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# **Report on Down Ampney Neighbourhood Development Plan 2022 - 2031**

**An Examination undertaken for Cotswold District Council with the support of Down Ampney Parish Council on the June 2023 submission version of the Plan.**

Independent Examiner: Wendy Burden BA (Hons) DipTP MRTPI

Date of Report: 29 November 2023

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## **Main Findings - Executive Summary**

From my examination of the Down Ampney Neighbourhood Development Plan (the Plan/DANDP) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – Down Ampney Parish Council;
- The Plan has been prepared for an area properly designated – the Parish of Down Ampney, as shown on Figure 1.1 (page 1) of the Neighbourhood Plan;
- The Plan specifies the period to which it is to take effect: 2022 to 2031; and
- The policies (as proposed to be modified) relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### **Down Ampney Neighbourhood Development Plan 2022-2031**

- 1.1 The Neighbourhood Plan Area for Down Ampney was approved by Cotswold District Council (CDC) in October 2018, and the Down Ampney Neighbourhood Plan Steering Group (DANPSG) was created to help guide and progress the DANDP.
- 1.2 The Neighbourhood Plan Area comprises the Parish of Down Ampney. Down Ampney is a rural village with around 280 dwellings and a population of approximately 615. It is situated 6 miles from Cirencester to the north and 10 miles to Swindon in the south. There is a village shop, a post office, village school, church and various sports facilities. Public transport provision is poor and would not provide for a trip to and from employment areas within reasonable working hours.
- 1.3 The rich history of the Parish is set out in detail in the DANDP. Notable dates include evidence of early settlements dating back to 2000 BC and the Parish was valued at £20 in the Domesday Book of 1087. The manor of Down Ampney was awarded to Sir Nicholas De Valers by Henry III in 1250, and All Saints' Church built and consecrated. Then, in 1872, the

composer Ralph Vaughan Williams was born to the vicar of All Saints' Church, the Reverend Arthur Vaughan Williams and his wife Margaret.

- 1.4 The village of Down Ampney was historically a long narrow settlement with most development located alongside the road on a north-east to south west axis. The linear pattern evolved in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries. Developments around the settlement have both elongated and widened the village as cul de sacs have been spurred off the main street to form areas of more recent housing.
- 1.5 The Conservation Area is located in the south west of the village and includes All Saints' Church and Down Ampney House. In the centre of the village is a mix of historic buildings - mostly estate cottages - and modern houses. The relatively new houses at The Old Estate Yard and at Dukes Field utilise locally sensitive architectural materials which contribute to their integration within the traditional buildings. The north eastern part of the village comprises a red brick Council-built estate and the more recent houses which comprise Linden Lea.
- 1.6 There are two Grade I and fourteen Grade II buildings in the village as well as a number of non-designated heritage assets. There are also two Scheduled Monuments designated by Historic England within the Parish: the preaching cross on the green at the western end of the village and the Settlement at Bean Hay Copse. Other historic sites of note are listed in Annexe A to the DANDP and a location map is given in Figure 4.4.
- 1.7 Down Ampney village lies within an attractive rural location within the Upper Thames Clay Vales National Character Area (NCA). This is a broad belt of open, gently undulating lowland farmland on predominantly Jurassic and Cretaceous clays. The area is dominated by watercourses, including the Thames and its tributaries, and there are also lakes associated with mineral extraction areas, such as the Cotswold Water Park. Watercourses and lakes provide important areas for wildlife and recreation. The Parish is within the designated area of the Cotswold Water Park.
- 1.8 The DANDP is required to be in general conformity with the strategic policies of the statutory Development Plan, which includes the Cotswold District Local Plan 2011 - 2031 (CDLP) adopted in 2018. A partial review of the Local Plan was commenced through an Issues and Options Consultation in February to March 2022. The Council has not yet published draft policies and the review remains at a very early stage of preparation. I address the matter of general conformity of the DANDP with the Development Plan throughout my report as well as noting any relationship to the emerging partial review of the CDLP.<sup>1</sup>

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<sup>1</sup> See the advice in the Planning Practice Guidance (PPG), Reference ID: 41-009-20190509.  
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## The Independent Examiner

- 1.9 As the DANDP has now reached the examination stage, I have been appointed as the examiner of the Plan by CDC, with the agreement of Down Ampney Parish Council (DAPC).
- 1.10 I am a chartered town planner and retired government Planning Inspector, with more than 45 years of experience in the private and public sectors. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

## The Scope of the Examination

- 1.11 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.12 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)('the 1990 Act'). The examiner must consider:
- Whether the plan meets the Basic Conditions.
  - Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development'; and
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
  - Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.

- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended)('the 2012 Regulations').

