evidenced and for others to avoid duplication.

42. I am satisfied that the Plan meets this Basic Condition other than where identified in my detailed comments and recommendations on the Plan policies.

#### Sustainable development

43. The Plan must *“contribute to the achievement of sustainable development”*. This is addressed in the Basic Conditions statement and supported by the conclusion of a full Sustainability Appraisal (including a Strategic Environmental Assessment) which has been undertaken of the Plan that it is *“likely to lead to long term significant positive effects”*. The potential for *“uncertain minor long term negative effects”* in respect of the impact on the setting of the World Heritage Site and/or Durham City Conservation Area was noted.

44. I concur with the conclusion of the Sustainability Appraisal and am satisfied that the Plan meets this Basic Condition.

#### Development plan

45. The Plan must be *“in general conformity with the strategic policies of the development plan”*.

46. The Basic Conditions Statement provides a summary table relating each Plan policy to the relevant saved policy of the City of Durham Local Plan. It concludes that the Plan’s policies are *“in general conformity”* with the strategic saved policies.

47. The Plan has been prepared alongside the preparation of the new County Durham Local Plan which is currently subject to examination. In some important areas the Plan has been written to provide development plan policies similar to or even identical with those in the emerging County Durham Local Plan on the grounds that they would come into force more quickly. Planning Practice Guidance is clear that *“it is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan”* and that *“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”* (Paragraph: 009 Reference ID: 41-009-20190509). Durham County Council

has made representations on some policies that the similarity between the policies could be a cause for confusion. I address this relationship as appropriate in consideration of the individual policies. My modifications seek to align the policies as far as possible.

48. I deal with representations on general conformity in my assessment of the Plan's policies. Durham County Council identifies a number of areas where it considers the Plan strays into addressing strategic policy issues or conflicts with them. The requirement to meet the Basic Conditions is one of general conformity and not conformity with each and every strategic policy. I deal with specific instances where the Plan seeks to address strategic issues in my comments on the relevant policies. My own assessment is that the Plan is in general conformity with the strategic policies of the development plan subject to addressing my detailed comments on and modifications to the Plan policies below. Durham County Council makes a number of helpful drafting suggestions for improving the Plan's policies. Where these add significant clarity I address them in my modifications.

#### Strategic Environmental Assessment

49. The Plan must be informed by a Strategic Environmental Assessment if it is likely to have significant environmental effects. Although a Strategic Environmental Assessment had been prepared it was not submitted to me. In its absence the Plan would fail this Basic Condition.

50. This matter is not well addressed by the Basic Conditions statement which simply references the Sustainability Appraisal. On request I was provided with further information on how the Strategic Environmental Assessment requirements have been addressed.

51. A Screening Report relating to both the Strategic Environment Assessment and Habitats Regulations Assessment was prepared in December 2016. This concluded that a Strategic Environmental Assessment would not be required as the overall impact of the Plan would be positive. Durham County Council, Environment Agency and Natural England agreed with this conclusion. Historic England determined that a Strategic Environmental Assessment should be undertaken on a number of grounds, including the Plan preceding the

County Durham Local Plan and concerns over the potential impact of some site specific proposals given the high number of designated heritage assets.

52. It was agreed to proceed with a Strategic Environmental Assessment through undertaking a Sustainability Appraisal. Statutory conservation bodies were consulted on a Scoping Report in October 2017 and a full Sustainability Appraisal Report was provided as part of the pre-submission consultation on the Plan in April 2019. This included consideration of reasonable alternatives to the potential development sites and the proposed Local Green Spaces. A final Sustainability Appraisal Report was prepared in October 2019 for submission with the Plan. This concludes that the Plan is *“likely to lead to long term significant positive effects”* although the potential for *“uncertain minor long term negative effects”* in respect of the impact on the setting of the World Heritage Site and/or Durham City Conservation Area was noted. The Environment Agency, Natural England and Historic England agree with these conclusions.

53. I conclude that the Plan meets this Basic Condition.

#### Habitats Regulations Assessment

54. The Plan must be informed by a Habitats Regulations Assessment if it is likely to lead to significant negative effects on protected European sites. Although a Habitats Regulations Assessment Screening Report had been prepared it was not submitted to me. This matter is poorly addressed in the Basic Conditions statement which simply asserts that *“The Neighbourhood Plan Area does not include, and is not in close proximity to, any European designated nature site.”* This is insufficient evidence on which to proceed with the Plan and in the absence of any other information the Plan would fail this Basic Condition.

55. On request I was provided with additional information, including the December 2016 Screening Report which addressed the requirements of the Habitats Regulations Assessment. This identified seven European designated sites within 20km of the neighbourhood area. The screening assessment *“concluded that the implementation of the Durham City Neighbourhood Plan will have no negative effects on any of the relevant European Protected Sites. Therefore, no further assessment is required.”* The statutory

conservation bodies do not disagree with this conclusion and the matters raised by Historic England do not relate to Habitats Regulations provisions. There have been no changes to the Plan since this assessment with a bearing on its impact on protected sites.

56. I conclude that the Plan meets this Basic Condition.

- OM7 – [Include the *Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report* in the documents available on the neighbourhood plan website.]

#### Other European obligations

57. The Plan must be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations. This is not addressed in the Basic Conditions but I am satisfied that the Plan has appropriate regard to the rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. No contrary evidence has been presented. There has been adequate opportunity for those with an interest in the Plan to make their views known and representations have been handled in an appropriate and transparent manner. The Plan meets this Basic Condition.

## 7. Detailed comments on the Plan policies

58. This section of the report reviews and makes recommendations on each of the Plan's policies to ensure that they meet the Basic Conditions. I provide comments on all policies in order to give clarity on whether each meets the Basic Conditions. The final Policy numbering, some of the supporting text and Contents will need to be amended to take account of the recommended changes.

### A City with a Sustainable Future

59. **Policy S1** – This establishes policy principle to be demonstrated by all development in the neighbourhood area, structured around sustainable development requirements.

60. The Policy is justified as a translation of the sustainable development *“golden thread”* running through national planning policy in the context of the neighbourhood area.

61. Policy S1 is restrictively worded in stating what development proposals *“must”* demonstrate and requiring development of all types and scales to demonstrate how they address all 14 principles. National planning policy requires neighbourhood plans to be positive in approach and for planning policies to avoid being inflexible. The policy also needs to be proportionate and it will not be appropriate for every relevant planning application to be required to provide additional evidence demonstrating how it follows the various principles.

62. I share Durham County Council's view that principle d)'s requirement for development to be *“enhancing”* local significance goes beyond national planning policy but I do not consider that the same is true of a similar approach to the natural environment. National planning policy is that *“planning policies and decisions should contribute to and enhance the natural and local environment”* (NPPF, paragraph 170) whereas the approach to heritage relates only to heritage assets (NPPF, paragraph 185).

63. Principle j) relating to flood risk management departs from national planning policy in not addressing the role of the *“Exceptions Test”* in managing rather than avoiding flood

risk. The general requirement of principle k) for a “*sustainable urban drainage system*” goes beyond national planning policy which only requires sustainable urban drainage systems to be provided, unless there is clear evidence it is inappropriate, in relation to major development or development in areas of flood risk. The proposed amendment to the beginning of Policy S1 to apply the principles only “where appropriate” addresses this conflict. I also note the Environment Agency’s support for Policy S1 and do not consider further amendments are needed to address matters already covered in national planning policy.

64. It is intended that all the principles in Policy S1 are applied to all development proposals. To achieve this the “*and*” at the end of section l should be relocated to the end of section m.

65. Policy S1 does not meet the Basic Conditions

- **M2 – Amend Policy S1 to:**
  - Replace “*must, where relevant,*” with “*should, where relevant and appropriate,*”
  - Delete “*and enhancing*” in section d)
  - Add “*or otherwise manage flood risk,*” after the second “*necessary*” in section j)
  - Delete “*and*” at end of section l and add “*and*” to end of section m

66. Figure 1 includes an inaccurate extract from national planning policy which has been updated in paragraph 148 of the National Planning Policy Framework.

- OM8 – [Replace the NPPF extract in Figure 1 with paragraph 148 of most recent NPPF]

67. **Policy S2** – This requires a “*masterplan*” to be prepared for all major development addressing a defined set of issues as a minimum.

68. The Policy is justified on the grounds of the historic character of the neighbourhood area and the need to address the World Heritage Site and Conservation Areas. The Policy is restrictively worded in stating that a masterplan will be “*required*” and what it “*must*” address.

69. The intention of Policy S2 to ensure high quality design and prevent piecemeal development is clear although this intention is better described in the supporting text than in the policy wording.

70. The Policy applies to a less restrictive definition of “*major development*” than defined in national planning policy, increasing the size of residential development from 10 to 30 dwellings while also including mixed development in the size threshold definitions of 1,000 m<sup>2</sup> or one hectare or more. This is justified on the grounds of avoiding its application to smaller residential schemes.

71. The relationship between the masterplan and the development management process is described in the supporting text as being a material planning consideration considered as part of the development management process. It would aid policy clarity for this to be recognised within the policy wording.

