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**Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood
Development Plan: Regulation 14 Pre-Submission Consultation**

DRAFT Representation by Newcastle-under-Lyme Borough Council

October 2018

Thank you for providing a copy of the pre-submission draft Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan to Newcastle-under-Lyme Borough Council. This is the second Regulation 14 consultation which arises from revisions to the Neighbourhood Plan following the previous consultation opportunity. The comments made in this document build on those already made at the previous consultation in the summer of 2018. The Draft Plan has evolved from earlier draft versions and previous comments have influenced preparation of this pre-submission draft. It is the product of a significant amount of hard work by volunteers and the local community; and suggests that a great deal of community engagement and consultation has taken place.

This response relates to the Regulation 14 Pre-Submission Draft Plan version 1.1 and any advice provided is intended to assist the Neighbourhood Plan Group to review the Plan to consider whether it will meet the basic conditions and that the strategy and policies as currently drafted will deliver the desired outcomes.

A neighbourhood plan must meet the 'basic conditions', and these are a series of tests set out in the Localism Act 2011 against which the policies in the neighbourhood plan will be tested. In meeting these conditions regard must be paid to the way in which the plan is prepared, its relationship to higher tier plans and policies and to how robust the policy conclusions reached are, in relation to the evidence prepared.

It is required that Neighbourhood Plan policies must be in general conformity to the Strategic Policies of the adopted Local Plan, should be clear, unambiguous, concise and precise; and be supported by robust, yet proportional evidence, whilst being distinct to reflect and respond to the specific characteristics of the local area. For neighbourhood plans produced in the Borough of Newcastle-under-Lyme, this means conforming to the 'saved' policies of the Newcastle-under-Lyme Local Plan (adopted 2003) and to the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) (adopted 2009).

Newcastle-under-Lyme Borough Council and Stoke-on-Trent City Council are currently preparing a Joint Local Plan which will eventually replace the existing development plan. The Councils recently consulted on the Preferred Options Document which sets out the preferred approach to future levels of housing and employment growth that Newcastle-under-Lyme Borough Council and Stoke-on-Trent City Council are planning for over a twenty year period. The Councils are currently considering the responses to this consultation and intend to consult on a Draft Plan in 2019.

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Where a new Local Plan is in preparation, the reasoning and evidence underpinning the plan is relevant and should be taken into account when assessing whether a neighbourhood plan meets the basic conditions.

The following, further comments on the Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood plan are intended to assist the Parish Council to refine their proposals to meet the tests of the basic conditions. General comments in relation to the Plan are provided first and then a table follows with more detailed commentary on specific paragraphs/ policies etc. This is followed by comments on the proposed Local Greenspace Designations. We would welcome the opportunity to discuss the comments made with the Parish Council if they wish to do so, prior to the plan being submitted to the Local Planning Authority.

General Comments

The Neighbourhood Plan states it has recognised and responded to the views of the local residents of the three Parishes as determined by the earlier public consultation. It is forward-looking and open to changes as community needs develop yet it seeks to retain many of the rural characteristics and heritage that are valued by established long-time and new residents.

Whilst it is not specifically allocating sites for further housing development, it has accepted extensions to the village envelope of Baldwins Gate (see Map 33) for sites where housing has been approved outline/reserved matters consent, but it seeks to constrain further development in accordance with the Borough development plan, and to protect key historic and natural assets in accordance with the Government's 25 year Environment Plan published in early 2018.

The Neighbourhood Plan considers itself generally in conformity with national policy and its objectives for achieving economic, social and environmental sustainable development.

It demonstrates a desire to increase and improve the range of current community infrastructure and social facilities, particularly for leisure and recreation to promote active lifestyles and healthy communities across all ages. It also demonstrates a need to support diversification of the rural economy to create opportunity for enterprise and rural employment, for example through Policy EB2 to facilitate growth and promote employment development of rural businesses but does not allocate any sites for rural business.

