

# **Crich Parish Neighbourhood Plan 2017-2031**

## **The Report by the Independent Examiner**

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22 March 2018



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## Summary

The preparation of the Crich Parish Neighbourhood Plan has been a substantial undertaking for the Parish Council. I have found the preparation of the Plan to be generally thorough and in accordance with the legislation and Planning Practice Guidance. The only significant procedural issue I have identified is the need to revisit the screening determination on the need for a Strategic Environmental Assessment because of a significant modification to the Plan since the original screening determination.

The policies of the Plan are detailed and carefully worded. They are based on a thorough analysis of the parish and its needs and supported by appropriate evidence. There is also clear evidence of joint working with Amber Valley Borough Council to achieve alignment with strategic policies and take account of the emerging Local Plan. I have found it necessary to recommend some modifications to meet the basic conditions. Most of these are relatively modest to correct errors, make the intentions of the policy clear or to provide clear guidance to decision makers. In a few cases the recommended modifications are more significant and have regard to national policy and guidance. These relate to the deletion of some of the identified views, possible housing exception sites, some aspects of the design guidance and changes of use in the village centre.

I am grateful for the assistance provided during the course of the examination in answering my queries by the Borough and Parish Councils.

Subject to the modifications I have recommended, I have concluded that the Crich Parish Neighbourhood Plan has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012 and that:

Having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;

The making of the Plan would contribute to the achievement of sustainable development;

The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;

The Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

**I am therefore pleased to recommend that the Crich Parish Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.**

I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. The Plan includes the whole Parish of Crich and I have seen nothing to

suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”.<sup>1</sup> **I therefore conclude that there is no need to extend the referendum area.**

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<sup>1</sup> PPG Reference ID: 41-059-20140306

## **Introduction**

1. The Localism Act 2011 has provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.
2. Crich Parish Council is the qualifying body for the Crich Parish Neighbourhood Plan 2017-2031, which I shall refer to as the CPNP or the Plan. The Plan covers the whole of the parish of Crich.
3. Crich is a large parish which lies about 10 miles north of Derby and 3 miles south-east of the boundary of the Peak District National Park. The parish includes three villages: Crich, which is much the largest, Whatstandwell and Fritchley and there are also several smaller hamlets. In 2011 the population was 2,898.
4. If, following a recommendation from this examination, the Plan proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and will then form part of the statutory development plan. This would make it an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

## **Appointment of the Independent Examiner**

5. I have been appointed by Amber Valley Borough Council (AVBC), with the agreement of Crich Parish Council (CPC) to carry out the independent examination of the CPNP.
6. I confirm that I am independent of both AVBC and CPC and have no interest in any land which is affected by the CPNP. I have never had any other professional involvement in Crich.
7. I am a Chartered Town Planner with over 30 years' experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I have completed over 25 neighbourhood plan examinations and three health checks. I therefore have the appropriate qualifications and experience to carry out this examination.

## **The Scope of the Examination**

8. The nature of the independent examination is set out in Sections 8-10 of Schedule 4B of the Town and Country Planning Act 1990.
9. I must:
  - i. Decide whether the plan complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. These requirements relate

primarily, but not exclusively, to the process of preparing the Plan and I shall deal with these first.

- ii. Decide whether the neighbourhood development plan meets the basic conditions contained in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990. This element of the examination relates mainly to the contents of the Plan.
  - iii. Make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the Plan area.
10. The Plan meets the basic conditions if:
- i. Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Plan;
  - ii. The making of the Plan contributes to sustainable development;
  - iii. The making of the 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);
  - iv. The making of the Plan does not breach, and is otherwise compatible with, EU obligations.
11. I am also required to consider whether the Plan is compatible with the European Convention on Human Rights.
12. Paragraph 9 of Schedule 4B indicates that as a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case. In carrying out the examination I concluded that the examination could be completed without a hearing.
13. The main documents to which I have referred in the examination are listed below:
- Crich Parish Neighbourhood Plan 2017-2028 Submission Version August 2017
  - Crich Parish Neighbourhood Plan Basic Conditions Statement
  - Crich Parish Neighbourhood Plan Consultation Statement
  - Crich Parish: Villages in a landscape – Appraisal and Policy Guidance, Produced in October 2016 for the Crich Parish Neighbourhood Plan by Urban Forward Ltd
  - Crich Heritage Report
  - Local Green Spaces Report
  - Significant Views
  - Transport within Crich Village
  - Responses to Regulation 16 publicity on Submission Plan
  - Crich Parish Neighbourhood Plan Strategic Environmental Assessment Screening Opinion prepared by Aecom for Amber Valley Borough Council.



- Environmental Assessment of Plans and Programmes Regulations 2004 Regulation 9 Screening Determination: Crich Parish Neighbourhood Plan
  - Amber Valley Local Plan 2006
  - Amber Valley Borough Local Plan Pre-submission Draft 2017
  - The Neighbourhood Planning (General) Regulations 2012 as amended in 2015, which are referred to as the NPR
  - The Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).
  - The National Planning Policy Framework which is referred to as the NPPF
  - National Planning Practice Guidance referred to as PPG
14. The documents submitted include all of those that are required to be submitted under regulation 15 of the NPR.
15. I made an unaccompanied visit to Crich on 5 January 2018 to familiarise myself with the Parish and help me to understand the implications of the Plan policies. I spent several hours walking and driving around the Parish and viewing all the key locations referred to in the Plan.
16. During the examination I sought clarification on several points. My emails and the responses to them have been posted on the AVBC website along with documents referred to in the responses.

### **The Preparation of the Plan**

17. An application for the designation of the Parish as a neighbourhood area was submitted by CPC to AVBC on 6 November 2014. It was publicised in accordance with regulation 6 of the NPR and approved by AVBC 12 February 2015. I am satisfied that the designation of the neighbourhood area met the legal requirements.
18. As required under section 38B (1) (a) of the Planning and Compulsory Purchase Act 2004 the Plan clearly states the period to which it relates, which is 2017-2031.
19. The Plan must not include any provision about development that is excluded development as defined in section 61K which is inserted into the 1990 Town and Country Planning Act. Excluded development includes “county matters”, such as mineral extraction and waste disposal, and major infrastructure projects. I am satisfied that the submitted Plan contains no policies which relate directly to these matters.
20. I am also satisfied that the Plan does not relate to more than one neighbourhood area.

## Public Consultation

21. The Consultation Statement describes the various stages of consultation that were undertaken during the preparation of the Plan. A Steering Group was formed immediately after the designation of the Neighbourhood Area and the intention to prepare a neighbourhood plan was publicised twice in the Crich Area Community News Magazine. Subsequent publicity made use of Crich Market Place on Saturdays and Crich Fete. In July 2015 a stall at the fete sought initial thoughts on what people like about the village and this was followed in January 2016 by a village survey distributed to all households which attracted a response rate of 32.2%, which in my experience is excellent. Between February and July 2016 there were events to involve two of the primary schools and several Task Groups were formed to prepare the Plan. In July 2016 the draft policies were publicised at the Crich Fete. In the Autumn of 2016 there was a survey of local businesses which attracted responses from 22 businesses out of 41, again a very good response.
22. Pre-submission Consultation took place between 20 March and 1 May 2017. The Plan was placed on the website together with an online and downloadable comments form. Leaflets were circulated to all households giving details of where the Plan could be viewed and providing information on four “drop-ins” where the Plan could be discussed.
23. As required by regulation 14 of the NPR the Consultation Statement lists the comments received and presents the response of the Steering Group and the action taken. The first part of Appendix 6 of the Consultation Statement also indicates that the statutory bodies listed in Schedule 1 of the NPR were consulted. It is not clear from the consultation statement that the draft plan was brought to the attention of businesses, but it has been confirmed to me that the leaflet circulated to households was also circulated to all businesses. Also, the Crich Business Group, umbrella employer organisations and the Local Economic Partnership were consulted.
24. The Consultation Statement also describes a further stage of consultation in relation to a conflict between one of the policies in the draft Neighbourhood Plan and the emerging Local Plan. Following discussions with AVBC the draft Plan was modified to reflect the views of AVBC. As this was a significant change to the draft Plan additional consultation was arranged in July 2017 in the form of a leaflet distributed to all the households in the parish and a drop-in meeting at the Community Centre at which the reasons for the change were explained. While this was a significant change, I am satisfied that its impact on the Plan as a whole is not so great that it should have necessitated a repetition of the regulation 14 consultation.
25. Consultation on the submitted plan took place between 22 September and 3 November 2017 in accordance with regulation 16 of the NPR.
26. I am satisfied that the consultation that took place during the preparation of the Plan exceeded the requirements of the NPR.