72. Contrary to the representation of Durham University, national planning policy and the National Design Guide (2019) recognises there are a range of tools and processes available to guide the physical development of a site which can include a “*masterplan or other design and development framework for a site*” but national policy does not require their use. Planning Practice Guidance recognises the role of non-strategic policies (such as those in a neighbourhood plan) in providing a “*hook*” for “*local design guides, masterplans or codes*” (PPG Paragraph: 004 Reference ID: 26-004-20191001). Policy S2 is predicated on the masterplan being prepared by the developer who “*must submit*” it (paragraph 4.28) but masterplans can be prepared by either local authorities or developers.

73. The policy drafting of section b) is ambiguous in stating that a need to demonstrate “it” adds distinction and in section f) in referencing access for those with undefined “special needs” when this is already addressed by identifying the need for “ensuring access for all”.

74. My recommended modifications also address concerns expressed by Gladman Developments Limited that the process should not be prescriptive.

75. Policy S2 does not meet the Basic Conditions.

- **M3 – Amend Policy S2 to:**
  - **Replace the first sentence with “The preparation of a masterplan or other appropriate design and development framework for all major development sites is supported prior to consideration of a planning application for the site.”**
  - **Replace “must” with “should” in the second sentence**
  - **Replace “it adds” with “development proposals add” in section b)**
  - **Delete “especially those with special needs” in section f)**
- **M4 – Amend the title of Policy S2 to add “or other design and development frameworks”**
- **M5 – Replace the first sentences of paragraph 4.28 and “This will” in the second sentence with “The masterplan or other appropriate design and development framework should be prepared by the local planning authority and/or applicant. This should be submitted to public scrutiny and take full account of representations made. This can”**

#### A Beautiful and Historic City – Heritage

76. **Policy H1** – This establishes the policy approach to protecting and enhancing the Durham Cathedral and Castle World Heritage Site.

77. The merit and significance of the World Heritage Site within the neighbourhood area is without question. The central consideration for this Examination is the consistency of

Policy H1 with national planning policy, and the need for all planning policies to “*serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)*” (NPPF, paragraph 16 f).

78. I am satisfied that while part of Policy H1 in effect repeats national planning policy it also serves to provide a locally relevant approach to the particular characteristics of the Durham Cathedral and Castle World Heritage Site. The Policy goes beyond national planning guidance in stating what is “*required*” and what “*must*” be shown whereas Planning Practice Guidance states that “*plans, at all levels should conserve the Outstanding Universal Value.*” (emphasis added, Paragraph: 032 Reference ID: 18a-032-20190723).

79. I share Durham County Council’s view on the need to improve the efficacy of section a) to show how it can be met and ensure the Policy only applies where appropriate. I do not share Gladman Developments Limited’s concern that the Policy is unbalanced and my recommended modifications ensure that World Heritage Site considerations shall only be relevant when it is appropriate.

80. Policy H1 references both “*important*” and “*lost*” views and also opportunities to “*create new views and vistas*”. Evidence supporting and identifying an indicative list of important views is provided in paragraph 4.47 and 4.48. No equivalent information is provided on the lost views or opportunities for new views and vistas.

81. There is an error in the numbering of the paragraphs after 4.44.

82. Policy H1 does not meet the Basic Conditions.

- **M6 – Amend Policy H1 to:**
  - **Replace “*are required to*” with “*should*” and delete the second “*to*” in the first sentence**
  - **Replace “*must*” with “*should*” in the first line and the second and third paragraphs**

- Replace “*taking account*” with “*demonstrating account has been taken*” in section a)
  - Add “*where appropriate*” after “*World Heritage Site*” in the second line of paragraph 3
- OM9 – [Provide evidence on the location and/or criteria for “*lost views*” and “*new views and vistas*” in the supporting justification]
  - OM10 – [Address the error in numbering of paragraphs between 4.44 and 4.45]

83. **Policy H2** – This establishes the policy approach to development in the Durham City and Burn Hall Conservation Areas.

84. The merits and significance of the Conservation Areas within the neighbourhood area is clear. The central consideration for this Examination is the consistency of Policy H2 with national planning policy, and the need for all planning policies to “*serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)*” (NPPF, paragraph 16 f).

85. I am satisfied that while part of Policy H2 largely follows national planning policy it also serves to provide a locally relevant approach to the particular characteristics of Durham City Conservation Area. Some small changes are necessary to ensure alignment with national policy. A common approach should be taken to both Durham City and Burn Hall Conservation Areas whilst recognising that no Conservation Area Appraisal and Management Plan has been prepared so far for Burn Hall.

86. The evidence needed to support opportunities to “*open up lost views and create new views and vistas*” is addressed by my recommendations on Policy H1.

87. Policy H2 does not meet the Basic Conditions.

- **M7 – Amend Policy H2 to:**
  - Delete “*special interest and*” in the first paragraph

- Delete *“the designated assets and”* in the last paragraph

88. **Policy H3** – This places policy requirements on all development throughout the neighbourhood area other than in Conservation Areas.

89. Policy H3 is very broad both in the range of development affected and the extent of the neighbourhood area to which it applies. It applies to all types of development, including changes of use, and is unduly restrictive in stating what development *“must”* demonstrate. It goes beyond national planning policy for development plans to take into account *“the desirability of new development making a positive contribution to local character and distinctiveness”* (NPPF, paragraph 185) by requiring all development to be *“enhancing”* character and distinctiveness even though the policy relates only to sites outside Conservation Areas.

90. Policy H3 is also restrictive in stipulating development *“appropriate to the vernacular”* of the area. National planning policy supports development plan policies that ensure developments *“are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change”* (NPPF, paragraph 127). Policy H3 could exclude contemporary development that is appropriate to the context and setting.

91. Policy H3 does not meet the Basic Conditions.

- **M8 - Amend Policy H3 to:**

- Replace *“must”* with *“should, where appropriate,”* in the first paragraph
- Insert *“appropriate and”* after *“where”* in second line of second paragraph
- Replace *“enhancing”* with *“making a positive contribution to”* in section a)
- Delete *“vernacular”* in sections d) and e)

92. **Policy H4** – This places policy requirements on development affecting both designated and non-designated heritage assets.

93. The importance of the large number of heritage assets in the neighbourhood area is clear. The central consideration for this Examination is the consistency of Policy H4 with national planning policy, and the need for all planning policies to “*serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)*” (NPPF, paragraph 16 f). It is particularly important to avoid the detailed wording of Policy H4 being a source of confusion when read alongside national planning policy. I note Durham County Council shares similar concerns.

94. Policy H4 uses different wording to describe the policy tests for development causing substantial and less than substantial harm to designated heritage assets. With caveats, national planning policy indicates local planning authorities should “*refuse consent*” (NPPF, paragraph 195) in relation to development causing substantial harm. Policy H4 suggests this is appropriate for development causing less than substantial harm. It also references “*national policy*” as part of the Plan policy which is a further source of potential confusion. In relation to non-designated assets national planning policy seeks a “*balanced judgement*” (NPPF, paragraph 197) and Policy H4 seeks harm to “*be avoided if viable or practicable*”.

95. As a result I find Policy H4 either duplicates or is inconsistent with national planning policy and is a potential source of significant confusion. It does not otherwise add a local dimension to policy for heritage assets and causes unnecessary duplication.

96. Policy H4 does not meet the Basic Conditions. I recommend Policy H4 is deleted and the supporting text is modified to provide factual information on the range of heritage assets in the neighbourhood area.

97. Policy H4 is supported by evidence of important non-designated assets in the neighbourhood area. This is provided by the list of “*notable unlisted buildings*” in Durham City Conservation Area. I have considered whether Policy H4 might be amended to recognise these important non-designated assets and conclude that they are already recognised by virtue of being included in the Conservation Area appraisal.

- **M9 – Delete Policy H4**

### A Beautiful and Historic City – Green Infrastructure

98. **Policy G1** – This places policy requirements on development to protect and enhance a range of different green assets.

99. Policy G1 is a wide ranging policy based on an exceptionally wide definition of “*green assets*” ranging from a river to a flowerbed and from an unused area of tarmac to a town square. It embraces “*open spaces*” even where these are not green and includes land in both public and private ownership. The paragraph numbers used to reference the definition of green assets are incorrect.

100. I share Environment Agency’s view in its representation that the Policy could be improved by referring to both green and blue assets but this is not a matter which will prevent it meeting the Basic Conditions.

101. The Policy starts from an assumption that no green assets should be lost. Policy G1 is prescriptive in stating that development “*must not*” result in the loss of existing green assets unless certain policy considerations are met, including that the asset is not considered to have particular value. The first part of the Policy draft lacks clarity in terms of whether either section a) or b) must be met along with section c) or if section c) only applies in the circumstances identified in section b).

102. Policy G1 supports development which helps address deficiencies in green assets (as identified in a needs assessment and a playing pitch strategy undertaken by Durham County Council) although the policy drafting is unclear.

103. There is a requirement for new green assets to be “*native species*” despite the definition of green assets including footpaths, hard open spaces, sports pitches, allotments and other assets where this would be inappropriate.

104. There are additional policy requirements in respect of specific green assets. These are generally overly prescriptive in stating what “*must*” be done or, in the case of

development impacting access to the banks of the River Wear, directing what *“will be refused”*. The weighting of considerations for protecting footpaths is also directed in terms of local distinctiveness, character, quality and biodiversity being *“primary”* considerations. The Policy is inconsistent in its application both to *“footpaths”* and to *“footpaths, public rights of way and bridle paths”*. Public Rights of Way include footpaths, used by pedestrians only, and bridleways are available to pedestrians, cyclists and horse-riders. The Policy may also address other footpaths not designated as Public Rights of Way and can protect footpaths and Public Rights of Way which are created during the period of the Plan as well as existing ones.

