

# **Wigginton Hopwas and Comberford Neighbourhood Plan 2015 – 2029**

**Report of Examination**

**January 2016**

**Undertaken for Lichfield District Council with the support of  
Wigginton and Hopwas Parish Council on the October 2015  
submission version of the Plan.**



**Independent Examiner:**

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## Summary

- I have undertaken the examination of the Wigginton Hopwas and Comberford Neighbourhood Plan during January 2016 and detail the results of that examination in this report.
- Subject to the recommended modifications being made, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

### Abbreviations used in the text of this report:

The Wigginton Hopwas and Comberford Neighbourhood Plan is referred to as 'the Plan' or 'WHCNP'.

Wigginton and Hopwas Parish Council is abbreviated to 'Wigginton and Hopwas PC'.

Lichfield District Council is abbreviated to 'Lichfield DC'.

The National Planning Policy Framework is abbreviated to 'NPPF'.

National Planning Policy Guidance is abbreviated to 'NPPG'.

The Lichfield Local Plan Strategy is abbreviated to the 'Lichfield LPS'.

Local Planning Authority is abbreviated to 'LPA'.

**Acknowledgements:** My thanks to Local Authority and Parish Council staff for their assistance with this examination. My compliments to the local community volunteers and Wigginton and Hopwas Parish Council, who have produced a concise and easily read Plan, well suited to its local purpose.

## 1. Introduction and Background

### 1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowers local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF) states that:

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Wigginton Hopwas and Comberford that is the Wigginton and Hopwas Parish Council. Drawing up the Neighbourhood Plan was undertaken by Wigginton and Hopwas PC, with the assistance of a Steering Group.

### 1.2 Independent Examination

1.2.1 Once Wigginton and Hopwas PC had prepared their neighbourhood plan and consulted on it, they submitted it to Lichfield DC, the Local Planning Authority (LPA). After publicising the plan with a further opportunity for comment, Lichfield DC were required to appoint an Independent Examiner, with the agreement of Wigginton and Hopwas PC to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this plan. I am a chartered Town Planner with thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan

Independent Examiners Referral Service (NPIERS). I am independent of any local connections to Wigginton, Hopwas, Comberford or the wider Lichfield DC area, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 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.

1.2.4 The legal requirements are firstly that the plan meets the 'Basic Conditions', as set out in section 1.3 below. The plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

1.2.4.1 The Wigginton Hopwas and Comberford Neighbourhood Plan (WHCNP) complies with all of the above. The Neighbourhood Area was designated on the 9<sup>th</sup> July 2013 by Lichfield DC. With the removal of one policy detailed in the modifications below, the plan will not relate to land outside the designated Neighbourhood Area. It specifies the period during which it has effect as 2015 – 2029 and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to the Neighbourhood Area to familiarise myself with it and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 4 at the end of this report.

### **1.3 The Basic Conditions**

1.3.1 The most significant role of the Independent Examiner is to consider whether a neighbourhood plan meets the “Basic Conditions.” These are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. 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; and
- Be compatible with and not breach European Union (EU) obligations and human rights law.

1.3.2 Section 3 of this report considers whether the plan meets the Basic Conditions, and where necessary recommends modifications to the plan in order that it does meet them.

### **1.4 Planning Policy Context**

1.4.1 The Development Plan for Lichfield DC, not including documents relating to excluded mineral and waste development, is the Lichfield Local Plan Strategy (LPS) and saved policies in the 1998 Lichfield District Local Plan not superseded by the Lichfield LPS.

1.4.2 The National Planning Policy Framework (NPPF) sets out government planning policy for England, and the National Planning Policy Guidance website offers guidance on how this policy should be implemented.

1.4.3 During my examination of the WHCNP I have considered the following documents and online guidance:

- National Planning Policy Framework (NPPF) 2012
- National Planning Policy Guidance (NPPG)
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Written Ministerial Statement 25<sup>th</sup> March 2015
- Submission version of the Wigginton Hopwas and Comberford Neighbourhood Plan
- The Basic Conditions Statement submitted with the WHCNP
- The Consultation Statement submitted with the WHCNP
- The Strategic Environmental Assessment Screening Decision for the WHCNP
- Neighbourhood Area Designation (map)
- Pre-submission version of the WHCNP
- Lichfield Local Plan Strategy 2008 – 2029: Adopted February 2015
- 1998 Lichfield District Local Plan – Saved Policies
- Open Space Assessment 2012 Lichfield District Council
- Rural Development SPD
- Heritage Statement Browns Lane Tamworth: Dec 2013 *Tyler Grange*
- Staffordshire Farmsteads Assessment Framework: *Staffordshire County Council and English Heritage*
- Staffordshire County-wide Renewable/Low Carbon Energy Study 2010 *CAMCO*
- Legal Judgement in the High Court [2014] EWHC 4323 (Admin) Gladman v Aylesbury Vale District Council and Winslow Town Council
- Representations received during the publicity period (reg16 consultation)