This Plan suggests it forges a vision from and for the Community that preserves its rural heritage yet offers opportunities for future change. If accepted by examination and following referendum it will become part of the Development Plan.

It is evident that a great deal of work and effort has gone into the development of this Neighbourhood Plan; it is noted that revisions to the document have been made and the policies are therefore easier to find. Each policy does have a helpful section entitled 'evidence' which sign posts its conformity with the principles and aims of the National Planning Policy Framework (NPPF), adopted Core Spatial Strategy (CSS), Newcastle-Under-Lyme Local Plan 2011 Saved Policies and Emerging Joint Local Plan. Officers welcome the revisions to the references made to individual paragraphs from the NPPF noting that these are now in respect of the 2018 NPPF however this has not been

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consistently applied and there are still references to the 2012 NPPF, e.g. on each of the Local Green Space proformas. However, the officers still consider that a shorter document would make it easier to read, with a main document containing the policies and a single proposals map (rather than a piecemeal approach); supported by the evidence base in a separate document.

Despite revisions, officers still find the document difficult to navigate and find what you want. For example section 2.1.2 sets out a policies matrix, one would then assume that the following text would be in the order of the sections, NE, COM, DC and so on, but it starts with Local Green Space designations and then to back to biodiversity and natural environment policies; so the order is different. Although, the maps play an important role within the Neighbourhood Plan with the supporting text and policies often making reference to them, therefore, were the document to be divided, the maps should be retained within the main Neighbourhood Plan document. In addition to the existing table of contents at the front of the document, officers still consider that it would be useful to have a list of the policies in that table of contents, which would make it easier and quicker to locate each of the policies when needed. It is acknowledged that HS2 will affect the local area and a large amount of evidence is included in relation to that, but Neighbourhood Plan policies do not influence this major national project. It is therefore questioned whether this should be included in the Plan itself or as supporting evidence.

Generally we note that most Neighbourhood Plans are around one hundred pages long, or smaller, hence our reason for suggesting shortening the Plan. A shorter document would also make it so much easier to use. Officers are still of the opinion that the document is difficult to navigate and are concerned about the structure and ease of use were it to be part of the Development Plan.

Habitats Regulations Assessment Screening

In April 2018 the European Court of Justice issued a judgement on Habitats Regulations Assessment. Its ruling in the case 'People Over Wind and Sweetman v Coillte Teoranta' states that a full and precise analysis of the measures capable of avoiding or reducing any likely significant effects on a European site must be carried out **not** at the screening stage but specifically at the stage of Appropriate Assessment. The Borough Council has reviewed the content of the Habitats Regulations Assessment Screening Report in light of the Sweetman case and considers it still fit for purpose because it does not build in mitigation in order to screen 'no likely significant effect'.

Strategic Environmental Assessment (SEA) Screening

Officers have rescreened the NP for SEA and do not consider that the revisions made to the Neighbourhood Plan result in a different outcome to the screening exercise already undertaken.

HRA and SEA screening reports can be presented at the Regulation 16 consultation.