1.13 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### The Basic Conditions

1.14 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>2</sup>; and
- Meet prescribed conditions and comply with prescribed matters.

1.15 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Development Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>3</sup>

## 2. Approach to the Examination

### Planning Policy Context

2.1 The current Development Plan for Down Ampney, excluding policies relating to minerals and waste development, is the Cotswold District Local Plan 2011–2031 (CDLP) which was adopted in August 2018.

2.2 CDC is preparing a partial update of the CDLP to 2040. I note that the Planning Practice Guidance (PPG) advises that where a neighbourhood plan is brought forward before an up-to-date local plan is in place, the

<sup>2</sup> The existing body of environmental regulation is retained in UK law.

<sup>3</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in the emerging neighbourhood plan; the emerging local plan; and the adopted development plan, with appropriate regard to national policy and guidance.<sup>4</sup> As noted in paragraph 1.8 above, an Issues and Options consultation document was published in 2022 and CDC is currently working on the responses received and evidence base for the partial review. However, the review has not reached the stage of publishing draft policies to be taken into account in the examination of the DANDP. I therefore focus on the policies of the adopted CDLP 2011-2031 in accordance with the Basic Conditions which require me to examine the Plan against the extant adopted strategic Development Plan policies.

2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF).<sup>5</sup> In addition, the PPG offers guidance on how the NPPF should be implemented.

### Submitted Documents

2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, alongside those submitted. These include the:

- Down Ampney Neighbourhood Development Plan (NDP) 2022 to 2031, June 2023;
- Down Ampney NDP Appendices, June 2023;
- Down Ampney NDP Annexes, June 2023;
- Down Ampney Basic Conditions Statement, June 2023;
- Down Ampney Consultation Statement, June 2023;
- Down Ampney NDP Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) Screening, November 2021;
- Down Ampney Design Guidance and Codes, July 2023;
- Down Ampney Historic Environment Report, 2022;
- Regulation 16 Responses;
- Letter from examiner re procedural matters and questions, 12 October 2023;
- Responses from CDC and DAPC to examiner's questions;
- Late Regulation 16 Response received 28 October 2023;
- Examiner's second procedural letter to CDC and DAPC, 30 October 2023;
- DAPC response to examiner's second procedural letter, 7 November 2023; and

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<sup>4</sup> PPG Reference ID: 41-009-20190509.

<sup>5</sup> A new version of the NPPF was published on 5 September 2023. It sets out focused revisions (to the previously published version of 20 July 2021) to the extent that it updates national planning policy for onshore wind development. As such, all references in this report read across to the latest 5 September 2023 version.

- CDC response to examiner’s second procedural letter, 8 November 2023.<sup>6</sup>

#### Site Visit

2.5 I visited the Neighbourhood Plan Area unaccompanied by any interested party on the 2 November 2023. I carried out a general review of the area in terms of its setting and character in order to familiarise myself with it and visited relevant sites and areas referenced in the Plan and evidential documents.

#### Written Representations with or without Public Hearing

2.6 This examination has been carried out on the basis of the written submissions (written representations). The Regulation 16 consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan’s suitability to proceed to a referendum. In addition to the Regulation 16 responses, I have received further necessary clarifications through the exchange of correspondence during the examination. These include the response from CDC and DAPC to my letter of the 12 October 2023, a late Regulation 16 representation received on 28 October 2023, and responses to my second procedural letter of the 30 October 2023 from CDC and DAPC.<sup>7</sup> As a result, in terms of the appropriate level of scrutiny for the DANDP, I consider that hearing sessions are not necessary.

#### Modifications

2.7 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

### 3. Procedural Compliance and Human Rights

#### Qualifying Body and Neighbourhood Plan Area

3.1 The Down Ampney Neighbourhood Plan has been prepared and submitted for examination by DAPC, which is the qualifying body for an area that was designated by CDC in October 2018.

3.2 It is the only Neighbourhood Plan for Down Ampney Parish and does not relate to any land outside the designated Neighbourhood Plan Area.

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<sup>6</sup> View at: <https://www.cotswold.gov.uk/planning-and-building/planning-policy/neighbourhood-planning/down-ampney-neighbourhood-plan/>

<sup>7</sup> See paragraph 2.4 above.

