

Wraxall and Failand Neighbourhood Plan 2022 - 2038

**Report by Independent Examiner to North Somerset
Council**

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Summary and Conclusion

1. The Wraxall and Failand Neighbourhood Plan has a clear vision for the Parish which is supported by five objectives.
2. Much of the Parish lies within Green Belt. This neighbourhood plan does not allocate sites for housing.
3. I have recommended modification to some of the policies in the Plan. These modifications are predominately in the interest of precision. My reasons with regard to all the suggested modifications are set out in detail below. In particular, I have recommended that the Elms Open Space does not include land to the north of the existing Local Green Space. None of the recommended modifications significantly or substantially alters the intention or nature of the Plan.
4. **Whilst I have set out my reasoning under individual policies, my overall conclusion is that, subject to my recommendations, the Plan meets the Basic Conditions. It is appropriate to make the Plan. Subject to my recommendations being accepted, I consider that the Wraxall and Failand Neighbourhood Plan will provide a strong practical framework against which decisions on development can be made. I am pleased to recommend that the Wraxall and Failand Neighbourhood Plan, as modified by my recommendations, should proceed to Referendum.**

Introduction

5. On 4 August 2021 North Somerset Council (NSC) approved that the Wraxall and Failand Neighbourhood Area be designated in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended). The Area covers the whole of the Parish of Wraxall and Failand.
6. The qualifying body is Wraxall and Failand Parish Council. The Plan has been prepared by a Neighbourhood Plan Steering Group on behalf of the Parish Council. The Plan covers the period 2022 to 2038.
7. I was appointed as an independent Examiner for the Wraxall and Failand Neighbourhood Plan in December 2023. I confirm that I am independent from the Parish Council and NSC. I have no interest in any of the land affected by the Plan and I have appropriate experience to undertake this examination. As part of my examination, I have visited the Plan area.

Legislative Background

8. As an independent Examiner, I am required to determine, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Plan meets the requirements of Section 38B of the 2004 PCPA where the plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area; and
- that the Plan has been prepared for an area that has been designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

9. I am obliged to determine whether the Plan complies with the Basic Conditions. The Basic Conditions are:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority; and
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements.

10. *The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018* came into force on 28 December 2018. They state:

Amendment to the Neighbourhood Planning (General) Regulations 2012.

3.—(1) The Neighbourhood Planning (General) Regulations 2012(5) are amended as follows.

(2) In Schedule 2 (Habitats), for paragraph 1 substitute:

“Neighbourhood development plans

1. In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act(6)—

The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(7).”

11. Since 28 December 2018, A neighbourhood plan is required to be examined against this extra Basic Condition. I will make further reference to this matter under EU Obligations.
12. Subject to the modifications I have recommended in this report, I am content that these requirements have been satisfied.

EU Obligations Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA)

13. Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended) (EA Regulations) set out various legal requirements and stages in the production of a Strategic Environmental Assessment (SEA).
14. The *Wraxall and Failand Neighbourhood Plan Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) Screening Report* was prepared by NSC in January 2023. As regards SEA, it concluded that the Plan *is unlikely to have significant environmental effects either within the Plan boundaries or cumulatively*. Historic England, the Environment Agency and Natural England concurred with this conclusion.
15. NSC published the *SEA and HRA Assessments update in relation to revised Submitted Wraxall and Failand Neighbourhood Plan* in June 2023. This followed revised wording to some policies for the submission plan. It concludes that the Plan *as submitted does not affect the conclusions of the HRA/SEA Assessment undertaken in January 2023*.
16. Based on the screening determination and consultee responses, I consider that it was not necessary for the Plan to require a full SEA Assessment. The SEA screening accords with the provisions of the European Directive 2001/42/EC.
17. As regards HRA, the January 2023 report concluded that *it is unlikely that there will be any significant effects on protected species or their habitats and therefore a full HRA is not required*. The consultees concurred with this conclusion.
18. Based on the screening determination and consultee response, I consider that the Plan does not require a full HRA under Articles 6 or 7 of the Habitats Directive. I am satisfied that the Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(7).
19. A Neighbourhood Plan must be compatible with European Union obligations, as incorporated into UK law, in order to be legally compliant. I am satisfied that the Plan is compatible with EU obligations and does not breach the European Convention on Human Rights obligations.