## **2. Plan Preparation and Consultation**

### **2.1 Pre-submission Process and Consulation**

2.1.1 The Hopwas Wigginton and Comberford Neighbourhood Plan Area is situated in the eastern part of the District of Lichfield adjacent to the north and north-western boundary of Tamworth. It is rural and agricultural in character and consists of the village of Hopwas in the west, the village of Wigginton to the east and the village of Comberford to the north. The West Midlands Green Belt covers part of the Neighbourhood Area. Lichfield is within the County of Staffordshire, who are the Highway Authority for the District.

2.1.2 An application for designation of the whole parish as a neighbourhood planning area was made to Lichfield DC by Wigginton and Hopwas PC and approved on the 9<sup>th</sup> July 2013.

2.1.3 The Parish Council oversaw the work of developing the WHCNP, and set up a steering group with wider involvement from the Community. The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. Publicity used during consultation included leaflets and flyers, posters and a Facebook page, as well as the Parish Council website.

2.1.4 Consultation began with a questionnaire delivered to all households, and Public Meetings with displays and opportunities to comment were held in 2014 and 2015. The Parish Council website had links to the latest version of the plan, and carried the minutes of the Neighbourhood Plan Steering Group. Landowners and statutory consultees were contacted for comments early in 2015.

2.1.5 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the six week formal consultation on the pre-submission Draft Wigginton Hopwas and Comberford Neighbourhood Plan ran from the 14<sup>th</sup> august 2015 to the 25<sup>th</sup> September 2015. Copies of the draft Plan were delivered to each household and local business. Statutory Consultees were contacted by email and local schools were involved to get the views of younger members of the community.

2.1.6 Representations were received from residents and statutory consultees during the consultation period, and several amendments have been made to the plan as a result of constructive suggestions for changes. These are described in the consultation statement.

2.1.7 I am satisfied that due process has been followed during the consultation undertaken on the Plan. The record of comments and objections received during the regulation 14 consultation shows that these were properly considered, and where appropriate resulted in amendments to the plan to accommodate points raised.

2.1.9 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, the Screening Opinion and a plan showing the neighbourhood area was submitted to Lichfield DC in October 2015.

2.1.10 Lichfield DC undertook the Reg 16 consultation and publicity on the WHCNP for six weeks, ending on the 4<sup>th</sup> December 2015. The representations received during this consultation are considered below and modifications required are detailed in section 3.

## **2.2 Regulation 16 Consultation Responses**

2.2.1 Publicity and consultation on the plan undertaken by Lichfield DC after submission, as required by regulation 16 of the Neighbourhood Planning Regulations 2012, resulted in responses comment and objections from organisations as detailed below. Five Statutory Consultees advised that they had no comment to make, Severn Trent Water Company offered general guidance but no specific comments on the Plan. Additionally one member of the public made no comment, but requested to be kept informed of progress.

2.2.2 **Aquireland** - Consider that the WHCNP does not comply with the basic conditions, as it does not allocate land for residential development and is therefore not positively prepared and in conformity with the adopted Local Plan. They also object to policy W1 on the grounds that the evidence quoted is not adequate for the purposes of the policy.

2.2.2.1 A Neighbourhood Plan does not have to allocate land for residential development, even if there is a strategic requirement for development within the Neighbourhood Area. The NPPF is clear that it is the Local Plan that has a duty allocate sufficient land for residential development, thus I do not accept that the fact that no sites are allocated shows

the plan was not prepared positively. The comments regarding Policy W1 will be considered further in Section 3 below.

**2.2.3 Gladman Developments Ltd (Gladman)** – set out the need for the WHCNP to comply with the NPPF and the PPG, and be framed positively. In their view the plan is currently flawed in respect of the basic conditions and should not proceed to referendum. It is of course the purpose of this report to consider just that point, but I can see nothing intrinsically negative in the overall philosophy of the WHCNP. The vision of the WHCNP speaks of sustainable new development being part of the future, as do the objectives. The objections to specific policies not meeting the basic conditions will be considered in the discussion of each policy in the report below, the policies specifically objected to by Gladman are Policies WHC1; WHC2; WHC3; WHC7; W1 and C1.

