

 Executive 13 January 2016		Agenda Item No. 7
Title	Whitnash Neighbourhood Plan	
For further information about this report please contact	Lorna Coldicott, Senior Planner, lorna.coldicott@warwickdc.gov.uk Tel: 456505	
Wards of the District directly affected	Whitnash, small part of Sydenham	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	9 January 2013 designation of NP area – minute no:129	
Background Papers	Examiner's Report (July 2015) (Appendix A) Draft Whitnash Neighbourhood Plan (August 2015), available on the WDC website or Whitnash Town Council's website	

Contrary to the policy framework:	Yes
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	Yes ref:480
Equality Impact Assessment Undertaken	Yes/No (If No state why below)

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	22.12.15	Chris Elliott, Bill Hunt, Andy Jones
Head of Service	22.12.15	Tracy Darke
CMT	22.12.15	Chris Elliott, Bill Hunt, Andy Jones
Section 151 Officer	22.12.15	Andy Jones
Monitoring Officer	22.12.15	Andy Jones
Finance	22.12.15	Mike Snow
Portfolio Holder(s)	22.12.15	Cllr Stephen Cross
Consultation & Community Engagement		

The final consultation takes the form of a public referendum. This was held on Thursday 26 November 2015 and the plan was supported by more than half of those who voted. Therefore the plan now has to be 'made' (adopted) as part of the Council's policy documentation and forms a third tier to decision making on planning applications below national and local plan policies.

Final Decision?

No

Suggested next steps (if not final decision please set out below)

To be considered at Council 27 January 2016

1. Summary

- 1.1 This report sets out the final step to be taken with regard to the Whitnash Neighbourhood Plan. The plan has successfully undertaken all the relevant stages to become a policy document which will be used together with national and local planning policy documents when decisions are taken on planning applications, for the designated Neighbourhood Plan area of Whitnash. The last stage is for Council to 'make' (adopt) the plan. This will be the first neighbourhood plan to be 'made' in Warwick District.

2 Recommendation

- 2.1 That the Council 'makes' the Whitnash Neighbourhood Plan, as modified to accord with the Examiner's amendments, under section 38A(4) of the Planning and Compulsory Purchase Act 2004 and acknowledges its role in the future decision making process with regards to planning applications affecting the designated area.

3. Reasons for the Recommendation

- 3.1 The Localism Act, 2011, introduced new rights and powers to allow local communities to shape new development by coming together to prepare neighbourhood plans. It also states that all local planning authorities (LPAs) have a duty to support and advise neighbourhood groups which are seeking to take forward a neighbourhood plan.
- 3.2 The Whitnash designated area was agreed by Executive at its meeting on 9 January 2013. Since that date, the designated body has worked with the assistance of Kirkwells Planning Consultants to produce firstly a consultation draft of the neighbourhood plan and then a draft submission plan. Public consultations have accompanied each of these stages and informed the subsequent draft plan.
- 3.3 Planning officers carried out Sustainability Appraisal and Strategic Environmental Assessment Scoping for the Plan and have assisted with the administration of the Plan, including the examination by an independent examiner whose report is attached in Appendix A. The Council has recently held the referendum as required by The Neighbourhood Planning (Referendums) Regulations, 2012.
- 3.4 The referendum is the last stage of public consultation in which those entitled to vote within the designated area are able to choose whether or

not to support the neighbourhood plan as a document against which local planning applications will be judged, together with national policy and the Local Plan.

- 3.5 The Whitnash Neighbourhood Development Planning referendum asked electors to vote 'yes' or 'no' in response to the following question: "Do you want Warwick District Council to use the Neighbourhood Plan for Whitnash to help it decide planning applications in the neighbourhood area?" The results of the referendum were as follows:

Referendum Results	
Number cast in favour of a Yes	926
Number cast in favour of a No	68
Spoilt	6
Electorate	6737
Ballot papers issued	1000
Turn out	15%

Therefore more than half of those voting, voted in favour of the Neighbourhood Plan.

- 3.6 As a result of this vote, the Council is now required to 'make' the Plan.

4. **Policy Framework**

- 4.1 The Basic Conditions for neighbourhood plans are specified by law. These are they:
- Must be appropriate having regard to national planning policy;
 - Must contribute to the achievement of sustainable development;
 - Must be in general conformity with the strategic policies in the local plan / core strategy for the local area;
 - Must be compatible with human rights requirements, and
 - Must be compatible with EU directions.
- 4.2 The Local Planning Authority (LPA) has worked closely with the neighbourhood plan working party to ensure that emerging neighbourhood plan is in general conformity with the strategic policies in the emerging new Local Plan.
- 4.3 At a strategic level, neighbourhood planning is reflective of the changing policy and legal environment in which the local authority works and the need to be responsive to customer demands. This is in line with the Council's 'Fit for the Future' Strategy', as is the end result of neighbourhood planning, which is about contributing towards the vision for the district as a great place to live, work and visit. Neighbourhood plans have the potential to bring forward local proposals to improve prosperity, housing, health and wellbeing, community protection and sustainability.