Policy Background

20. The *National Planning Policy Framework* (NPPF) (19 December 2023) sets out the Government's planning policies for England and how these are expected to be applied. The *Planning Practice Guidance* (2014) (PPG) provides Government guidance on planning policy.
21. I have examined the Plan against policies in this revised NPPF. As the Plan was prepared under the 2021 NPPF, I asked for a further consultation period inviting comments on the effect of the revised NPPF on how the Plan meets the Basic Conditions.
22. At the heart of the NPPF is the presumption in favour of sustainable development. Paragraph 8 sets out the three overarching objectives which are interdependent and need to be pursued in mutually supportive ways. The three overarching objectives are:
 - a) *an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
 - b) *a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
 - c) *an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*
23. Wraxall and Failand Parish is within the local authority area of North Somerset Council (NSC). The development plan for the Wraxall and Failand Neighbourhood Plan Area includes the NSC Core Strategy (adopted April 2012 with remaining remitted policies adopted January 2017), Sites and Policies Plan Part 1 Development Management Policies (2016) and Sites and Policies Plan Part 2 Site Allocations (2018).
24. The strategic policies in the development plan include policies regarding climate change, sustainable design, biodiversity and transportation.
25. NSC is preparing a new Local Plan, the North Somerset Local Plan 2039. The pre-submission Regulation 19 consultation ran between 27 November 2023 and 22 January 2024.

The Neighbourhood Plan Preparation

26. I am required under The Localism Act 2011 to check the consultation process that has led to the production of the plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012 (as amended).
27. The initial consultation process began with a postal community survey sent to all registered households in October 2021. In May 2022 three publicity events were held. Publicity for these events included posters, emails and letters to local businesses and updates on the Parish Council's dedicated webpage. A Housing Needs Survey was undertaken in the autumn of 2021. Local Green Spaces were identified, and their landowners contacted, although I note from representations that the owner of The Elms Open Space was not contacted at this stage.
28. The Consultation period on the pre-submission draft of the Plan ran from 5 December 2022 to 1 February 2023. The Consultation Statement (May 2023) submitted with the Submission Plan did not include sufficient detail on how the local community was consulted during this consultation period. Therefore, I requested that the Consultation Statement was amended, and a six-week consultation period was undertaken on the amended statement.
29. Publicity for the pre-submission draft of the Plan included posters, a news update in the Parish Council's Newsletter and publicity on the Parish Council's dedicated webpage, where copies of the Plan could be viewed. Hard copies of the plan were available on request. Emails and letters were sent to statutory consultees, known local businesses and organisations, and landowners affected by proposed designations and others in the community. Various meetings were held (on request) between January-March 2023.
30. I am satisfied that the pre-submission consultation and publicity has met the requirements of Regulation 14 in The Neighbourhood Planning (General) Regulations 2012 (as amended). It is clear that the qualifying body went to considerable lengths to ensure that local residents and businesses were able to engage in the production of the Plan. I congratulate them on their efforts.
31. NSC publicised the submission Plan for comment during the publicity period between 6 October and 17 November 2023 in line with Regulation 16 in The Neighbourhood Planning (General) Regulations 2012 (as amended). A total of 38 responses were received. A further consultation period ran from 22 January to 4 March 2024. This was with regard to the publication of the new NPPF on 19 December 2023 and the need for an amended Consultation statement. 5 responses were received, including a response from the Parish Council. I am satisfied that all these responses can be assessed without the need for a public hearing.