2.2.3.1 The references by Gladman to legal decisions in respect of Neighbourhood Plans and development proposals that are contrary to them demonstrate that a Neighbourhood Plan does not have the power to override other planning considerations such as the need for a five year housing land supply. A Neighbourhood Plan will not restrict development that national and local planning policy suggests is acceptable. Gladman acknowledge that the LPA, Lichfield DC, currently have an up to date adopted Local Plan and consider that they have a five year housing land supply, but even were the LPA to have neither of these, the courts have confirmed that Neighbourhood Plans do not have to wait on their LPA having an up to date Local Plan (for example the judgement in *Gladman v Aylesbury Vale District Council and Winslow Town Council* [2014] EWHC 4323 (Admin)).

2.2.3.2 Gladman feel that the plan needs to be more flexible to avoid becoming out of date, and of course any development plan is prone to being rendered out of date by events during the course of its projected life. As argued above however, a made Neighbourhood Plan is not capable of restricting development in a situation where changed circumstances and national and local policy suggest a development is acceptable. In this situation a Neighbourhood Plan that was not redone would become increasingly irrelevant. Thus it is not a requirement of the basic conditions that the WHCNP is capable of responding to unpredictable future development pressures, only that it complies with current government policy and is in general conformity with the planning policies of the LPA at the time of the examination.

2.2.3.3 Gladman feel that the commitment to review the WHCNP each year (Section 8) shows that it has not been positively prepared. On the contrary I would argue that this proposal demonstrates a commendable commitment to keeping their plan current. However Section 8 has overlooked the reality of amending a Neighbourhood Plan. As Gladman point out, Neighbourhood Plans have no formal review process, a Neighbourhood Plan that has become out of date needs to be redone and the whole process repeated. This would not be unduly onerous, the process of neighbourhood planning has been simplified as far as possible to allow for the usually substantial input from local volunteers and communities. However Section 8 will need to be re-worded to acknowledge the reality of any review process.

2.2.4 **Inland Waterways Association (Lichfield Branch)** – is pleased to support policy H6 which promotes the protection and enhancement of the canal environment. Some textural changes for accuracy are offered for para 5.2 and 5.17 which should be attended to.

2.2.5 **Lichfield District Council** – Generally welcome the plan and appreciate that many of their earlier comments have been complied with. Detailed comments are offered on policies, objectives and justification text. Where these are relevant for basic conditions purposes they are incorporated into the recommended modifications below. If comments made by the LPA have not been discussed under the consideration of the Plan and modifications below, it is because I do not consider them necessary in order that the plan meets the Basic Conditions. It will still be possible for the plan to be altered as suggested in this submission, but I leave that to the Local Planning Authority and the Qualifying Body to agree, and for the LPA to deal with if they wish in their Decision Statement.

2.2.6 **Sport England** – Offer general advice on protecting playing fields and request that the plan reflects the Tamworth Sports Strategy. However the Basic Conditions would not require or allow this Neighbourhood Plan to do that, unless it had been incorporated into the planning policy of the Local Planning Authority for the Qualifying Body. Tamworth Borough Council is a neighbouring Local Planning Authority.

2.2.7 **Staffordshire Council Council Staffordshire County Council** – Comment on Policy C3 that it is unlikely to achieve its objective, as the highway authority could use the land to alter the junction without needing planning permission. There is no current proposal to do this, but the County Council feel the aspiration should not be policy. This point is considered further in the discussion of the policy below in Section 3.

2.2.7.1 The County Council's Rural Environmental Advice Team feel the wording of Policy WHC2 could be altered in order that the Policy more clearly meets the vision of the Plan, and offer further evidence in support of the policy. They are however broadly in support of Policy WHC2.

2.2.7.2 Policies WHC1, WHC3 and WHC4 are supported by the County Council and the reference to the Staffordshire Farmstead Framework Assessment is welcome.

2.2.7.3 Further supporting information for Policy H1 is offered, which the LPA and Qualifying Body may wish to incorporate into the WHCNP. The County also suggest that reference could usefully be made to 'Planning for Landscape Change', but this is left to the discretion of the LPA and the Qualifying Body, as it is not a Basic Conditions issue.