4.4 **Impact Assessments** – : there are no significant policy changes arising from this report that have an impact on equalities

5. **Budgetary Framework**

5.1 Funding resources are covered within existing budgets

6. **Risks**

6.1 By not allowing communities to produce their own neighbourhood plans, the Council would be denying local people to have a say in the more detailed aspects of bringing forward development suitable to their joint area, against government policy.

7. **Alternative Option(s) considered**

7.1 The Council has a statutory duty to make the Neighbourhood Plan where it has been approved in a referendum, save where it is considered that doing so would breach, or otherwise be incompatible with, any EU or human rights obligations. There is no suggestion that this is the case in respect of the Whitnash Neighbourhood Plan and so it is considered that the Council has no alternative but to make the Plan.

Appendix A

Examiner's Report

Whitnash Neighbourhood Development Plan Submission Draft 2015 - 2029 Report of Examination

July 2015

**Undertaken for Warwick District Council with the support
of Whitnash Town Council on the submission version of
the plan.**

Independent Examiner:

Liz Beth BA (Hons) MA Dip Design in the Built Environment MRTPI

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6. Appendix 1: Typographical and other minor errors in the text.

Summary

- ☐ I have undertaken the examination of the Whitnash Neighbourhood Development Plan during July 2015 and detail the results of that examination in this report.
- ☐ Subject to the recommended modifications in Section 3 being made to the satisfaction of the Local Planning Authority, the Plan meets the basic conditions and may proceed to referendum.
- ☐ I recommend a slight change to the area of the referendum boundary from the designated neighbourhood plan area, due to recent minor boundary changes to the parish boundary of the Town Council's area.

Abbreviations used in the text of this report:

The Whitnash Neighbourhood Development Plan is referred to as 'the Plan' or 'Whitnash NDP'.

Whitnash Town Council is abbreviated to 'Whitnash TC'.

Warwick District Council is abbreviated to 'Warwick DC'.

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

Acknowledgements:

The co-operation and speedy responses to requests for information from the Town Clerk for Whitnash TC and the Planning Policy officer at Warwick DC is gratefully acknowledged.

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 Whitnash this is the Town Council. As is usual, a steering group led the process comprising local residents as well as councillors. The steering group worked for over two years on the plan, and was assisted by planning consultancy Kirkwells during this time.

1.2 Independent Examination

1.2.1 Once Whitnash TC and the steering group had prepared their neighbourhood plan and consulted on it, they submitted it to Warwick DC. After publicising the plan with a further opportunity for comment, Warwick DC were required to appoint an Independent Examiner, with the agreement of Whitnash TC 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 Whitnash, Whitnash TC, and Warwick DC, 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 discussed 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.

The Whitnash NDP complies with all of the above, except for some minor inclusion in maps of land outside the designated area. I have indicated where these occur in the recommended modifications to policies section 3.2 below.

1.2.5 I made an unaccompanied site visit to Whitnash to familiarise myself with the area 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. I have requested supplementary information to assist this examination from both the qualifying body and Warwick DC, copying both parties into each request. These requests comprised questions requiring short answers only and both parties were offered the opportunity to comment on the Reg16 consultation responses.

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 5 at the end of this report.

1.3 Basic Conditions and Plan Compliance

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 first of these Basic Conditions, and where necessary recommends modifications to the plan in order that it does meet them. These recommended modifications are summarised in section 4.

1.3.3 The second Basic Condition is that neighbourhood plans and their policies deliver sustainable development. The Basic Conditions Statement submitted with the Whitnash NDP discusses this on pages 9 and 10, and helpfully sets out how the Plan will deliver sustainable development with regard to the three pillars of sustainable development; the economic, social and environmental aspects of sustainability. **I agree with the conclusions in the Basic Conditions Statement that the Plan delivers Sustainable Development, and this requirement of the Basic Conditions has been complied with.**

1.3.4 The relevant development plan is the Warwick District Local Plan 1996 – 2011 (saved policies). I can confirm, as have Warwick DC verbally, that **the policies in the Whitnash NDP are in general conformity with the strategic policies of this plan, and so the Basic Conditions are complied with in this regard.**

1.3.5 Whether the Whitnash NDP complies with Human Rights Law is also considered in the Basic Conditions Statement submitted with the Plan (pages 56-7). This document summarises the discussion thus:

“In general, the policies and proposals will not have a discriminatory impact on any particular group of individuals.”

I agree with this statement, and no assertion to the contrary has been made. **Thus I consider the plan complies with Human Rights legislation and complies with the Basic Conditions in this regard.**

1.3.6 The key EU obligation for landuse plans is compliance with the Environmental Assessment of Plans and Programmes Regulations 2004. A recent amendment (January 2015) to the Neighbourhood Planning Regulations requires either that a Strategic Environmental Assessment (SEA) of the plan is undertaken if necessary, or a formal screening opinion is obtained setting out the reasons why an SEA is not required.