105. The Policy supports development which protects and connects the network of footpaths and green corridors and avoids significant harm to *“existing dark corridors”*. The network and corridors are not identified in the supporting text and there is overlap with the requirements of Policy G3 relating to the Emerald Network. Appendix D only provides details of a selection of landscape and natural environment sites. On request I was directed by City of Durham Parish Council to the 2018 *Assessment of open spaces in Our Neighbourhood* for more information. This is not directly referenced in the supporting text for Policy G1 nor does it provide details of dark corridors. It only identifies one site as a green corridor.

106. The Policy also applies to the *“banks of the River Wear”*. These are not identified. On request I was provided with the following definition by City of Durham Parish Council *“this would be from the waterline up to and including the footpath / pavement running alongside the river (except for the Peninsular riverbanks). In the peninsular areas the riverbanks are well defined (see WHS) and go up to the first boundary wall”*.

107. Overall, Policy G1 is too restrictive in its approach and lacks clarity. It does not meet the Basic Conditions. To minimise the risk of confusion my recommended modification provides a replacement policy rather than multiple individual modifications.

- **M10 – Replace Policy G1 with the following:**

**“Policy G1: Protecting and Enhancing Green and Blue Infrastructure**

*Protecting green and blue assets*

**Development proposals which avoid the loss of existing green or blue assets (as defined in paragraphs 4.70, 4.71 and Table 1) with significant recreational, heritage, cultural, ecological, landscape or townscape value will be supported.**

**Where the loss of green or blue assets of significant value is unavoidable then alternative equivalent provision should be provided on-site or off-site where this is not viable or practicable.**

*Enhancing green and blue assets*

**Development proposals which provide additional green or blue assets, particularly those that address deficiencies within Our Neighbourhood, will be supported.**

**Any new or replacement green or blue assets should be appropriate to the context, having regard to the landscape, townscape and ecology of the locality and where appropriate the setting of heritage assets.**

*Protecting and enhancing public rights of way and other footpaths*

**Development proposals should have regard to the local distinctiveness, character, quality and biodiversity of public rights of way and other footpaths. Proposals which connect to, improve or extend the network of public rights of way and improve its accessibility will be supported.**

*Protecting and enhancing green corridors*

**Development proposals that impact on green corridors should maintain or enhance their functionality and connectivity and avoid significant harm to ecological connectivity.**

Development proposals that improve existing green corridors or create green corridors on-site that connect to or improve existing green corridors shall be supported.

*Enhancing biodiversity*

Development proposals that provide net gains for biodiversity by restoring, recreating or creating wildlife habitats, particularly for locally protected and priority species, will be encouraged and supported.

*Protecting geological features*

Development proposals should avoid significant harm to features of geological value.

*Protecting and enhancing the banks of the River Wear*

Development proposals that avoid loss of or restrictions to access to the banks of the River Wear and retain public rights of way, other footpaths, green corridors or dark corridors will be supported.

Development proposals which provide additional pedestrian access points to the banks of the River Wear that are desirable in relation to public safety, ecology and heritage will be supported. Where appropriate, development proposals next to the banks of the River Wear should incorporate a public route along the riverbank which creates a footpath, green corridor and cycle route in that order of priority and avoids any significant impact on existing heritage or green or blue assets.

*Protecting dark corridors*

Development proposals incorporating new lighting should be designed to minimise any ecological impact and avoid significant harm to existing dark corridors.”

- OM11 – [Provide details of sources of information for the existing network of public rights of way, green corridors, dark corridors and the Emerald Network in the

supporting text, including by direct reference to the 2018 *Assessment of open spaces in Our Neighbourhood*]

- OM12 – [Include a definition of “*other footpaths*” as paths used by the public either informally or with permissive access negotiated with the landowner in the supporting text
- OM13 – [Include the definition of the “*banks of the River Wear*” in the supporting text]

108. **Policy G2** – This designates seven areas of Local Green Space and establishes the policy approach to their development.

109. The proposed areas are identified in a Proposals Map. The online map differs from the Proposals Map in a number of places, including Observatory Hill (Area B) and omitting Observatory Hill (Area C), and needs to be amended. The selection of the Local Green Spaces is justified on the basis of a published assessment of all the open spaces in the neighbourhood area. This has considered them in terms of the criteria established in national planning policy (NPPF, paragraph 100) and prioritised them according to their priority for protection as Local Green Space. The assessment has resulted in only a small number of locations coming forward to be proposed as Local Green Space.

- M11 - Amend the online map to align with the Proposals Map for Local Green Spaces

110. A number of the proposed Local Green Spaces are not physically linked but share similar characteristics, such as a woodland belt or as parts of the River Wear Corridor. Some comprise an assemblage of discrete parcels of land and Observatory Hill is presented as three separate areas in the Policy Proposals map. I have considered whether each discrete area should be identified as a separate Local Green Space and concluded that the approach proposed is coherent and logical although my recommendation is for the areas to be differently organised for Observatory Hill.

111. In addressing various representations on the proposed designations I am mindful of the consideration in Planning Practice Guidance that where Local Green Space is proposed

for land already designated as Green Belt (Paragraph: 010 Reference ID: 37-010-20140306) or as a Conservation Area ((Paragraph: 011 Reference ID: 37-010-20140306) “*whether any additional local benefit would be gained by designation as Local Green Space*” such as, for Green Belt, helping to “*identify areas that are of particular importance to the local community*”.

112. I note Durham University’s representations that it “*does not consent to the allocation of its land ownerships as Local Green Space*”. Landowner consent is not required for the Plan to designate Local Green Space. This is dependent on the Plan meeting the Basic Conditions and being supported by a majority at referendum. Durham University cites detailed support for its view from Durham County Council but this is not included in Durham County Council’s representations which are more general. Durham County Council “*remains concerned*” about specific designations and that their local importance has not “*been sufficiently defined or evidenced*”. Contrary to Durham University’s representations, Durham County Council does not make any representations that the designations are inconsistent “*with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services*” as required by national planning policy (NPPF, paragraph 99). I do not share Durham University’s view that there is evidence of Local Green Space designation being used “*for the sole purpose of stifling or constraining essential development unnecessarily*.” The approach taken in the Plan is consistent with national planning policy. It is notable that only a small number of candidate locations have been put forward for designation as Local Green Space and a much larger number of green spaces is recognised through the Emerald Network.

113. I have also considered representations, including from Durham University and Gladman Developments Limited, that other Examiners have found proposals to designate areas of Local Green Space of under 3ha as inappropriate because they comprise an “*extensive tract of land*”. The circumstances and context for Local Green Spaces varies between neighbourhoods and my judgment on this issue relates solely to the proposals in the context of the City of Durham neighbourhood area. This is supported by Planning Practice Guidance which states that “*there are no hard and fast rules about how big a Local Green Space can be because places are different and a degree of judgment will inevitably be*

*needed*". I do not consider any of the proposals could be considered to amount to either a *"blanket designation of open countryside"* or *"a 'back door' way to try to achieve what would amount to a new area of Green Belt by another name"* (Paragraph: 015 Reference ID: 37-015-20140306).

114. I visited each of the proposed sites in the course of the Examination.

115. River Wear Corridor in the areas of Peninsular Woodlands, the Racecourse and the Sands – I have considered representations from the Dean and Chapter of Durham Cathedral on the proposal on the grounds that it is superfluous given existing protective designations and from Durham University that this area is not demonstrably special. I consider that designation will provide additional local benefit, such as that identified in representations from Crossgate Community Partnership that the area *"enables people to view historic aspects of the city other than the cathedral and castle"*. The value of the River Wear Corridor to local people is clear from the Plan's consultation feedback. It is of major cultural, historic, recreational and wildlife value and is used for a variety of significant events among other benefits. I am satisfied this location is appropriate for Local Green Space designation.

116. Observatory Hill, Bow Cemetery and two fields south of Potters Bank – Given its prominent location, long history of public use and recognition in saved Policy E5 of the City of Durham Local Plan, Observatory Hill (Area A) is clearly a candidate for designation as Local Green Space. The Plan notes that this is the priority for designation and proposes two other adjacent areas following public consultation.

117. Bow Cemetery and two adjacent fields (Area B) are both demonstrably important for their landscape and wildlife role and their contribution to the setting and views of the World Heritage Site. The value of this land is also recognised in the saved policies of the Durham City Local Plan. Nevertheless, Bow Cemetery has distinct character by virtue of its role as a cemetery also managed for its wildlife and landscape value. The two adjacent fields share similar characteristics to the area identified as Observatory Hill. Consequently, I

recommend that Bow Cemetery is identified as a separate Local Green Space and the two fields are combined with Observatory Hill.

118. The land to the north west of Observatory Hill (Area C) within Durham School and along Clay Lane was included in the second round of pre-submission consultation on the Plan. Area C is included in Proposals Map 2 but is absent from the equivalent online map. There is evidence supporting recognition of Clay Lane as an area of green space of local significance. It embraces an historic route, provides an important green and dark corridor, and includes key views. I recommend inclusion of Clay Lane as a Local Green Space.