32. My remit is to determine whether the Plan meets the Basic Conditions. Where I find that policies do meet the Basic Conditions, it is not necessary for me to consider if further suggested additions or amendments are required. Whilst I have not made reference to all the responses in my report, I have taken them into consideration. I gave the Parish Council the opportunity to comment on the Regulation 16 representations. I have taken their comments into consideration. Their comments have been placed on the NSC web site.

The Wraxall and Failand Neighbourhood Plan

33. Background information is provided throughout the Plan. A clear vision for the Parish has been established and is supported by five objectives.
34. Paragraph 16 in the NPPF requires plans to be prepared positively, in a way that is aspirational but deliverable; and serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area. In addition, paragraph 16 in the NPPF requires plans to contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.
35. PPG states: *A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.* (Paragraph: 041 Reference ID: 41-041-20140306).
36. I do refer to clarity and precision with regard to some recommendations to modifications to the Plan. Where I do so, I have in mind the need for clear and unambiguous policies, thus ensuring that the Plan has regard to national policy in this respect.
37. It is not for me to re-write the Plan. Where I have found editing errors, I have identified them as minor editing matters and highlighted these as such. These have no bearing on whether the Plan meets the Basic Conditions.
38. There are references to the NPPF (2021) throughout the Plan. These need to be changed to the relevant sections of the revised NPPF (19 December 2023). Whilst this is an onerous task, it is necessary to ensure that the Plan has regard to national policy.
39. **Recommendation: to meet the Basic Conditions, I recommend that all references to the NPPF (2021) throughout the Plan are revised where necessary to refer to the relevant sections of the revised NPPF (2023).**

40. NSC has advised that the plan period should end at 2026 to align with the existing Core Strategy. There are numerous neighbourhood plans that go beyond the plan period of an existing Core Strategy or Local Plan. The neighbourhood plan has been prepared in the context of both an emerging and adopted North Somerset Development Plan, although the plan period for the neighbourhood plan only extends to 2038. It is clear from paragraph 3.22 that the neighbourhood plan reflects the plan period of the emerging Local Plan, which is to 2039. Thus, if the plan period were to alter, the title of the neighbourhood plan and paragraph 3.22 should refer to the end of the plan period as being 2039. For this particular neighbourhood plan this has no bearing on the Basic Conditions, and I will leave it up to the Parish Council to decide if it wishes the plan period to end at 2038 or 2039 **I see this as a minor editing matter.**
41. NSC has suggested amendment to paragraph 3 in the Foreword. Whilst not a Basic Conditions issue, the wording suggested by NSC is accurate and thus should be included. **I see this as a minor editing matter.**
42. NSC has stated that Figure 2 may be out of date prior to publication of the final version of this plan. If so, an updated map can be included. **I see this as a minor editing matter.**
43. Paragraph 3.22 is unclear. The Parish Council has suggested revised wording which is more accurate. **I see this as a minor editing matter.**
44. Paragraph 3.4 refers to neighbourhood plans being required to be 'consistent with' strategic policies. This should read that the plans should be 'in general conformity with' strategic policies. **I see this as a minor editing matter.**
45. Land is being promoted for residential development on the north side of the B3128, known as Land north of Clevedon Road, Failand. This neighbourhood plan does not allocate any sites for housing development and is not required to do so.
46. For ease of reference, I have used the same policy titles as those in the Plan. I have briefly explained national policy and summarised main strategic policies where relevant to each neighbourhood plan policy. I have tried not to repeat myself. Where I have not specifically referred to other relevant strategic policy, I have considered all strategic policy in my examination of the Plan.

Policy WF1: Community Facilities

47. Paragraph 88 in the NPPF supports a prosperous rural economy. Planning policies should enable the retention and development of accessible local services and community facilities.