## Plan Period

- 3.3 The Plan specifies the period to which it is to take effect on the front cover which is 2022 - 2031. The DANDP covers the period in the CDLP and does not therefore raise any issues of alignment in that regard. It may however be appropriate to review the DANDP when the partial review of the CDLP is adopted.<sup>8</sup>

## Neighbourhood Plan Preparation and Consultation

- 3.4 In March 2018, CDC approved the designation of the Down Ampney Neighbourhood Plan Area, as shown on page 1 of the submitted DANDP. DAPC is responsible for providing leadership for the DANDP and empowered a Steering Group, the DANPSG, to have the responsibility of managing the process. The DANPSG was set up following a call for volunteers from the DAPC in 2018 and comprises a number of Parish Councillors, interested local residents and a District Councillor.
- 3.5 The DANDP is based on evidence from surveys, expert reports and local consultations. A detailed record of the consultation process is set out in the Consultation Statement.
- 3.6 A 'launch' meeting explaining the concept of the Neighbourhood Plan and inviting volunteers to take part was held in December 2018. A range of methods to inform people was used, including publishing the 'launch' announcement in the Down Ampney News, which is delivered to every household. Following a meeting of volunteers in January 2019, the DANPSG was formally convened. Various methods have been used by the DANPSG to inform people about the Plan and its progress, including regular articles in the Down Ampney News, community 'drop-in' events, leaflet drops, posters, banners and a dedicated Neighbourhood Plan noticeboard. In addition to ongoing stakeholder consultation, community consultation has involved the following stages:
- identifying the issues through a 'drop-in' event in August 2019;
  - a parish questionnaire conducted in October/November 2019 with 29 main questions and many sub-questions making a total of 222, which was completed by 201 respondents from 174 households (a 69% response rate of households);
  - COVID-19 lockdown measures hampered consultations but the results of the questionnaire were given to villagers in a drop-in presentation in September 2020;
  - the first Regulation 14 consultation was held from 11 December 2021 until 25 February 2022;
  - a second Regulation 14 submission was held from 01 April 2023 until 15 May 2023 to ensure that the new Design Guidance and Codes document prepared by AECOM was fully consulted upon;

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<sup>8</sup> CDC has started a partial update of the local plan: [Local plan update and supporting information - Cotswold District Council](#)

- the Neighbourhood Plan has been informed by extensive enquiries to identify the economic, social and environmental context. Regard has also been had to relevant National and District plans, policies, strategies and reports. The main sources are listed in Appendix 3; and
- the Regulation 16 consultation was carried out from 25 August – 6 October 2023 following the submission of the DANDP to CDC.

3.7 At Regulation 16 stage, 8 responses were submitted to CDC and forwarded to me. I accepted a late submission on the 28 October 2023. I have had regard to all the comments made in those submissions as part of the examination process.

3.8 I am satisfied that a sufficiently transparent, fair and inclusive consultation process has been followed for the DANDP. Due regard has been had to the advice in the PPG on plan preparation and engagement, and I consider that the DANDP is procedurally compliant in accordance with the legal requirements.

#### Development and Use of Land

3.9 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

#### Excluded Development

3.10 The Plan does not include provisions and policies for 'excluded development'.<sup>9</sup>

#### Human Rights

3.11 No issues have been raised in relation to any potential breach of Human Rights (within the meaning of the Human Rights Act 1998). From my independent assessment, I see no reason to find otherwise.

## 4. Compliance with the Basic Conditions

#### EU Obligations

4.1 The DANDP has been screened by CDC to determine whether or not the Plan requires Strategic Environmental and Habitats Regulations Assessments (SEA and HRA).

4.2 The HRA assessment screens the DANDP as to whether further Appropriate Assessment may be required as a result of any potential for likely significant effects on the closest European site to Down Ampney.

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<sup>9</sup> See section 61K of the 1990 Act.

This is the North Meadow and Clattinger Farm Special Area of Conservation (SAC) located immediately adjacent to the southern boundary of Cotswold District approximately 1.1km southwest of the Neighbourhood Plan Area. The screening assessment concludes that it is unlikely there will be any significant environmental effects arising from the DANDP.

- 4.3 The SEA screening report also concludes that the DANDP is unlikely to have significant environmental effects and that a SEA is not therefore required.
- 4.4 Historic England and Natural England agree with this conclusion. The Environment Agency was unable to review either of the screening reports. Having reviewed the CDC SEA and HRA Screening Reports I have no reason to disagree with the conclusion of the screening assessments.

### Main Issues

- 4.5 I have approached the assessment of compliance of the DANDP with the remaining Basic Conditions as two main matters:
- General issues of compliance of the Plan, as a whole; and
  - Specific issues of compliance of the Plan policies.

