

WITTON GILBERT NEIGHBOURHOOD PLAN

Submission Draft Version

**A report to Durham County Council
into the examination of the
Witton Gilbert Neighbourhood Plan
by Independent Examiner, Rosemary Kidd**

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1.0 Summary

- 1.1 The Witton Gilbert Neighbourhood Development Plan has been prepared to set out the community's wishes for this parish to be a vibrant and sustainable community which has retained all of its important assets. Planned population growth is to be accommodated in well-designed and energy efficient homes.
- 1.2 The parish contains the village of Witton Gilbert and surrounding countryside.
- 1.3 The Plan sets out policies that support and complement those in the saved Local Plan and emerging County Durham Plan. I have made a number of recommendations in this report in order to make the wording of the policies and their application clearer including improvements to the mapping of sites referred to in policies to ensure that the Plan meets the Basic Conditions. Section 6 of the report sets out a schedule of the recommended modifications.
- 1.4 The main recommendations concern:
 - The deletion of Policy 11;
 - Clarification of the wording of policies and the supporting text; and
 - Improvements to the mapping of policies.
- 1.5 Subject to the recommended modifications being made to the Neighbourhood Plan, I am able to confirm that I am satisfied that the Witton Gilbert Neighbourhood Plan satisfies the Basic Conditions and that the Plan should proceed to referendum.

2.0 Introduction

Background Context

- 2.1 This report sets out the findings of the examination into the Witton Gilbert Neighbourhood Plan (referred to as the WGNP throughout this report).
- 2.2 Witton Gilbert parish to the north west of the city of Durham within the boundary of Durham County Council. The village of Sacriston lies to the north east of Witton Gilbert village and Langley Park to the south west. It is a rural parish with the village of Witton Gilbert at its heart and small hamlets of Kimblesworth Grange and Wallnook and isolated farms and residential properties in the surrounding countryside. The older historic village lies on the southern edge of the settlement with newer estates to the north. At 2011 there were 2419 people living in Witton Gilbert in 1110 households.

Appointment of the Independent Examiner

- 2.3 I was appointed as an independent examiner to conduct the examination on the WGNP by Durham County Council (DCC) with the consent of Witton Gilbert Parish Council in March 2019. I do not have any interest in any land that may be affected by the WGNP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I am a Member of the Royal Town Planning Institute with over 30 years' experience in local authorities preparing Local Plans and associated policies. My appointment was facilitated through the Neighbourhood Planning Independent Examiner Referral Service.

Role of the Independent Examiner

- 2.4 As an independent Examiner, I am required to determine, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether the legislative requirements are met:
- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
 - The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
 - The Neighbourhood Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provisions relating to 'excluded development', and must not relate to more than one Neighbourhood Area); and

- The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the Planning and Compulsory Purchase Act 2004 Section 38A.

2.5 An Independent Examiner must consider whether a neighbourhood plan meets the “Basic Conditions”. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The Basic Conditions are:

1. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
2. the making of the neighbourhood plan contributes to the achievement of sustainable development;
3. the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
4. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
5. prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan. The following prescribed condition relates to neighbourhood plans:
 - Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further Basic Condition in addition to those set out in the primary legislation. That the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended)).

2.6 Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements;
- That the plan should proceed to referendum if modified; or
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

2.7 If recommending that the Neighbourhood Plan is submitted to referendum my report must also recommend whether the area for the referendum should

extend beyond the neighbourhood area to which the Neighbourhood Plan relates, and if to be extended, the nature of that extension.

- 2.8 The role of an Independent Examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans. It is not within my role to comment on how the plan could be improved but rather to focus on whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention rights, and the other statutory requirements.
- 2.9 It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements.

The Examination Process

- 2.10 The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or so that a person has a fair chance to put a case.
- 2.11 I have sought clarification on a number of factual matters from the qualifying body and/or the local planning authority in writing. I am satisfied that the responses received have enabled me to come to a conclusion on these matters without the need for a hearing.
- 2.12 I had before me background evidence to the plan which has assisted me in understanding the background to the matters raised in the Neighbourhood Plan. I have considered the documents set out in Section 5 of this report in addition to the Submission draft of the Witton Gilbert Neighbourhood Development Plan 2018 – 2033 dated November 2018.
- 2.13 I have considered the Basic Conditions Statement and the Consultation Statement as well as the screening report for the Habitats Regulation Assessment and the Strategic Environmental Assessment. In my assessment of each policy I have commented on how the policy has had regard to national policies and advice and whether the policy is in general conformity with relevant strategic policies, as appropriate.
- 2.14 I have undertaken an unaccompanied visit to the Plan area and viewed the sites referred to under the policies in the plan.

Legislative Requirements

Qualifying Body

- 2.15 The neighbourhood plan making process has been led by Witton Gilbert Parish Council which is a “qualifying body” under the Neighbourhood

Planning legislation which entitles them to lead the plan making process. The Plan was prepared by the Neighbourhood Plan Steering Group.

- 2.16 I am satisfied that the requirements set out in the Localism Act (2011) and in Section 61F(1) and (2) of the Town and Country Planning Act (as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act) have been met.

The Plan Area

- 2.17 The Neighbourhood Plan area is co-terminus with the parish of Witton Gilbert. The area was designated by Durham County Council on 18 November 2013 as a Neighbourhood Area. The Basic Conditions Statement confirms that there are no other neighbourhood plans relating to that area.
- 2.18 This satisfies the requirements of preparing a Neighbourhood Development Plan under section 61G (1) (2) and (3) of the Town and Country Planning Act 1990 (as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004) and regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012.