## The Basic Conditions Test – The Plan taken as a whole

27. The consideration of whether the Plan meets the basic conditions is the main focus of the independent examination process. This section of my report clarifies the meaning of each of these conditions and considers how the Plan, taken as a whole, meets them.

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

28. There are two important points to emphasise in relation to this. The first is that I must consider this requirement in relation to the making of the Plan; it thus applies to the Plan as a whole rather than to individual policies. The second point is the use of the phrase *“having regard to”*. This means that I must consider the national policy and advice but it does not mean that each policy should be in absolute conformity with it. PPG explains that *“having regard to national policy”* means that *“a neighbourhood plan must not constrain the delivery of important national policy objectives”*.<sup>2</sup> The Plan as a whole is clearly the sum of its policies and it is therefore necessary to consider the extent to which each policy complies with national policy and guidance. However, in reaching my conclusion on this basic condition it is the relationship of the Plan as a whole with national policies and guidance rather than individual policies which is the key consideration.
29. The Basic Conditions Statement indicates the relationship of each of the objectives of the Plan to the goals which make up the section headings in the NPPF. It goes on to relate each of the policies in the Plan to the particular paragraphs of the NPPF and to summarise how the policies are consistent with national policy.
30. Also, relevant to this element of the basic conditions test is “...guidance issued by the Secretary of State” as set out in PPG. This is referred to briefly in the Basic Conditions Statement<sup>3</sup>, in relation to the relationship between a neighbourhood plan and an emerging local plan. The CPNP has been prepared in the absence of an up to date plan and alongside the emerging Local Plan. There is evidence of effective co-operation between CPC and AVBC to ensure effective alignment between the Plan and the emerging Local Plan. This has clearly been difficult at times, as there has been disagreement over an allocation at Crich Common which is proposed in the pre-submission draft of the emerging Local Plan, but this joint working has been effective in addressing rather than ignoring a challenging issue.
31. PPG also contains extensive guidance on both general principles and specific aspects of the preparation of neighbourhood plans<sup>4</sup> some of which I have already referred to. It is

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<sup>2</sup> PPG What does having regard to national policy mean? Reference ID: 41-069-20140306

<sup>3</sup> Basic Conditions Statement paragraph 3.3

<sup>4</sup> PPG Neighbourhood Plan, Reference ID Paragraphs 41-001 to 41-087

important to be able to demonstrate that the preparation of the Plan has had regard to this. In my report I make frequent reference to PPG, but I need to emphasise the importance of the guidance on the formulation of policies. *“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 plan for which it has been prepared”*<sup>5</sup>. Also *“Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn on to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan...”*<sup>6</sup>

32. I have considered each policy in turn having regard to national policy and guidance and my findings on each policy are set out later in this report. Taking the plan as a whole, and subject to the modifications I have recommended, there is no serious conflict between the policies of the Plan and national policies and guidance.

***“The making of the Plan contributes to sustainable development”***

33. There is inevitably considerable overlap between the requirements for satisfying this basic condition and the previous one as the NPPF clearly states that *“the purpose of the planning system is to contribute to the achievement of sustainable development and the policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.”*<sup>7</sup>
34. The NPPF then spells out the three dimensions of sustainable development: economic, social and environmental, and emphasises the interdependent nature of these. Again, it is important to note that the assessment to be undertaken relates to the Plan as a whole, but clearly the contribution of each policy needs to be considered to enable a conclusion to be reached and policies which fail to demonstrate that they contribute to sustainable development are likely to require modification or deletion. As the NPPF points out, local circumstances vary greatly and that influences the way in which contributions to sustainable development can be made.<sup>8</sup>
35. The Basic Conditions Statement only addresses the achievement of sustainable development briefly by summarising in paragraphs 4.1-4.3 how the CPNP relates to the three dimensions of sustainable development.

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<sup>5</sup> PPG Neighbourhood Planning How should the policies in a neighbourhood plan be drafted? Reference ID: 41-041-20140306

<sup>6</sup> PPG Neighbourhood Planning What evidence is needed to support a neighbourhood plan? Reference ID 41-040-20160211

<sup>7</sup> NPPF Paragraph 6

<sup>8</sup> NPPF Paragraph 10

36. The contribution of each of the policies of the Plan to sustainable development is considered later in my report. However, taken as a whole I am satisfied that the Plan contributes to sustainable development.

***“The making of the plan is in general conformity with the strategic policies contained in the development plan for the area”***

37. As with the previous two conditions, the test applies to the Plan as a whole, but also requires consideration of individual policies against relevant strategic policies in order to reach an overall conclusion. The test of “*general conformity*” is fundamentally that the neighbourhood plan policies should not undermine the strategic policies of the Local Plan. The test is spelt out more fully in PPG.<sup>9</sup> It does not preclude some variation from a strategic policy where it is justified by local circumstances providing the proposal upholds the general principle that a strategic policy is concerned with. However, any departure from development plan policies needs to be clearly justified.
38. The statutory development plan is made up of:
- The saved policies of the Amber Valley Local Plan 2006
  - The saved policies contained within the Derby and Derbyshire Minerals Plan adopted in 2000 and amended in 2002
  - The saved policies contained within the Derby and Derbyshire Waste Local Plan adopted in 2005.
39. Table 3 in the Basic Conditions Statement relates each of the neighbourhood plan policies to the saved policies of the Local Plan. In doing so it explains clearly and concisely how each policy reflects the requirements of the Local Plan policies and how it adds to them. This has been very helpful to my examination. Taking the Plan as a whole I am satisfied that it is in general conformity with the saved Local Plan policies.
40. There is no requirement for CPNP policies to be in general conformity with those of the emerging Amber Valley Local Plan for the period up to 2028 as these could be subject to change. However, the Basic Conditions Statement recognises that the Saved Local Plan policies will be superseded fairly soon and that the evidence base of the emerging Local Plan is an important consideration in considering whether the Plan meets the basic conditions. Table 4 helpfully relates the CPNP policies to those of the Pre-Submission Draft of the Local Plan.
41. With regard to the Minerals and Waste Plans I have not identified or been made aware of any conflict with the policies of these plans or the pre-submission draft of the emerging Minerals and Waste Plan.

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<sup>9</sup> PPG What is meant by ‘general conformity’? Reference ID 41-074-20140306

***“The making of the order does not breach and is otherwise compatible with EU obligations”***  
Strategic Environmental Assessment and Appropriate Assessment under the Habitats Regulations

42. PPG indicates that *“where a neighbourhood plan is likely to have significant environmental effects it may require a strategic environmental assessment”*<sup>10</sup>, subsequently referred to as SEA. A SEA requires the preparation of an environmental report. In order to determine whether the plan is likely to have a significant environmental effect, a screening assessment is necessary.
43. Regulation 15 of the NPR requires that the submission of a neighbourhood plan must include:  
*“(i) an environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans Regulations (EAPPR) or  
(ii) where it has been determined under regulation 9(i) of these Regulations that the proposal is unlikely to have significant environmental effects (and accordingly does not require an environmental assessment), a statement of reasons for the determination”.*
44. Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (CHSR) puts into effect the requirements of Article 6.3 of the EU Habitats Directive and requires that:  
*“(1) Where a land use plan -  
is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of the site, the plan-making authority must before the plan is given effect, make an appropriate assessment of the implications of the site in view of that site’s conservation objectives.”*  
Amendments to these regulations were made in the Schedule 2 to the NPR which inserted Regulation 102A to the CHSR:  
*“A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.”*
45. The AVBC website includes a link to a Screening Opinion on the need for both SEA and an Appropriate Assessment under the Habitats Regulations prepared by AECOM in February 2017. This concluded that the policies of the CPNP were unlikely to have significant effects and that neither SEA nor HRA were necessary. The website also shows a link to a determination under regulation 9(i) of the EAPPR by AVBC, dated March 2017 that these assessments would not be necessary together with a statement of reasons. While both these documents are shown separately on the AVBC website from the submission documents it has

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<sup>10</sup> PPG Does a neighbourhood plan require a strategic environmental assessment? Reference ID: 11-027-20150209

been confirmed to me that they were included and this is shown in the letter which accompanied the submission documents, which has been posted on the AVBC website.