### General Issues of Compliance of the Plan

#### Regard to National Policy and Advice

- 4.6 The DANDP sets out the background and context to its preparation and provides a broad description of the history, the character and the appearance of the Plan area, with its village rich in heritage and its rural setting. The vision statement for the DANDP set out on Page 2 has been developed to reflect the priorities of the community and help set the future of the Parish:

*"Down Ampney will retain a balance of historical buildings and features alongside sympathetic newer developments. The rural roots of the village will be recognised by ensuring that any development respects the vernacular and maintains its close connection with the surrounding countryside. The vibrant community spirit of the parish will remain an important attribute. Sustainability will be improved by developing a stronger network of facilities and services, whilst ensuring that the character and landscape is conserved and enhanced."*

- 4.7 This vision was developed by the DANPSG following public consultation and provides the basis for the objectives of the DANDP which are arranged under five main headings as follows:
- Landscape
  - Infrastructure - Roads, Transport and Drainage
  - Infrastructure – Community and Leisure

- Economy and Employment and Tourism
- Residential Housing and Non-Residential Building Design.

4.8 Issues have been raised in the Regulation 16 responses as to the wording of the objectives. However, an objective is an expression of community sentiment and ambition. It does not have the status of a policy and therefore I consider it is not necessary for an objective to be subject to the same level of technical scrutiny. Nevertheless, I did raise a query<sup>10</sup> with regard to the first objective and consider that “aspects” should be replaced by “character” in the interests of clarity. **[PM1]**

4.9 The Plan policies address all but the fourth objective. “Economy and Employment, and Tourism” is subject to recommendations in section 9.3 of the DANDP which deals with non-land use matters.<sup>11</sup> The policies generally relate to the matters identified in NPPF Paragraph 28 as appropriate matters to be addressed through non-strategic policies in neighbourhood plans. The DANDP is positively prepared, with an aspirational but deliverable approach to the development of the Parish, and it has been shaped through early, proportionate and effective engagement within the local community.

4.10 In general, the policies of the DANDP are clearly written and unambiguous.<sup>12</sup> However, I raised a number of matters of clarification with regard to the objectives and the policies which were set out in responses to the Regulation 16 consultation and have received detailed comments from both CDC and DAPC. I have also received comments from DAPC with regard to the late Regulation 16 response. I have paid close regard to all the comments which I have received both in the Regulation 16 submissions and in response to my two letters.<sup>13</sup> As a result, I have concluded that recommendations for amendment or deletion are necessary to some policies in order to have due regard to national policy and advice<sup>14</sup> (and to ensure general conformity with the strategic policies of the CDLP) in order that the Basic Conditions are met. I deal with this compliance matter in my commentary on each policy later in this report.

4.11 Having regard to the work which has been carried out and the range of policies which have been formulated to meet its vision and objectives, I am satisfied that the DANDP demonstrates a positive approach to the implementation of the policies of the CDLP. Subject to the modifications which I recommend, the DANDP has had regard to national policy and advice.

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<sup>10</sup> Examiner’s procedural letter dated 12 October 2023.

<sup>11</sup> See last paragraph, PPG Reference ID: 41-004-20190509.

<sup>12</sup> PPG Reference ID: 41-041-20140306.

<sup>13</sup> See paragraph 2.4 above with reference to these documents

<sup>14</sup> In order to meet the Basic Conditions, the Plan must have regard to national policies and advice contained in guidance issued by the Secretary of State, as noted in paragraph 1.14 above.

### Contributes to the Achievement of Sustainable Development

- 4.12 The policies of the submitted DANDP have regard to the economic, social and environmental needs of the local community. Furthermore, the Plan accords with Paragraph 29 of the NPPF since it complements and delivers the strategic policies for the area.
- 4.13 The three overarching objectives of sustainable development (economic, social and environmental) are integral to the core aims of the DANDP. Together with the policies of the CDLP 2031, the policies and proposals of the DANDP contribute to the achievement of sustainable development in accordance with national policies and advice.
- 4.14 Subject to the detailed comments and modifications which I set out below for individual policies, I am satisfied that the Plan makes a positive contribution to the achievement of the economic, social and environmental aspects of sustainable development.

### General Conformity with Strategic Policies in the Development Plan

- 4.15 I set out the planning policy context for the DANDP in section 2 above. As part of the statutory Development Plan, the CDLP 2011-2031 sets out the strategic policies to be taken into account in the DANDP. The policies in the submitted DANDP are required to be in general conformity with those that are strategic in the statutory Development Plan in order to meet the Basic Conditions. Although a draft neighbourhood plan is not tested against the policies in an emerging local plan, the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the Basic Conditions against which a neighbourhood plan is tested.<sup>15</sup> In this case the work on the partial update of the CDLP is not at a sufficiently advanced stage to be taken into account.
- 4.16 In the adopted CDLP Policy DS1 lists Down Ampney as a Principal Settlement which will contribute to the strategic requirement for at least 8,400 dwellings and 24 hectares of B class employment use over the CDLP period of 2011-2031. Down Ampney is also listed in Policy DS1 as a settlement which has a Development Boundary, Policy DS2 states that within a Development Boundary applications for development will be "permissible in principle". A Development Boundary includes existing built up areas, sites under construction or granted planning permission and housing and employment sites proposed for development to meet the District's objectively assessed needs to 2031. Policy DS4 restricts open market housing beyond the Development Boundary for a Principal settlement such as Down Ampney "unless it is in accordance with other policies that expressly deal with residential development in such locations".