Plan Period

- 2.19 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Plan and the Basic Conditions Statement state that the lifespan of the Neighbourhood Plan is 2018 – 2033.

Excluded Development

- 2.20 The Basic Conditions Statement confirms that the Plan does not include provision for any excluded development: county matters (mineral extraction and waste development), nationally significant infrastructure or any matters set out in Section 61K of the Town and Country Planning Act 1990.

Development and use of land

- 2.21 The Neighbourhood Development Plan should only contain policies relating to development and use of land. Subject to the modifications proposed, the WGPN would be compliant with this requirement of Section 38B of the Planning and Compulsory Purchase Act 2004 as amended.
- 2.22 I am satisfied therefore that the WGPN satisfies all the legal requirements set out in paragraph 2.4 above.

The Basic Conditions

Basic Condition 1 – Has regard to National Policy

- 2.23 The first Basic Condition is for the neighbourhood plan “to have regard to national policies and advice contained in guidance issued by the Secretary of State”. The requirement to determine whether it is appropriate that the plan is

made includes the words “having regard to”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy”.

2.24 The Planning Practice Guidance assists in understanding “appropriate”. In answer to the question “What does having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”

2.25 In considering the policies contained in the Plan, I have been mindful of the guidance in the Planning Practice Guide (PPG) that:

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like.”

2.26 In order to ensure that a neighbourhood plan can be an effective tool for the decision maker, the PPG advises 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.”

2.27 The NPPF of 2012 is referred to in this examination. Paragraph 214 of Appendix 1 of the February 2019 NPPF states that the policies of the 2012 NPPF will apply for the purpose of examining plans where those plans are submitted on or before 24 January 2019. The footnote to this paragraph confirms that this applies to neighbourhood plans.

2.28 NPPF paragraph 183 states that parishes can use neighbourhood planning to set planning policies through neighbourhood plans to determine decisions on planning applications. The Planning Practice Guidance on Neighbourhood Plans states that neighbourhood plans should “*support the strategic development needs set out in the Local Plan*” and further states that “*the neighbourhood plan must address the development and use of land by setting out planning policies to be used in determining planning applications because once the plan is made it will become part of the statutory development plan*”.

2.29 Paragraph 16 of the National Planning Policy Framework is clear that those producing neighbourhood plans should support the strategic development needs set out in local plans, including policies for housing and economic development. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. PPG guidance under Rural Housing

states that “*all settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless they can be supported by robust evidence*”.

- 2.30 The Basic Conditions Statement describes how each policy of the WGNP has had regard to the NPPF. It demonstrates that the Plan has regard to the elements set out in the NPPF relevant to the Plan Area and to delivering sustainable development.
- 2.31 I consider the extent to which the policies of the plan meet this Basic Condition No 1 in Section 3 below.

Basic Condition 2 - Contributes to sustainable development

- 2.32 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole constitutes the Government’s view of what sustainable development means in practice for planning. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental.
- 2.33 There is no legal requirement for a formal Sustainability Appraisal to be carried out in respect of neighbourhood plans. However good practice suggests that where neighbourhood plans are allocating land for development an appraisal should be carried out.
- 2.34 Section 3.2 of the Basic Conditions Statement considers how the WGNP contributes to the delivery of sustainable development with regards to economic, social and environmental aspects. Taking account of the information presented, I am satisfied that the WGNP contributes to the delivery of sustainable development.

Basic Condition 3 – is in general conformity with strategic policies in the development plan

- 2.35 The third Basic Condition is for the neighbourhood plan to be in general conformity with the strategic policies contained in the Development Plan for the area. The adopted strategic policies covering the Neighbourhood Plan area are contained in the saved policies of the City of Durham Local Plan 2004. Appendix A of the Basic Conditions Statement contains a list of the saved strategic policies identified by Durham County Council (DCC) for the purposes of Neighbourhood Planning. The new County Durham Plan is under preparation with the consultation on the Pre-Submission draft undertaken between January and March 2019. It was submitted on 28 June 2019.
- 2.36 The Basic Conditions Statement comments on how the Plan policies conform with the saved strategic policies and notes those strategic policies that do not accord with the NPPF. DCC has informed me that apart from the policy on windfall housing development, the housing policies are considered to be out of date.

- 2.37 The Plan makers have consulted planning officers at DCC to ensure that the WGNP is in accordance with emerging policies in the County Durham Local Plan. Particular attention has been given to Policies 1 and 11.
- 2.38 The emerging Local Plan makes provision for the full housing requirement for the entire plan period through deliverable commitments and site allocations. A strategic housing allocation of 1700 housing units and associated infrastructure is proposed adjoining Durham City within the Witton Gilbert Neighbourhood Area. There is also a committed site for 400 units adjacent to Langley Park which falls on the edge of the western boundary of the Witton Gilbert Neighbourhood Area.
- 2.39 The justification to Policy 1 recognises that these proposals may come forward over the neighbourhood plan period. The policy does not seek to undermine these strategic objectives.
- 2.40 The Council raised no concern over general conformity with the strategic policies of the development plan. I consider in further detail in Section 3 below the matter of general conformity with the strategic policies of the plan.