46. The Screening Report for SEA also covered the possibility of the need for an Appropriate Assessment under the Habitats Regulations. It notes that the nearest European Sites are the Gang Mines Special Area of Conservation, 4 miles to the north-west of the parish and the Peak District Dales 5 miles to the north-west. It concludes that the Plan is unlikely to have significant effects on these sites because of their distance from the Parish and the limited scale of development envisaged. The response of Natural England supported this conclusion.
47. The AECOM screening opinion states that *“Should the scope or nature of the NP change substantially through further revisions of the draft plan then this opinion should be revisited.”* It was confirmed to me that the screening opinion had not been re-visited following the change to the draft plan after the regulation 14 consultation which included the extension of the Settlement Development Boundary of Crich to include a site proposed for residential development in the emerging Local Plan. The proximity of this site to an SSSI is a material consideration.
48. In response to a query from me AVBC has stated *“As the impacts of development arising from the proposed housing growth site have been assessed and considered through the Sustainability Appraisal process and Habitat Regulations Screening Assessment (May 2017) it was considered that no changes were required to the SEA screening determination.”* This Sustainability Appraisal relates to the emerging Local Plan which has not been subject to examination. While none of the statutory consultees has responded to the regulation 16 consultation on the CPNP to suggest that the change does require an SEA or HRA, the change was not drawn to their attention when it was made. I therefore decided that for the Plan to be in conformity with European Regulations it was necessary to revisit the Screening Opinion and consult the Statutory Bodies to establish whether a SEA is necessary. A revised Screening Determination has been prepared by AVBC. It states that a SEA is not necessary as the potential environmental effects are capable of being dealt with through the development management process. The consultation bodies were consulted on this determination before it was issued and have endorsed this conclusion. The revised Screening Opinion is posted on the AVBC website and is attached as Appendix 1.
49. I conclude that the making of the Plan does not breach and is otherwise in conformity with European Regulations.

### **Human Rights**

50. Nothing in the Plan suggests that there would be any breach of the European Convention on Human Rights.

## Community Vision and Objectives

51. Based on the feedback from community engagement, the NPSG developed a Vision for the future of the Parish in 2031 and seven Community Objectives that set out how the vision is to be achieved. The vision states that:
- “by 2031 Crich Parish will be*
- A community with a distinct character and rich heritage within a rural parish, where open countryside is valued and protected.*
  - Settlements maintain their unique identities and sense of place and do not coalesce.*
  - An inclusive community with affordable, good quality homes that meet local needs, supported by the appropriate infrastructure ( e.g.school places and medical facilities) to serve a growing population.*
  - Local shops and businesses continue to make a valuable contribution to a thriving community. Local employment opportunities are supported by high-speed broadband for the whole parish.*
  - A friendly community with a strong social capital, supported by excellent community facilities for residents and visitors of all ages, safe and walkable neighbourhoods and access to quality open spaces.”*
52. The seven objectives are aligned closely with the vision. The Vision and Community Objectives are not formal policies and therefore will not form part of the statutory development plan. However, they are clearly important in determining the direction of the CPNP and they should therefore be consistent with the basic conditions. I am satisfied that the Vision and Community Objectives address the three dimensions of sustainable development and have only one reservation in terms of the basic conditions. Community Objective 6 supports *“housing development that is sustainable and proportionate and demonstrably meets the needs of the local community”*. Crich is a large parish that forms part of a wider housing market area. Thus, depending on strategic policies, while it is important that new housing development has regard to local needs, it may not be consistent with the presumption in favour of sustainable development to preclude development that may play a part in meeting the housing needs of a wider area. The objective, although it does not express this, does not preclude it.

## Pre-Application Community Consultation

53. This section of the Plan sets out an aspiration that the Parish Council and the local community should be consulted at an early stage in the planning process in relation to major development proposals. It is consistent with the encouragement given in the NPPF (paragraph 188) to pre-application discussion, but by not making this a policy the Plan recognises that such engagement cannot be required. It is entirely appropriate to set out the wishes of the Parish in this way and to make it clear that such engagement is unlikely to be



necessary in relation to smaller scale development.

### **Neighbourhood Plan Policies**

54. I have considered all the policies of the Plan against the basic conditions, having regard to the evidence provided to justify them. Where necessary I have recommended modifications. I am only empowered to make modifications necessary to meet the basic conditions or to correct errors.
55. In considering the policies I have taken account of all the comments made during the preparation of the Plan with a particular focus on comments made in response to the regulation 16 consultation on the submitted plan. While I have not referred directly to all the comments made I have given attention to all of them.
56. CPC has also submitted a clarification in response to matters raised by AVBC in its regulation 16 representations and I have taken this into account.

### **Policy NP 1: Spatial Strategy**

57. Policy NP1 sets out the overall approach to development in Crich. The policy is in two parts. The first sets out five criteria which relate to the location of development within settlement boundaries, the protection of the natural and built environment and the maintenance of a good range of services. The second part provides more explicitly for development proposals *“in the region of 5 dwellings within the settlement boundaries”* and the possibility of rather larger developments on brownfield sites in the interests of the efficient use of land.
58. There is a close relationship between this policy and Policy NP2 in which the extent of settlement boundaries is defined. This is clearly a crucial determinant of the scale of development that is being provided for. This is a central issue in the consideration of whether the Plan will contribute to sustainable development and meet the other basic conditions and I have considered it fully in relation to Policy NP2. However, in setting the context for the policy Map 6, the text on pages 30 and 31 and Table 7 present a confusing and incomplete picture. In particular the column headed Approved Planning Applications appears to relate to the whole of Crich Parish but in fact only includes the dwellings approved in the three applications off Roes Lane in Crich itself (which I have been informed now total 176 rather than 181). It excludes the recent permission for 18 dwellings off Coast Hill and the permission for 16 dwellings on land off the Common at Fritchley. This means that there is planning permission for 210 dwellings. While this covers larger developments it may exclude other permissions for individual or smaller groups of dwellings.