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<sup>15</sup> PPG Reference ID: 41-009-20190509.

- 4.17 In the DANDP reference is made to the "settlement boundary" whereas the CDLP expressly designates the boundary around the village as the "development boundary" and that is the title used throughout the CDLP and on its Policies Map. I agree with the advice from CDC that all references to "settlement boundary" should be changed to "development boundary" in order to accord with the designation within the CDLP in the interests of clarity and recommend accordingly. **[PM2]**
- 4.18 CDLP Policy S4 applies specifically to Down Ampney which is recognised in the explanatory text to be "a modest sized village" with a limited range of services and facilities but capable of servicing certain day to day needs. It is also recognised that new development would need to ensure that there is adequate water supply capacity and waste water capacity both on and off the site to serve the development and that it would not lead to problems for existing or new users.
- 4.19 The policy allocates three sites for residential development in the village to accommodate some 28 dwellings in total. These are in addition to the planning permission granted for 44 dwellings at Broadway Farm.
- 4.20 Other CDLP policies which are relevant to the DANDP include Policy DN3 which allocates Local Green Spaces (LGS). Although there are none listed for Down Ampney, that does not preclude the identification of LGS in the DANDP in Policy LP2. Part 2 of Policy DN3 provides for the control of development within LGS. In Policy EN4 clause 2 sets out the approach to be taken in the assessment of development which may affect landscape character including key views. I return to the relevance of this policy in relation to DANDP Policy LP1 below. Biodiversity and Geodiversity is addressed in CDLP Policy EN8. I refer to the relevance of this policy in relation to DANDP Policy HP4 and the views of Natural England.
- 4.21 The issue of providing for new housing development in Down Ampney Parish to meet local housing needs is raised in the Regulation 16 representations. However, in this respect there is no conflict between the DANDP as submitted and the strategic policies of the CDLP which I identify above. The strategic policies would continue to allow for the provision of new housing if the requirements of the policies are met.
- 4.22 The DANDP has been developed with proper regard to the strategic direction and policies of the existing CDC Development Plan Documents, which I identify in Section 2 above. In addition, with some modifications which I recommend below, the DANDP demonstrates general conformity with the adopted strategic policies of the CDLP. CDC has been involved throughout the preparation of the DANDP and is generally supportive of its policies. Subject to some detailed comments and the modifications which I make to the Plan's policies below, I am satisfied that the DANDP is in general conformity with the strategic policies of the Development Plan.

## Specific Issues of Compliance of the Plan Policies

### Policies Map

4.23 Inset 3 to the CDLP<sup>16</sup> identifies the Development Boundary for Down Ampney village which encloses the Broadway Farm site with permission for residential development and the three Local Plan residential allocations. There is no Policies Map included within the DANDP, but policy proposals within Policies LP1 and LP2 are illustrated in Figures 4.9 and 4.10, whilst other notable features referred to in the text are identified within the Figures in the Plan. In these circumstances I consider that there is no need for a discrete Policies Map in the DANDP and the Plan meets the Basic Conditions in regard to this matter.

### Landscape

4.24 A high value was placed by local people on the landscape and natural environment as a result of public consultation. The setting of the village within an open rural landscape and the close connection between village and countryside is of particular importance. Policy LP1 identifies the notable vistas which the community seek to safeguard in order to protect the setting and character of the village.

4.25 I note that there has been no technical analysis of the vistas. However, the policy does not seek to prevent development within the vistas, but to ensure that development has no significant adverse impact on their visual quality and amenity. Where such an impact is identified, it will be for the applicant to provide a technical analysis to demonstrate the degree of impact and how any adverse impacts may be avoided or mitigated. In these circumstances I find that the policy is not unreasonable and provides a local dimension to that part of CDLP Policy EN4 which addresses visual quality and key views. I recommend a modification to Policy LP1 in the interests of clarity **[PM3]** and with this modification the policy raises no issues of compliance with the Basic Conditions.

4.26 There are no areas of open space designated in the CDLP Policy EN3 as Local Green Space (LGS) but this does not preclude designation in the DANDP. Policy LP2 proposes the designation of the land opposite to the school and in front of the Duke's Field development as LGS. The NPPF (Paragraph 102) sets out that the LGS designation should only be used where the green space is:

- (a) in reasonably close proximity to the community it serves;
- (b) demonstrably special to the community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- (c) local in character and is not an extensive tract of land.