### **3. Compliance with Legislation and the Basic Conditions.**

3.1 The Basic Conditions the WHCNP needs to comply with are as follows:

- The WHCNP must comply with national policies and advice contained in guidance issued by the Secretary of State;
- It must contribute to the achievement of sustainable development;
- It must be in general conformity with the strategic policies of the development plan for the area; and
- be compatible with and not breach European Union (EU) obligations and human rights law.

3.2 The Basic Conditions Statement explains how the WHCNP promotes the social, economic and environmental goals of sustainable development (page 13), and a summary of the Local Plan sustainability objectives was produced to guide the sustainability of the WHCNP. The vision of the WHCNP speaks of sustainable new development being part of the future, as do the objectives. With the modifications to policy recommended below, I accept that the WHCNP and its objectives do promote sustainable development.

3.3 A Screening Report has been issued by Lichfield DC which considers whether Strategic Environmental Assessment (SEA) and/or Habitat Regulations Assessment (HRA) are required for the WHCNP. These environmental requirements in EU law are the main EU Directives that neighbourhood plans need to comply with. The Screening decision states that SEA is not required for the Draft WHCNP (para 5.3: page 21).

3.3.1 The Neighbourhood Area is identified as potentially impacting on three EU designated Natura 2000 sites. An assessment of potential impact from the WHCNP on all three of these important habitat sites in the Screening Report has concluded that the draft WHCNP does not have any significant potential effects upon the Natura 2000 sites (para 5.4: p21).

3.3.2 The Report states (para 5.1) that if the content of the Neighbourhood Plan is significantly changed from the version screened then another screening exercise may be needed. I am satisfied however that no such significant change has occurred in the Submission Version of the Plan currently being examined, and the LPA has confirmed this is their opinion also.

3.4 The WHCNP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the consultation statement showed that the need to

consult with a wide cross-section of the community was appreciated. Housing policies are mindful of the needs of the whole community and the less advantaged and elderly.

### **3.5 Compliance with Legislation, National Policy and the Development Plan.**

3.5.1 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions and other legislation concerning Neighbourhood Plans. Modifications required to bring the plan into conformity are highlighted in Bold.

3.5.2 The introduction to the plan, sections 1 – 4 is well-written, clear and to the point. Para 3.2 is slightly confused, and I would suggest the implication that homeworking contributes to the ‘dormitory’ nature of the villages is corrected. However it is the Parish Council’s vision and not a Basic Conditions issue, so this is a suggestion only.

3.5.3 **Section 5** of the plan sets out the policies with their justifications, and as usual it is the section requiring most modification in order to meet the Basic Conditions. The Policies, and where relevant their justifications, are assessed below in terms of their compliance or otherwise with the Basic Conditions. Where necessary modifications are recommended that in my opinion are needed in order that the Plan meets the Basic Conditions.

*The format of the modifications is that text in bold is to be added, text shown struck-through is to be removed and quotes from the document to remain are italicised.*

3.5.4 **Policy WHC1:** This policy is supported by the County Council, but objected to by Gladman, on the grounds that it is not clear and will prejudice the LPA’s strategic role in providing adequate land for housing into the future. The reality is that the LPA will allocate land for development in consultation with the local community, as is their duty as set out in legislation and the NPPF. Any existing Neighbourhood Plan policy will not restrict necessary actions in undertaking this duty, and indeed neither will earlier policy from the LPA itself. Policy WHC1 is a legitimate and clear description of the community’s desire for

maintaining the visual distinction of Settlements in the Neighbourhood Area, while leaving the final decision on potential sites to the LPA. Neighbourhood Development Plans have no duty to allocate adequate land for development, and the policy complies with the Basic Conditions.

**3.5.5 Policy WHC2:** This policy is also objected to by Gladman on the grounds that it should be more flexible. However planning policy is always flexible in the sense that the legal requirement is that planning applications are determined in line with policy and any other material considerations. I do not find the policy inflexible or unduly prescriptive and it makes provision for mitigation where justified. The policy complies with the Basic Conditions.

**3.5.6 Policy WHC3:** Gladman feel this policy is repetitious of higher level planning policy, has no evidence backing its inclusion and should therefore be deleted. It is a general policy protecting the historic environment and local distinctiveness, and adds detail to the vision statement with regard to local identity in line with the evidence of community aspirations. The policy complies with the Basic Conditions therefore.

