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# **Report on Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan 2020-2035**

**An Examination undertaken for South Derbyshire District Council with the support of Hilton Parish Council on the 2020 Submission version of the Plan.**

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Date of Report: 26 May 2021

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## **Main Findings** - Executive Summary

From my examination of the Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – Hilton Parish Council (the Parish Council);
- the Plan has been prepared for an area properly designated – the Hilton Neighbourhood Area, as identified on the Map at Page 6 of the Plan;
- the Plan specifies the period to which it is to take effect – from 2020 to 2035; and,
- the policies relate to the development and use of land for a designated Neighbourhood Plan Area.

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

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

## **1. Introduction and Background**

### *Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan 2020-2035*

- 1.1 Hilton Parish is situated in south-west Derbyshire, within the district of South Derbyshire, with a population of 7,714 at the 2011 Census. The largest settlement in the Parish is Hilton village. The settlement of Marston-on-Dove is very much smaller and lies, together with the Parish of Hoon to the west of Hilton. Since 2011, the population has further increased and is presently around 8,900 reflecting significant residential development during the past ten years.
- 1.2 Hilton lies to the south and west of two major cross-country routes, the A50 which is a link between the M1 and M6 motorways via Derby and Stoke-on-Trent, and the A38 which provides links southwards to the West Midlands and northwards to Nottinghamshire. The A50 by-passes Hilton village along an elevated section of road opened in 1995 and links onto the Derby Southern by-pass to the east of Hilton. There is a junction from the A50 to the A516/A5132 north-east of the village, and the A516 provides a direct link to Mickleover and the centre of Derby.

- 1.3 The excellent road communications have made Hilton an attractive residential location for people commuting to work in surrounding towns and cities, such as Uttoxeter, Burton upon Trent, Derby, Nottingham and Birmingham.
- 1.4 During the Second World War, a large tract of land to the south of Hilton village was requisitioned by the Government to be used as an Army base. After the end of the war, the base was retained and in due course became an MoD storage facility. The site was sold for residential and light industrial development in 1992, and the progressive development of this brownfield site has led to much of the recent increase in the population of the village.
- 1.5 There are 11 Listed Buildings within the Plan area, of which St Mary's Church at Marston-on-Dove is a Grade I Listed Building. The tumulus at Hoon Mount is a Scheduled Monument.
- 1.6 The Hilton Nature Reserve, located north of the A50 at the site of former gravel pits, is a designated Site of Special Scientific Interest (SSSI). The site is owned and managed by the Derbyshire Wildlife Trust.

#### *The Independent Examiner*

- 1.7 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Plan by South Derbyshire District Council (the District Council), with the agreement of the Parish Council.
- 1.8 I am a chartered town planner, with over 45 years of experience in planning. I have worked in both the public and private sectors and have experience of examining both local plans and neighbourhood plans. I have also served on a Government working group considering measures to improve the local plan system and undertaken peer reviews on behalf of the Planning Advisory Service. I therefore have the appropriate qualifications and experience to carry out this independent examination.
- 1.9 I am independent of the qualifying body and the local authority and do not have an interest in any of the land that may be affected by the Plan.

#### *The Scope of the Examination*

- 1.10 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.

1.11 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:

- Whether the plan meets the Basic Conditions.
- Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
  - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
  - it sets out policies in relation to the development and use of land;
  - it specifies the period during which it has effect;
  - it does not include provisions and policies for 'excluded development'; and
  - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

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

### *The Basic Conditions*

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

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;

- be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>1</sup>; and
- meet prescribed conditions and comply with prescribed matters.

1.14 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').<sup>2</sup>

## **2. Approach to the Examination**

### *Planning Policy Context*

- 2.1 The Development Plan for this part of South Derbyshire District Council (SDDC/the District Council), not including documents relating to excluded minerals and waste development, consists of the three parts of the South Derbyshire Local Plan (SDLP). Part 1 covers the period 2011 to 2028 and is the strategic element of the Plan, setting the vision, objectives and strategy for the spatial development of South Derbyshire. It also sets out the scale of housing and employment development required within the District over the Local Plan period, allocates strategic sites and contains policies used in the determination of planning applications. Part 2 includes other (non- strategic) housing allocations and detailed development management policies. Part 1 was formally adopted on 13 June 2016, and Part 2 was adopted on 2 November 2017. In addition to the two parts of the SDLP, there is also a Local Green Spaces Plan, which was formally adopted as part of the Development Plan by the District Council on 24 September 2020.
- 2.2 The Basic Conditions Statement (at Section 3) provides an assessment of how each of the Policies proposed in the Plan have regard to national policy (at Table 1) and are in general conformity with the relevant strategic policies in the adopted Local Plan (at Table 3). Having been adopted in 2016/17, the Local Plan provides a relatively up-to-date strategic planning context for the Neighbourhood Plan, and this has enabled the Neighbourhood Plan and its Policies to be prepared.
- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published on 19 February 2019 (and updated on 19 June 2019). All references in this report are to the 2019 NPPF and its accompanying PPG.