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<sup>16</sup> Page 57.

Designating land as LGS should also be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services and be capable of enduring beyond the end of the Plan period (Paragraph 101).

- 4.27 I note that the Pegasus Group has submitted a representation (on behalf of the landowners, the Co-Operative Group), which references the Pegasus Landscape Statement that was appended to its Regulation 14 response (see paragraph 3.49). This sets out the reasons why it is considered that the proposed LGS designation fails to meet criteria (b) of NPPF Paragraph 102.
- 4.28 Whilst there is some additional guidance provided in the PPG section, *Open space, sports and recreation facilities, public rights of way and local green space*<sup>17</sup> in relation to LGS designation, the consideration of the criteria in Paragraph 102 is largely a matter for the exercise of planning judgement. In my view, the field proposed to be designated as LGS clearly accords with criteria (a) and (c). With regard to the planning of sustainable development (NPPF, Paragraph 101), land has been allocated for development in Down Ampney to contribute to strategic requirements and there is provision in the policies of the CLP for further land to be released in specific circumstances, such as meeting the need for affordable housing. I am therefore also satisfied the LGS designation is capable of enduring beyond the Plan period.
- 4.29 With regard to criteria (b), I acknowledge the site proposed as LGS has no public access or particular outstanding features as such. However, it is in a principal position within the village, opposite to the school and the entrance to the "Village Hub", as shown on Figure 6.1. The field fronts the main street through the village and has mainly housing on three sides. As such it makes a significant contribution to the character of the village as a rural community. I find that the field holds a particular local significance as an open green space in a key position within the village and within an otherwise built up road frontage. As such, I consider that it is demonstrably special to the local community. In my assessment, the designation therefore accords with the criteria set out in the NPPF.
- 4.30 The second clause of the policy refers to and repeats the provision set out in the second clause in CDLP Policy EN3. Whilst this might seemingly be viewed as unnecessary duplication<sup>18</sup>, I am aware it has become common place to restate the policy protection for LGS designated in neighbourhood plans since it provides clarity for the local community in terms of how any application for development of the LGS would be managed. In these circumstances, Policy LP2 raises no issues of compliance with the Basic Conditions.

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<sup>17</sup> PPG Reference IDs: 37-005-20140306 to 37-022-20140306.

<sup>18</sup> NPPF, Paragraph 16 f).

## Infrastructure – Roads, Transport and Drainage

- 4.31 Policy IP1 deals with Drainage and refers to the approach to be taken for developments of more than 5 dwellings. In the CDLP, Policy INF8 sets out comprehensive requirements for water management infrastructure and Policy EN14 addresses flood risk. Whilst there is some duplication, DANDP Policy IP1 identifies an issue of particular local concern and has been drafted to complement the Local Plan. I note the suggestion that the use of sustainable drainage systems (SuDS) should be included in the policy but CDC has responded that they are not always an effective solution in the locality. In any event, CDLP Policy INF8 requires their use, where appropriate.
- 4.32 With regard to water supply, this is adequately covered in CDLP Policy INF8 so there is no reason to introduce it in the DANDP.
- 4.33 With regard to the threshold in Policy IP1 of more than 5 dwellings, there is no lower limit set in CDLP policy. It is clearly accepted that extreme events will increase due to climate change and measures must be taken to address risk to properties both old and new. I agree with CDC that Policy IP1 is not unduly onerous. It does not impose Grampian style restrictions on development but places the onus on the applicant to demonstrate that drainage has been properly considered.
- 4.34 Policy IP2 deals with Waste Water. This matter is addressed in detail in CDLP Policy INF8, with the funding of infrastructure provision subject to CDLP Policy INF1. In relation to Down Ampney, it is also stated in the explanatory text to CDLP Policy S4 at paragraph 7.5.2 *“For all three housing sites developers will be required to demonstrate that there is adequate water supply capacity and waste water capacity both on and off the site to serve the development and that it would not lead to problems for existing or new users. In some circumstances it may be necessary for developers to fund studies to ascertain whether the proposed development will lead to overloading of existing water and waste water infrastructure”*. Although the matter is well covered in the CDLP, provision to deal with waste water is clearly a matter of concern in Down Ampney. Policy IP2 is not unduly onerous in so far as it reflects and carries forward the requirements in the CDLP for proper provision to be made for waste water where new development is proposed.
- 4.35 In the above circumstances I find that Policies IP1 and IP2 meet the Basic Conditions.

## Infrastructure – Community and Leisure

- 4.36 Policy CP1 seeks the protection of existing community facilities. It relates to facilities within the village which is entirely reasonable. A suggestion that requirements for off-site infrastructure and services should be

included in the policy would be unreasonable and fall outside the scope of the DANDP.