**3.5.7 Policy WHC4:** Is well supported by local evidence. The Plan does not however have the power to compel the submission of documents with a planning application, and so the second sentence of the policy should be modified to indicate encouragement to submit a Heritage Statement rather than compulsion:

**Modification 1:** The second sentence of policy WHC4 should be altered to read:

*“Where there is considered to be archaeological potential ~~the~~ any development proposal is strongly encouraged to ~~should~~ be supported by a Heritage Statement which has been prepared by an appropriately experienced historic environment specialist”*

**3.5.8 Policy WHC5:** Complies with the Basic Conditions, the recommendation of the LPA for an alteration to the last sentence for clarity in planning terms is commended.

**3.5.9 Policy WHC6:** The policy currently precludes the consideration of any development proposal for commercial wind turbines, in contravention of the presumption in favour of sustainable development as set out in NPPF para15. The policy may legitimately set out

requirements for wind turbines that they need to comply with in order to be sustainable development, and so Modification 2 reframes the policy so that it complies with this requirement of national policy and thus also the Basic Conditions.

**Modification 2:** Policy WHC6 should be altered to read:

**“Wind turbines within the Neighbourhood Plan area are required to be of a scale and in a location that does not adversely affect the visual character of the area.”**

3.5.10 **Policy WHC7:** Gladman object to the policy on the grounds that there is no evidence to suggest what ‘local housing needs’ are. However the Plan references the Lichfield LPS as an evidence base for the policy, and that document makes reference to research evidence and the issues and needs of an aging population (para 8.10 for example). This is perfectly adequate evidence for the proportionate needs of Neighbourhood Planning. Additionally the policy is supporting the provision of housing for needs that may be demonstrated in the future, and thereby implies that need should be demonstrated if a development proposal is to be on an exception site.

Lichfield DC request that the wording of the policy be altered in order that it is consistent with their definition of ‘local need’ used in the adopted LPS and set out in the Rural Development SPD (para 2.20). This alteration is required in order that the policy complies with the Basic Conditions, and so Modification 3 alters Policy WHC7 slightly so that local need can be employment based as well as residency based.

**Modification 3:** Policy WHC7 should be altered to read:

*The provision of affordable and/or retirement accommodation which meets the local needs of ~~existing residents~~ the parish as defined in the Rural Development SPD shall be allowed subject to it not compromising the overall appearance of the village in which it is proposed and adjacent developments.”*

3.5.11 **Policy H1:** The policy as currently drafted requires a management plan to be established, but this is not something a planning policy can require or do in the absence of any development proposal. Retaining public access generally is also not something that can be dictated by policy, although the policy can promote the retention of public rights of

way. The policy should therefore be modified in order that it complies with the scope of planning policy and the Basic Conditions.

The County Council have offered further evidence in support of the protection of Hopwas Woods, which the LPA and Qualifying Body may wish to include in the justification for the policy. This is not a Basic Conditions issue however.

**Modification 4:** In order that the policy complies with the scope of planning policy in legislation and guidance and thus meets the Basic Conditions, the second sentence of Policy H1 should be deleted and replaced with:

**“...Existing public rights of way in the Wood are to be retained and public access thereby continued on them”.**

**3.5.12 Policy H2:** This policy relates to land outside the Neighbourhood Area and refers to a policy and Development Plan not relevant to the LPA. The policy is therefore in contravention of the Planning Acts and should be deleted. Discussion of the issues as they affect the neighbourhood area is possible within this Plan’s justification and the LPA in their Reg16 submission feel that a generic policy supporting traffic calming within Hopwas may be possible. I leave that to the LPA and qualifying body to consider further, and if relevant report on in the Decision Statement of the LPA for the WHCNP.

**Modification 5:** Policy H2 should be deleted as it does not relate to land within the Neighbourhood Area.

### 3.5.13 Policy H3:

The playing field referred to is owned by the Parish Council, and their desire to protect it for the residents of Hopwas is quite acceptable. It has a clear Open Space role, and the Lichfield DC Open Space Study 2012 suggests that Open Space in Hopwas is no more than adequate. Reference to this 2012 Study in the WHCNP rather than the current reference to the older evidence paper “Greens and Open Spaces Strategy 2009” would be advisable.

3.5.13.1 In order to comply with the Basic Conditions and the requirement for clarity in policies however, a clear map showing the boundaries of the site will need to be included in the Plan and referenced in the policy.