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Detailed Comments

Section	Comments
Contents and Layout	<p>We welcome the changes made to the layout of the Plan, bringing the policies forward in the document and moving the other topics back, but it still could be improved (see comments in the General section above).</p> <p>We welcome information being included for the proposed Local Green Space designations. Comments on these can be found later in this response.</p>
Policy NE1: Natural Environment	<p>We note the content of the policy to protect and enhance sites and features of local interest. However, the policy could be expanded to require mitigation or compensation to cover any instances where a development proposal could otherwise be contrary to this policy. This would enable a positive outcome to be secured from a proposal that could otherwise cause harm, particularly where there may be instances where development could be approved.</p>
Policy NE2: Sustainable Drainage	<p>It's not considered that this policy is clear or precise enough to deliver what the NP intends it to do. For instance if the developer provided either a soakaway or waterbutts, would this be sufficient to comply with the policy? We ask that further consideration is given to the precise wording as it's meaning is open to interpretation.</p>
Policy COM1: Community Facilities	<p>We welcome the revisions made to this policy so that it can approve facilities in appropriate locations, but can the NP define sustainable and accessible locations to support the meaning of the policy?</p>
Section 2.2 and 2.4.2 Local Green Space and Policy COM2: Local Green Space	<p>We welcome your inclusion of an appendix which contains a proforma for each of the proposed Local Green Space sites, along with a proforma to show where each of the proposed designations meet the criteria for Local Green Space designations as set out in the NPPF, Para 100.</p> <p>The policy needs further text, firstly it needs to designate the Local Green Spaces, and define them, which at present it doesn't do. Although the policy has been reworded since the previous version after further consideration we consider that it is not worded in the manner required by the NPPF where it would set out that development would only be approved in very special circumstances and then set out what those circumstances are. We do not consider that the policy is as strong or as clear as it could be.</p> <p>On a wider note we consider that there are far too many proposed Local Green Space designations and that many of them are unlikely to meet the NPPF criteria. Many are linear routes such as public rights of way which are protected under separate legislation, along with roadside verges, of fairly ordinary value that may be difficult to demonstrate are demonstrably special or possess some elements of local significance to meet the NPPF criteria. It is unclear about what the Neighbourhood Plan will achieve through effectively giving such strips of land Green Belt status. If verges are part of local character they could be conserved and enhanced, and</p>

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	<p>increased through other policies. Further information on each of the designations is included later in this response and briefly in our response to policies DC3 and DC4. Government guidance¹ on Open Space provides more information about Local Green Space designations.</p> <p>The supporting text to this policy makes reference to enabling small scale storage or changing facility for a sports or recreational area or play equipment, however most of the proposed designations are not recreational or play areas. To designate so many, minute spaces, seems excessive when so many of them would rarely be used for any other purpose than for highway visibility or general amenity. Further commentary can be found later in this response.</p>
<p>Policy COM3: Developer Contributions</p>	<p>The policy does not set out any instances when S106 or CIL monies would be charged. At the moment the Council does not have a CIL policy. We consider the policy as worded is vague and may be difficult to apply.</p>
<p>Section 2.5 Design, Character and Built Heritage</p> <p>Policy DC1: Local Heritage</p>	<p>At the last consultation we said it is important that the NP is clear about the meaning of the term ‘heritage assets’ and ‘heritage designations’ and ‘non-designated heritage assets’. Whilst revisions have been made to the terminology used to describe heritage assets, whereby the term ‘special designations’ has been replaced, it has not been replaced as suggested with the term heritage assets or non-designated heritage assets as suggested in our earlier response. The policy refers to historic buildings, is it intended that this policy is solely applicable to buildings? Again, the plethora of terms adds to confusion for the reader making the policy difficult to interpret, apply and more open to challenge. The reader has to keep checking what is meant by the different terms used, and looking for the place where the definition might be found. We suggest that the term ‘non-designated local historic buildings’ is rephrased with ‘non-designated heritage assets’ to be consistent with terms used earlier within the heritage section. The NP uses the term historic buildings, which then restricts the policy to buildings and not a wider range of historical assets. We would still prefer the term ‘designated heritage assets or non-designated heritage assets’ to be used; or that the NP is clear and precise about what terms are used and what they mean. Does this policy have any relationship to the Boroughs list of ‘locally listed’ buildings and structures?</p> <p>Can the NP define the term ‘high quality and durable materials’?</p> <p>The Neighbourhood Plan includes a policy relating to non-designated heritage assets that are considered to be important to the neighbourhood area, any policy should recognise that the level of protection to be afforded will depend on its significance. While the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining a planning application, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset (see NPPF Section 16, Para 197).</p> <p>It is suggested that the Neighbourhood Plan Group give consideration to the wording of paragraph 79 of the NPPF to ensure that the policy is consistent with national policy. The NPPF seeks to avoid new isolated</p>