- 4.37 I am satisfied that Policy CP1 raises no issue of compliance with the Basic Conditions.

#### Residential Housing and Non-Residential Building Design

- 4.38 It is a requirement of the NPPF that neighbourhood plans do not promote less development than set out in the strategic policies for the area or undermine those strategic policies.<sup>19</sup> Down Ampney is a Principal Settlement which is identified in the CDLP for new housing and allocations are made to contribute to the strategic housing requirement for the District.

- 4.39 I note the submissions made for further allocations to be made within the DANDP but my role as an independent examiner is limited to testing whether the Neighbourhood Plan, as submitted, meets the Basic Conditions. The PPG is clear that whilst neighbourhood plans can allocate sites for development, including housing<sup>20</sup>, they “are not obliged to contain policies addressing all types of development”<sup>21</sup> and “the scope of neighbourhood plans is up to the neighbourhood planning body”.<sup>22</sup> The position of the Courts on the absence of a requirement to allocate sites in a neighbourhood plan is most recently stated in *Park Lane Homes (South East) Ltd, R (On the Application Of) v Rother District Council*<sup>23</sup>, more particularly that the absence of housing allocations in a draft Plan is not of itself a basis to conclude that the Plan fails to meet Basic Condition a) regard to national policies and advice. Notwithstanding any merits of the allocation of further land for housing, the DANDP nonetheless meets the Basic Conditions in the absence of the allocation of additional land for housing.

- 4.40 Policy HP1 seeks to maintain the rural character and setting of Down Ampney village by setting a density limit on all new residential developments. Whether or not the approach is realistic, it is in conflict with national policy and guidance<sup>24</sup> which seeks to ensure that development makes efficient use of land and encourages the consideration of minimum density standards. Thus, the NPPF requires that the character and setting of the village should be maintained through area based assessments and the application of design guides and codes rather than through prescribed density limits. For Down Ampney, there are the CDC Design Code and the Down Ampney Design Guidance and Codes which may be used to help ensure that land is used efficiently while also

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<sup>19</sup> NPPF, Paragraph 29.

<sup>20</sup> PPG Reference ID: 41-042-20170728.

<sup>21</sup> PPG Reference ID: 41-040-20160211.

<sup>22</sup> PPG Reference ID: 41-104-20190509.

<sup>23</sup> [2022] EWHC 485 (Admin) | England and Wales High Court (Administrative Court).

<sup>24</sup> NPPF, Paragraphs 124 and 125.

securing well-designed and attractive new development. This approach is secured through the provisions of CDLP Policies EN1 and EN2.

- 4.41 Protection is provided through these and other CDLP policies to the character and appearance of Down Ampney. In these circumstances and in view of the direct conflict with national policy I recommend that Policy HP1 be deleted. **[PM4]**
- 4.42 Policy HP2 seeks to ensure that house types in new development accord with the development type supported by villagers in the DANDP Questionnaire as identified in section 8.8 of the Plan. The “*general trend of support*” referred to in the policy is defined as the requirement for 60% of new homes to be either affordable or smaller market houses. This requirement does not conflict with the CDLP policy for the provision of affordable homes (Policy H2). However, the requirement for affordable homes to be restricted to those with a local connection would not have regard to the definition of affordable homes provided in Annex 2 to the NPPF and does not therefore comply with the Basic Conditions. Accordingly, I recommend a modification to Policy HP2. **[PM5]**
- 4.43 The design of new development is covered by Policy HP3. New development is required to be compatible with the CDC Design Code and the Down Ampney Design Guidance and Codes. These documents have been professionally prepared and provide advice and guidance on design. They are not prescriptive or statutory policy documents.<sup>25</sup> They fall within the scope of my examination only to the extent that I am satisfied that the reference to the documents in Policy HP3 is appropriate. There are no issues in regard to the second clause of the policy which accords with Policy EN1 of the CDLP.
- 4.44 With regard to clause 3 of Policy HP3, whilst national policy seeks to prevent the diminution of the quality of approved development between permission and completion, it is not clear how this can be achieved through clause 3 of the policy. After the grant of planning permission a number of details may be subject to conditions and require further approval. There can also be a need to change the details of a permitted scheme in response to changing circumstances. The DAPC does not have the power to grant planning permission or approval of reserved matters and therefore whilst the motive for the clause is clear, its implementation is not. I therefore recommend the deletion of clause 3. **[PM6]**
- 4.45 Policy HP4 relates to Green Infrastructure and generally accords with Policy INF7 of the CDLP. Natural England encourages an expansion to the policy in relation to the natural environment which is not specified in Policy EN8 of the CDLP in relation to Biodiversity and Geodiversity. Having regard to the location of Down Ampney within the Cotswold Water Park, I consider that a modification after the first clause which relates to this location would ensure that the policy is both effective and locally specific.