### **Recommendation**

**In Table 7 amend the column headed “Approved Planning Applications May 2016” to include the permissions off Coast Hill and at Fritchley and include any other outstanding planning permissions.**

59. I find no conflict between the concept of settlement boundaries and the basic conditions. Gladman has argued that they “*arbitrarily restrict suitable development from coming forward on the edge of settlements*”. However, a considered approach to the definition of settlement boundaries that takes account of the form and character of the settlement, landscape quality and other appropriate criteria need not be arbitrary. One of the purposes of planning policies is to provide some clarity on where planning permission is likely to be granted and where it is not and a settlement boundary is an appropriate way of doing this, providing it can accommodate enough development to meet the basic conditions.
60. Criteria b) to e) of part one of the policy are expressed in very general terms and relate to issues that are addressed in much more detail in other policies. As expressed in Policy NP1 they lack clarity and cross references to the more detailed policies would assist the application of the policy. In criterion e) the phrase “putting an unreasonable burden on existing infrastructure and services” lacks clarity in that it does not define “unreasonable” or “infrastructure and services”.
61. In Part 2 of the Policy the reference to “*development proposals in the region of 5 dwellings*” has been questioned by both P & DG on behalf of Wheeldon Brothers and Gladman Developments. The comments suggest that the limitation on scale has not been justified, is too restrictive to be consistent with the NPPF and would limit the potential of the Plan to provide affordable housing. I note that the policy has been amended from the pre-submission draft, which set a limit of 5 dwellings, to provide some flexibility. AVBC also comment that the policy is more restrictive than Saved Policy H3 in the adopted Local Plan or Policy H1 in the emerging Local Plan.
62. I accept that it is likely that most development would be relatively small scale infill, because of the scale of the plots available. However, there may be I can find no clear justification for 5 dwellings as a guide, particularly as the proposed allocation in the emerging Local Plan in Crich on land West of Crich Common, which the extension of the Settlement Development Boundary was designed to accommodate, would not be consistent with this policy. The scale of development should be determined by the specific considerations of the site having regard to the criteria in Policy NP2, rather than a reference to a specific number of dwellings. While few developments are likely to reach the scale where affordable housing can be required, the policy should not preclude this possibility.

**Recommendations:**

**In Policy NP1:**

**in part 1 b) after “...environment” insert “having regard to Policies NP2 and NP4”;**

**in part 1 c) after “...settlement” insert “having regard to Policy NP3;**

**in part 1 d) after “...conservation” insert “having regard to Policy NP9;**

**in part 1 e) delete “and not putting an unreasonable burden on existing infrastructure and services”;**

**Modify part 2 to read “Development proposals within the settlement boundaries defined in**

**Policy NP2 that can demonstrate that they satisfy the principles of sustainable development set out in this policy and the more detailed criteria in Policy NP2. will be supported. Development will normally be in the form of individual dwellings or small groups of dwellings on small infill sites, or the redevelopment of brownfield sites, where larger proposals may be justified. “**

**Policy NP 2: Development within Settlement Development Boundaries**

63. Policy NP2 defines Settlement Development Boundaries for Crich, Whatstandwell and Fritchley and sets out detailed criteria for development within these boundaries. It is a detailed policy with several elements that is central to the overall approach of the Plan and I shall consider the definition of the Settlement Development Boundaries first.
64. Three options for the definition of Settlement Development Boundaries were considered: i) a tightly constrained boundary, consistent with the 2006 Local Plan, ii) no definition of settlement boundaries and iii) Settlement Development Boundaries that allow for modest growth in the parts of the Parish that have the least landscape sensitivity. The third option was selected as allowing for incremental growth as the first option was seen as too restrictive and the second would not allow a clear policy framework. However, the interpretation of this option varies in each of the settlements and is informed by the Crich “Villages in a Landscape” Study prepared by Urban Forward Ltd which analyses the settlement form and relationship with the landscape of each of the villages.
65. In Crich itself, the settlement boundary is drawn fairly tightly around the built form but it does include the recently permitted developments to the south of Roes Lane and Stones Lane. Also, as a result of a late amendment, it includes the area identified as a strategic allocation in the Pre-Submission Draft of the emerging Local Plan, which was recently the subject of consultation.
66. Both P & DG and AVBC have commented that the area included within the settlement boundary does not include the whole of the draft allocation and suggest that the area should be amended for consistency. Paragraph 107 of the Plan indicates that the western boundary abuts the eastern edge of the Tors SSSI and CPC has indicated that the proposed SDB includes the area within which development will take place<sup>11</sup> allowing for the need for a buffer zone between the village and the woodland to the west. P & DG suggest that it is vital to include these fields in order to achieve an integrated design. There is no requirement for the Plan to be in conformity with the emerging Local Plan as that may change and the change to the Settlement Development Boundary acknowledges the likelihood that it will be necessary to accommodate development in this location. The exclusion of the two fields immediately adjoining the SSSI from the settlement boundary does not preclude an integrated

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<sup>11</sup> Crich Parish Council Clarification in response to matters raised by Amber Valley Borough Council in a regulation 16 Representation

development proposal on a site larger than this with area outside SDB as buffer zone. It is possible that the neighbourhood plan may be superseded by the Local Plan in this respect but there is no need in terms of the basic conditions for the SDB to include this wider area.

67. Although the potential for additional infill development is relatively limited within the proposed Crich SDB, the existing permissions and the proposed strategic allocation could provide for about 260 new dwellings. This represents a very substantial increase in the total number of dwellings in the village over the plan period and there is no doubt further potential for small scale infill development. It is also appropriate to take into account the distinctive form and landscape constraints of the village in determining the settlement boundary. I am therefore satisfied that the SDB for Crich is consistent with the basic conditions.
68. The SDB for Whatstandwell is more loosely drawn and AVBC has expressed concern that this *“will allow for extensive development which would be harmful to the character of the area and have a negative impact on the significance of the Whatstandwell Conservation Area.”* I note this concern and agree that the proposed boundary does contain a substantial amount of undeveloped land. However, as the Parish Council points out, *“development proposals within the Settlement Development Boundaries will not be supported in all circumstances”*. The detailed criteria in this policy and others will apply to all proposals. This is how neighbourhood plans can provide clear guidance on the sort of development that may be appropriate in particular locations in a way that is not possible in saved policy H3 in the AVLP or Policy H1 of the emerging Local Plan. This does not undermine either of these policies, it simply interprets them at a local level. Thus, the criteria relating to the built form of the village will limit the extent to which the undeveloped land within the SDB in Whatstandwell can be developed. The integrity with which the SDB has been defined having regard to the form of the village and its relationship to the countryside is to be respected. However, I have recommended a modification to indicate that in Whatstandwell, development of more than a very small group of dwellings is very unlikely to be acceptable.
69. The SDB at Fritchley is drawn fairly tightly around the perimeter of the existing settlement. It contained a significant area of undeveloped land to the east of Crich Road, part of which has planning permission for the construction of 16 dwellings. Fritchley is identified as a “key village” in the emerging AVBLP and AVBC has expressed concern about the ability of the village to accommodate housing development with the relatively tight boundary that has been identified.
70. Part 1 of the policy reiterates Policy NP 1 with regard to *“development proposals for in the region of 5 dwellings”* and the same concerns apply as in Crich. It states that where development proposals meet all of the six criteria it sets out they will be supported. I note the concerns expressed by P & DG regarding the lack of clarity of these criteria in some cases, but the Plan is to be read as a whole and later policies clearly amplify these policies. I am therefore satisfied that these criteria are consistent with the basic conditions. However, the

policy implies that where any of these criteria are not met development will not be supported. This would not be consistent with the presumption in favour of sustainable development as it does not allow for any harm to be balanced with the benefits in terms of sustainability of the proposed development. For example, in relation to criterion d) the NPPF is quite clear that in relation to heritage assets the significance of the heritage asset and the extent of harm should be balanced against the public benefits of the proposal. I have therefore recommended a modification to clarify the approach to be taken where one or more of these criteria are not met.