**Modification 6:** For the purposes of clarity, Policy H6 should be altered to include a reference to a map that clearly shows the boundary of the site referred to:

*“The Playing Field situated off Nursery Lane **shown on Map....** shall be retained in its entirety for the benefit of the residents of Hopwas.”*

3.5.14 **Policy H4:** Although the policy may have indirect landuse implications, that is by no means certain. Current practice suggests that an alternative provision could be the use of existing parking, with no change of use or development involved. Given this, the policy as currently worded is a potential project rather than a planning policy and does not meet the Basic Conditions.

3.5.14.1 The issue the policy attempts to deal with has been identified from concerns in the community expressed during consultation, as has Policy H5. Discussion of the current situation and concerns for future provision has a place in a justification for policy on supporting improved facilities for the journey to school. Para 5.19 does this already, and could add the text from Policy H4 as further justification.

3.5.15 **Policy H5:** Provision of safe school crossing facilities is dealt with in this policy. The justification for it is somewhat muddled, an alternative option is discussed in para 5.24, and other justification is included in para 5.20, which is mostly concerned with traffic along the A51. Para 5.20 makes reference to ‘Policy H2’, which Modification 5 recommends is deleted, and the paragraph will need instead to reference ‘future traffic pressures’. Finally, a 20mph speed limit is a highways issue not a Landuse issue, but as policy H5 is aspirational only it is acceptable to include it here. It would be sensible and more coherent to include mention of an upgrade to the canal towpath as another aspiration for better infrastructure for the school journey here. The more general benefits of any upgrade would still be included in policy H6. Policy and its justification need to be landuse based and clear, and the following modification is required in order that the section of the WHCNP from para 5.19 to Policy H6 complies with the Basic Conditions.

**Modification 7:** As discussed above, the following changes are needed to this section in order that it deals with landuse issues and its meaning is clear:

As stated above, the format of the modifications is that text in bold format is to be added, and text shown struck-through is to be removed. *Text quoted from WHCNP is in italics*

- Delete Policy H4
- Alter Policy H5 as shown below
- Modify paras 5.19, 5.20 and 5.24 as shown and discussed below.

*5.19 School Lane provides the only vehicular access to Thomas Barnes School in Hopwas. Access however is difficult due to residential on-street parking therefore parents bringing their children to school in the mornings and collecting them in the afternoon are currently allowed to park in the Tame Otter public house car park by kind permission of the manager. However the public house is part of the Vintage Inn chain of public houses and there is no guarantee that the current parking arrangements will exist in the future. If the parking arrangements were to be terminated there would be a significant increase in on-street parking potentially within the vicinity of the A51/School*

*Lane/Hints Road junction to the detriment of all road users and importantly school children. Consideration needs to be given as to how best to mitigate against the potential increase of on-street parking in the village. **Alternative safe parking arrangements for parents delivering and collecting their children to and from the Thomas Barnes School will be supported.***

#### *Traffic along A51*

*5.20 The A51 carries a high volume of traffic through Hopwas and having regard to the potential development proposals within the Neighbourhood Plan area particularly to the north of Tamworth this may increase. The current pedestrian crossing situated at the junction of the A51/School Lane/Hints Road is controlled by a school crossing attendant at school opening and closing times. The safe crossing of the A51 should be secured for the future particularly having regard to **future traffic pressures**. The canal tow path **could provide** an effective route to the school, but ~~towpath~~ improvements would need to be made to ensure that there is an all-weather surface in order to encourage pedestrians to use the route. This could prove to be a more cost effective way of solving the **current** difficulties. ~~identified in Policy H5.~~*

**POLICY H5**

*The provision of alternative safe school crossing facilities at the junction of **the A51/School Lane/Hints Road is supported as are the following potential infrastructure improvements to make the journey to school safer:***

- *a 20mph statutory speed limit*
- *improvements to the canal towpath to provide a grade separated crossing of the A51*

*Coventry Canal .....*

Paras 5.21 to 5.23 remain as are.

The last sentence of para 5.24 should be removed for clarity.

3.5.16 **Policy H6:** This policy complies with the Basic Conditions.

3.5.17 **Policy W1:** Objections to this policy have been received on the grounds that there is no evidence to support the policy and it does not have regard to the strategic policies for the wider area. Mention in the policy of a 500m buffer is also felt to be unsupported by evidence provided. Lichfield DC are happy that the policy complies with their policy for the North of Tamworth in the Lichfield LPS, (p115) with one exception. The assertion in the policy that the western boundary of any development proposed should be the railway line is not what is shown in the Lichfield LPS and therefore is in contravention of the strategic policy and indeed a recent planning permission.