Basic Condition 4 – Compatible with EU obligations and human rights requirements

- 2.41 A neighbourhood plan must be compatible with European Union obligations as incorporated into UK law, in order to be legally compliant. Key directives relate to the Strategic Environmental Assessment Directive and the Habitats and Wild Birds Directives. A neighbourhood plan should also take account of the requirements to consider human rights.
- 2.42 Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that a Strategic Environmental Assessment (SEA) is submitted with a Neighbourhood Plan proposal or a determination from the responsible authority (Durham County Council) that the plan is not likely to have “significant effects.”
- 2.43 A screening opinion was carried out on the draft WGNP in July 2015 and it concluded that:

“Housing site H2 is the only site considered likely to give rise to negative environmental effects. However, effects are unlikely to be significant and can be minimised through:

- *avoiding development within the eastern part of the site (forms part of the Local Geological Site designation and is the most sensitive in terms of landscape character); and*
- *inclusion of a policy within the Plan that controls the density and scale of development throughout the remainder of the site to minimise impact upon landscape character, sense of place and the setting of heritage assets.*

SEA of the Witton Gilbert Neighbourhood Plan is therefore not required.”

2.44 Habitat Regulations Assessment (HRA) screening has been carried out on the draft plan in July 2015 and concluded that:

“Following assessment it can be concluded that the implementation of the WGNP will not result in likely significant effects to any of the relevant European Protected Sites.”

2.45 An updated covering note to the SEA and HRA screening was prepared in October 2018. It concluded that:

“Since this determination, the Witton Gilbert Neighbourhood Plan has been revised and no longer allocates land for housing. Whilst no land is allocated within the Plan for housing a comprehensive design approach for the area of south of Front Street is included within the Plan, (as per previous Screening Opinion recommendations) in the event that this land is found to be suitable for housing in the future.

“Durham County Council maintain that the original conclusion of the screening report can be upheld. was prepared in October 2018.”

2.46 The statutory environmental bodies: Historic England, Natural England and the Environment Agency were consulted on the SEA and HRA Screening Reports in July 2015. With the exception of the Environment Agency who considered that SEA was required as the Plan intended to allocate housing sites, the consensus of the statutory consultees was that SEA and Appropriate Assessment under the Habitats Regulations were not required. As none of the draft housing allocations were considered to give rise to significant environmental effects, the final determination of DCC was that neither SEA nor Appropriate Assessment under the Habitats Regulations was required. No comments were made by the environmental bodies on the final Screening Reports, consultation on which accompanied the consultation on the submission draft WGNP.

2.47 The Basic Conditions Statement includes a statement on Human Rights and concludes that *“The Witton Gilbert Neighbourhood Plan is fully compliant with European Convention on Human Rights. There is no discrimination stated or implied, or threat to the fundamental rights and freedoms guaranteed under the Convention.”*

2.48 From the evidence provided in this assessment and the Consultation Statement, I am satisfied that the plan makers have sought to consult the whole community and have taken their views into consideration in preparing the WGNP. I am satisfied that the Plan has met the requirements of the Human Rights Act.

2.49 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the WGNP is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

Consultation on the Neighbourhood Plan

- 2.50 I am required under The Localism Act 2011 to check the consultation process that has led to the production of the Plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.
- 2.51 The preparation of the WGNP began in 2013 to take forward the planning elements of the Parish Plan. A detailed questionnaire was sent to every household and establishment in the parish, and two public meetings were held as part of the consultation on the Parish Plan.
- 2.52 16 February 2015 – Front Street Consultation Event. The first consultation event for the Neighbourhood Plan focused on housing and the village centre project. The event was supported by Planning Aid and was attended by 15 landowners and local residents.
- 2.53 21 February 2015 – First Community Consultation event at the Cooper Hall Community Centre as an informal drop-in session explaining the nature of neighbourhood plans and how the community could get involved. It was attended by approximately 100 residents.
- 2.54 30 May 2015 – Second Community Consultation Event. A drop-in session that focussed on transport, heritage and the environment. Approximately 65 people attended.
- 2.55 2 June and 4 June 2016 – Consultation on initial draft plan. This consultation was on an initial ‘draft’ plan, and consulted on planning policies, and allocations for housing sites and a proposed settlement boundary for Witton Gilbert village. Approximately 70 people attending over the two days. The consultation was carried out online until 17 June.
- 2.56 On 9 August 2016 there was a meeting organised specifically for Front Street residents who would most likely be affected by the proposed housing development to the south of Front Street.
- 2.57 Consultation on the Regulation 14 Pre-Submission Draft Consultation was undertaken between 15 January to 27 February 2018. An open day was held where copies of the pre-submission draft plan were displayed as well as information about how consultation responses had led to the policy approach adopted in the Plan.
- 2.58 Publicity on the Plan comprised the following actions:
- Letters and/or emails sent to all consultation bodies and all other parties identified through the Plan database prior to commencement of the consultation period;
 - Publicity was given throughout the process via the local Parish newsletter and the community website.
 - The Plan and publicity material were posted on the website along with the main Evidence Base documents and all other consultation material;

- A full copy of the Pre-Submission Draft Plan was made available at the drop-in events.
- 2.59 A summary of the comments received to the Regulation 14 consultation is included in the Consultation Statement.
- 2.60 The Regulation 16 consultation took place between 17 January and 4 March 2019. Eleven responses were received to the consultation.
- 2.61 I have carefully considered the adequacy of the consultation process. From the evidence presented to me, I am satisfied that the consultation and publicity on the draft Plan has met the requirements of Regulations 14, 15 and 16 in the Neighbourhood Planning (General) Regulations 2012.
- 2.62 This report is the outcome of my examination of the second Submission Draft Version of the Witton Gilbert Neighbourhood Plan 2018 – 2033 dated November 2018. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions. My report makes recommendations based on my findings on whether the Plan meets the Basic Conditions and provided the Plan is modified as recommended, I am satisfied that it is appropriate for the Neighbourhood Plan to be made. If the plan receives the support of over 50% of those voting, then the Plan will be made following approval by Durham County Council.