1.3.7 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) require that the Neighbourhood Plan should not be likely to have a significant effect on a European Site or a European Offshore Marine Site, either alone or in combination with other plans or projects. The screening opinion normally considers whether there is any significant effect on a European Site that would require a Habitats Regulations Assessment as well as whether an SEA is required.

1.3.8 Whitnash Town Council obtained a screening opinion from Warwick DC which was submitted with their Plan to Warwick DC. This states (page 10) that:

“It is considered unlikely there will be any significant environmental effects arising from the Whitnash Neighbourhood Plan that were not covered/addressed in the Sustainability Appraisal of the Local Plan. As such, it is considered that the Whitnash Neighbourhood Development Plan does not require a full SEA to be undertaken.”

1.3.9 The screening opinion also states (page 10) that:

“A Habitats Regulation Assessment (HRA) of the Local Plan has also been produced and reported on separately that is also considered relevant in the assessment of the environmental effects of the Whitnash Neighbourhood Development Plan. It is unlikely that the Whitnash NDP will have a significant effect on important Habitat / Biodiversity assets.”

1.3.10 I consider therefore that the Whitnash NP complies with EU obligations with respect to environmental considerations for a development plan.

1.4 Planning Policy Context

1.4.1 The Development Plan for Warwick DC is the Warwick District Local Plan (saved policies) 1996 - 2011; the Minerals Local Plan 1995 (saved policies); and the Waste Core Strategy Local Plan 2013 – 2028. The new Warwick District Local Plan 2011 – 2029 Publication Draft is currently at examination, and whether or not the Whitnash NDP complies with it is not relevant for the purposes of assessing compliance with the basic conditions. The Town Council have however considered how their Plan complies with the emerging Local Plan in their Basic Conditions Statement, and they will review their Plan should the Whitnash NDP not comply with strategic policies in the new Local Plan when finally adopted.

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 Whitnash NDP I have considered the following documents:

- ☐ National Planning Policy Framework (NPPF) 2012
- ☐ 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)
- ☐ Submission version of the Whitnash NDP
- ☐ Basic Conditions Statement
- ☐ Consultation Statement
- ☐ Strategic Environmental Assessment Screening Opinion
- ☐ Whitnash Neighbourhood Area (map)
- ☐ Warwick District Local Plan 1996 – 2011 (saved policies)
- ☐ Warwick District Local Plan 2011 – 2029 Publication Draft feb2015
- ☐ Warwick Strategic Flood Risk assessment 2013
- ☐ Warwick Sites for Gypsies and Travellers Preferred Options for Sites March2014
- ☐ Green Space Strategy for Warwick District 2012 - 2026
- ☐ Representations received during the publicity period (reg16 consultation)

2. Plan Preparation and Consultation

2.1 Pre-submission Process and Consultation

2.1.1 Whitnash is a small town located to the south of Leamington Spa, about 3 miles from Warwick with a population of nearly 9,000 people. It became a town in 1978 when the Town Council was established. Most of the built form is recently constructed residential estates, but there is a small historic core. There are three small neighbourhood shopping areas, and reasonable community facilities including a library and four schools.

2.1.2 Whitnash Town Council (Whitnash TC) formally approved the preparation of a neighbourhood plan in 2012, and in September 2012 an application for designation as a neighbourhood planning area was made to Warwick District Council (Warwick DC). This was approved on the 9th January 2013.

2.1.3 A Steering Group of Town Councillors and Residents was set up in January 2013, and the group has met regularly since throughout the plan preparation period.

Involvement in the plan by local residents was frequently promoted, including at the Annual Parish Meeting of the Town Council in 2013 and the Community Fun Day in the summer of 2013.

2.1.4 The quarterly local newsletter, the Whitnash Tymes, gave updates on progress during 2014, and informal consultation on the emerging vision, objectives and issues was also undertaken in the summer of 2014. A decision was taken not to consider allocation of housing sites in the plan, as this work had effectively been done at a strategic level in the emerging Local Plan.

2.1.5 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission Whitnash Draft Neighbourhood Development Plan ran from Wednesday 1st October 2014 to Wednesday 12th November 2014. The plan and a response form could be downloaded from the Town Council and District Council websites. Hard copies were available at the local library and the own Council offices. Local community organisations and local businesses were notified of the consultation opportunity, as were other statutory consultees (detailed in the Consultation Statement submitted to Warwick DC with the neighbourhood plan).

2.1.6 Further publicity around this consultation included a banner in the centre of Whitnash, posters in local shops, the library and other prominent locations, and press

releases and coverage. School children were targeted with 'fuzzy bugs' promoting the neighbourhood plan! Members of the Steering Group also visited local groups and organisations during the consultation period to encourage comments from as wide a range of the community as possible.

2.1.7 Seventy six representations were received during the consultation period, and several amendments have been made to the plan as a result of constructive suggestions for changes. Objections from a house-builder and Warwick DC also resulted in changes to plan policies, in order to comply with strategic policy allocations in the emerging Local Plan and other council planning policy. These are clearly detailed in the consultation statement.

2.1.8 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 (in the Consultation Statement) was submitted to Warwick DC on the 23rd January 2015.