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<sup>1</sup> The existing body of environmental regulation is retained in UK law.

<sup>2</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

## *Submitted Documents*

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan 2020-2035 (Submission Version) (2020);
  - the Environmental Statement (August 2020), incorporating both the Strategic Environmental Assessment and the Habitats Regulations Screening Determination (April 2020);
  - the Basic Conditions Statement (May 2020);
  - the Consultation Statement (undated), and
  - all the representations that have been made in accordance with the Regulation 16 consultation.<sup>3</sup>
- 2.5 I have also considered the supporting evidence documents that have informed the preparation of the Plan, including the following documents:
- Parking Survey (undated);
  - Hilton (South Derbyshire) Housing Needs Assessment (HNA) (AECOM) (June 2019);
  - Local Amenity Comparison Between Villages in the District (undated);
  - Requirement for Care Home places in South Derbyshire (undated);
  - Housing Policy Evidence Paper (undated);
  - Hilton Traffic Survey (June -July 2018);
  - Bungalows built as part of developments in Hilton 2000-2019 (undated); and
  - Land off Lucas Lane, Hilton - Environmental Noise Assessment (Entran Limited) (June 2019).<sup>4</sup>

## *Preliminary Questions*

- 2.6 Following my appointment as the independent examiner and my initial review of the draft Plan, its supporting documents and representations made at the Regulation 16 stage, I wrote to the District Council and the Parish Council on 10 February 2021<sup>5</sup> seeking further clarification and information on six matters contained in the submission Plan, as follows:
- Firstly, I noted that Policy N1 (Noise Mitigation) refers to a 200 metres wide exclusion zone along the length of the A50 as it passes through the designated area. I invited the Parish Council to provide me with a note setting out the evidence sources for this proposed exclusion zone. I further noted that I assumed that the 200 metres distance is a measurement of 100 metres each side of the road (or

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<sup>3</sup> View at: <https://www.southderbyshire.gov.uk/our-services/planning-and-building-control/planning/planning-policy/current-consultations-version-two/hiltonreg16>

<sup>4</sup> View at: <https://yourvillageyourvoice.org.uk/>

<sup>5</sup> View at: [https://www.hiltonparishcouncil.org.uk/uploads/examiner-procedural-matters-and-questions-hilton-marston-on-dove-hoon-ndp-100221-\(1\).docx](https://www.hiltonparishcouncil.org.uk/uploads/examiner-procedural-matters-and-questions-hilton-marston-on-dove-hoon-ndp-100221-(1).docx)

from the centre line of the road) and is a 'blanket' proposal regardless of other developments/policy notations that may exist along the length of the road, but I sought clarification on those points. In that respect, I noted that, should I find the Policy to be appropriately justified, the Plan will need to include a Policy map (at a suitable scale) to define the exclusion zone, and I also invited the Parish Council to provide a suitable map showing the notation. Finally, I commented that I was more specifically concerned with the impact of the proposed exclusion zone upon the Lucas Lane housing allocation site (Policy H1B), and, if necessary, an inset map at a larger scale should be provided for that specific length of the A50.