3.0 Neighbourhood Plan – As a whole

- 3.1 The Neighbourhood Plan is considered against the Basic Conditions in this section of the Report following the structure and headings in the Plan. Given the findings in Section 2 above that the plan as a whole is compliant with Basic Conditions No 4 (EU obligations) and other prescribed conditions, this section largely focuses on Basic Conditions No 1 (Having regard to National Policy), No 2 (Contributing to the achievement of Sustainable Development) and No 3 (General conformity with strategic policies of the Development Plan).
- 3.2 Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.
- 3.3 Basic Condition 1 requires that the examiner considers whether the plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State. Before considering the policies individually, I have considered whether the plan as a whole has had regard to national planning policies and supports the delivery of sustainable development.
- 3.4 The Plan reflects a thorough and detailed understanding of the local area with policies relating to housing, the historic environment, the natural environment, community assets, transport and traffic, and the local economy.
- 3.5 Six maps are included in the Plan showing the boundary in the plan area, the Policies Map and village Inset Map, settlement boundary, historic zone and Local Green Spaces. The Policies Map covers the plan area and is difficult to read; it is supplemented by an Inset Map for the village of Witton Gilbert. The Policies Map and Inset Map for Witton Gilbert should be revised to relate to the policies in the Plan and the key should show the relevant policy number applicable to each area. For example, the development site H2 should be referenced to Policy 4.
- 3.6 To simplify the Policies Map, sites not addressed in the policies (eg. listed buildings and heritage assets) need not be included on the Policies Map although they may be included on other maps for completeness. Community assets listed under Policy 10 should be shown on the Policies Map. The Local Green Spaces Map is difficult to read when printed as there is little differentiation between the shading used for Local Green Spaces and the Green Belt. It may be helpful to Plan users to number the maps.
- 3.7 A number of policies state that certain types of development “will be permitted”. The NPPF paragraph 11 states that “*Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.*” The decision making authority will consider the policies of the development plan as a whole as well as other material considerations in determining planning applications. A Neighbourhood Plan cannot determine whether a particular form of development will or will not be permitted.

- 3.8 As the Plan was submitted before 24 January 2019, it has been considered against the 2012 NPPF. It is noted that references to the NPPF in the text of the Plan refer to paragraph numbers in the 2018 NPPF. It is recommended that they should be checked and updated where necessary to ensure consistency.
- 3.9 The punctuation of the policies should be checked. Where all criteria are to be satisfied, there should be a colon at the end of the introductory clause, a semi-colon at the end of each criterion and the word “and” should be added at the end of the penultimate criterion.
- 3.10 Sites should be named as well as numbered when referred to in the text and a clear map should be included so that decision makers can ascertain the boundaries of the site.
- 3.11 A number of Community Actions are included in the Plan and are clearly indicated as such.

Recommendation 1: Improve the clarity of the Policies Map, Inset Map and Local Green Spaces Map. Revise the Policies Map and village Inset Map to show the sites referred to in the policies with links to the relevant policy in the key.

Check the text and paragraph numbering of references to the NPPF.

The Neighbourhood Plan - Policies

Introduction

- 3.12 The Introductory sections of the Plan set out a detailed and clear background to the Plan area, the plan making process, the planning policy background and the key planning issues. It would be helpful to include a brief statement on the policy context for the plan area from the adopted and emerging Local Plans and the latest position on housing commitments and completions in the Plan area.

Vision and Objectives

- 3.13 A detailed Vision statement is set out that seeks “*to create a vibrant and sustainable community which has retained all of the important assets identified in the Neighbourhood Plan.*” Section 6 goes on to explain the Plan’s reasoning for each topic of the Plan. Objectives are set out in the opening paragraph of each section of the Plan.

Sustainable Framework for Witton Gilbert

- 3.14 This section provides a comprehensive framework for promoting sustainable development in the Plan area. The second paragraph of section 7.1.4 states that “an overarching sustainable development policy is proposed”. However,

as there is no specific policy to steer sustainable development, a revision to the wording of the is paragraph is recommended to improve its clarity.

Recommendation 2: Revise the second paragraph under section 7.1.4 to read:

“This section provides an overarching framework for the sustainable development of the Plan area. The plan contains specific planning policies on.....”

The Settlement Boundary

Policy 1: Settlement Boundary of Witton Gilbert

- 3.15 The policy designates a settlement boundary around the village of Witton Gilbert, updating that defined in the Durham City Plan. The second part of the policy refers to development in the countryside and states that it will not be supported unless allowed for by policies in the NPPF and the Local Plan and/or where it relates to one of five criteria. The first two relate to sites that will be allocated in the Local Plan; the final three are matters addressed in the NPPF. It is considered that the criteria in the policy add no locally specific details to national and strategic policies and it is recommended that they should be deleted. DCC has commented that these exceptions are adequately covered by national and local strategic policy.
- 3.16 The final paragraph includes a general statement about avoiding coalescence of Witton Gilbert with neighbouring settlements. However, the justification to the policy recognises that extensions to neighbouring settlements are likely to be allocated in the emerging Local Plan and that the countryside between the settlements is designated as Green Belt. It is recommended that this statement should be deleted as it is not necessary and may be considered to constrain the strategic policies. In any case the Green Belt safeguards the openness of the countryside between settlements. I have recommended consequential modifications to the justification.
- 3.17 The policy also refers to proposals “not subverting the policies, aims and objectives of the Plan”. It is not clear how this is to be applied and it is recommended that this statement should be deleted.
- 3.18 The clarity of the final paragraph of the justification could be improved to better reflect the content of the policy by including reference to the natural environment and built heritage.