2.2 Regulation 16 Consultation Responses

2.2.1 Publicity and consultation on the plan undertaken by Warwick DC after submission, as required by regulation 16 of the Neighbourhood Planning Regulations 2012 (abbreviate NPR2012), resulted in six comments from national and local organisations.

2.2.2 Historic England welcomed the amendments to the plan as a result of previous comments and welcomed the plan's treatment of the historic environment. Natural England also supported the plan, and the provision for green infrastructure.

2.2.3 The Highways Agency supported the plan and Warwickshire County Council, the highway authority, supported policies promoting sustainable travel, although they declined to comment further until they had seen the detail of actual proposals.

2.2.4 Warwick DC made no further comment, they informed me this was because they are now satisfied that the Plan meets the Basic Conditions with regard to complying with the development plan for Warwick.

2.2.5 Coventry and Warwickshire Growth Hub (CWGH) welcomed support for small businesses and alterations made to the Plan in the light of previous comments they made. They express concern however that Policy W13 would not support mixed use development if it resulted in the loss of open space or green infrastructure, and that this policy needed to be made consistent with Policy W7 and the Local Green Space designations it makes, in particular Area 8. As Area 8 proposed for designation of Local Green Space has been altered to exclude the gypsy and traveller site I do not see a consistency problem between the two policies, and, as discussed below, I find Policy W13 acceptable as it is currently worded. Policy W7 is also discussed further below, and this may indirectly address the concerns raised by CWGH.

2.2.6 The Health and Safety Executive raised the presence of three National Grid feeder pipelines in the neighbourhood plan area and recommended that their presence should be shown on any proposals map. This request I am happy to recommend as a suggested modification to the Plan. A reference to the pipelines, and the need to respect the consultation zones associated with them, can be accommodated in Policy W8, a policy dealing with the open area to the south of Whitnash in which the pipelines are located. This is detailed in the recommended modification to this policy at paragraph 3.2.30 below.

3. The Whitnash Neighbourhood Development Plan

3.1 General Considerations

3.1.1 The Whitnash NDP is a generally well-written document and easy to read. The policies flow well from the vision and objectives. The group are to be complemented on a proportionate and well-structured document. I have noted a few textual errors in a short appendix to this report.

3.1.2 For the purposes of meeting the basic conditions a critique of introductory sections and descriptions is not normally appropriate. However the discussion of the emerging Warwick District Local Plan in paragraph 2.5 is somewhat out of date now, and could be usefully updated in the final version.

3.1.3 The discussion of the relative strengths of the Local Plan and the Whitnash NDP in paragraph 1.19 is not wholly accurate, and I would recommend a revision on the following lines:

“When it is made, policies in the Neighbourhood Plan will take precedence over the non-strategic policies of the existing adopted Local Plan. The review of the 1996- 2011 Local Plan is at an advanced stage and this has been taken into account in the Neighbourhood Plan. Policies and allocations in the Publication Draft Plan 2011-2029 have therefore been considered within the Whitnash NDP. When the new Local Plan is adopted, the Whitnash NDP will be reviewed to take account of this, particularly if any policies are no longer in compliance with strategic policies in the new Local Plan. The NPPF (para185) recommends that emerging local plans do not duplicate non-strategic policies in neighbourhood plans.”

3.1.4 What follows is a more detailed consideration of the policies in chapter 5 of the Whitnash NDP and whether or not they meet the first basic condition that they comply with National policy. In order to comply with national planning policy they need to be clear in intent (NPPF paragraph154), so my recommendations for modifications will include alterations for reasons of clarity as well as overall compliance with national planning policy.

3.2 Neighbourhood Plan Policies and Compliance with National Policy

3.2.1 This section considers each policy in turn, and where necessary recommends modifications needed in order that the policy meets the requirements of the Basic Conditions in terms of complying with national policy. As discussed above in Section 1.3, the Whitnash NDP meets the requirements of the other Basic Conditions unaltered.

3.2.2 Policy W1 A New Community Hub for Whitnash

A lot of preparatory work on the project has been done, including a feasibility study currently being undertaken. The policy justification details this and other considerations well. The Town Council have confirmed that although the Acre Close site is looking the most likely place for the Hub, they are not ready to formally allocate the site. Therefore for clarity and consistency, reference to this site will need to be removed from policy W1 (second paragraph) so that it is a 'support in principle' policy not a site allocation policy.

3.2.3 The second paragraph does not read clearly at present, however I have assumed it is the careful siting, parking provision and landscaping that will complement and enhance existing local retail facilities.

3.2.4 The second sentence of the first paragraph is very specific about what the Hub will need to include, but as a site has not yet been chosen this is not appropriate. Therefore my recommendation is that this wording is changed to be less prescriptive. This list of uses required within the hub includes the phrase "local retail-type uses", which is not clear and does not indicate well what is intended. I recommend that this phrase is replaced with the range of planning retail uses (from A1 to A5 as defined in the Use Classes Order) that would be considered acceptable in the Hub.

3.2.5 Policy W1 is recommended to be modified as follows:

"Proposals for a new Community Hub for Whitnash will be supported in principle.