119. The evidence supporting designation of land used by Durham School is more limited. The land provides an important part of the green setting for the city centre but there is a range of other school sites in the neighbourhood area with playing fields and similar characteristics. I note the representation from the Dean and Chapter of Durham Cathedral that the designation may hinder the future development of Durham School. I do not consider this a reason not to designate but do not believe there is sufficient evidence of the distinct value of the grounds of Durham School to warrant designation as a Local Green Space.

120. I have considered representations from Durham University concerning the land in its ownership (24% of the proposed area). Durham University is concerned that designation will conflict with operational requirements and states that much of the land has limited public access. It also considers the Sustainability Appraisal to be "*flawed*" on the grounds it did not consider a do-nothing option or the effect of existing designations in arriving at a conclusion supportive of designation. It also questions whether the Local Green Space designations are consistent with the local planning of sustainable development, as required by national planning policy. Durham University questions whether its land is demonstrably special and believes it comprises an extensive tract of land and so is not eligible for designation.

121. I have also considered the representations from the Dean and Chapter of Durham Cathedral which is a significant landowner on Observatory Hill. This does not question the

value of the area proposed for designation but considers the designation superfluous given the other protective policies it benefits from. It also expresses concern that designation may lead to unauthorised access and activities.

122. I am, however, persuaded of the importance of the area to the local community over and above the reasons behind the other policy designations. This is supported by the evidence and public consultation feedback. Taken as a whole Observatory Hill is an exceptional asset offering remarkable views of the World Heritage Site. It has clear and well defined boundaries and there is visible evidence of significant informal use, including on most of the land owned by Durham University. Durham University elides much of the value of the land to the local community through the degree of public access it allows. Local Green Space designation does not confer any additional rights of access nor does it require designated sites to be publicly accessible. There is no reasonable link between designation and concern over unauthorised activities or access. The areas of grazing land and that subject to a Farm Business Tenancy in Durham University's ownership all contribute to the overall value of Observatory Hill and share similar characteristics. I do not consider the area proposed for designation to be extensive in its context. Observatory Hill is enclosed within the built up area of Durham and the largest area recommended for designation has a maximum width of c500m.

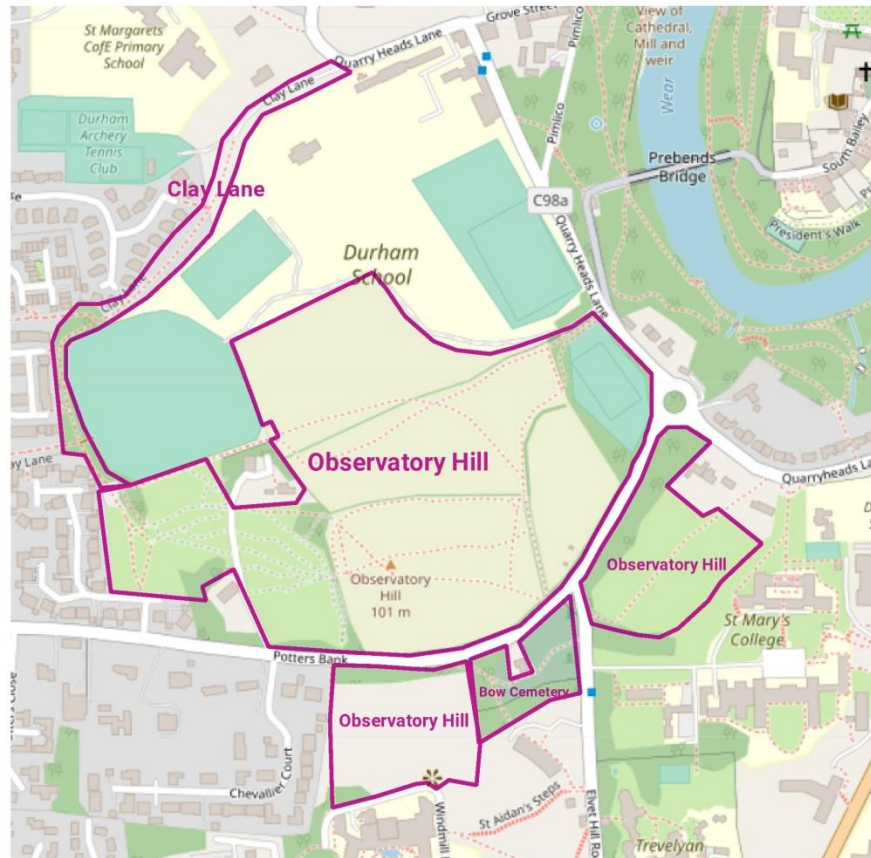
123. Options for the designation of Local Green Space in and around Observatory Hill were included in the Sustainability Assessment's consideration of alternatives. The proposal comprises three adjacent areas with their own characteristics and the Sustainability Appraisal concluded that none of the options had a significant effect on any of the Sustainability Appraisal Objectives and that the Plan's proposal for all three areas was the best performing. Area C was specifically addressed in an addition to the Plan's Sustainability Appraisal consideration of reasonable alternatives because of issues raised during consultation on its potential impact on Durham University's development plans. I note that the Sustainability Appraisal concludes that the inclusion of Area C is the best performing option for Local Green Space designation although it is the worst performing option for *"Population and community"* objectives because it *"restricts additional future growth"*. This

positive overall assessment informs my conclusion that the designation is “*consistent with the local planning of sustainable development*” (NPPF, paragraph 99).

124. I am satisfied with the quality of the Sustainability Appraisal. It includes an assessment of the sustainability implications for the neighbourhood area overall “*if nothing is done*” and concluded that “*the current position is unacceptable for the heritage, environmental and social issues facing Durham City and in particular Our Neighbourhood*” (paragraph 3.43). There is no disagreement with this overall conclusion from Environment Agency, Historic England or Natural England.

125. A primary concern of those objecting to the designation, including Durham University, is that it will constrain development, although I note the proposed designation excludes the Observatory and its grounds. The representation from the Dean and Chapter of Durham Cathedral is concerned that designation may hinder the future development of Durham School. Clearly, one consequence of designation as Local Green Space is the introduction of strengthened planning policies to protect the land from development. This protection is neither absolute nor inalienable. Some development including the appropriate extension or alteration or replacement of existing buildings and the redevelopment of previously developed land is not inappropriate. Inappropriate development can also be permitted where it demonstrates very special circumstances and the Local Green Space designation or boundary can be changed through a future development plan review.

126. I am therefore satisfied that the majority of the land proposed should be designated as Local Green Space, with the exception of the grounds of Durham School. My recommendation is for three distinct areas of Local Green Space – Bow Cemetery, Observatory Hill (including the two fields south of Potters Bank) and Clay Lane. An indication of the boundaries is provided below. These boundaries are the same as those proposed save for the deletion of the grounds of Durham School and the separation into three distinct areas.



127. Flass Vale and North End allotments – This area of woodland and allotment is located in designated Green Belt. In accordance with Planning Practice Guidance (Paragraph: 010 Reference ID: 37-010-20140306) where Local Green Space is proposed for land already designated as Green Belt I have considered “*whether any additional local benefit would be gained by designation as Local Green Space*” such as helping to “*identify areas that are of particular importance to the local community*”. Parts of the site have distinct associations with local heritage and its designation as Local Green Space is actively supported by the Friends of Flass Vale. It is a largely wooded area of distinct character adjacent to a significant residential area. I consider there to be evidence of its particular importance to the local community and it is appropriate to designate the area as Local Green Space.

128. St Margaret's Cemetery and allotments – This location has a long tradition of public access and use and offers a refuge for both people and wildlife. It is close to the city centre and demonstrably special to the local community. I recommend it for Local Green Space designation.

129. Durham Light Infantry (DLI) grounds – These grounds of the now closed museum have particular value as a resting place for soldiers' ashes as well as for the grounds' wildlife and recreational value. The grounds are located in designated Green Belt. In accordance with Planning Practice Guidance (Paragraph: 010 Reference ID: 37-010-20140306) where Local Green Space is proposed for land already designated as Green Belt I have considered "*whether any additional local benefit would be gained by designation as Local Green Space*" such as helping to "*identify areas that are of particular importance to the local community*". The particular association of the grounds with the area's military heritage is evidence of their particular importance to the local community and there was strong support for their designation during public consultation on the Plan. The site is adjacent to both existing residential areas and the significant Aykley Heads site which is allocated for major employment development. This will only add to its value. I consider it appropriate that the grounds are designated as Local Green Space.

130. Maiden Castle Wood, Great High Wood, Hollinside Wood and Blaid's Wood – these comprise a significant stretch of woodland in the south east quadrant of the neighbourhood area. They are located in designated Green Belt and are also designated for their landscape, and ecological value. In accordance with Planning Practice Guidance (Paragraph: 010 Reference ID: 37-010-20140306) where Local Green Space is proposed for land already designated as Green Belt I have considered "*whether any additional local benefit would be gained by designation as Local Green Space*" such as helping to "*identify areas that are of particular importance to the local community*". There is evidence of significant public use of the woodlands which make a distinctive contribution to the landscape and have significant wildlife, heritage and access value. There was strong support for their designation during public consultation on the Plan. I have considered representations from Durham University

that the designation is not appropriate because the land is not demonstrably special and is extensive.

131. I conclude that Local Green Space designation is appropriate. The land in question comprises a narrow woodland strip along a stretch of the south west border of the City and is not extensive. It is demonstrably of particular importance to the local community.