Recommendation 3: Revise Policy 1 as follows:

Delete “and/or where the proposal relates to the following:” from the second paragraph of Policy 1 and delete criteria a) to e) and sub-criteria a) and b).

Delete the first sentence of the final paragraph “Proposals must not....objectives of the Neighbourhood Plan.”

Delete the following from paragraph 4 of the justification: “and this policy recognises that these sites may come forward in the future.”

Delete paragraph 5 of the justification. (These sites may come forward...).

Delete the second sentence of paragraph 6 (The exceptions cited...).

Delete paragraph 7 of the justification.

Revise paragraph 8 to read: “...respects the amenity of residents, *safeguards and conserves the natural environment and built heritage* and ensures”

Housing

- 3.19 A Housing Topic Paper has been prepared to support the WGNP. It states that no strategic housing numbers are available to steer the preparation of the Plan. As the emerging County Durham Local Plan is seeking to meet the County’s housing requirement, there is no specific housing requirement for the WGNP area. Although the Topic Paper proposes that the plan should aim for a maximum of 76 new homes to be built in the settlement of Witton Gilbert in the Plan period, the Plan does not include a figure for the housing requirement.
- 3.20 The Plan makers have chosen a design led approach to the delivery of the site H2 to the south of Front Street through Policy 4 supplemented with the Design Brief in Appendix A. Planning permission has recently been granted for housing development on this site for 19 dwellings and other applications are pending . This is to be supplemented with windfall development. DCC has informed me that 23 dwellings were completed in the Plan area between 2011 and 2015 and there are 30 commitments in addition to the site south of Front Street.
- 3.21 It is noted that a significant housing development is proposed in the Plan area through the emerging County Durham Plan through the release of Green Belt adjacent to Durham City to meet the needs of the wider area.
- 3.22 A number of potential housing sites were assessed during the preparation of the Plan in accordance with national guidance.

Policy 2: Housing development in Witton Gilbert Neighbourhood Plan Area

- 3.23 This policy sets out the approach to housing design and layout, and housing mix for developments throughout the Plan area. Additional site specific requirements are set out for site H2 under Policy 4.

- 3.24 The criteria should be renumbered as there is no criterion b). Reference to criterion b) in the final paragraph of section 7.3.4 should be corrected to a). The punctuation of the policy should be corrected in accordance with paragraph 3.9.
- 3.25 Section 7.3.5 paragraph 4 refers to site H1 being suitable for affordable or social housing. This would only be possible if it were delivered for 100% affordable or social housing by a social housing provider. The Qualifying Body has commented that they consider that this deliverable due to its location.
- 3.26 The only site in the Plan area that is likely to be large enough to attract a requirement for affordable housing as part of a mixed tenure development is site H2 to the south of Front Street. In response to my question on the matter, the Qualifying Body have responded that they consider that Appendix A provides the guidance for the development of this site. It is noted that whilst Appendix A discusses the type and density of housing, it does not consider the tenure of housing. It is considered that it would be helpful to plan users to include a statement about the delivery of affordable housing on site H2 within the justification to Policy 3.
- 3.27 The Police Crime Prevention Unit has suggested additional wording to the policy and justification to refer to the Secured by Design initiative. DCC has informed me that they consider that the saved City of Durham Local Plan Policy Q1 adequately addresses the subject. I consider therefore that there is no need to include the subject in the WGNP.
- 3.28 Historic England has suggested that the word “density” should be included in criterion a). I consider that this addition would better reflect national and strategic guidance.

Recommendation 4: Revise Policy 2 as follows:

Revise criterion a) to read “....scale, *density*, architecture.....”

Revise punctuation and numbering of criteria.

Revise reference to criterion a) in section 7.3.4.

Revise the second sentence of paragraph 4 of section 7.3.5 to read: “*....indicated that site H1 may be suitable for 100% affordable or social housing and site H2 would be suitable for a mixed tenure development including a proportion of affordable housing in accordance with the strategic policy.*”

Policy 3: Older People’s Homes

- 3.29 The first paragraph of the policy is unclear as it not worded as a policy; a modification is recommended to clarify the intention of the policy.

- 3.30 The second paragraph encourages the development of new dwellings to Building Regulation Requirement M4(2) as accessible and adaptable dwellings. However, the Written Ministerial Statement of March 2015 states that “*Neighbourhood Plans should not be used to apply the new national technical standards*” and they should only be applied through Local Plans if they address a clearly evidenced need and where their impact on viability has been considered in accordance with the NPPF and NPPG. I therefore recommend that the second and third paragraphs of Policy 3 should be deleted as it is not in accordance with national planning policy. The fourth paragraph of section 7.3.7 should be revised to become a community action and the last sentence revised to encourage the DCC to include a relevant policy in their emerging Local Plan.

Recommendation 5: revise Policy 3 as follows:

Revise the first paragraph to read: “*On sites of 10 or more dwellings, 10% of the dwellings shall be provided as dwellings suitable for older people. Appropriate house types considered suitable to meet this requirement include:*”

Delete the second and third paragraphs of Policy 3 concerning M4(2) standards.