71. Parts 2,3 and 4 of the policy set out additional criteria in relation to each of the three villages. These relate very much to the way in which the village relates to the landscape in which it lies and are designed to maintain local distinctiveness. In relation to Crich the reference to development being on plateaux rather than lower slopes to the west is drawn from the *“Settlements in the Landscape”* report, but the extent of the plateaux is not defined and was not obvious to me on the ground. Also, the reference to “the ridgeline” in relation to both Fritchley and Crich does not provide clear guidance as there is no clearly defined ridgeline and the perception of a ridgeline varies greatly depending on where it is viewed from. These points are expressed more fully in relation to the similar requirements in Policy NP 4. I have recommended modifications to reflect these points and subject to these the criteria are consistent with the basic conditions.
72. Part 5 of the policy relates to land outside the Settlement Development Boundaries and cross refers to national policy. This is appropriate as there is no need to repeat national policy, but there is no explicit reference to the role which might be played by rural exception sites in the provision of affordable housing and this is a significant element in the NPPF.<sup>12</sup> I shall return to this issue in relation to Policy NP 7 but no reasoning has been given to preclude the possibility of rural exception sites outside the Settlement Development Boundaries for affordable housing and I have therefore recommended a modification to make this clear.
73. There is also a clear conflict between this element of the policy and policy H1 of the emerging AVBLP which provides for *“new housing development...on land adjacent to the built framework of urban areas and key villages where it can be shown to constitute sustainable development”*. There is no requirement for general conformity with this policy as it is clearly subject to change before the Plan is adopted, it is however, clearly more permissive in relation to housing development in key villages than the policies in the CPNP for Crich and Fritchley.
74. I now need to consider whether the definition of the Settlement Development Boundaries and the policies to be applied to proposals for new development, particularly housing provide for sufficient new housing development to be consistent with the basic conditions. Neither

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<sup>12</sup> NPPF paragraph 54

the adopted Local Plan or the emerging AVBLP identify a need for a specific amount of development in the parish of Crich. The existing planning permissions in Roes Lane, off Coast Hill in Crich and adjacent to Crich Road in Fritchley provide for 210 new dwellings and the inclusion of the strategic site west of Crich Common, identified in the emerging AVBLP, within the Settlement Development Boundary has the potential to provide for a further 65 dwellings, making a total potential of 275 new dwellings which would amount to a 20% increase in the housing stock between 2011 and 2031.

75. While the settlement boundaries in Crich itself and, to a lesser extent, in Fritchley are drawn quite tightly, the boundary in Whatstandwell is rather looser. Together there is undoubtedly potential for a significant number of additional dwellings to be provided on infill plots or through the redevelopment of brownfield sites. No total figure can be put on this potential.
76. The eventual form of the emerging AVBLP may mean that the policies of the CLP are superseded by a more permissive policy for housing outside settlement boundaries but there is no requirement to anticipate that the wording of the emerging policy H1 will be adopted. It is also appropriate in defining settlement boundaries to take account of the quality of the landscape and the relationship of the three settlements to it. Taking all these factors into account, I am satisfied that subject to the modifications I have recommended the amount of development provided for by the Plan is consistent with the basic conditions.

### **Recommendations**

#### **In Policy NP2:**

**in the first two lines of part 1. Delete “in the region of 5 dwellings” and insert “infill development” and replace “provided that all the following criteria are met” with “where”. After part 1. f) add “Where one or more of these criteria are not met proposals will only be permitted where the public benefit of the proposals clearly outweighs the harm”.**

**In Part 2. b) delete “occupy only local plateaux and” and insert “it does” before “not extend...”.**

**In Part 2. d) delete the existing wording and insert “rooflines are not prominent on the skyline when viewed from a distance.”**

**In Part 3 after “Whatstandwell, development” insert “of more than individual dwellings or very small groups of dwellings is unlikely to be compatible with the character of the village and”**

**Modify Part 2. c) to read “sits well below the skyline so that buildings are not prominent when viewed from a distance.”**

**In Part 5 insert a full stop after “beauty” and modify the last part of the policy to read “Development proposals will be determined in accordance with national policy. Proposals for the provision of affordable housing on rural exception sites adjacent to Settlement Development Boundaries will be supported where they meet an identified local need, relate well to the built form of the existing settlement and are not intrusive in the countryside”.**

### **Policy NP 3: Protecting the Landscape Character of Crich Parish**

77. This policy identifies the gaps between Crich and Whatstandwell, Crich and Fritchley and Fritchley and Bullbridge as important in maintaining the separate identity of the settlements in the Parish and protecting their setting in the landscape. It also identifies 24 view corridors from 12 separate viewpoints as being sensitive in terms of landscape quality.
78. The significance of each of the Green Gaps between the settlements is analysed in the “Crich Villages in a Landscape” study. The gap between Crich and Whatstandwell is about 800m and is clearly crucial to the landscape setting of the two settlements and to their distinctive and separate character. However, the southern section of the area shown on Map 10 cannot realistically be described as separating Crich and Whatstandwell as it extends to the western edges of Fritchley and Bullbridge. The gaps between Crich and Fritchley and Fritchley and Bullbridge are significantly less and further development in these gaps could clearly erode the separate identity of the settlements. Again, the diagrammatic indication of these gaps in Maps 11 and 12 extends much further to the west and east than can be justified in terms of any threat of coalescence.
79. The diagrammatic style of the drawings with an arrowhead at each end is useful to illustrate the concept of a green gap but, if these areas are to be used in the application of the policy, they should accurately define the areas they relate to. Also, neighbourhood plans cannot include policies to be applied outside their area. Much of the gap shown on Map 12 between Fritchley and Bullbridge lies outside the parish of Crich and therefore cannot be the subject of a policy in the CPNP.
80. I have considered whether the green gap policy is really necessary given the extent of protection already enjoyed by countryside areas through saved policy EN1 and the Special Landscape Area in the gap between Crich and Whatstandwell. However, I am satisfied that the clear case in terms of local distinctiveness for maintaining the separate identities and characters of Crich and Whatstandwell is a further reason for protection. The Special Landscape Area protection does not apply to the other two gaps where the settlements are particularly close and therefore more susceptible to coalescence.
81. I have also noted the comments of P & DG and Gladman regarding this policy. The absence of any specific provision for green gaps in the NPPF does not invalidate the concept and I do not accept that it has a strategic nature that prevents its inclusion in a neighbourhood plan. This is a significant issue for the parish and, apart from the area I have referred to between Fritchley and Bullbridge, which lies outside the parish, it is a legitimate issue to be addressed by the neighbourhood plan. The policy does not preclude development in the green gaps, it simply adds a further consideration to be taken into account in any development proposals, which may, in some cases, be resolved by careful siting, design or landscaping rather than the

refusal of permission. I am satisfied that, subject to modification of maps 10, 11 and 12 in accordance with my recommendations the policy meets the basic conditions.

82. Part 3 of the policy contains an error in that it refers to the gap between Fritchley and Bullbridge in line 4 rather than Fritchley and Crich.
83. Part 5 of the policy relates to the protection of the view corridors identified on Map 13. I visited all of these on my visit. Unfortunately, weather conditions in the morning meant that I could not see many of them at their best as visibility was limited by rain, snow and low cloud. However, with the assistance of the photographs in Appendix 2, I was able to appreciate their context and scope. In many cases the views are exceptional and Crich is indeed fortunate to have such a high-quality landscape. In most cases I am satisfied that the viewpoints identified are carefully chosen for their quality and are worthy of protection in the form proposed, and the policy is carefully worded so as not to preclude development. However, views 9, 15, 18 and 19 are all located on the edge of the built-up area which could be perceived as being potentially vulnerable to development pressure. It appears that it is this rather than the quality of the view from this particular location that is the rationale for the policy. The quality of the view would not be significantly different from similar locations a little further from the settlement boundary. There is therefore not a clear justification in terms of sustainable development for the use of this extra layer of protection in these sensitive locations.

#### **Recommendations**

**In Policy NP 3 part 3 replace “Bullbridge” with “Crich”.**

**In Map 10 reduce the area coloured dark green by deleting the arrowhead at the northern end and the section that lies to the south of the northern edge of the green space between Crich and Fritchley at the southern end.**

**In Map 11 reduce the area coloured dark green by deleting the sections that lie to the east of Dimple Lane and to the west of Chadwick Nick Lane.**

**In Map 12 reduce the area coloured dark green by deleting the sections of it that lie outside the Parish of Crich and the remaining section of the arrowhead at the western end.**

**In Map 13 delete views 9, 15,18 and 19.**

#### **Policy NP 4: Design Principles for Residential Development**

84. This policy sets out design standards for new residential development. It includes criteria that should apply to all development and criteria for each of the three main villages. Criteria a) to f) relate to matters including materials, proportions, landscaping and relationship to the landscape. The criteria are carefully worded to reflect the guidance given in the NPPF to “*set out the quality of development that will be expected for the area*”<sup>13</sup>, while avoiding “*unnecessary prescription or detail*” and they address the issues referred to in paragraph 58. I note the concerns expressed by Gladman and P & DG regarding criterion a), but this criterion

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<sup>13</sup> NPPF Paragraph 58



is not prescriptive and it is appropriate to reinforce local distinctiveness by encouraging those materials which contribute to it rather than those that do not. There is nothing in the wording that discourages innovation in any aspect of design. Thus, the policy does not as, Gladman Developments suggest, depart from national guidelines but interprets them at a local level as the national guidelines suggest.