132. Neville's Cross battlefield – This location is part of the registered historic battlefield that also takes in land outside the neighbourhood area. It is located in the Green Belt and I consider that designation adds additional local benefit, including reflecting its historic value. This is supported by evidence and the level of public support for designation.

133. The policy approach to development impacting on Local Green Space is not consistent with that in national planning policy and should be *"consistent with those for Green Belts"* (NPPF, paragraph 101).

134. Policy G2 does not meet the Basic Conditions.

- **M12 – Replace Policy G2 with the following:**

**"The following areas (shown on Proposals Map 2) are designated as Local Green Space where inappropriate development should not be approved except in very special circumstances:**

- 1. River Wear Corridor in the areas of Peninsular Woodlands, the Racecourse and the Sands**
- 2. Observatory Hill**
- 3. Bow Cemetery**
- 4. Clay Lane**
- 5. Flass Vale and North End allotments**
- 6. St Margaret's Cemetery and allotments**
- 7. Durham Light Infantry (DLI) grounds**
- 8. Maiden Castle Wood, Great High Wood, Hollinside Wood and Blaid's Wood**

## 9. Neville's Cross battlefield."

- M13 – Amend Proposals Map to show each of these designations as Local Green Space and ensure the online map is consistent with the Proposals Map

135. **Policy G3** – This establishes an “*Emerald Network*” of 16 sites of wildlife interest linked by rights of way or pavements and establishes the policy framework for development impacting the network.

136. The Policy states that the network of valued and accessible wildlife sites is “*proposed*” whereas its intention is to create the Emerald Network for policy purposes. On request City of Durham Parish Council has confirmed to me that the list of sites in the Emerald Network is comprehensive and there are no others linked by pavement or public rights of way in the neighbourhood area. This physical connection is what has determined whether a site is one of the 16 considered part of the Network.

137. The Policy supports measures for improving amenity or footpaths as long as they cause “*no harm to the biodiversity*”. This is an overly stringent requirement which would make it hard to deliver any change and goes beyond national planning policy (NPPF, paragraph 175). The last paragraph unnecessarily repeats national planning policy (NPPF, paragraph 175).

138. I have considered representations from Durham University that Observatory Hill should be excluded on grounds of it being “*operational*” or having “*operational potential*”. Observatory Hill is a significant open site and I do not consider that operational conflicts will arise from its inclusion in the Emerald Network as proposed.

139. Proposals Map 3 supports the Policy and shows the 16 numbered sites which make up the Emerald Network. The map does not cover the entire neighbourhood area or include the area of all the sites. The map lacks a key explaining the blue dashed lines which are presumed to be public rights of way. The map also fails to show how sites G3.4 (Ayckley Heads) and G3.11 (Houghall/Maiden Castle) meet the criteria of being either on a public

right of way or accessible by pavement. Site G3.11 also combines two sites separated by over 1km with another site between them.

140. The supporting text states that being part of the Emerald Network “*does not confer extra designations on these sites*” but Policy G3 does apply a policy framework to the sites.

141. Policy G3 does not meet the Basic Conditions.

- **M14 - Amend Policy G3 to:**
  - Replace “*proposed*” with “*identified*” in the first line
  - Insert “*significant*” before harm in the third paragraph
  - Delete the fourth paragraph
  - Separate Houghall and Maiden Castle into separate sites and renumber the Policy and Proposals Map accordingly
- M15 - Amend Proposals Map 3 to show the full neighbourhood area and the public rights of way or pavement links to Houghall and Aykley Heads
- M16 – Delete the sentence in the supporting text beginning “*This policy does not confer extra designations on these sites.....*” on page 68
- M17 – Include reference to the 2018 *Assessment of open spaces in Our Neighbourhood* as evidence for identifying the sites on the basis that they are the only such sites connected by public rights of way or pavements in the neighbourhood area

142. **Policy G4** – This supports development proposals in two defined areas of Green Belt which result in more beneficial use while enhancing the World Heritage Site and avoiding significant harm to Green Belt quality.

143. The Policy is supported by Proposals Map 4 but this is not referenced in the Policy and this would provide greater policy clarity.

144. The Policy introduces a requirement for such development to “*enhance*” the World Heritage Site. This is not consistent with Policy H1 which supports development shown to “*sustain, conserve and enhance*” it.

145. National planning policy supports efforts to plan positively for the beneficial use of all Green Belt (NPPF, paragraph 141) and I am content that Policy G4 does not preclude this. There is a clear rationale for identifying the two areas of land which do not benefit from positive policies elsewhere in the Plan.

146. Durham County Council has expressed concern that Map 5 does not accurately depict the extent of Green Belt in the area. This appears to be a technical issue with the map layers. It is important that the boundaries in both Proposals Map 4 and Map 5 are clear.

147. Policy G4 does not meet the Basic Conditions.

- **M18 – Amend Policy G4 to:**
  - Add “as shown in Proposals Map 4” after “*Our Neighbourhood*” in the first paragraph and after “*Cross*” in the second paragraph
  - Add “*sustain, conserve and*” at beginning of subsections a) and c)
- M19 – Revise Proposals Map 4 and Map 5 to be consistent with the County Durham Local Plan

### **A City with a Diverse and Resilient Economy**

148. **Policy E1** – This identifies a site at Aykley Heads for business use which meets sustainability standards set out in a masterplan.

149. Aykley Heads has been identified as a site for significant high quality employment use in successive development plans, including City of Durham Local Plan. It is included in the emerging County Durham Local Plan although Policy 3 allocates a larger site. I do not consider there to be strategic conformity issues despite the differences in boundaries and

the detail of the policies. The County Durham Local Plan is not yet adopted, and the entire area of the Neighbourhood Plan is included in the Local Plan's site allocation. The Policy is broadly consistent with Policy EMP4 in the saved policies of the City of Durham Local Plan

150. The approach to Policy E1 and the identification of the Aykley Heads site lacks the necessary clarity. The Policy includes statements which would be better located in the supporting text and the Plan includes hangovers from changes to the pre-submission draft. These are a potential source of confusion. This is evident in the numbering of Aykley Heads, the structure of the supporting text and the content of Proposals Map 5 (see below).

151. It is appropriate for Policy E1 to identify this site as one to which Policy S2 applies although the supporting text includes a requirement for a "*design brief*" which goes beyond the requirement in Policy S2 for a "*masterplan*". In accordance with my recommended modifications to Policy S2 the Policy should reference the use of other appropriate design and development frameworks. The reference to Policy S1 is not necessary as all development plan policies apply to all development proposals where appropriate.

152. The supporting text references a need for an Environmental Assessment of the impact of development "*upon any site*". Environmental assessment is required only for development "*which is likely to have significant effects on the environment*" and this need is addressed through the development management process.

153. Policy E1 does not meet the Basic Conditions.

- **M20 – Amend Policy E1 as follows “Proposals for development of B1a and B1b uses will be supported at the Aykley Heads site shown in Proposals Map 5 where these are in accordance with a masterplan or other design and development framework prepared under Policy S2.”**
- M21 – In paragraph 4.138 delete “*Details of this site (shown in Proposals Map 5) are as follows.*”
  - *Site E1.1: The Aykley Head Business Park*”

- M22 – In paragraph 4.138 replace “*and design brief*” with “or other design and development framework”
- M23 – In paragraph 4.140 replace text before “*Aykley*” with “An Environmental Impact Assessment will need to be undertaken of any proposed development which is likely to have significant effects on the environment at” and delete the penultimate sentence beginning “*The Environmental Assessment*”.
- M24 – In paragraph 4.146 replace “*allocated*” with “*identified*” in the second line

154. **Policy E2** – This supports certain economic development at Fowler’s Yard and mixed development of windfall brownfield sites.

155. Fowler’s Yard is identified in Proposals Map 5 but this is not referenced in the Policy.

156. The supporting text identifies homes for “*those with disabilities*” as being addressed in Policy E2 but this wording is not included.

157. The supporting text includes references to Blagdon Depot as if it was part of Policy E2 and the numbering of the sites is a potential source of confusion.

158. Policy E2 does not meet the Basic Conditions.

- **M25 – Amend Policy E2 to insert:**
  - “as shown in Proposals Map 5” after “*Quarter*)”
  - “people with disabilities,” after “*people,*” in the last line
- M26 – In paragraph 4.143 delete “*Details of the site (shown in Proposals Map 5) is as follows:*”
  - *Site E2.1: Fowler’s Yard*  
This” and insert “Fowler’s Yard”
- M27 – In paragraph 4.144 delete “*In respect of a further site shown on Proposals Map 5:*”

- *Site E2.2: Blagdon Depot*

*The Neighbourhood Plan recognises this*” and insert “Blagdon Depot is a”

159. Policy E1 and E2 are supported by Proposals Map 5. In the printed plan this includes a “possible” site at Blagdon Depot. The online map identifies this and Fowlers Yard as “other employment sites” and additionally includes Durham Science Park as one of the “Larger employment sites” akin to Aykley Heads. The online map shows Aykley Heads with different parcels and the printed plan includes additional white strips of uncertain significance.

- M28 – Amend Proposals Map 5 to:
  - Align the online and printed versions
  - Delete reference to “Blagdon Depot” and “Durham Science Park”
  - Renumber “Aykley Heads” as E1 and “Fowlers Yard” as E2
  - Show Aykley Heads as a single parcel of land

160. **Policy E3** – This supports retail development within the boundary of the city centre and an identified Primary Frontage.