Change the final sentence of the fifth paragraph of section 7.3.7 into a Community Action. Revise the final sentence to read: “*The Parish Council will encourage DCC to include a policy on the optional Building Regulations Requirement M4(2) in its emerging Local Plan.*”

Policy 4: Development in or adjacent to the Historic Zone and associated site H2

- 3.31 It is not clear where this policy is to be applied. It appears to relate to the development site to the south of Front Street but criterion b) refers to development within the Historic Zone. To improve the clarity and interpretation of the policy it is recommended that it should relate only to the development site shown in pink on the Inset Map and those aspects of the policy relating to the Historic Zone should be included in Policy 5. The key to the Policies Maps should include the relevant policies against each area.
- 3.32 In accordance with paragraph 3.7 above, the policy should not stipulate that development “will be permitted”. A modification is recommended to avoid this. Consequential revisions to the wording of the criteria may be required for grammatical purposes.
- 3.33 Northumbrian Water has responded to state that public sewers and two trunk water mains cross the site and may be affected by the proposed development. It is recommended that explanatory text is added to the justification to refer to these utilities.

3.34 Paragraph 7.3.9 incorrectly states that site H2 is of strategic importance.

Recommendation 6: Revise Policy 4 as follows:

Revise the title of the Policy to “Development of land to the south of Front Street, Witton Gilbert (site H2)”

Revise the first paragraph to read “Residential development on land to the south of Front Street will be supported where it:”

Revise criterion a) to read: “takes account of the Design Brief set out in Appendix A;”

Revise criterion b) to read “conserves and enhances the special character of the historic zone”.

Revise the first paragraph of section 7.3.9 to read: “Encouraging development on site H2 to the south of Front Street will help.....”

Add the following to the end of the fourth paragraph of section 7.3.9: “Regards will need to be had to the existence of water mains and public sewers which cross this site.”.

Historic Environment

Policy 5: Historic Zone of Witton Gilbert

3.35 The policy identifies the older part of the village of Witton Gilbert as a Historic Zone and sets out a policy for considering development proposals within or affecting the setting.

3.36 Historic England has commented the word “conserve” is more appropriate than “preserve” in criterion c). I agree that this would better effect national policy. They have also suggested a Community Action should be included under Policy 5 to seek to identify further the features and characteristics of the Historic Zone that contribute to its significance, in order to better protect them in the future with this policy. In response to my question on the matter, the Qualifying Body has agreed to this suggestion.

Recommendation 7: Revise Policy 5 as follows:

Revise criterion c) to read “...development conserving features...”

Include a new Community Action “The Parish Council will seek to identify further the features and characteristics of the Historic Zone that contribute to its significance, in order to better protect them in the future”.

Policy 6: Sustainable Design

- 3.37 The policy seeks to encourage the highest possible energy efficiency standards and includes two criteria to help deliver this: incorporating passive design measures to improve efficiency of heating, cooling, ventilation and lighting and incorporating small scale renewable and low carbon energy generation into the design of the development.
- 3.38 National planning policy is that any local guidance for the sustainability of buildings should reflect the Government's policy for the national technical standards. The Government 2015 Written Ministerial Statement states that energy performance requirements will be set in the Building Regulations.
- 3.39 The Building Regulations set out the minimum energy efficiency standards that can be required. Whilst higher standards may be desirable, it is not clear what is meant by "the highest possible standards". Neither is it appropriate for a neighbourhood plan policy to require the incorporation of renewable energy generation into the design of a building. There are a number of design solutions to improving energy efficiency (as well as passive designs) and examples should be cited in the justification and not the policy. Revisions to the wording of the policy are recommended to ensure that the policy conforms to national planning policy and to improve its clarity.
- 3.40 The punctuation of the policy should be corrected in accordance with paragraph 3.9 and the wording of criterion d) revised to ensure that it is grammatically correct.
- 3.41 The Police Crime Prevention Unit has suggested the addition of the word security to criterion 2 of the policy. DCC has informed me that they consider that the saved City of Durham Local Plan Policy Q1 adequately addresses the subject of security. I consider therefore that there is no need to include the subject in the WGNP.
- 3.42 Historic England has suggested that the Policy should extend local distinctiveness beyond buildings to landscape character, such as the impact of historic hedgerows and or other field boundary patterns and materials. In response to my question on the subject, the Qualifying Body has accepted the suggestion.

Recommendation 8: Revise Policy 6 as follows:

Delete "Development should be designed to achieve the highest possible energy efficiency standards" from the first paragraph.

Revise the second sentence of the first paragraph of the policy to read: "Design should contribute positively to place-making *and sustainable design* and should be developed in response to a robust analysis of *the character of the built environment and local landscape character*.

Replace "It must;" in the first paragraph with "It should:".

Delete from criterion b) “by incorporating passive design measures to improve energy efficiency of heating, cooling, ventilation and lighting.”

Delete criterion c).

Delete “any development proposals should” from criterion d).

Add a paragraph to the justification to give examples of measures that can be used to promote energy efficiency and the generation of renewable and low carbon energy.

Correct the punctuation in accordance with paragraph 3.9.

The Natural Environment and Biodiversity

Policy 7: Biodiversity in the Parish of Witton Gilbert

3.43 I make no comments on this policy.

Policy 8: Witton Dene Local Nature Reserve

3.44 I make no comments on the wording of Policy 8. However Natural England has commented that the policy makes no reference to Witton Dene woodland being ancient semi-natural woodland.

3.45 DCC has commented in response to my question that there are strategic policies that afford adequate protection to ancient semi-natural woodland. However it would be helpful to plan users to include reference to the designation in the justification and the strategic policy context.