The Community Hub is encouraged to include the following development:

- ☐ **A new community centre to meet the needs of local residents and groups.**
- ☐ **A civic centre which provides office space and a focus for the activities of the Town Council.**
- ☐ **A new library with internet facilities.**
- ☐ **A police station.**
- ☐ **Healthcare facilities and**

- **Other suitable community and retail uses (A? – A?).**

The Community Hub will complement and enhance any existing local retail facilities adjacent through careful siting and location and the provision of improved parking and high quality landscaping.

Detailed proposals will be informed by the results of a feasibility study which will be commissioned to consider the cost implications, proposed uses, access and siting of the proposed Community Hub.”

3.2.6 Policy W2 Protection of Local Centres and Community Facilities

The policy speaks of “defined neighbourhood centres” but there is no plan showing the defined areas. I suspect the definition in the Local Plan is referred to, but **for clarity a map showing these defined areas should be included in the Whitnash NDP.**

The use of the phrase “local needs retail” is not clear in a planning sense. This should be simply “retail” or alternatively specify which retail uses would be acceptable (from A1 – A5 as defined in the Use Classes Order 1987 as amended).

3.2.7 You will be aware that recent changes to permitted development rights as regards retail conversion to residential could severely restrict the ability of this policy to provide the protection you wish it to. The definition of the local centres could be taken to indicate areas where a planning application will normally be required for any such permitted change, and you may wish to consider this further and amend the policy as required. I make no recommendation on this point however.

3.2.8 The meaning of paragraph 3 is not clear. The use of “may be allowed...” suggests that there are undefined circumstances where residential uses on the first floor level will not be allowed. Additionally I am not clear what is implied by “where these are part of a mix”. The use of the term “commercial” is not specific in a planning sense, and I have substituted it as seems best. The planning authority can review my modifications of course should they wish to and consult with the Whitnash TC on the changes.

3.2.9 Paragraph 4 of this policy is protecting an unspecified range of facilities as “Community Assets”. It should be understood that this not the same as the formal designation under powers in the Localism Act of an “Asset of Community Value”, as the Town Council have confirmed they have not registered any of them under this power. If the policy is to be clear it needs to specify which facilities are to be designated, and for the avoidance of doubt I would recommend use of the term “Community Facilities” rather than “Community Assets”. You may want to consider a separate policy for this section, but I offer this as a suggestion only.

3.2.10 The Town Council have helpfully supplied a list of facilities they would wish to be named as Community Facilities to be protected in community use, and I have included this in my recommended alterations to the policy below. Ideally the owners of these premises should be consulted before the policy names them however, and you may prefer to include this list in the justification rather than the policy if you cannot get owners agreement.

3.2.11 The retention of these facilities in community use is a reasonable aspiration and policy, but it is not reasonable to require an applicant for a change of use to demonstrate that there is no longer a need for the facility “to the satisfaction of the Town Council”. The Town Council do not have formal standing within the determination of any future planning application to be able to adjudicate in this way. Thus I am proposing this requirement of the policy be modified as shown below, or deleted if the Local Planning Authority are not happy with the suggested modification.

3.2.12 Policy W2 is recommended to be modified as follows:

A plan showing the defined centres needs to be produced. The policy to read as follows:

Within the defined neighbourhood centres (see map) of:

- ☐ **Heathcote Road / Acre Close**
- ☐ **Coppice Road and**
- ☐ **Home Farm Crescent**

Development for retail (A? to A? uses?) and community facilities will be permitted.

The loss of retail and community uses in these centres will be resisted and proposals for changes of use from retail or community use to residential uses at ground floor level in the defined local centres will not be permitted. Residential uses will normally be allowed at first floor level to safeguard the vitality of the relevant centres where ground floors are retained in retail or community use.

The following local Community Facilities are to be protected for community use:

- ☐ The Whitnash Community Centre
- ☐ The Whitnash Sports & Social Club
- ☐ St Margaret's Church Centre
- ☐ Whitnash Medical Centre
- ☐ Whitnash Library
- ☐ St Margaret's Church
- ☐ Whitnash Methodist Church
- ☐ St Joseph's Catholic Church

There will be a presumption in favour of the retention of any community facility for health and community uses. The change of use of the Community Assets defined above to other uses will not be permitted unless the following can be demonstrated:

- (a) The proposal includes alternative provision, on a site within the locality, of equivalent or enhanced facilities. Such sites should be accessible by public transport, walking and cycling and have adequate car parking; or
- (b) There is no longer a need for the facility, and this can be demonstrated to the satisfaction of the Local Planning Authority advised by the Whitnash Town Council.

3.2.13 Policy W3 Protecting Local Heritage and Identifying a Local Heritage List

This policy complies with the basic conditions. You may however wish to alter the last sentence to "protect **and** enhance".

3.2.14 Policy W4 Building Design Principles

What needs to be submitted with a planning application is defined by national regulation, and a neighbourhood plan policy cannot 'require' a development proposal to include other information in the application. The policy can 'encourage' this, and if a design and access statement is required, as it is within conservation areas, then you can specify that this document should demonstrate something – as you have in point 1.