¹ <https://www.gov.uk/guidance/open-space-sports-and-recreation-facilities-public-rights-of-way-and-local-green-space#Local-Green-Space-designation>

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	<p>homes in the open countryside unless there are special circumstances. Supporting text could be expanded to signpost to this part of the NPPF.</p> <p>It is important to consider that commercial and residential conversions will often necessitate additional development and this can include various paraphernalia including the creation of an improved or new access/driveway, parking areas, gardens, boundary treatments, lighting and outbuildings, all of which can have a significant visual impact.</p> <p>It is worth noting that many conversions do not require planning permission as there are extensive permitted development rights available. In these circumstances, the policy could not be applied (nor planning policies from higher tier plans).</p> <p>The steering group may also want to consider also paragraph 146 of the NPPF in relation to the re-use of buildings within the Green Belt.</p> <p>We still consider that a section on definitions or a glossary would be helpful, and included at some key point in the NP to save the reader from hunting in the document to find the meanings of terms. Again more consistency would be welcomed and if possible a reduction in the number of terms used. This would provide more clarity for the reader and those applying the policies to make planning decisions or recommendations.</p>
<p>DC2: Sustainable Design</p>	<p>What are the views and landmarks that the policy seeks to protect? Again, can a definition of ‘high quality and durable materials’ be included. Officers still consider that developers community engagement on design matters can be assisted through Neighbourhood Planning. The supporting evidence on local character can be used by developers to shape and inform proposals coming forward for consideration.</p>
<p>DC3: Public Realm and Car Parking & DC4: Connectivity and Spaces</p>	<p>This policy has been amended to clarify the meaning of ‘new development’.</p> <p>This policy could be expanded to cover roadside verges as so many are included in the list of proposed Local Green Space designations. If evidence suggests that grassed verges are part of local character they could be further influenced through this policy.</p> <p>Point 7 of this policy could be the ‘hook’ to provide for the enhancement of public rights of way where they could be affected by development proposals. It may require slight revision to the wording to do this but may be considered a more appropriate means than proposing to designate so many linear routes as Local Green Spaces. Alternatively DC4 could be reworded to give effective provision for protecting and enhancing connectivity within the NP area to ensure that these routes where they may cross development sites, are given adequate consideration where they could be affected by development proposals.</p>
<p>Policy DC4 Connectivity and Spaces</p>	<p>This policy has now been amended to reflect new build development proposals. Although there is a sentence at the start of the interpretation section that defines ‘new build development’ it uses a different terminology to the previous policy. It would be better if there was consistency throughout the Plan and use one or the other, either ‘new development’ or ‘new build development’.</p>

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<p>Policy DC5: Street Lighting and Illuminated Signage</p>	<p>This policy appears to attempt to control matters that would not normally be subject to a planning application. For example, street lighting would normally be permitted development under Part 12 of the General Permitted Development Order. Although lighting provided as part of a development scheme could be considered by the planning system at the planning application stage, and you could use this policy to influence the scale and design of lighting as part of a scheme. At the moment this policy does not do that, but it could. Highway signage provided by the statutory undertaker does not normally require advertisement consent, and is therefore beyond the control of the planning system. Therefore, it would be more appropriate to pursue matters relating to highway signage with the Highway Authority.</p> <p>Advertisements are dealt with under a different process to planning applications. Many advertisements do not require express consent from the Local Planning Authority. Those that do are considered with reference to their effect on amenity and public safety only. Therefore, the opportunities to influence this are limited. Whilst illuminated signage is included within the Neighbourhood Plan policy it lacks detail concerning this matter.</p>
<p>Policy DC7: renewable Energy</p>	<p>We consider that the policy is imprecise and may not achieve uptake of renewable energy technologies as the supporting text suggests. We consider that further consideration should be given to the aims and wording of the policy. What about schemes that sit outside community energy schemes and micro-generation schemes? Is the policy not relevant in those situations?</p> <p>The policy makes no mention of encouraging retrofitting renewable energy technologies on existing buildings. Does the NP intend this?</p>
<p>Chapter 6. Policy EB1: High Speed Connectivity and Telecommuni cations</p>	<p>The policy states that new development must incorporate high speed internet connectivity. It important to consider that it may be outside of the developers control to provide this due to availability or cost. Consideration could be given to requiring high speed internet connectivity unless it can be demonstrated that this would not be possible, practical or economically viable.</p> <p>It is not clear how the second requirement 'not impact negatively on the functionality of the existing telecommunications infrastructure' would be assessed in terms of a development proposal at the planning application stage.</p> <p>Whilst a policy that supports the provision of better broadband connectivity to new developments is aspirational, we would prefer to see a less restrictive policy that requires developers to demonstrate how the development will contribute to, and be compatible with current high speed digital connectivity where practical. Such a policy could also generally support proposals that have access to high speed broadband to serve residential properties and businesses. There may be instances where the provision for high speed broadband is not physically possible or necessary. Therefore, those developments could be designed to facilitate connection when it is available. As worded, the policy would not support development where this is not provided at the outset which could be unduly negative.</p>