3.5.17.1 The evidence requirements for neighbourhood plans need to be proportionate to their local remit and community-based nature. Policy W1 cannot require development not to stretch to the west of the railway line, but with this change the policy is compliant with the strategic policy and the evidence backing that. It is also introducing a useful local addition to the evidence; the need to avoid coalescence of Tamworth with Wigginton in order that the setting of the conservation area that covers much of Wigginton is maintained. However the evidence quoted, a heritage study that formed part of a previous planning application does not study the requirement for an exclusion zone around Wigginton in detail. It assesses that the distance of that proposed development (500m) from the Wigginton Conservation Area is adequate for the purposes of maintaining acceptable visual separation and the setting of

that Conservation Area. I do not find this study adequate evidence for a general separation distance, although is a useful indicator and discussion of the report in the justification is acceptable where it is not setting a firm standard.

3.5.17.2 While much of this policy needs to come out, there is an aspect of non-coalescence mentioned in the justification, that in my opinion should be inserted into the policy, the requirement for tree planting and landscape screening, which is policy rather than justification. Additionally the policy needs to be clear that it is coalescence of Wigginton with Tamworth that is the issue.

**Modification 8:** Policy W1 and its justification (*reproduced in italics*) is to be altered as shown below in order that its requirements are proportionate to the evidence and comply with strategic guidance in the adopted development plan:

*5.26 It is considered that there should be a clear divide between the Wigginton Village Envelope and any potential new development that may impinge on the character of the village. In this respect the supporting document entitled "Heritage Statement" for the proposed housing development off Browns Lane for 165 houses, which has been granted planning permission offers some guidance as to what the separation should be. It states that the "Wigginton Conservation Area lies more than 500 metres to the north. The proposals are unlikely to affect this designated area's setting and a retained hedgerow and proposed further landscape planting will ensure its character is preserved." This is considered to be an appropriate standard that should be applied to any proposed development. Having regard to the Broad Development Location identified in the LDLPS and the approved development off Browns Lane it is considered that the line of the Birmingham — Derby Railway Line should be the appropriate western boundary of any development proposal north of Tamworth. In addition the development must present a screen of trees and shrubs to the village view by new planting where necessary.*

*POLICY W1*

*There shall be no coalescence of any development **north of Tamworth** with Wigginton **and separation of** Anew development from Wigginton should have regard to the approved housing development off Browns Lane with respect to separation distances*

~~from~~ ***need to maintain the visual separation and Conservation Area setting of Wigginton Village.*** In this respect the ~~western boundary of any development proposed in accordance with Policy North of Tamworth should be the Birmingham-Derby Railway Line.~~ ***Any new development must present a screen of trees and shrubs to the village view by new planting where necessary.***

3.5.18 **Policy W2:** At present the policy would apply to any development in the Neighbourhood Area, except that the Proposals map indicates it is a policy specific to Wigginton. As the intention would appear to be that it just applies to Wigginton I shall suggest a modification to the policy that clarifies this by referring to the settlement boundary. Additionally it is not acceptable for a planning policy to dictate documentation that is to be submitted with a planning policy that is not required by the national regulations. Thus the policy will need to qualify the requirement for all development to have to submit a report.

**Modification 9:** Policy W2 is to be altered as shown for clarity and to comply with national regulations:

*Any new development **within the settlement boundary of Wigginton** must ensure that their own foul and surface water drainage requirements are adequately dealt with. ~~through~~ **The provision of a drainage report is strongly encouraged which should** shows that the existing system is not compromised ~~unless or that~~ improvements can be put in place to ensure that the existing system is not overloaded.*

3.5.19 **Policy W3:** This policy also needs to clearly apply to Wigginton within the settlement boundary as that intent is demonstrated in the Proposals Map. Lichfield DC have suggested alterations for planning clarity. The policy should be modified therefore in order to meet the Basic Conditions as regards policies being clear (NPPF para154)

**Modification 10:** Policy W3 is to be modified as follows in order that its intent is clearer and it complies with the Basic Conditions:

*New development within the **Wigginton Settlement Boundary** shall be supported where it is shown to provide improvements **add to the overall quality of the character** and environs of the village.*

3.5.20 **Policy W4:** For clarity the qualifier “have the potential to” should be inserted in the policy as shown. Development proposals will not have increased traffic, but may have the potential to do so.