3.2.15 Point 2 needs to refer more accurately to 'Design and Access Statements', and qualify that this is to happen if a Design and Access Statement is required to be submitted. However with the modification to the first paragraph the entire reference can be removed as repetition.

3.2.16 Policy W4 is recommended to be modified as follows:

1st paragraph: **All new development proposals and particularly those within or in close proximity to Whitnash Church Green and Chapel Green Conservation Area are encouraged to demonstrate how they have taken account of the following issues. Development proposals that are required to submit a Design and Access Statement should address the following points within that document:**

2nd paragraph last sentence: **Proposals should not feature designs specific to a generic "scheme" and should take account of the locally distinctive character of the area in which they are to be sited.**

3.2.17 Policy W5 Improved Linkages to Proposed Country Park at Tach Brook

This policy complies with the basic conditions. As an observation only I would comment that the second sentence is justification for the policy rather than needed within the policy, and would be better out of the policy. The policy would also read better if before the final bullet points the phrase "The following improvements are supported and encouraged:" is added.

3.2.18 **Policy W6 Protection and Enhancement of Whitnash Brook and Brook Valley**

Map 6 includes land directly to the east of the school and estate around St Fremund Way that is not within the designated neighbourhood plan area, and should therefore be removed. The correct boundary will continue the southern boundary of the Campion School and the estate to end the nature reserve and wildlife Buffer's northern boundary at this point. The plan has a '9' written within the green area, but it is not clear what this refers to, and there is no key that makes it clear if the green area shown is either the Nature Reserve, or the wildlife buffer, or both. This needs to be corrected.

3.2.19 Map 7 also shows a footpath to the east of the St Fremund Way estate as a footpath within the neighbourhood plan area when it is actually outside the area for much of its length. All paths outside of the area should be shown grey as the key on the map. I understand from the Ordnance Survey map that the blue dashed routes are sometimes bridleways rather than footpaths, and the key should be corrected to include this information (a 'bridleway' is not the same as a 'cycleway').

3.2.20 **Recommended modifications to map 6 and map 7:** Map 6 needs to redefine the area shown green to comply with the designated neighbourhood plan area, and show in a key what the nature of the area shown green is. Map 7 needs to amend the colour and designation of some of the paths shown as discussed above.

3.2.21 The last paragraph of Policy W6 is not clear in what way the route of the Brook Valley bridleway is to be 'protected'. Additionally the plan cannot protect the whole route to Radford Semele as suggested, because much of this bridleway is outside of the designated neighbourhood plan area. I am not sure where Black Bridge is, but suspect views towards it from the bridleway may be outside of the neighbourhood plan designated area as well. There has been no analysis of important views undertaken to inform the required protection of the view and where it is, and so this requirement of the policy is also not clear. The second sentence, however, does make clear the treatment the Town Council wishes to see of any construction of the bridleway within new development.

3.2.22 Policy W6 is recommended to be modified as follows:

Last paragraph: **The route of the Brook Valley bridleway linking Whitnash to Radford where it runs within the neighbourhood plan area will remain open in character and**

should not follow an enclosed narrow corridor between high walls or other visually intrusive and inappropriately high boundary treatment through the proposed housing estate.

3.2.23 Policy W7 Local Green Space Designations

This policy has generally justified the proposed allocations well in Table 1, and map 8 shows the areas they cover clearly, but there are inconsistencies and anomalies that need to be corrected on the map.

3.2.24 The numbering system on the map needs to be consistent with the numbering of the designations used in Policy 7, and the names of the two small greens differ from the policy to the map. There is a potential problem in that there are three areas of allotments shown on the plan, but only two referred to in the policy and discussed in Table 1. As the plan has clearly shown three allotment areas, should the local planning authority accept that all three areas of allotments should be designated as Local Green Space this will be acceptable, but the policy and justification need to be consistent with the plan. I note that in the emerging Local Plan Warwick DC propose that designation of Local Green Space will be a matter for neighbourhood plans (Policy HS3 page 35 publication draft Feb2015), so I would expect them to confer with the Town Council on this point.

3.2.25 The policy should not refer to the NPPF; the justification has comprehensively made reference to this national policy and the Local Green Space is designated (not allocated) by the policy in the Whitnash Plan, not the NPPF.

3.2.26 As part of my site visit I took a careful look at the proposed designation of the 'Arable Land' to the south of the neighbourhood plan area, Area 8 at present on Map 8. My initial consideration of the policy suggested to me that this proposed designation did not comply with the requirements of the NPPF paragraphs 76 and 77. It appeared to be an extensive tract of land, somewhat isolated from the community and urban area of Whitnash, being the other side of the golf course that fringes the southern extent of the town.