Recommendation 9: Include the following after the first sentence in the first paragraph of 7.6.6 “*The area is designated as ancient semi-natural woodland and protected as such by strategic policies.*”

Local Green Spaces

Policy 9: Protection of Local Green Spaces

3.46 The policy proposes the designation of 15 areas as Local Green Spaces. A comprehensive assessment of the sites has been included in the background evidence against the criteria set out in the NPPF.

3.47 Sites G1, G2 and G5 are within the Green Belt. It is considered that these sites are already adequately safeguarded; their designation as Local Green Space will recognise their importance to the local community but give no additional safeguards.

- 3.48 Site G6, G7, G8 and G15 are amenity grass verges on the entrance to the village. Sites G3 and G12 are small landscaped areas within the historic core of the village. Whilst they all provide attractive areas that enhance the amenity of the village, the evidence that they are sufficiently “demonstrably special” to the community within the definition of the NPPF is not convincing. It is suggested that they should be safeguarded under an alternative policy such as “Local Amenity Areas” with a policy that would support their safeguarding and enhancement as local amenity areas.
- 3.49 The NPPF states that policies for managing development within a Local Green Space should be consistent with those for Green Belts. A revision is recommended to the final paragraph of the policy to ensure that it conforms to national planning policy. Examples of the type of development that may be acceptable should be included in the justification by way of interpretation of the policy and should be consistent with the NPPF.

Recommendation 10: Revise Policy 9 as follows:

Revise the title of the Policy to “Protection of Local Green Spaces and Local Amenity Areas.”

Revise the final paragraph of the policy to read: “The Local Green Space and Local Amenity Areas shall be safeguarded and enhanced as open spaces for recreation and amenity. Inappropriate development that is harmful to the Local Green Space will not be supported except in very special circumstances.” The examples may be included in the justification to explain how the policy should be interpreted.

Add a new paragraph to the policy: “The following areas shall be safeguarded as “Local Amenity Areas” list sites G3, G6, G7, G8, G12 and G15.” Delete these sites from the list of Local Green Spaces.

Policy 10: Protecting and supporting Community Assets

- 3.50 The policy supports the enhancement of community assets and the provision of new community facilities. The final paragraph of the policy sets out the matters to be considered in dealing with the loss of the last public house and last shop.
- 3.51 Revisions to the wording of the policy are recommended to improve its clarity and to avoid the use of the term “will be permitted” in accordance with paragraph 3.7. It should be noted that retail units may change form one type of retail use to another as permitted development and it is not possible to retain a shop as a general store.
- 3.52 The list of community assets includes the allotments which are safeguarded under Policy 9 as Local Green Space. The community assets covered by this policy should be shown on the Policies Map.

- 3.53 Criterion a) refers to the need to demonstrate that the land or building is no longer physically suitable for use as a public house or general store. In response to my question on whether this criterion should be revised to refer to financial viability the Qualifying Body has proposed revisions to the wording to this effect.

Recommendation 11: Revise Policy 10 as follows:

Revise the first paragraph to read:” Proposalscommunity value of the *following community assets*.....supported, subject to any developments being in accordance with the *policies of the development plan*.”

Delete “Current”.

Delete “Witton Gilbert Allotments”

Revise the second paragraph to read: “*Proposals that would result in the loss of the last public house or last retail shop in the village will only be supported where they include a robust justification to demonstrate:*

Revise criterion a) to read “*It can be demonstrated that the commercial use of the property as a public house or retail shop is no longer financially viable;*”

Number the community assets and show on the Policies Map / Inset Map.

Transport and Traffic

Policy 11: Safety improvements on the road, cycling and walking network.

- 3.54 Section 7.9.3 sets out key issues relating to transport and traffic. To be consistent with other topics in the Plan, it would be more appropriate to summarise the issues and include them in section 5 or where suitable to include them as Community Actions.
- 3.55 The policy provides support to traffic calming and improved road safety measures. It is considered that as this is a policy concerned with road safety and not with the development and use of land, it does not conform with national planning policy. It is recommended that it should be deleted and the proposals should be set out as Community Actions.

Recommendation 12: Delete Policy 11.

Move the key issues from section 7.9.3. to section 5.

Set out Community Actions on traffic calming, speed reduction measures and road safety.

Local Economy

Policy 12: Broadband and Telecommunications

- 3.56 The policy is entitled Broadband and Telecommunications, however it only sets out a policy relating to broadband. It is recommended that the title should be amended.
- 3.57 DCC has commented that the phrase “either in terms of financial viability or lack of market demand for these products” is unnecessary and should be deleted. I agree with the suggestion.

Recommendation 13: Revise the title of Policy 12 to “Broadband”.

Delete “either in terms of financial viability or lack of market demand for these products” from the policy.

Policy 13: New and expanding business development and farm diversification

- 3.58 I make no comments on this policy.

Policy 14: Home working

- 3.59 The policy sets out matters to be considered in determining applications for changes of use of part of a dwelling and for small buildings in the curtilage of a dwelling for business use. Modifications are recommended to improve the clarity of the policy and in accordance with paragraph 3.7 above to avoid the use of the term “will be permitted”.

Recommendation 14: Revise Policy 14 as follows:

Revise the first paragraph to read: “....proposals will be *supported* for....office and / or *B1* uses,.....

Revise criterion b) to read: “*it is demonstrated that*”

Revise criterion c) to refer to “*the development plan*” instead of “this Plan”.