**Modification 11:** Policy W4 is to be modified as follows in order that its intent is clearer and it complies with the Basic Conditions:

*All new developments which **have the potential to** increase the number of vehicles in the village shall provide adequate off-road parking to meet the need of that development.*

3.5.21 **Policy W5:** Complies with the Basic Conditions.

3.5.22 **Policy C1:** This policy’s commitment to no coalescence with Tamworth complies with strategic policy in the Lichfield LPS, as discussed in connection with policy W1 above. However the LPA have pointed out that the wording needs to change in order that local need meets the definition in the Rural Development SPD, which is based on family connection and employment need as well as residency.

**Modification 12:** Policy C1 should be altered as shown in order that it meets the Basic Conditions and complies with policy in the Development Plan:

*Development shall be allowed within Comberford in a suitable location where it meets the **local** needs of the residents of Comberford as defined in the Rural Development SPD. There shall be no coalescence of any development between Tamworth and Comberford.*

3.5.23 **Policy C2:** Complies with the Basic Conditions

3.5.24 **Policy C3:** The Highway Authority, the owners of the land, feel that this protection policy is not compatible with their statutory duties as a Highway Authority. The area of land is very small and surrounded by highway, formed of narrow country lanes. The community does do some maintenance and planting on it, and the very low traffic volumes suggest that it is unlikely to be required for highway improvements, but as highway land it is not possible to effectively designate it as open space without the agreement of the Highway Authority.

To comply with highway requirements therefore, the policy is recommended to include text to explain its context and the necessary restrictions on future retention.

**Modification 13:** Policy C3 is to include the addition of the following text at the end, in order that future possible highway requirements are acknowledged:-

*“The grassed triangular island at the junction of Tollgate Lane and Manor Lane shall be retained and maintained as a grassed triangular island **as long as this is acceptable to the Highway Authority.**”*

3.5.25 **Policy C4:** The Millenium Green is owned by the Parish Council, and their desire to protect it for residents is quite acceptable. In order to comply with the Basic Conditions and the requirement for clarity in policies however, a clear map showing the boundaries of the site will need to be included in the Plan and referenced in the policy.

**Modification 14:** For the purposes of clarity, Policy C4 should be altered to include a reference to a map that clearly shows the boundary of the site referred to:

*“The Millennium Green **shown on Map....** shall be retained in its entirety for the benefit of the residents of Comberford.”*

3.5.26 **Policy C5:** Complies with the Basic Conditions

3.5.27 **Proposals Map:** For accuracy and clarity this will need to change to reflect policies recommended for deletion and any subsequent renumbering:

**Modification 15:** The Proposals Map should be altered to reflect deleted policies and other re-numbering required in the text in order that the Plan meets the Basic Conditions.

3.5.28 **Section 8: Risk Assessment** This section has a commendable commitment to annual review of the plan, but unfortunately is not correct in its assumptions about how the Plan may be amended if the review shows parts of it are becoming less relevant for whatever reasons.

3.5.28.1 The phrase “Where amendments are proven to be necessary the Plan will be amended accordingly and consulted on as appropriate” is not a correct reflection of the

process needed. Any amendment to the Plan will need to be made via a repetition of the whole neighbourhood planning process and consultation will need to follow the proscribed course in the Neighbourhood Planning Regulations 2012 as amended. Fortunately this process is relatively simple in development plan terms, and working from an existing plan should make it more so, but the wording of this phrase in the WHCNP will need to change in order that the plan is reflecting due process.

I therefore recommend a modification to this Section that indicates where a review of the WHCNP suggests amendments to policies in the Plan are necessary to maintain its effectiveness, the amendment of the WHCNP via a repetition of the NP process will be considered. This will realistically mean that amendment to the plan will only happen if it becomes significantly less effective due to national and local policy changes.

**Modification 16:** Section 8 should to be altered to properly reflect due process for a Neighbourhood Plan review. The last sentence of the first and second bullet points should be deleted and replaced with the following text:

**“Where review of the Plan suggests changes to policies are necessary in order to maintain its effectiveness as a development plan, consideration will be given to amending the Plan with a repeat of the neighbourhood plan development process.”**

#### **4. The Referendum Boundary**

4.1 The Wigginton Hopwas and Comberford Neighbourhood Plan as modified has no policy or proposals with a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the Wigginton Hopwas and Comberford Neighbourhood Plan 2015 – 2029 shall be the boundary of the designated Neighbourhood Plan Area for the Plan.