3.2.27 My site visit did not reveal to me any defining characteristic about Area 8 that makes it special, it is farmland with a variety of agricultural uses undertaken on it. There is some documented indication of historic field remnants on a part of the site, but this is not a defining characteristic of the whole site. If the historic features are found worthy of protection then this should be undertaken under alternative legislation. In summary Area 8

has not been demonstrated to be special in a way required by the NPPF paragraph 77. It is an extensive tract of land, with ill-defined boundaries and too isolated from the community to comply with the requirement that it should be in 'reasonable proximity' to the community it serves. Thus in order to comply with the basic conditions this designation of Area 8 as Local Green Space needs to be removed from the plan.

3.2.28 I appreciate that the open countryside nature of this land is valued by the community, but this is protected, as far as a neighbourhood plan is able, by the proposed policy W8 which is discussed below.

3.2.29 Policy W7 is recommended to be modified as follows:

The following sites are designated as Local Green Space:

- 1. Chapel/Town Green**
- 2. Church Green**
- 3. Washbourne Fields**
- 4. Dobson Lane Allotments**
- 5. Golf Lane Allotments**
- 6. ? ? Allotments**
- 7. Leamington and County Golf Course**
- 8. Whitnash Brook Valley (as shown on map 6)**

New development which impacts adversely on the openness of these sites or adversely affects the attributes for which they were designated will not be acceptable other than in very special circumstances.

The Local Green Spaces are shown on Map 8 below.

3.2.30 **Recommended modifications to Map 8:** for clarity and consistency the corrections noted in paragraph 3.2.24 above need to be made. In line with the recommended modifications to Policy 7, Area 8 'Arable Land' should no longer be shown as designated as Local Green Space.

3.2.31 **Policy W8 Protection of Open Area to the South of Whitnash**

As discussed in paragraph 2.2.6 above, this policy suggests itself to me as the best place to accommodate the Health and Safety Executive's request that the Plan shows the

location of the National Grid gas feeder pipelines. The rest of the policy complies with the basic conditions.

3.2.32 Policy W8 is recommended to be modified to acknowledge the gas feeder pipelines crossing the neighbourhood plan area, and refer to a plan that shows where they are, and preferably also shows at least the inner consultation zone for each pipeline within the neighbourhood plan area. I would suggest wording as follows in a separate paragraph at the end of the policy:

“Attention is drawn to the presence of three National Grid gas feeder pipelines in this area as shown on Map.... Any development will need to respect the consultation zone requirements of the Health and Safety Executive for these pipelines.”

3.2.33 Policy W9 Landscape Design Principles

Point 4 in the policy requires the submission of a ‘visual landscape impact assessment’ with development proposals. The documents required to be submitted with a planning application are set out in national regulations however, so the phrase here should be “are encouraged to demonstrate”.

3.2.34 Point 5 in the policy requires that views from “Chesterton Windmill” are protected. Chesterton Windmill is outside the designated neighbourhood plan area and this reference should be deleted.

3.2.35 Policy W9 is recommended to be modified as follows:

Point 4: **Development proposals on the urban fringe are encouraged to demonstrate consideration of visual impacts on local landscape through a visual landscape impact assessment. Layout and design should provide an appropriate transition from rural to urban areas, such as inclusion of lower densities around the edges and suitable landscaping schemes.**

Point 5: **Proposals for new development on open land to the south of Whitnash should demonstrate consideration of the historic route of the Fosse way corridor.**

3.2.36 Policy W10 Improving Accessibility for All

The policy is generally well justified, but the first two bullet points deal with highway improvement issues not landuse. This means that they have no place in a landuse planning policy and should be deleted. The third bullet point can incorporate the possibility of widening pavements (footways) for cycle use if it is altered to read "...the design of new and existing roads;" In this way the aspiration is included in a policy that is discussing the landuse issue of better cycle routes without specifying the particular remedy using powers under the Highways Acts.

3.2.37 Policy W10 is recommended to be modified as follows:

Bullet points one and two to be removed.

Bullet point three (becomes one) to read:

"Incorporating the provision of safe cycle routes into the design of new and existing roads;"

3.2.38 Policy W11 Housing Mix

This policy complies with the basic conditions.

3.2.39 Policy W12 Employment Provision.

This policy complies with the basic conditions. You may want to consider including a provision that the residential amenity of neighbours is not unacceptably impacted, but this is a suggestion only.

3.2.40 Policy W13 Encouraging a Mix of Uses

This policy complies with the basic conditions.

3.2.41 Policy W14 Sustainable Design

The last paragraph of this policy is requiring something to happen (low energy technology in street lighting) that is not a landuse planning issue. It is acceptable to 'encourage' this, but not to require it.

3.2.42 Policy W14 is recommended to be modified as follows:

Third paragraph: **New developments are encouraged to incorporate low energy and renewable energy technologies in street lighting and signage.**

3.2.43 Policy W15 Flood Resistance and Resilience

Whitnash has some areas potentially at greater than average risk of fluvial and surface water flooding. The policy at present requires all new development to be flood resilient, which is not unreasonable given the potential increased risks from climate change.

However the requirement that all new development incorporates the measures listed in the policy is overly prescriptive, and deals with technical, non-landuse construction detail issues that are not the preserve of planning policy in a neighbourhood plan (Ministerial Statement March 2015). The policy should not require these measures therefore, but can suggest them. I would suggest the policy is more reasonable if it does this for areas at significant risk of flooding.