48. Paragraph 97 in the NPPF seeks to ensure that planning policies plan positively for the provision and use of community facilities and other local services to enhance the sustainability of communities and residential environments. In addition, amongst other matters, it seeks to guard against the unnecessary loss of valued facilities and services.
49. Core Strategy Policy CS27 seeks to protect existing community facilities from alternative use unless suitable alternative facilities can be made available, or the existing facilities are surplus to requirements.
50. Policy WF1 seeks to safeguard and where practical enhance community facilities and supports the provision of new facilities, particularly for young people. In the interest of precision, in the second sentence, amenity value should be explained as being amenity value as a community facility.
51. Policy WF1 is not in general conformity with strategic policy in that it does not allow for redevelopment where suitable alternative facilities can be made available, or where the facility is surplus to requirements. Therefore, to meet the Basic Conditions, I have suggested additional wording.
52. I recognise the importance of the community facilities to local people. The list in Policy WF1 includes Millennium Green, which is also identified as a Local Green Space. Usually, it is not appropriate for a Community Facility to be identified as a Local Green Space as more stringent policy applies to the latter. Policies for managing development within a Local Green Space should be consistent with those for Green Belts. As Millennium Green is situated in the Green Belt, those policies already apply. Therefore, in this instance, it is appropriate for this site to be identified as both a Community Facility and Local Green Space.
53. Subject to the above modifications, Policy WF1 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WF1 meets the Basic Conditions.
54. **Recommendation: to meet the Basic Conditions I recommend modification to the first two sentences in Policy WF1 to read as follows:**

Development proposals affecting the following Community Facilities (shown within Appendix B and identified within the inset maps) should safeguard, and where practicable enhance, the facilities for community use unless suitable alternative facilities can be made available, or the existing facilities are surplus to requirements. Proposals for development which would unacceptably detract from their amenity value as community facilities and/or reduce public access, will not be supported.

Policy WF2: Local Green Space

55. The NPPF in paragraphs 105 - 107 states: *the designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.*

The Local Green Space designation should only be used where the green space is:

a) in reasonably close proximity to the community it serves;

b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and

c) local in character and is not an extensive tract of land.

Policies for managing development within a Local Green Space should be consistent with those for Green Belts.

56. Core strategy Policy CS9, whilst not specific to Local Green Spaces, seeks to safeguard the existing network of green infrastructure.
57. I have visited the Parish and seen the Local Green Spaces (LGS) identified in Policy WF2. The justification for the designation of the LGS is found in supporting evidence in the *Local Green Space Assessment* (May 2023) and Appendix E. I have no evidence to suggest that these proposed LGS are not capable of enduring beyond the end of the plan period. All these sites are in reasonable proximity to the local community, are local in character and are not extensive tracts of land. I am satisfied that the proposed LGS meet the criteria for designation unless specified below.
58. My comments on each of the proposed LGS sites are set out below.
59. *The Elms Open Space.* Part of the site adjoining Vowles Close is already designated as LGS in the NSC Sites and Policies Plan Part 2. Objection has been raised to the extension of the existing LGS into the area further north in what is now proposed to be a wider LGS in this neighbourhood plan. That extension area extends up to the river Land Yeo. That extension area has a public footpath across the site over otherwise private land. A site does not have to have any public access to be suitable for LGS designation.
60. I have visited the site and paid particular attention to the proposed northern extension. From my observations, there are a number of fields in the surrounding area within the Parish that border the river with similar

landscape qualities. Whilst there is a public right of way across the proposed northern extension, I see nothing that distinctively distinguishes the extension area from these surrounding fields to make it demonstrably special.