161. The Policy is supported by Proposals Map 6. The online and printed versions differ and the online version includes a confusing key. The central area is described variously as the “city centre” (title, printed Proposals Map 6), “centre core retail area” (Policy E3), and “core retail area” (key, printed and online Proposals Map 6). The key to the online map uses incorrect colours for the primary frontage and core retail area. There is further confusion in the supporting text which states that “Within the core retail area as defined in Proposals Map 6 there are a number of sites outside the core retail area.....” (paragraph 4.150). It also states that “The Primary Frontages are the core retail area of the City” (paragraph 4.155) when Proposals Map 6 shows the former defines an area within the latter. To avoid confusion I recommend the Plan uses terms consistent with the emerging County Durham Local Plan for the centre - City Centre - and uses the “Primary Shopping Area” from the submission version of the Durham Local Plan rather than “Primary Frontage”. I note that

the Primary Shopping Area is incorrectly described as *“Primary Shop Frontages”* in the online version of the County Durham Submission Policies Map.

162. There is an absence of evidence supporting the detailed definition of a Primary Retail Frontage. On request I was provided with further information by City of Durham Parish Council which confirmed the Plan uses *“DCC’s designation of Primary Retail Frontage which was defined in the annual County Durham Town Centre [survey] conducted by DCC in 2017 and published in ‘Economy and Enterprise Overview and Scrutiny Committee, support provided to the retail sector by Durham County Council review, November 2018’.....The neighbourhood plan boundary for the primary retail frontage is precisely the same as the County Council’s”*. The boundary shown uses a shape file provided by Durham County Council in 2018.

163. Primary Retail Frontage is not included in the emerging Durham Local Plan and as a term it is proposed to be deleted in the Main Modifications following its Examination. Both Durham County Council and City of Durham Parish Council have indicated they are content for Policy E3 to relate to the Primary Shopping Area identified in the emerging Durham Local Plan.

164. The first section of Policy E3 is presented in two parts. The first part is repetitious in its support for A2, A3, A4, A5 and other appropriate town centre uses and supports these both generally and in respect of the use of upper floors. The second section unnecessarily duplicates the requirements of Policies S1, H1 and H2. I share Durham County Council’s view that there is a lack of evidence supporting A1 retail as the *“predominant use”*.

165. The supporting text includes an outdated written Ministerial statement from 2013 that describes a now historic change in policy.

166. Policy E3 does not meet the Basic Conditions.

- **M29 – Amend Policy E3 as follows:**
  - Replace “*Durham City centre core retail area*” with “Durham City Centre” in first paragraph
  - Replace “*of Primary Frontage*” with “in the Primary Shopping Area” in second paragraph
  - Delete sections a), d), e), f) and g)
  - Insert “**A1 retail**”, before “**A2**” in section b) [reordered as section a]
- M30 – Amend title of Proposals Map 6 to “City Centre Boundary and Primary Shopping Area”, ensure consistency between the printed and online maps, replace depiction of the “*Primary Frontage*” with the “Primary Shopping Area” as provided in the submission version of the County Durham Plan, and rename the boundaries shown in the key as “City Centre” and “Primary Shopping Area”
- M32 – Amend the supporting text to consistently use the terms “City Centre” and “Primary Shopping Area” and remove references to “*Primary Frontage*” throughout
- OM14 – [Delete reference to the 24 January 2013 Ministerial statement in paragraph 4.157]

167. **Policy E4** – This supports development benefitting the evening economy.

168. The Policy is positively worded. It includes an onerous requirement to include evidence which can “*prove*” no significant adverse impact on local amenity. The evening economy is addressed in the emerging County Durham Local Plan Policy 9 but this does not negate the purpose of Policy E4.

169. Policy E4 does not meet the Basic Conditions.

- **M33 - Amend Policy E4 to replace “*prove*” with “appropriate evidence”**

170. **Policy E5** – This supports development of new and existing visitor attractions subject to defined policy criteria.

171. The Policy is positively worded and enabling. It only supports development proposals for new visitor attractions *“to meet an acknowledged need”* and provides examples. This lacks the necessary clarity in policy drafting and goes beyond the scope of planning decisions in making judgements about the need for development.

172. The requirement for new visitor attractions to make a *“significant”* contribution to the environment is unduly onerous.

173. Policy E5 does not meet the Basic Conditions.

- **M34 – Amend Policy E5 to:**
  - **delete section d)**
  - **replace *“significant”* with *“positive”* in section e)**

174. **Policy E6** – This supports development of visitor accommodation subject to defined policy criteria.

175. The Policy is positively worded and enabling. It includes a statement regarding existing visitor accommodation which does not relate to new development and so is not appropriate to be included. The Policy is too restrictive in prescribing the use of conditions to control use as permanent accommodation in all circumstances.

176. Policy E6 does not meet the Basic Conditions.

- **M35 – Amend Policy E6 to:**
  - **delete the first sentence**
  - **delete *“in all cases a condition of consent is imposed to the provision of”* and *“to restrict continuous accommodation so that it”* in subsection c)**

- M36 – Replace “*must*” with “*should*” in paragraph 4.164

#### A City with Attractive and Affordable Places to Live

177. **Policy D1** – This identifies three sites for housing development and introduces policy criteria for housing development proposals in the neighbourhood area.

178. The context for Policy D1 is an identified housing requirement provided by Durham County Council for 1,297 dwellings in the neighbourhood area which can be met without any additional housing sites being identified in the neighbourhood plan.

179. There is limited information provided on how the sites were identified. On request City of Durham Parish Council stated this was from “*Personal knowledge of NPF Working Group members from dealing with past planning applications in the City and from an invitation to all residents’ groups and to house-builders and developers to submit possible sites for consideration.*” This approach does not meet the expectation in Planning Practice Guidance that the “*qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria*” in order to make an allocation (Paragraph: 042 Reference ID: 41-042-20170728). The sites were included in the pre-submission consultation draft plan.

180. Of the three identified sites two have planning consent for residential development (agreed in 2020 and 2018). This makes it unusual for them to be considered for inclusion as sites in the Plan. There is concern that development has not yet commenced on The Avenue and I acknowledge that a significant time has passed since consent was granted. My recommended modifications also clarify that the Plan is not formally allocating the site. The details of the permission for John Street were only finalised in early 2020 making it inappropriate to be separately identified. The remaining Main Street USA site has limited capacity and its appropriateness has been addressed in the Plan’s Sustainability Appraisal and in site assessment reports provided by AECOM. It is also subject to a lapsed planning consent. I visited the sites and consider them entirely appropriate for residential development.

181. The policy criterion to “*target occupancy type to rebalance the community towards permanent residents*” does not provide either the clarity or certainty required of a planning policy. It is uncertain how this policy ambition will be delivered and there is only limited evidence presented to justify the approach. It is also noted that other policy criteria in paragraph 4.185, for example relating to “*older people*”, are not included in the Policy.

182. The other policy criteria in Policy D1 lack clarity - such as “*adequate*” green space to be provided in high density development - or they are addressed in other Plan policies - such as use of a “*sympathetic style*” and no adverse impact on the World Heritage Site or Conservation Areas.

183. Policy D1 is supported by Proposals Map 7. This includes a number of “*possible*” sites which the supporting text indicates “*should be allocated in due course*”. This is a potential source of confusion over their status.

184. Policy D1 does not meet the Basic Conditions.

- **M37 – Replace Policy D1 as follows “Proposals for housing development on the following sites, as shown on Proposals Map 7, will be supported:**
  - **Main Street USA**
  - **The Avenue**

**The conversion of existing buildings for residential use will be supported.”**

- M38 – Delete the “*Possible*” sites from Proposals Map 7
- M39 – Provide details of the process through which the sites were identified and publish the results of the call for sites in the online evidence base
- M40 – Make consequential changes to paragraphs 4.184 to 4.188 consistent with these modifications, including deletion of references to sites being allocated

185. **Policy D2** – This allocates six sites for the development of *“Purpose Built Student Accommodation”* with site specific policy criteria governing their development and introduces a range of policy criteria for all such development.

186. The provision of student accommodation in the neighbourhood area is clearly a matter of great significance locally and this is evident in the response to public consultation. It is understandable that the Parish Council is keen to see the issue addressed and to reduce uncertainty in the period before the County Durham Local Plan is adopted. I also note Durham University’s support for the six sites being identified. Nevertheless, planning to meet the need for student accommodation is a matter for strategic planning policy. Planning Practice Guidance is that *“strategic policy-making authorities will need to consider the extent to which the identified needs of specific groups can be addressed in the area”* (Paragraph: 001 Reference ID: 67-001-20190722) and that *“strategic policy-making authorities need to plan for sufficient student accommodation whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus.”* (Paragraph: 004 Reference ID: 67-004-20190722).

187. It is helpful that there is a strong alignment between Policy D2 and Policy 16 of the emerging County Durham Local Plan and that the latter is at an advanced stage of preparation. This will reduce the period of uncertainty.

188. It is appropriate for the Plan to address site specific considerations for each of the allocations for Purpose Built Student Accommodation just as it would be for other strategic site allocations. However, the considerations in Policy D2 largely mirror those in Policy 16 of the emerging County Durham Local Plan although there are differences in drafting. The considerations are high level and do not add to the emerging strategic policy context. Durham County Council also points to some differences due to the evolution of the Local Plan policies and some errors in drafting. The remaining differences are minor and I consider their merit to be outweighed by the potential for confusion by having very similar policies in both the Local and neighbourhood plans for these site allocations.