85. Turning to the criteria that relate to the individual villages, these closely mirror those in Policy NP2 and relate to the distinctive form of each of the villages and their relationship to the surrounding landscape. AVBC express concern about the lack of definition of ridgelines in relation to the guidelines for Crich and there are similar references to ridgelines in the sections on Whatstandwell and Fritchley. I share this concern. While most of the village of Crich stands on relatively high ground, there is not a clearly defined ridge line as the land rises further to the west in the direction of the Tors and Coast Hill. In Fritchley the topography is quite complex and there is an absence of clearly defined ridgelines. Whatstandwell lies on a steep slope to the west with no clear ridgeline. The perception of development depends greatly on the angle from which it is viewed. In some locations, houses viewed from lower lying land appear to be prominent on the skyline, (the picture on page 50 illustrates this) but from a distance they clearly sit comfortably within the landscape. I have recommended modifications to reflect this more general concept.
86. The final part of the policy refers to the application of the Building for Life Standards, scoring 9 greens in a BFL12 assessment. I note that Building for Life is not a national design standard in that there is discretion on the extent to which it is applied. It is however a nationally recognised standard which many qualifying bodies have applied in neighbourhood plans. However, the requirement for all new developments to demonstrate the achievement of 9 green scores out of 12 is likely to be onerous for many small-scale developments of one or two dwellings. Many of the criteria relate to matters that are more likely to be relevant in larger developments, such as layout, movement patterns and the relationship with open space. The standard therefore needs to be applied with an element of flexibility. I have therefore recommended a modification to this effect.

#### **Recommendation**

##### **In Policy NP4:**

**In part b) of the section relating to Crich delete “should not be higher than the ridgeline on the east of the settlement” and insert “should not be prominent in the skyline from distant views.”**

**In part b) of the section relating to Whatstandwell delete “run along the ridgelines” and insert “where possible, follow the contours”**

**In part b) of the section relating to Fritchley delete “sit below the ridgelines” and insert “not be prominent in the skyline from distant views.”**

**Modify section 2 to read “Applicants will be required to demonstrate how their proposals accord with Building for Life 12 standards where they are applicable to the scheme.**

**Proposals for major development will be required to score 9 greens out of 12 unless it can be demonstrated that there are constraints which make this not possible or viable.”**

#### **Policy NP 5: A Mix of Dwelling Types**

87. Policy NP5 aims to ensure that new development reflects housing need and refers to the evidence in the 2013 Strategic Housing Market Assessment (SHMA). It aims to provide smaller market dwellings to suit both older people wishing to downsize and first time buyers. The supporting text refers to census data which points to the relatively large proportion of the housing stock that is in the form of detached houses compared to the district as a whole. As AVBC point out there is no local up to date evidence of housing need and while the policy is written to reflect the need now, later evidence may supersede it and a modification is necessary to reflect this. The second part of the policy particularly encouraging smaller houses suitable for older people within approximately a 10 minute walk of the Crich village centre is consistent with sustainable development.

#### **Recommendation**

##### **In Policy NP5:**

**In Part 1 after “...reflects” in the first line delete “local need” and insert “the most up to date published evidence of housing need at a local or district level.”**

#### **Policy NP 6: The conversion of redundant farm buildings**

88. This policy encourages the conversion of redundant farm buildings to residential use subject to criteria to protect the character of the countryside or the amenity of local residents. This is generally consistent with the NPPF<sup>14</sup>, indeed in many circumstances such a change of use may be permitted development.<sup>15</sup> It is not clear how criterion b) is to be applied as it could be argued that any development will have some effect on the road network and the NPPF indicates that “*development should only be refused on transport grounds where the residual cumulative effects of development are severe*”.

#### **Recommendation**

**In Policy NP6 delete criterion b).**

#### **Policy NP 7: Affordable Housing**

89. Policy NP7 sets out the approach to the delivery of affordable housing. It states that it is in line with Policy H10 of the Local Plan, but this provides for 20-30% of housing to be affordable in developments of more than 25 dwellings or more than one hectare, having regard to viability. As most developments in Crich are likely to be small this is unlikely to lead to the provision of significant affordable housing. The minimum national threshold is now 10

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<sup>14</sup> NPPF paragraph 55

<sup>15</sup> Town and Country Planning (General Permitted Development) (England) Order 2015 Class Q

dwellings<sup>16</sup> and the threshold in the emerging Local Plan is 15 dwellings. While there is no requirement to conform to the latter, use of the national threshold would be consistent with sustainable development, providing that it is subject to viability.

90. The requirement to have regard to evidence of housing need in part 1 of the policy is consistent with sustainable development. The third part is unnecessary as policies NP3 and NP4 would be applied to all development proposals.

#### **Recommendations**

##### **In Policy NP 7:**

**Modify Part 2 to read “On developments of more than 10 dwellings 20-30% of new dwellings will be required to be affordable unless this can be demonstrated to be unviable”**

**Delete Part 3.**

#### **Policy NP 8: Local Green Spaces**

91. The policy designates nine areas as Local Green Spaces. Each of these spaces is fully evaluated against the criteria in paragraph 77 of the NPPF in Appendix 3. I visited all of these spaces and I am satisfied that they meet the criteria for designation. I had some concerns about whether Crich Tors could be clearly defined as an area. The scale of the map is too small to be clear, but the description given in Appendix 3, is quite explicit. A cross reference to Appendix 3 within the policy is therefore necessary.
92. I agree with the comment of AVBC that the maps of the Local Green spaces are not sufficiently clear and the Map of Fritchley Green includes several sections of road which intersect at this location. The road is not a green space and the map needs to be replaced by a map which accurately defines the green space.
93. I am satisfied that the policy to be applied to the Local Green Spaces meets the basic conditions.

#### **Recommendations:**

**In Policy NP8 insert after “The following areas” “described and defined on maps in Appendix 3.”**

**In Appendix 3 replace the maps with maps which more clearly define the Local Green Spaces and include street names to assist location. On the map of Fritchley Green exclude the road area from the Local Green Space.**

#### **Policy NP 9: Maintaining and Enhancing the Parish’s Biodiversity**

94. Policy NP 9 aims to ensure that new development is not harmful to biodiversity and where possible enhances it. It is supported by a helpful summary and map of important habitats. The policy is consistent with the approach in both the NPPF and existing local plan policies,

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<sup>16</sup> PPG Planning Obligations Reference ID: 21b-031-20161116

but part 2 of the policy recognises the possibility of significant development adjacent to an SSSI and requires evidence that the development will be not be harmful to the designated area. I am satisfied that the policy meets the basic conditions.

### **Policy 10: Conservation and Enhancement of Non-Vehicular Routes**

95. This policy supports the maintenance and extension of pedestrian routes within the parish and requires new developments to show how they have connected to existing routes. The policy is consistent with the NPPF<sup>17</sup> which encourages developments to give priority to pedestrian and cycle movements. It is also consistent with Local Plan policies TP2 and TP3 which seek to secure improvements to the footpath and bridleway network. It meets the basic conditions.