61. I do see merit in extending the existing LGS further east along the existing footpath and including Pastures Pond. It is clear that the existing area designated as LGS, together with this footpath and pond, are demonstrably special to the local community because of their formal and informal recreation provision, tranquillity, richness of wildlife and landscape value. Therefore, I recommend that the proposed LGS is modified to exclude the land further north. In the interest of precision, the policy should explain that the existing LGS is being extended.
62. As part of fact checking this report, the Parish Council prepared a map identifying the revised LGS area and sought clarification as to whether their revised boundaries were a correct interpretation of this modification. I confirmed that the map they prepared was correct and asked for it to be placed on the neighbourhood plan webpage.
63. *Tower House Woods (west of Tower House Lane)*. This woodland area is demonstrably special to the local community because of its informal recreation provision, tranquillity and richness of wildlife.
64. *Wraxall Primary School Playing Fields*. These playing fields are demonstrably special to the local community because of their recreational provision.
65. *Millennium Green*. This site includes a children's play area with play equipment. It is demonstrably special to the local community because of its formal and informal recreation provision.
66. *Wraxall Piece (N.E. of Failand Triangle)*. This area is demonstrably special to the local community because of its informal recreation provision, tranquillity and richness of wildlife.
67. Following a Court of Appeal case with regard to the lawfulness of a LGS policy in a neighbourhood plan: (*Lochailort Investments Limited v. Mendip District Council and Norton St Philip Parish Council*, [2020] EWCA Civ 1259), I consider it necessary to delete the last three sentences in Policy WF2. This will ensure that there can be absolutely no doubt regarding the lawfulness of the policy. The restrictions on development with regard to LGS designation will continue to apply through the NPPF. This ensures that the policy meets the Basic Conditions.
68. As Policy WF2 designates the LGS, the first sentence in the policy should not state that they 'are to be designated'. I have suggested revised wording.

69. Subject to the above modifications, Policy WF2 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WF2 meets the Basic Conditions.

70. **Recommendation: to meet the Basic Conditions, I recommend:**

1) modification to Policy WF2 to read as follows:

Policy WF2

The following areas are designated as Local Green Space and are identified on the Policies Map (Appendix B):

- **The Elms Open Space (including the Local Green Space designated in the North Somerset Council's Sites and Policies Plan Part 2 Site Allocations Plan) (April 2018)**
- **Tower House Woods (West of Tower House Lane)**
- **Wraxall Primary School Playing Fields**
- **Millennium Green**
- **Wraxall Piece (N.E. of Failand Triangle)**

2) modification to the Policies Map Inset Map 7 to exclude the northern area of the proposed Elms Open Space LGS.

Policy WF3: Community Cohesion

71. Paragraph 96 in the NPPF seeks to ensure that planning policies aim to achieve healthy, inclusive and safe places and beautiful buildings, which, amongst other matters, promote social interaction. Paragraph 135 in the NPPF similarly seeks the creation of safe inclusive places.

72. Core Strategy policy CS12 seeks to achieve well designed buildings and places. Core Strategy Policy CS15 seeks mixed and balanced communities.

73. Policy WF3 seeks to integrate any new major developments in the Parish with the existing communities. There are no major developments proposed in this neighbourhood plan, nor in the emerging Local Plan. Nevertheless, should such development take place, this is a concern for the existing local community.

74. The first bullet point in Policy WF3 and justification in paragraph 5.15 appear to be addressing the issue of achieving sustainable development. In the interest of precision, I have suggested revised wording which specifically refers to sustainable development.

75. The Parish is large, and it may not be practical or necessary for a major development to create links to all the facilities listed in Policy WF1. In the interest of precision, I have suggested revised wording for the second bullet point in Policy WF3.
76. Subject to the above modifications, Policy WF3 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WF3 meets the Basic Conditions.
77. **Recommendation: to meet the Basic Conditions I recommend modification to Policy WF3 to read as follows:**

Policy WF3

Planning applications for major residential development in the Neighbourhood Plan Area are encouraged to provide evidence to demonstrate how the new communities created by development will be positively integrated with the existing communities within the Neighbourhood Plan Area. This evidence should address the following matters:

- **Demonstrate how the development will achieve sustainable development.**
- **Demonstrate how the development will create safe and high-quality walking and cycling links between new development and existing educational, social and community facilities in the Parish, where appropriate and practical.**
- **Explain what other steps will be taken to ensure that new community facilities and open spaces will be accessible to existing residents.**