3.2.44 The last sentence of the last paragraph of the policy is offering suggestions and is therefore more suited to being included in the justification of the policy rather than the policy itself. The first sentence of this paragraph I am suggesting is included in the bulleted list of possible actions. I also suggest that the penultimate paragraph is included in the bulleted list of possible actions in modified form.

3.2.45 Policy W15 is recommended to be modified as follows:

New development in Whitnash is required to be flood resilient. Development in areas of significant fluvial or surface water flood risk is encouraged to be designed to reduce the consequences of flooding and to facilitate recovery from the effects of flooding. Design features to do this could include the following measures:

- ☐ **The use of water-resistant materials for floors, walls and fixtures.**
- ☐ **The siting of electrical controls, cables and appliances at a higher than normal level.**
- ☐ **Setting the ground floor level at an ordnance datum level so as not to be affected by predicted flood levels.**
- ☐ **Raising land to create high ground where this would not result in increased flood risk.**
- ☐ **Consideration given to providing access for those with restricted mobility.**
- ☐ **Incorporating flood-resistant construction to prevent or minimise entry of water.**

3.2.46 Policy W16 Design to Reduce Surface Water Run Off

This policy also comes close to being too prescriptive about technical construction detail that it is not permissible for neighbourhood plans to engage with. I consider however that the policy has used enough qualifying phrases, such as 'wherever possible' and 'if needed', to comply with the basic conditions.

3.2.47 Policy W17 Reducing Flood Risk through Landscaping

This policy complies with the basic conditions.

4. Summary of compliance with the Basic Conditions

4.1 Section 3.2 is concerned with recommending modifications to the Plan in order that it complies with national planning policy as set out mainly in the NPPF. The following table indicates which policies and maps require modifications, and where in the text of Section 3.2 the detail of the modifications can be found. In two instances modifications require that new maps are provided.

Table 1: Policies and Maps requiring modifications to comply with the Basic Conditions	Paragraph detailing the modification	Policy Number	Paragraph detailing the modification
Policy/Map Number			
Policy W1	3.2.5	Map 8	3.2.30
Policy W2	3.2.12	Policy W8 and new map required	3.2.32
New map required	3.2.6 - Map numbering may need to change from this point on.		
Policy W4	3.2.16	Policy W9	3.2.35
Maps 6 and 7	3.2.20	Policy W10	3.2.37
Policy W6	3.2.22	Policy W14	3.2.42
Policy W7	3.2.29	Policy W15	3.2.45

4.2 The Local Planning Authority Warwick DC will be aware that they are not legally obliged to follow my recommendations, but they will need to set out their reasons for deviating from these recommended modifications in the decision notice they are required to publish by the Neighbourhood Planning Regulations 2012.

5. The Referendum Boundary

5.1 The situation in Whitnash has been complicated by a Boundary Commission recommendation of changes to the ward boundary, which to date has resulted in a small extra portion of land being included in an amended parish boundary for Whitnash (Order made by Warwick DC 30th January 2015, came into force on the 1st April 2015). Other proposed changes are to be the subject of a further review that could result in some small areas of the existing parish being transferred to another parish. However this is very unlikely to happen before any future referendum on this plan, and so the provisions of the Plan still meet the Basic Conditions in that it deals only with land within the designated area that the Town Council is the qualifying body for.

5.2 There is no requirement for a designated area to include all of a parish, so the current change to include an extra portion of land within the parish of Whitnash does not affect the legal position of the plan. However there is at least one dwelling on this land now included in the parish, but not included when the designated area was agreed as the former parish boundary. Although people in this small addition to the parish will not be formally covered by the Whitnash Neighbourhood Plan, it will be relevant for land and property nearby to them, and the general town council area that they are newly part of.

5.3 In the interests of equality of opportunity for all current residents of Whitnash therefore

I recommend that the boundary of the referendum follows the revised parish boundary (April 2015) of the Town Council. This will ensure that all residents in the defined town council area of Whitnash are included in the democratic process.

Appendix 1: Typographical and other errors found in the text of the Whitnash NDP

References to pages and paragraph numbers refer to the Whitnash NDP: Submission Version. Suggested corrections are given in **bold**.

Bottom of page 6: web link is broken

Page 9 para 1.19 last sentence: When **a** new Local Plan **is** adopted,.....

Page 14 Objective 8 last para, first sentence: There is also a need.... to meet **the** educational needs of new residents.

Page 16 para 5.1.1 second sentence: The population has century, and **in** the space five times.

Page 16 para 5.1.1 last sentence: The existing Community Centre is in **a** poor condition, **and** rather outdated and open space.

Page 30 para 5.2.17 point 2: Protecting **local** heritage

Bottom of page 40: web link does not appear to be to a relevant page.

Appendix B

Whitnash Neighbourhood Development Plan

The Plan can be seen using the following link:

http://www.warwickdc.gov.uk/downloads/file/3037/whitnash_neighbourhood_development_plan