### **Policy NP 11: Protecting and Enhancing Heritage Assets**

96. Policy NP11 does not duplicate NPPF policy relating to the protection of heritage assets but sets out policies to be met by new development in the Conservation Areas in the parish and in relation to assets considered suitable for recognition as “non-designated heritage assets” in accordance with paragraph 135 of the NPPF.
97. In paragraph 203 11 locally significant structures are listed for consideration by AVBC as non-designated heritage assets. PPG is clear that it is the role of the local planning authority to recognise non-designated heritage assets<sup>18</sup> and thus the use of this term for assets that have not been recognised in this way is confusing and potentially misleading. However, it is appropriate for the neighbourhood plan to identify structures of local interest and include policies to relate to them. I agree with the comment of P & DG that part 3 of Policy NP 11 is a statement rather than a policy and should be deleted. It has been confirmed to me that part 4 of the policy is intended to apply to the structures identified in paragraph 203 and that AVBC does not have a local list of non-designated heritage assets. Part 4 of the policy requires modification to make this clear and to remove potential confusion relating to the status of these structures.

### **Recommendations**

**In the last line of paragraph 203 delete the reference to “Policy NP 7” and insert “The Neighbourhood Plan”.**

**In Policy NP11 delete part 3 and modify part 4 to read “The effect of a proposal on the buildings and structures of local importance identified in paragraph 203 will be taken into account...of the proposal”.**

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<sup>17</sup> NPPF Paragraph 35

<sup>18</sup> PPG How are non-designated heritage assets identified? Reference ID 18a-041-20140306

### **Policy NP 12: Supporting Local Businesses**

98. The policy supports business development in Crich subject to criteria. Part 1 of the policy relates to development on land already in commercial use. I am concerned that criterion a) would not allow any development on land already in commercial use outside settlement boundaries or the built form of other hamlets. It is also inconsistent with criterion c) of part 2 which does not impose this constraint on new locations for light industry. This may unreasonably constrain the sustainable expansion of existing businesses in the countryside contrary to the first bullet point of paragraph 28 of the NPPF. I recognise the need to protect the natural and built environment but criterion b) provides for this.
99. Part 2 of the policy provides for new sites for business development and part 3 aims to prevent the loss of existing employment land or buildings. Part 2c is very open ended as written and I have recommended additional wording to protect the character of the countryside and built environment and contribute to sustainable development. Subject to a minor correction I am satisfied that Part 3 meets the basic conditions.

#### **Recommendations**

##### **In Policy NP 12:**

##### **Delete criterion a) in part 1**

**At the end of criterion c) of part 2 delete the full stop and insert “;and d) the scale design and form is in keeping with the built environment and landscape character”.**

**In part 3 insert “demonstrated” after “..be” at the beginning of the second line.**

### **Policy NP 13: Working From Home**

100. The background to the policy sets out the increasing significance of working from home in rural areas and the importance of good quality broadband to those working from home. The policy supports proposals that will provide access to superfast broadband, aims to keep radio and telecommunications to a minimum consistent with operational need and encourages home-working subject to criteria to protect the living conditions of neighbours and the natural and built environment. It meets the basic conditions.

### **Policy NP14: Tourism Development and Employment in the Countryside**

101. This policy generally supports development related to tourism subject to criteria to protect the environment. It also supports the provision of off-street parking in a location suitable for visitors such as walkers. The title of the policy is somewhat ambiguous as it could be read as applying to “employment in the countryside” more generally. It is clear to me that the policy is related to tourism development. Subject to a modification to clarify this the policy meets the basic conditions.

#### **Recommendation**

## **Delete “and employment” from the title of Policy NP 14**

### **Policy NP15: Supporting Crich Village Centre**

102. The village centre of Crich is the focal point of the Parish and offers a range of services that are important to residents and visitors. Policy NP15 aims to maintain and reinforce the role of the centre of the village and to prevent the dispersal of retail uses away from the centre. The policy is in general alignment with the NPPF approach to town centres and the rural economy.<sup>19</sup> The definition of a Primary Shopping Frontage is normally applicable to towns, but is appropriate in a relatively large village with a clearly defined centre as Crich has.
103. Parts 2 and 3 of the policy aim to retain existing and encourage new A1 retail uses. This focus on A1 uses does not reflect the wider range of uses that contribute to the vitality of centres, although this is acknowledged in paragraph 239 of the supporting text. Changes to the General Permitted Development Order in 2015 recognised this by including many changes of use from A1 to other use classes, including A2, within the definition of permitted development<sup>20</sup>. It is thus misleading to suggest that changes of use from use class A1 can be resisted to the extent suggested by the policy. Similarly, the policy encourages class A1 uses but not other uses appropriate to a village centre. In the interests of sustainable development and to align with national policy I have recommended modifications to reflect the extent of permitted development and the desirability of other uses.
104. Part 3 of the policy appropriately aims to ensure that retail uses permitted outside the defined centre of Crich do not undermine the role of the centre.
105. Part 5 encourages the provision of parking space in the vicinity of the Market Place. The pressure on parking space in the centre of Crich was evident from my visit. Even on a cold wet day in early January parking space was at a premium. It is appropriate to encourage such proposals, even though the compact form of development in the centre of the village means that bringing forward a proposal may not be easy.

#### **Recommendations**

**In Part 2 of Policy NP 15 insert after “... retail (A1)” “,professional and financial services (A2) and restaurants and cafes (A3)”.**

**In part 3 insert after “...any other use” “other than those within the definition of permitted development”.**

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<sup>19</sup> NPPF paragraphs 23 third bullet point and 28 last bullet point

<sup>20</sup> Town and Country Planning (General Permitted Development) (England) Order 2015 Part 3 Classes C,D,G,J and M.

### **Policy NP 16: Protecting and Enhancing Community Facilities**

106. This policy recognises the importance of community facilities to the vitality of the community. The parish is fortunate in the range of facilities that it has including a health centre, several places of worship and public houses and facilities for other interest groups. The policy resists proposals that would result in the loss of these facilities unless they are clearly not viable or necessary or are adequately replaced. The policy meets the basic conditions.

### **Policy NP 17: Car Parking**

107. Section 23 of the Plan provides a useful overview of transport issues in the Parish illustrating the high level of car ownership in the parish and the limited availability of public transport leading to a high level of dependence on the private car. It also demonstrates the extent of roads where pavements are narrow or non-existent and the narrow roads close to the centre of Crich and Fritchley which lead to pinch points for pedestrians and traffic. This provides the background for Policy NP17 which requires development proposals adjacent to these pinch points to make adequate provision for off street parking. Part 2 of the Policy replicates and amplifies part 5 of Policy NP15 in relation to parking close to the centre of Crich.
108. I had concerns that, in relation to village centre uses, the requirement for new businesses to provide their own off-street parking could present an unreasonable barrier to the establishment of new village centre uses in accordance with Policy NP15 and would therefore not be consistent with sustainable development. However, it has been confirmed to me that the intention of the policy is that it should only apply to residential development. There is undoubtedly a need for additional parking close to the centre of Crich as envisaged in the second part of the policy.

### **Recommendation**

**At the beginning of Policy NP17 part 1 insert “Residential”**

### **Policy NP 18: Renewable Energy and Low-carbon Technologies**

109. AVBC has correctly pointed out that the Basic Conditions Statement does not address Policy NP18.
110. The policy sets out criteria to be met by proposals for development to provide renewable energy and low-carbon technologies. The criteria have regard to the requirement in the NPPF for adverse cumulative impacts on the landscape to be addressed satisfactorily<sup>21</sup>. They are also consistent with the extensive guidance given in PPG on planning for renewable and low carbon energy. The policy meets the basic conditions.