Policy WF4: Cycling, Walking and Wheeling Networks

78. Paragraph 104 in the NPPF seeks to protect and enhance public rights of way. Section 9 in the NPPF promotes sustainable transport. Planning policies should provide for attractive and well-designed walking and cycling networks. Applications for development should give first priority to pedestrian and cycle movements.
79. Core Strategy Policy CS10 requires transport schemes to enhance the facilities for pedestrians, including those with reduced mobility, and other users such as cyclists. Core Strategy Policy CS26 supports healthy living and encourages development that promotes active living.
80. Policy WF4 seeks to protect cycling, walking and wheeling networks and supports new or enhanced networks. Proportionate transport assessments must be included with development proposals. NSC has raised concern that this policy does not specify the scale of development it relates to.

Thresholds for transport assessments are already set out in the North Somerset Highway Development Guide. There is no robust evidence before me to justify a different approach. NSC has suggested revised wording, which includes reference to this guidance. In the interest of precision and to avoid conflict within the development plan, I suggest such revised wording is incorporated into Policy WF4.

81. Subject to the above modification, Policy WF4 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WF4 meets the Basic Conditions.
82. **Recommendation: to meet the Basic Conditions I recommend modification to Policy WF4 to read as follows:**

Policy WF4

Where appropriate, development proposals must demonstrate through proportionate transport assessment how the safety, legibility and capacity of the existing walking, cycling and wheeling network will be impacted, and where appropriate be protected and/or mitigated to ensure that routes are not reduced in value in terms of these aspects. Development proposals will be supported where new or enhanced walking, cycling and wheeling connections will be delivered.

Thresholds for Transport Assessments are set out in the North Somerset Highway Development Design Guide (October 2020).

Policy WF5: Traffic and Transport

83. Paragraph 114 in the NPPF seeks to ensure that new development provides safe and suitable access.
84. Paragraph 115 in the NPPF states: *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*
85. Core Strategy Policy CS10 supports development proposals that encourage an improved and integrated transport network and allow for a wide choice of modes of transport.
86. Policy WF5 seeks to ensure that major development proposals do not have an adverse impact on the highway network. In the interest of precision, the first sentence should refer to 'unacceptable impacts', rather than 'significant impacts', to make it clear that this does not apply to positive 'significant impacts'.

87. Subject to the above modification, Policy WF5 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WF5 meets the Basic Conditions.
88. **Recommendation: to meet the Basic Conditions I recommend modification to the first sentence in Policy WF5 to read as follows:**
- Major development proposals which create either individual or cumulative unacceptable impacts on the highway network will be required to acceptably mitigate these impacts through highway improvements and/or financial contributions towards their mitigation.**

Policy WF6: Rural Diversification

89. NPPF paragraphs 88 and 89 support a prosperous rural economy. This includes supporting the development and diversification of agricultural and other land-based rural businesses.
90. The Green Belt covers most of the Parish. Section 13 of the NPPF restricts development in the Green Belt and explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 154 in the NPPF explains that the construction of new buildings is inappropriate in the Green Belt. The list of exceptions includes developments of limited affordable housing for local community needs under policies set out in a development plan.
91. Core Strategy Policy CS6 states that the boundaries of the Green Belt will remain unchanged during that plan period.
92. Core Strategy Policy CS33 states that affordable housing will not be permitted in the Green Belt. In addition, it states that new employment development will not be permitted in the Green Belt except where it involves the reuse of buildings in accordance with the NPPF.
93. Policy WF6 supports the diversification of rural businesses under the constraints of Green Belt designation. I have one concern regarding the provision of affordable housing. As mentioned above, the NPPF allows, as an exception, developments of limited affordable housing for local community needs under policies set out in a development plan. The Core Strategy specifically states that affordable housing will not be permitted in the Green Belt. Paragraphs 6.14 - 6.17 in the neighbourhood plan explain that current evidence suggests that there is not a significant need for affordable housing in the Parish. In these circumstances, I recommend that reference to affordable housing is deleted from Policy WF6.
94. Subject to the above modification, Policy WF6 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WF6 meets the Basic Conditions.