189. Policy D2 also includes policy criteria for the development of Purpose Built Student Accommodation on other sites including some criteria which only apply to development on sites *“other than within the University Estate”*.

190. No definition of the University Estate is provided and land ownership is not an appropriate basis for applying a different policy approach. All the policy criteria should apply to all Purpose Built Accommodation other than those specifically identified. It is also a significant consideration that an interim policy on student accommodation was adopted in 2016 and this addresses a majority of the policy considerations in Policy D2.

191. The policy criteria largely mirror those in Policy 16 of the emerging County Durham Local Plan although there are important differences, including to *“support the Council’s regeneration objectives”* and that *“not more than 10%”* of residential units within 100m being student accommodation or houses in multiple occupation. Not all sites will be relevant to achieving regeneration objectives and while the case for a threshold is supported by strong evidence of public concern over the impact of student accommodation there is a lack of evidence justifying the specific approach. On request I was provided by City of Durham Parish Council with further information on the source of the 10% threshold in the 2008 report *Balanced Communities and Studentification Problems and Solutions* from National HMO Lobby. This evidence relates to houses in multiple occupation and not to Purpose Built Student Accommodation.

192. The Policy requires that 25% of units *“shall normally”* be affordable. This approach lacks certainty and no justification supporting a 25% requirement is provided. On request I was informed by City of Durham Parish Council that this threshold is supported by Policy 15 of the submitted County Durham Local Plan for Durham as a highest value area. As Durham County Council points out in its representations, the evidence supporting a 25% threshold in the emerging County Durham Local Plan did not consider affordable housing as part of the provision of Purpose Built Student Accommodation.

193. I am very aware that City of Durham Parish Council is concerned by the lack of a policy framework for student accommodation and wishes to see this put in place as soon as

possible, including by using the neighbourhood plan to advance the approach in the emerging Local Plan. Nevertheless, I conclude that Policy D2 does not meet the Basic Conditions. It addresses strategic considerations which go beyond the role of a neighbourhood plan and it includes policy criteria and thresholds that lack an adequate evidence base. There is also significant potential for confusion with the emerging County Durham Local Plan when adopted and there is an existing policy framework provided by the interim policy on student accommodation.

- **M41 – Delete Policy D2**
- M42 – Make consequential changes to the supporting text which address this modification

194. **Policy D3** – This establishes a restrictive policy approach to the development of houses in multiple occupation.

195. The Policy is supported by evidence of the impact of “*studentification*” on the neighbourhood area from consultation feedback and Map 6 shows the concentration of student exemption properties in the area. There is also evidence collected in preparing the Plan showing student accommodation represents 30% of residential properties in the area and rises to 90% in some locations. The context provided for the Policy identifies impacts such as damage to “*community relations, to quality of life and the future sustainability of schools, shops and other facilities*” but limited evidence is presented of these impacts. Policy D3 is justified in terms of the national planning policy objective to create “*mixed and balanced communities*” (NPPF, paragraph 62). The Plan does not provide other evidence of the impact of student accommodation on this objective and this aspect of national planning policy relates to affordable housing. Houses in multiple occupation do not fall into the definition of affordable housing in national planning policy. Houses in multiple occupation can also be homes for people who are not students.

196. Against this background Policy D3 introduces restrictive criteria, setting a threshold that any proposed development of houses in multiple occupation “*will not be permitted*” in

an area where student accommodation and houses in multiple occupation exceed 10% of the dwellings within 100m (including allowing for unimplemented planning permissions). As with Policy D2 there is limited evidence provided to support this threshold. On enquiry I was informed that City of Durham Parish Council has used the same evidence base as the emerging County Durham Local Plan. There are additional policy requirements similar to but not the same as those on Policy D2 relating to parking, amenity, design and security. The Policy also supports the conversion of houses in multiple occupation to C3 uses despite such change being permitted development for houses in multiple occupation falling into the C4 use class.

197. Policy D3 seeks to address an issue that is clearly important to the neighbourhood area. This is evident in the existence of Article 4 Directions controlling change of use to houses in multiple occupation across much of the neighbourhood area and Policy 16 of the emerging County Durham Local Plan. Nevertheless, it is negatively worded and highly restrictive and does not constitute a proportionate response to the issue based on the limited evidence which is presented. I note that the approach closely aligns with that in Policy 16 of the emerging County Durham Local Plan but departs from it in some areas. Durham County Council highlights a key difference in the lack of any policy exception to the 10% threshold being possible despite the possibility being raised in the supporting text.

198. Once adopted Policy 16 of the emerging County Durham Local Plan (as modified following Examination) will largely address the issues raised in Policy D3. Planning Practice Guidance is clear that *“it is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan”* and that *“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”* (Paragraph: 009 Reference ID: 41-009-20190509). On this basis and on the basis of the more limited evidence base for the Plan the differences between Policy D3 and Policy 16 are not justified.

199. As with Policy D2 I am very aware that City of Durham Parish Council is concerned by the lack of a policy framework for student accommodation and wishes to see this put in place as soon as possible, including by using the neighbourhood plan to advance the approach in the emerging Local Plan. I am also cognisant that planning to meet the need for student accommodation is a matter for strategic planning policy and that an interim planning policy addressing student accommodation and houses in multiple occupation is in place and carries weight in planning decisions. I conclude that Policy D3 does not meet the Basic Conditions. It includes policy criteria and thresholds that lack an adequate evidence base and there is also significant potential for confusion with the emerging County Durham Local Plan when adopted. The matter is also addressed in the existing policy framework provided by the interim policy on student accommodation.

- **M43 – Delete Policy D3**

- M44 – Make consequential changes to the supporting text which address this modification

200. **Policy D4** – This establishes the policy approach to housing for older people and those with disabilities.

201. The Policy approach is prescriptive in stating what “*must*” be provided and introduces a threshold of 10% of dwellings provided on larger sites being designed for older people. It does not provide supporting evidence. The 10% threshold is consistent with that in Policy 15 of the emerging County Durham Plan which has a stronger evidence base, including that “*a minimum of 90% of household growth over the Plan period will be in households aged over 65*”. There are some differences in the detailed approach.

202. The need for housing to meet the needs of older residents and those with disabilities is identified in the justification for the Policy with one third of the non-student population being retired and 3% sick or disabled.

203. The Policy identifies types of accommodation to meet the requirement for older people on larger development sites. This is provided as an exclusive list and it does not include some additional types of accommodation included in Planning Practice Guidance, such as age restricted general market housing. To avoid being overly restrictive the Plan should support the full range of accommodation which will support older people.

204. The Policy requires the dwellings for older people to be built on other sites in or near to the neighbourhood area *“if it is not feasible on the development site”*. It is unclear how such a requirement can be implemented and I note Policy 15 of the emerging County Durham Plan adopts a different approach for cases where development would not be viable by requiring it to be built on site to Building Regulation Requirement M4(2) (accessible and adaptable dwellings).

205. The second part of the Policy includes a superfluous reference to developments which *“require planning permission”*. Policy D4 is only relevant when a planning decision needs to be made.

206. The Policy is intended to apply to major development which is defined in national planning policy as *“development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”*. This will require a modification to the Policy which is for sites over 10 dwellings and 0.4 hectares. It does not apply, as suggested in representations from Gladman Developments Limited, to all residential developments across the neighbourhood area.

207. The Policy includes a section on housing for younger people with disabilities. No definition of younger people is provided and there is limited evidence supporting a separate policy approach. The needs of all people with disabilities are covered elsewhere in the Policy.

208. The supporting text references the suitability of a site in Policy D1 for older people in paragraph 4.197. Policy D1 does not make this reference and I have proposed a modification which deletes this site.

209. Policy D4 does not meet the Basic Conditions.

- **M45 – Amend Policy D4 to:**
  - Replace *“must”* with *“should”* in the first and second paragraphs
  - Replace *“of more than 10 housing units, or of more than 0.4 hectares”* with *“where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”*
  - Replace *“are”* with *“includes”* after *“requirement”* in the first paragraph and delete *“or”* at the end of each of the four subsequent bullets
  - Delete the second paragraph beginning *“If this is not feasible”*
  - Delete *“and which also require planning permission”* in the fifth paragraph
  - Delete from *“Housing for younger people with disabilities”* to end of Policy
- M46 – Delete paragraph 4.197

210. **Policy D5** – This requires residential development on larger sites to make provision for 25% affordable housing unless there are reasons which require it to be located on other sites in the neighbourhood area.

211. The Policy is supported by some evidence of unmet housing need and pressures in the housing market. The 25% threshold is consistent with that in Policy 15 of the emerging County Durham Local Plan which has a stronger evidence base.

212. The Policy is specifically for 25% affordable housing provision which would preclude against a higher proportion being provided. The Policy requirement for the affordable housing to be provided in other locations if there are *“strong reasons why this is not feasible”* on the proposed site is not implementable. Policy 15 of the emerging County Durham Local Plan supports off-site contributions in lieu of on-site provision in defined circumstances. My modifications seek to align the two policies as far as possible and to remove any uncertainty about what constitutes a *“nearby”* site. There is evidence provided of the scale of unmet need for affordable housing in the neighbourhood area.