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<sup>21</sup> NPPF paragraph 97

## Conclusion and Recommendation

111. The preparation of the Crich Parish Neighbourhood Plan has been a substantial undertaking for the Parish Council. Its policies are detailed and carefully worded. They are based on a thorough analysis of the parish and its needs and supported by appropriate evidence. There is also clear evidence of joint working with Amber Valley Borough Council to achieve alignment with strategic policies and take account of the emerging Local Plan.
112. I am grateful for the assistance provided during the course of the examination in answering my queries by the Borough and Parish Councils.
113. I have found it necessary to recommend some modifications to meet the basic conditions. Most of these are relatively modest to correct errors, make the intentions of the policy clear or to provide clear guidance to decision makers. Subject to these modifications I have concluded that the Crich Parish Neighbourhood Plan has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012 and that

Having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;

The making of the Plan would contribute to the achievement of sustainable development;

The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;

The Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

114. **I am therefore pleased to recommend that the Crich Parish Neighbourhood Plan should proceed to a referendum subject to the modifications that I have recommended.**
115. I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. The Plan includes the whole Parish of Crich and I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”.<sup>22</sup> **I therefore conclude that there is no need to extend the referendum area.**

*Richard High*

22 March 2018

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<sup>22</sup> PPG Reference ID: 41-059-20140306



## **Appendix 1**

### **THE ENVIRONMENTAL ASSESSMENT OF PLANS AND PROGRAMMES REGULATIONS 2004**

#### **REGULATION 9 SCREENING DETERMINATION:**

##### **Crich Parish Neighbourhood Plan**

Regulation 9 of The Environmental Assessment of Plans and Programmes Regulations 2004 requires that the responsible authority determines whether or not a plan is 'likely to have significant environmental effects' and if a Strategic Environmental Assessment is required (SEA).

Amber Valley Borough Council being the responsible authority has determined, based on the information included in the Screening Opinion prepared by AECOM in January 2018 on the Crich Parish Neighbourhood Plan and following consultation with the Environment Agency, Historic England and Natural England (responses appended), that the Plan does not require a SEA.

It is also concluded that the plan will have no likely significant effects on European sites and therefore a Habitat Regulation Assessment is not required.

#### **Reasons for the Decision**

Annex I of the SEA Directive identifies a number of potential aspects of the environment which may require consideration in relation to significant effects. These issues may include (but are not limited to): "biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors". The following has been based on the Screening Opinion produced by AECOM and considers any relevant issues in relation to each of these aspects of the Neighbourhood Plan environment and how they might be affected as a result of the proposed policies of the Neighbourhood Plan.

(a) biodiversity, flora and fauna;

The nearest European site lies to the north west of the parish, some 4 miles distant (Gang Mine Special Area for Conservation). Slightly further to the North West is the Peak District Dales (SAC) some 5 miles away. Given the distance from the parish boundary, the nature of the designation and the contents of the plan (no growth as such is determined) it is concluded that there are no likely significant effects on European sites.

To the south and south west of the Plan area, there is a large wooded area that is designated as a Site of Special Scientific Interest (SSSI). Though development upon this land would be very unlikely (given its national protection), there is potential for development on surrounding greenspace. The likelihood of effects would depend on the scale and location of growth (neither of which is established by the Neighbourhood Plan), though SSSI impact risk zones suggest that development on land to the south is likely to present the greater potential for adverse effects.

In addition to designated habitats, the Parish contains a number of local habitats that could be of value to species, including hedgerows, grassland and wooded areas. The Plan is unlikely to have a direct effect on such areas, as no development has been proposed. If anything, a positive effect upon biodiversity ought to be achieved, as a number of valued green spaces are proposed for allocation in the plan, which should have positive implications for associated biodiversity species/habitats.

Though no allocations have been made, the extension of the Crich settlement boundary to the south of the village would make development on Greenfield land potentially suitable for housing. This piece of land is within close proximity to the Crich Chase SSSI. The area falls within an SSSI impact zone that suggests that development above 50 dwellings could have potential effects that would need to be consulted upon with Natural England. The scale of the site could support more than 50 dwellings, and therefore potential effects could occur should development be approved here.

The significance of effects would be dependent upon scheme design, but it is presumed that at the relatively small scale of growth it ought to be possible to explore these issues at the application stage rather than through an SEA.

Other Plan Policies (such as NP 9 in particular) should help to ensure that the protection of ecological networks is taken into consideration in development

proposals, and the approach is slightly stronger following changes made post Regulation 14 Consultation.

(b) population and housing;

The Plan does not plan to meet any particular level of need (which has not been identified at a local level), nor does it identify sites where this might be suitable. Therefore, effects upon population and housing are difficult to establish at this level.

The Plan sets out policies to protect areas of landscape, local amenity value and cultural heritage. Although this does not preclude development coming forward, it could act as a constraint to housing delivery. Despite this, housing could still be delivered through the emerging Local Plan.

Changes to the Plan are slightly more supportive of housing on brownfield sites, as well as providing a wider settlement boundary for potential development. Whilst this is more positive in respect of housing, effects are not predicted to be significant.

(c) human health;

There is one GP in the plan area. No development is proposed in the plan area, and so effects on service use and quality cannot be directly associated with the Plan. However, the plan policies will exert a degree of control over development, which could influence future levels of housing.

The Plan seeks to avoid the loss of greenfield land and landscape, as well as protecting settlement and landscape character. All these factors are positive contributors to health. The Plan does not set out to encourage large scale growth, and so it can be assumed that the Plan's direct effects on the capacity of health facilities are limited.

Overall the Plan is likely to have positive implications for health, with a focus on protecting and enhancing community facilities and environmental quality. Therefore, no adverse significant effects would be envisaged.

(f) soil;

A large proportion of land within the plan area is classified as Grade 4 agricultural land, and so development would not be anticipated to have significant effects on soil resources.

(g) water;

The Plan does not allocate land for development, nor does it include specific policies concerning water resources. Therefore, although development has the potential to affect water quality, this would not be attributable to the Plan (and ought to be managed through existing and emerging Local Plan policies given that there are no critical issues identified).

(h) air;

Given the rural nature of the Plan area, air quality is not a critical issue. Furthermore, the plan does not allocate land for redevelopment nor set a specific level of growth to be achieved. Therefore, substantial changes to air quality are not likely to occur within the Plan area or elsewhere (as a result of the Plan).

(i) climatic factors;

Much of the land within the plan area is classified as being within Flood Zone 1 (low risk). Development would therefore be expected to be acceptable in terms of flood risk.

(j) material assets;

There are a number of buildings and facilities in the Plan area which have been identified through community consultation as being locally important. Certain buildings / facilities have been established in the Policy for their protection (unless circumstances dictate that this is not reasonable).

This policy approach ought to have positive (but not significant) effects on the 'material assets' of the Plan area.

(k) cultural heritage, including architectural and archaeological heritage;

Development presents the potential for effects upon heritage assets and their settings in the Plan area. However, no development as such is proposed, and the approach to managing effects upon cultural heritage is positive. Therefore, adverse effects would be unlikely to arise as a result of the Plan. The policies could have positive effects on heritage, but these are not likely to be significant, as they do not preclude development from occurring.

The extension south of Crich to the settlement boundary involves land that is adjacent to a Grade II listed building. Whilst the Plan does not allocate this land for development, a speculative proposal could come forward here.

This could have possible effects on the setting of this asset, but mitigation measures ought to be possible given that the building in question is relatively well screened and there is still open space to the south and west of the building.

Taking consideration of policies that seek to protect heritage and landscape, and the fact that the Plan does not allocate land at this stage, it is considered that significant effects could be avoided through the development management process.

#### (l) sustainable transport

The Plan is unlikely to have a significant effect on patterns of travel, as the rural nature of the settlements is a strong characteristic. The Plan also promotes car parking where appropriate, which acknowledges that substantial modal shift is unlikely to occur.

#### (m) landscape

As no development is proposed as part of the Plan, direct effects are unlikely to occur. However, given the protective nature of the policies concerning landscape character, the Plan is expected to have positive, rather than adverse effects.

#### Further Information

A copy of this determination has been sent to the Consultation Bodies and made available on the Council's website at [www.ambervalley.gov.uk](http://www.ambervalley.gov.uk)

It will also be available on request during normal office hours at:

Amber Valley Borough Council  
Town Hall  
Market Place  
Ripley  
Derbyshire  
DE5 3BT

If you require any further information, then please contact the Local Plans Team by e-mail: [ldf@ambervalley.gov.uk](mailto:ldf@ambervalley.gov.uk) or by calling 01773 841583.

Date: 05 March 2018