95. **Recommendation: to meet the Basic Conditions I recommend the deletion of bullet point 7 with regard to affordable housing from Policy WF6.**

Policy WF7: Planning for Green Infrastructure, Biodiversity and Food Production

96. Section 15 in the NPPF seeks to conserve and enhance the natural environment. This includes minimising impacts on and providing net gains in biodiversity, including establishing coherent ecological networks.
97. The Environment Act 2021 makes provision for achieving a minimum 10% biodiversity net gain to be a condition of receiving planning permission. Various parts of this Act are coming into force with the requirement for a minimum of 10% biodiversity net gain on 12 February 2024 for major developments and on 2 April 2024 for small sites.
98. Core Strategy Policy CS4 seeks to maintain and enhance biodiversity. Core Strategy Policy CS9 seeks to safeguard, improve, and enhance by further provision, the existing network of green infrastructure.
99. Policy WF7 is a wide-ranging policy regarding green infrastructure, biodiversity, trees, sustainable drainage and opportunities for gardening.
100. Paragraph 136 in the NPPF makes it clear that it is the Government's intention that all new streets include trees unless in specific cases there are clear justifiable and compelling reasons why this would be inappropriate. I recommend the inclusion of such a requirement in Policy WF7. I have suggested additional wording.
101. Subject to the above modification, Policy WF7 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WF7 meets the Basic Conditions.
102. **Recommendation: to meet the Basic Conditions I recommend modification to the fifth paragraph in Policy WF7 to read as follows:**
- New development should enhance the quality of public spaces and the streetscape within built-up areas, including hedge planting (particularly deciduous) where appropriate. All new development should include tree-lined streets unless in specific cases there are clear justifiable and compelling reasons why this would be inappropriate.**

Policy WF8: Phasing of Infrastructure within Development

103. Developer contributions can only be sought where they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale

and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and paragraph 57 in the NPPF.

104. Core Strategy Policy CS34 is concerned with infrastructure delivery and developer contributions. Development proposals will be expected to provide a contribution towards the cost of infrastructure.
105. Policy WF8 requires new development to provide infrastructure to meet the needs and requirements expected to arise from that development. As such, Policy WF8 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Whilst not adding local detail within the policy, I note that a Local Infrastructure List will be prepared to inform and support this policy. Policy WF8 meets the Basic Conditions.

Policy WF9: Building Design and Sustainability

106. Paragraph 157 in the NPPF states: *the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.*
107. Paragraph 164 in the NPPF states: *In determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of this Framework.*
108. Paragraph 159 b) in the NPPF states that new development should be planned for in ways that: *can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.*
109. Core Strategy Policy CS1 states that NSC is committed to reducing carbon emissions and tackling climate change. Core Strategy Policy CS2 seeks to deliver sustainable design and construction.
110. Policy WF9 encourages new developments to maximise energy efficiency. A planning policy needs to be unambiguous. It is not clear from the policy or accompanying justification, what is meant by 'maximising' energy efficiency.