213. Policy D5 does not meet the Basic Conditions.

- **M47 – Amend Policy D5 to:**
  - Replace *“must”* with **“will be required to”** in the first paragraph
  - Replace **“of more than 10 housing units, or of more than 0.4 hectares”** with **“where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”**
  - Replace the second sentence of the second paragraph with **“Where it can be justified by the developer, or it is considered by the local planning authority that it is the most appropriate course of action, off-site contributions in lieu of on-site provision will be accepted for affordable housing located within or adjacent to Our Neighbourhood.”**

214. **Policy D6** – This establishes policy criteria for the quality and design of new housing development and stipulates it must meet Building for Life criteria which avoid red and maximise green scores.

215. The policy criteria are more generic while being consistent with Policy 30 of the emerging County Durham Local Plan. There is some overlap with other Plan policies, including Policies S1 and H3. The approach is unduly restrictive in stating what *“must”* be achieved and includes a superfluous reference to developments *“that need planning consent”*.

216. Planning Practice Guidance supports the use of Building for Life 12 as an assessment framework for considering design quality. Policy 30 of the emerging County Durham Local Plan supports a similar approach to Policy D6 for *“all major residential-led schemes of 50+ units (or 1.5 hectares+), as well as any smaller schemes in particularly sensitive locations”* and Durham County Council adopted *County Durham Building for Life Supplementary Planning Document* in June 2019. Policy D6 would be clearer if it referenced this document and I am satisfied that the application to smaller schemes and throughout the neighbourhood area, which includes two Conservation Areas and a World Heritage Site, is

not inappropriate. This modification will also address representations from Gladman Developments Limited about the way Building for Life is used.

217. Policy D6 does not meet the Basic Conditions.

- **M48 - Amend Policy D6 to:**
  - Replace *“that need planning consent, must”* with *“should”* in the first paragraph
  - Replace the second paragraph with *“New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019)”*

#### A City with a Modern and Sustainable Transport Infrastructure

218. **Policy T1** – This establishes the policy approach to securing sustainable transport accessibility and design.

219. The scope for supporting more sustainable forms of travel is encouraged by the compact nature of the City. The Policy is overly prescriptive in stating what *“will”* be required and what proposals *“should be made”* to do. The drafting encompasses all development regardless of whether transport accessibility and design considerations are relevant and whether physical connections of the type specified are possible on individual sites. The Policy supports developments which demonstrate *“best practice”* and while a number of sources for this are provided in the supporting text this requirement is too open-ended to provide the necessary certainty needed for a planning policy. The Policy supports highway designs which *“discourage vehicle speeds exceeding 20mph”*. By specifying a speed limit this goes beyond the scope of planning policy.

220. Policy T1 does not meet the Basic Conditions.

- **M49 - Amend Policy T1 as follows:**

- Replace the first paragraph with “Development proposals should be supported by evidence of how they contribute to sustainable transport accessibility and design where appropriate.”
  - In the third paragraph delete “*be made to*”
  - In the fourth paragraph delete “*By following best practice*”, replace “*will include*” with “*should include, where appropriate*”, and delete “*exceeding 20mph*”
- M50 - In paragraph 4.244 delete “*It will not be acceptable for*”, replace “*merely to*” with “*should*” and replace “*must*” with “*should also*”

221. **Policy T2** – This establishes the policy approach to residential car parking.

222. The Policy is overly prescriptive in stating what “*must*” be done. The intention of the Policy is to support development which meets all of the policy criteria set out in sections a) to f) which will require an additional “and” at the end of section d).

223. The Policy to support development proposals in the Controlled Parking Zone providing parking at levels below that in the Durham County Council standards is not supported by sufficient evidence to justify such a significant departure.

224. The Policy includes provision for the cost of extending a Controlled Parking Zone to be covered by planning obligations and sets out criteria for when an extension might be required by the Highways Authority. While it is appropriate for new development to make a contribution to additional parking controls where these are necessary to make it acceptable, the approach in Policy T2 is too onerous. It would justify an extension to the Controlled Parking Zone for any development of whatever scale and transport impact which is “*close to*” the existing Controlled Parking Zone. Planning policy is implemented by the local planning authority and so the inclusion of policy criteria to be used by the Highways Authority is inappropriate. It is also appropriate for additional parking controls to be funded through routes other than planning obligations and for them to be delivered other than through an extension to the Controlled Parking Zone.

225. Policy T2 does not meet the Basic Conditions.

- **M51 - Amend Policy T2 to:**
  - Replace “*must*” with “*should*” in section d)
  - Add “and” at end of section d)
  - Delete section f)
  - Retitle section g) as “Additional parking controls” and replace with “Where a proposed development will generate a significant increase in demand for on street parking that requires new or amended parking controls these can be funded through developer contributions.”

226. **Policy T3** – This establishes the policy approach to residential storage of bicycles and mobility aids.

227. The Policy supports the approach of the Durham City Sustainable Transport Delivery Plan. It is unduly restrictive in stating what “*must*” be required and does not provide necessary certainty in seeking accordance with “*current best practice*”.

228. The Policy establishes an expectation that storage facilities for mobility aids should be provided in all dwellings. This is not supported by evidence of need and is not consistent with the approach to specialist housing provision in Policy D4 or Policy 15 of the emerging County Durham Local Plan.

229. The Policy includes an expectation in section b) that travel plans will exist for all residential development and the requirement for these to include specific provisions, including for “*timely removal of abandoned equipment*”, goes beyond the expectations in Planning Practice Guidance for the scale and scope of travel plans being determined on an individual basis. The Policy’s provisions are not unreasonable but should only be considerations.

230. Policy T3 does not meet the Basic Conditions.

- **M52 - Amend Policy T3 to:**
  - Insert “, where appropriate,” before “*mobility aids*” in in the second line
  - Replace “*must*” with “*should*” in section a)
  - Replace “*Where storage is provided communally for a number of dwelling units the travel plan should include a commitment to*” with “*Where there is provision for communal storage for a number of dwellings and a travel plan is required then this should consider*”
  - Delete “*must accord with current best practice guidance, with appropriate solutions depending on the*” with “*should accord with*” in section c)

#### A City with an Enriched Community Life

231. **Policy C1** – This establishes the policy approach to new and extended arts and cultural facilities and public art.

232. The Policy requires development to demonstrate it will “*meet an identified community need*” and “*not harm the viability of an existing facility*” in order to be supported. The supporting text clarifies that this judgement will be informed by the existence of “*objections from existing facilities*” and the “*support of the Parish Council*”. It is not for planning policy to prevent competition between providers and national planning is concerned to protect the overall “*vitality and viability*” of town centres (including arts and cultural uses) (NPPF, paragraph 85) and to “*guard against the unnecessary loss of valued facilities and services*”. No evidence is provided on which existing arts and cultural facilities are valued.

233. The Policy separates the criteria for new facilities and extensions and conversions. The criteria applied to the former will also be relevant to the latter. The requirement for an extension or conversion to be such that it “*enhances*” the existing building is not appropriate outside the Conservation Area.

234. Durham County Council expresses concerns relating to Policies C1 and C2 that some of the criteria may be more restrictive than intended. This is not a relevant matter for assessing compliance with the Basic Conditions and is outside the scope of this examination.

235. Policy C1 does not meet the Basic Conditions.

- **M53 - Amend Policy C1 to:**
  - delete section b) and replace section d) with “do not harm the overall viability of facilities within the neighbourhood area”
  - delete “New” in the second sub-heading
  - remove bold from third sub-heading
  - delete “*enhances and*” in section i)
- M54 - Delete paragraph 4.295

236. **Policy C2** – This supports the provision of new community facilities subject to specific policy criteria.

237. The requirement for an extension or conversion to be such that it “*enhances*” the existing building is not appropriate outside the Conservation Area.

238. Policy C2 does not meet the Basic Conditions.

- **M55 - Amend Policy C2 to delete “*enhances and*” in section f)**

239. **Policy C3** – This establishes policy tests on viability and demand to protect existing community facilities.

240. The effect of Policy C3 is significant in that it applies to all community facilities and requires the existence or provision of alternative facilities nearby in cases where the threatened facility is not viable. It goes beyond national planning policy to “*guard against the unnecessary loss of valued facilities and services*” (NPPF, paragraph 92). There is limited

evidence provided on the existing facilities that are valued. There is a lack of definition for what is considered as the “locality” or “nearby”.

241. The Policy is unduly restrictive in stating what “*will not be permitted*”.

242. I have considered representations from NHS Property Services that the Policy is inflexible and lacks clarity. I consider these to be addressed by my recommended modifications.

243. Policy C3 does not meet the Basic Conditions.

- **M56 - Amend Policy C3 to read “Development proposals which would result in the loss of a valued community facility for which there is demonstrable demand should make equivalent alternative provision within or adjacent to Our Neighbourhood.”**

244. **Policy C4** – This supports the development of health and social care facilities subject to specific policy criteria.

245. Policy C4 is positively worded and supported by evidence from community consultation.

246. Policy C4 meets the Basic Conditions.

## **8. Recommendation and Referendum Area**

247. I am satisfied the Durham City Neighbourhood Plan meets the Basic Conditions and other requirements subject to the modifications recommended in this report and that it can proceed to a referendum. I have received no information to suggest other than that I recommend the referendum area matches that of the Neighbourhood Area.