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<sup>25</sup> See PPG Reference IDs: 26-005-20191001 & 26-008-20191001.

- 4.46 The DAPC do not have decision making powers and therefore a modification to the second clause is proposed. In addition, I recommend an addition to the wording of the third clause to ensure that the policy is reasonable. **[PM7]**
- 4.47 With the deletion of Policy HP1 and the modifications proposed to Policies HP2, HP3 and HP4 the DANDP complies with the Basic Condition

#### Non-Land Use Actions

- 4.48 In addition to the DANDP policies which I am required to consider against the statutory tests, Section 9.3 of the Plan makes recommendations relating to issues which are not land use matters, but which are of importance to the local community and would further enable the objectives of the DANDP to be met. They relate to measures which may be sought in order to improve the general quality of life and wellbeing within the village, rather than land use issues which relate to the development and use of land in the statutory sense. As such they are not matters that can be addressed through a policy in the DANDP.
- 4.49 Although I have taken note of the issues identified in Section 9.3, they will not form part of the statutory Development Plan for the area and are not therefore considered against the Basic Conditions.<sup>26</sup>

#### Implementation and Monitoring

- 4.50 It is stated at page 2 of the DANDP that the DAPC intends to monitor the progress of development over the Plan period and review the DANDP on a five yearly basis. There is no statutory requirement for a neighbourhood plan to be reviewed, although local plans are required to be reviewed at least every five years.<sup>27</sup> Nevertheless it would be appropriate for a review of the DANDP to be carried out in response to changes in relevant national and local plan policies. This would enable the DANDP to remain relevant and complementary to national and local plan policies.

#### Factual and Minor Amendments and Updates

- 4.51 I have not identified any typographical errors in the text of the DANDP that would affect the Basic Conditions. Minor amendments to the text can be made consequential to the recommended modifications, alongside any other minor non-material changes or updates, in agreement between DAPC and CDC.<sup>28</sup>

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<sup>26</sup> PPG Reference ID: 41-004-20190509.

<sup>27</sup> Regulation 10A Town and Country Planning (Local Planning) (England) Regulations 2012.

<sup>28</sup> PPG Reference ID: 41-106-20190509.

## 5. Conclusions

### Summary

- 5.1 The Down Ampney Neighbourhood Development Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the Neighbourhood Plan, together with the evidence documents submitted with the Plan and in the course of my examination.
- 5.2 I have made recommendations to modify some of the policies to ensure that the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates.
- 5.4 The Down Ampney Neighbourhood Development Plan, as modified, has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary and which would require the referendum to extend to areas beyond the Plan boundary. I therefore recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

### Overview

- 5.5 The production of the DANDP has undoubtedly required a high level of commitment and hard work by the Parish Council and other volunteers from the local community. This task has no doubt been made more difficult by the abnormal conditions arising from COVID-19. I commend the Parish Council and the Neighbourhood Plan Steering Group for their hard work and application in producing a well written and effective Neighbourhood Plan. This is reflected by the small number of recommended modifications in the Appendix to this report.
- 5.6 I am satisfied that DAPC has consulted with and taken into account the views of the local community, whilst seeking to protect the character and setting of Down Ampney as an attractive and historic settlement within the countryside. As a result, the DANDP, with the recommended modifications appended to my report, meets the Basic Conditions. The modified DANDP has the potential to provide an effective Plan for the management of the future planning of Down Ampney.

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Examiner

## Appendix: Modifications

Note: Some consequential renumbering, amendment to alphabetical listings etc within the Plan will be necessary as a consequence of the PMs set out below.

<b>Proposed modification number (PM)</b>	<b>Page no./ other reference</b>	<b>Modification</b>
PM1	Objective L01 page 5	Replace "aspects" by "character".
PM2	Paragraph 8.4 page 50 Paragraph 8.8 page 52 Paragraph 8.7 page 53	Change "settlement boundary" to "development boundary".
PM3	Policy LP1 page 22	In the second clause after "applicants" delete "may have to" and insert "must".
PM4	Policy HP1 page 55	Delete Policy HP1.
PM5	Policy HP2 page 55	Delete "for those with a local connection".
PM6	Policy HP3 page 57	Delete clause 3.
PM7	Policy HP4 page 59	Insert new clause after first clause: "Where appropriate, provision will be made to support the Cotswold Water Park Nature Recovery Plan".  In the second clause: delete "permitted" and insert "supported".  In the third clause: insert at the beginning of the sentence "Where feasible".