111. Building regulations now require all dwellings to be built to sustainable homes Level 4 with 19% of energy generated by renewables. I note that NSC imposes a planning condition to enforce this.
112. For a considerable time, it has not been possible to include technical standards for housing construction in neighbourhood plans. A Written Ministerial Statement: *Planning - Local Energy Efficiency Standards Update* (13 December 2023) explains that the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. *Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures:*
- That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.*
- The additional requirement is expressed as a percentage uplift of a dwelling's Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).*
113. I have no robust evidence before me to justify otherwise than in accordance with the above Written Ministerial Statement. Whilst Policy WF9 can encourage and support energy efficiency measures, it is not necessary to repeat building regulation requirements and it is not appropriate to require measures that go beyond such building regulations. In this context, I have suggested revised wording for Policy WF9.
114. The bullet point concerned with flooding does not have regard to national policy. Paragraphs 165 - 175 in the NPPF are concerned with flooding. To summarise those paragraphs would add little of local context to Policy WF9. Therefore, in the interest of precision, I have suggested revised wording for this bullet point, concentrating on conserving water resources.
115. Subject to the above modifications, Policy WF9 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WF9 meets the Basic Conditions.
116. The Parish Council has suggested additional wording for part of Policy WF9. I do not consider such wording to be necessary for this policy to meet the Basic Conditions as the suggested wording primarily repeats national policy.
117. **Recommendation: to meet the Basic Conditions I recommend modification to Policy WF9 to read as follows:**

Policy WF9

Whilst this policy does not require development proposals to incorporate energy efficiency measures beyond current building regulations requirements, new developments are encouraged to

integrate the use of renewable and low carbon energy wherever feasible, including but not limited to:

- **Solar photovoltaic and thermal panels**
- **Air and ground source heat pumps**
- **Combined heat and power**
- **Other domestic small-scale renewable technologies, including community delivered renewable schemes**

Proposals for new buildings that achieve zero or near zero net energy consumption (Passivehaus standards) will be supported.

Proposals for new development which demonstrate sustainable design and construction techniques, wherever feasible, will also be supported including:

- **Waste and recycling during construction and operation**
- **Conserving water resources, including rainwater harvesting.**
- **Sustainable urban drainage systems through use of green roofs, swales, planting and ponds etc.**
- **Choosing appropriate materials with consideration for the type, lifecycle and source.**
- **Flexibility and adaptability, allowing for future modification of use and layout, facilitating future refurbishment and retrofitting.**
- **Opportunities to incorporate measures which enhance the biodiversity value of developments such as green roofs**
- **Shading.**

Referendum and the Wraxall and Failand Neighbourhood Plan Area

118. I am required to make one of the following recommendations:

- the Plan should proceed to Referendum, on the basis that it meets all legal requirements; or
- the Plan as modified by my recommendations should proceed to Referendum; or
- the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

119. **I am pleased to recommend that the Wraxall and Failand Neighbourhood Plan as modified by my recommendations should proceed to Referendum.**
120. I am required to consider whether or not the Referendum Area should extend beyond the Wraxall and Failand Neighbourhood Plan Area. I see no reason to alter or extend the Neighbourhood Plan Area for the purpose of holding a referendum.

Minor Modifications

121. The Plan is a well-written document, which is easy to read. Where I have found errors, I have identified them above. It is not for me to re-write the Plan. If other minor amendments are required as a result of my proposed modifications, I see these as minor editing matters which can be dealt with as minor modifications to the Plan. In particular the Foreword will need updating as will paragraphs 2.65. The Parish Council has agreed to make various minor modifications to the text of the Plan following representations at the regulation 16 consultation stage. Such modifications would be helpful.
122. Paragraph 1.10 in the Consultation Statement refers to a six-week consultation period on the neighbourhood area which is not correct. **I see this as a minor editing matter.**

Janet Cheesley

Date 2 April 2024

Appendix 1 Background Documents

The background documents include:

The National Planning Policy Framework (The Framework) (2023)
The Planning and Compulsory Purchase Act 2004
The Localism Act (2011)
The Neighbourhood Planning (General) Regulations (2012) (as amended)
The Neighbourhood Planning (General) (Amendment) Regulations (2015)
The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations (2016)
The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations (2017)
The Neighbourhood Planning Act (2017)
The Planning Practice Guidance (2014)
The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
NSC Core Strategy (adopted April 2012 with remaining remitted policies adopted January 2017),
Regulation 16 Representations and Parish Council Response
Further Representations on the Consultation Statement and revised NPPF
All Supporting Documentation submitted with the Plan
Examination Correspondence (On the NSC website)