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<p>Policy EB2: Commercial and Tourism Development</p>	<p>We acknowledge the policy to broadly support rural diversification, but consider that more consideration ought to be given to the precise wording to ensure that it is effective. As written, the first paragraph states that it will consider impacts on residential amenity and local character; and the second paragraph adds a further range of impacts along with and ‘and other impacts’. We suggest that the wording is given more consideration in order that it is clear, precise and unambiguous; and less open to interpretation.</p>
<p>Section 2.7 Housing Growth</p>	<p>The Core Spatial Strategy identifies a hierarchy of five centres. The lowest level is identified as a ‘village’ in which Baldwin’s Gate and Whitmore currently sit. The Core Spatial Strategy identifies these ‘villages’ as centres for no further growth, and efforts must be made to ensure that existing services and facilities are protected.</p> <p>In terms of the range of figures, the Preferred Options consultation identifies the housing requirement (OAN) as 11,720 for Newcastle Borough, 586 dwellings per annum (dpa).</p> <p>Consideration could be given to building in some flexibility to any policies and proposals to enable the management of development in the event that the Council cannot demonstrate adequate housing land supply, should the Joint Local Plan change the settlement boundaries, or otherwise indicate additional housing development is required. To help the plan to be flexible i.e. to be more future proofed, the plan could contain policies on the scale and/or form of housing development that might be preferred in the event that additional housing is pursued within or beyond the existing village envelope.</p>
<p>Policy HG1: New Housing</p>	<p>We acknowledge the revised village envelope boundary for Baldwin’s Gate, and that it is presented in Map 33.</p> <p>Please define ‘other built settlements’.</p> <p>The criteria in the first part of the policy suggests that a sustainable location includes the conversion of an agricultural building, without any reference to it’s location. Is this correct?</p> <p>Can the NP define ‘adequate infrastructure’, ‘sensitive landscapes and habitats’ and ‘important community facility’?</p>
<p>Section 2.7.2 Policy HG2: Housing Mix</p>	<p>We acknowledge the revision of this policy to be compatible with the current Core Spatial Strategy policy CSP6 which applies a 5 dwelling threshold to the rural area.</p>
<p>Policy HG3: Local Play, Sports and Recreational Facilities</p>	<p>We acknowledge the revision to this policy, but consider it ought to be strengthened e.g. by adding some text from the interpretation section whereby the application should demonstrate how it meets the needs for play, open space and sports facilities etc. in accordance with the Borough’s standards. The policy is written in a way that complying with it is open to interpretation and it’s difficult to determine exactly what it wants to deliver. It is also very generic and unspecific to the Neighbourhood Area.</p>

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Proposed Local Greenspace Designations

Text to follow

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