Policy 15: Community energy generation projects

- 3.60 The policy sets out criteria to be used to consider community energy generation projects. Criterion a) states that every effort should be made to prevent the loss of best and most versatile agricultural land.

- 3.61 NPPF paragraph 112 states that “*Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality*”.
- 3.62 Much of the agricultural land in the Plan area is shown on regional maps as Grade 3 land. In response to my question on the availability of best and most versatile agricultural land in the plan area, the Qualifying Body has stated that they have no evidence to distinguish between Grade 3a and 3b land in the parish. It will therefore be necessary for site specific surveys to be undertaken to apply this criterion.
- 3.63 I propose no modifications to the policy.

Monitoring and Review

- 3.64 The Plan recognises the importance of monitoring and review and sets out the key tasks.

4.0 Referendum

- 4.1 The Witton Gilbert Neighbourhood Plan reflects the views held by the community as demonstrated through the consultations and, subject to the modifications proposed, sets out a realistic and achievable vision to support the future improvement of the community.
- 4.2 I am satisfied that the Neighbourhood Plan meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified, meets the Basic Conditions namely:
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contributes to the achievement of sustainable development;
 - is in general conformity with the strategic policies contained in the Development Plan for the area;
 - does not breach, and is otherwise compatible with, EU obligations and human rights requirements
- 4.3 **I am pleased to recommend to Durham County Council that the Witton Gilbert Neighbourhood Plan should, subject to the modifications I have put forward, proceed to referendum.**
- 4.4 I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. In all the matters I have considered I have not seen anything that suggests the referendum area should be extended beyond the boundaries of the plan area as they are currently defined. I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area designated by the Durham County Council on 18 November 2013.

5.0 Background Documents

5.1 In undertaking this examination, I have considered the following documents

- Witton Gilbert Neighbourhood Plan Submission Draft Version 2018 – 2033 dated November 2018;
- Witton Gilbert Neighbourhood Plan Basic Conditions Statement;
- Witton Gilbert Neighbourhood Plan SEA and HRA Screening Reports July 2015 and covering note October 2018;
- Witton Gilbert Neighbourhood Plan Consultation Statement;
- Witton Gilbert Neighbourhood Plan Housing Topic Paper October 2017;
- Witton Gilbert Neighbourhood Plan Assessment of Housing Sites;
- Witton Gilbert Neighbourhood Plan Assessment of Local Green Spaces;
- National Planning Policy Framework March 2012 and February 2019;
- Planning Practice Guidance March 2014 (as amended);
- The Town and Country Planning Act 1990 (as amended);
- The Localism Act 2011;
- The Neighbourhood Planning (General) Regulations 2012;
- City of Durham Local Plan 2004 saved policies
- Emerging County Durham Local Plan pre-submission draft 2019.

6.0 Summary of Recommendations

Recommendation 1: Improve the clarity of the Policies Map, Inset Map and Local Green Spaces Map. Revise the Policies Map and village Inset Map to show the sites referred to in the policies with links to the relevant policy in the key.

Check the text and paragraph numbering of references to the NPPF.

Recommendation 2: Revise the second paragraph under section 7.1.4 to read:

“This section provides an overarching framework for the sustainable development of the Plan area. The plan contains specific planning policies on.....”

Recommendation 3: Revise Policy 1 as follows:

Delete “and/or where the proposal relates to the following:” from the second paragraph of Policy 1 and delete criteria a) to e) and sub-criteria a) and b).

Delete the first sentence of the final paragraph “Proposals must not....objectives of the Neighbourhood Plan.”

Delete the following from paragraph 4 of the justification: “and this policy recognises that these sites may come forward in the future.”

Delete paragraph 5 of the justification. (These sites may come forward...).

Delete the second sentence of paragraph 6 (The exceptions cited...).

Delete paragraph 7 of the justification.

Revise paragraph 8 to read: “...respects the amenity of residents, *safeguards and conserves the natural environment and built heritage* and ensures”

Recommendation 4: Revise Policy 2 as follows:

Revise criterion a) to read “....scale, *density*, architecture.....”

Revise punctuation and numbering of criteria.

Revise reference to criterion a) in section 7.3.4.

Revise the second sentence of paragraph 4 of section 7.3.5 to read: “indicated that *site H1 may be suitable for 100% affordable or social housing and site H2 would be suitable for a mixed tenure development including a proportion of affordable housing in accordance with the strategic policy.*”

Recommendation 5: revise Policy 3 as follows:

Revise the first paragraph to read: “*On sites of 10 or more dwellings, 10% of the dwellings shall be provided as dwellings suitable for older people. Appropriate house types considered suitable to meet this requirement include:*”

Delete the second and third paragraphs of Policy 3 concerning M4(2) standards.

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Revise the second sentence of the first paragraph of the policy to read: “*Design should contribute positively to place-making and sustainable*”

design and should be developed in response to a robust analysis of *the character of the built environment and local landscape character*.

Replace “It must;” in the first paragraph with “It should:”.

Delete from criterion b) “by incorporating passive design measures to improve energy efficiency of heating, cooling, ventilation and lighting.”

Delete criterion c).

Delete “any development proposals should” from criterion d).

Add a paragraph to the justification to give examples of measures that can be used to promote energy efficiency and the generation of renewable and low carbon energy.

Correct the punctuation in accordance with paragraph 3.9.

Recommendation 9: Include the following after the first sentence in the first paragraph of 7.6.6 “*The area is designated as ancient semi-natural woodland and protected as such by strategic policies.*”

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