- Secondly, with regard to Policy A1 (Air Quality), I stated that it is not possible through land use planning policies to designate 'no idling zones' for parked cars in the vicinity of public buildings etc. Where appropriate, this would be a matter of Road Traffic law, and as drafted would seem to only apply to cars rather than other vehicles, such as commercial vehicles. I noted that, as drafted, the Policy is therefore flawed. I invited the Parish Council to consider redrafting the Policy to seek, in broader terms, to implement measures that will improve air quality within the Plan area, which may well extend beyond the issue of vehicle emissions.
- Thirdly, with regard to Housing Delivery and Policies H1/H1A/H1B (The Mease and Lucas Lane), I noted that, as drafted, parts of the section on Housing Delivery and the second paragraph of Policy H1 are potentially not consistent with national planning policies. This issue had been raised clearly in the Regulation 16 response by South Derbyshire District Council. I noted that the Plan will need to express support for new residential development during the Plan period up to 2035, subject of course to satisfying all other relevant Policies in the Plan, for example development within the Hilton settlement boundary. I therefore invited the Parish Council to provide me with a note setting out potential revised text for the second paragraph of Policy H1 which addresses the above points, and revised text for the supporting justification under the heading of "Housing Delivery" on page 16 of the Plan.
- Fourthly, with regard to Policy H2 (Housing Mix), I noted that the proposed housing mix set out in this Policy for developments of five or more dwellings is at variance with the outcomes of the Hilton Housing Needs Assessment (HNA) (June 2019) (AECOM), for example in the percentage requirement for 4 or 5 bedroom dwellings. I therefore invited the Parish Council to provide me with a note setting out the specific justification for the proposed housing mix, rather than incorporating the suggested housing mix indicated by South Derbyshire District Council in their previous Regulation 14 consultation response.



- Fifthly, with regard to Policy H6 (Housing Design), I noted that within this Policy, the requirement for every home to be within half a mile of a post box is not a land use planning policy regarding housing design, but a matter for other agencies, primarily Royal Mail Group Ltd. Therefore, I further noted that, as drafted, the Policy is presently flawed. I invited the Parish Council, in respect of this Policy, to consider whether new residential developments should be located within suitable walking distance (which is often stated to be 800 metres) of facilities such as local shops, parks and recreational facilities, etc., which I consider to be a more appropriate planning requirement. I indicated that I would be grateful to receive a note on this matter.
- Finally, with regard to Policy T3 (Cycle Paths and Cycle Parking), I noted that, as drafted, this Policy partially duplicates other Policies, notably elements of Policies H6 and T1. In my assessment, the content of Policy T3 could be incorporated within an amended and extended Policy T1 (Active Travel) to promote and support cycling and the provision of cycle paths etc., and I invited the Parish Council to consider this matter and advise me of their view.

2.7 In response to my letter of 10 February 2021, the Parish Council provided me with responses to the questions on 22 February 2021.<sup>6</sup> I have taken account of the additional information contained in these responses as part of my full assessment of the draft Plan, alongside the documents listed at paragraph 2.4 and 2.5 above.

#### *Site Visit*

2.8 I made an unaccompanied site visit to the Neighbourhood Plan Area on 20 March 2021 to familiarise myself with it and visit relevant sites and areas referenced in the Plan, evidential documents and representations.

#### *Written Representations with or without Public Hearing*

2.9 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections and comments regarding the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. I am satisfied that the material supplied is sufficiently comprehensive for me to be able to deal with the matters raised under the written representation procedure, and that there was not a requirement to convene a public hearing as part of this examination. In all cases the information provided has enabled me to reach a conclusion on the matters concerned.

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<sup>6</sup> View at: <https://www.hiltonparishcouncil.org.uk/uploads/examiner-procedural-matters-and-questions-response-hpc-22-02-21.pdf>

## *Modifications*

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

## **3. Procedural Compliance and Human Rights**

### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The Plan has been prepared and submitted for examination by the Hilton Parish Council. An application to the District Council for the Parish Council area to be designated a neighbourhood planning area was made on 17 November 2017 and was approved by the District Council on 6 March 2018, following public consultation between 19 December 2017 and 9 February 2018.
- 3.2 The designated Neighbourhood Area comprises the whole of the Parishes of Hilton, Marston-on-Dove and Hoon. The designated area is shown on the maps at Page 3 in the Basic Conditions Statement and on the map at Page 6 in the submission Plan. The Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan is the only Neighbourhood Plan in the designated area.
- 3.3 Hilton Parish Council is the designated body for the preparation of the Plan. The preparation of the Plan has been led by a Neighbourhood Plan Steering Group (NPSG), which was established in July 2017, initially comprising two Parish Councillors and six residents. In September 2017, the NPSG was formally constituted as a committee of the Parish Council.

### *Plan Period*

- 3.4 The draft Plan specifies (on the front cover) the period to which it is to take effect, which is for the period 2020 to 2035. This encompasses the remaining part of the plan period for the adopted SDLP (up to 2028) and part of the plan period for a future Local Plan Review.

### *Neighbourhood Plan Preparation and Consultation*

- 3.5 The Consultation Statement and its Appendix sets out a full record of the Plan's preparation and its associated engagement and consultation activity. Initially, a launch meeting was held in January 2018, attended by about 50 people, at which volunteers were sought to join Working Groups to cover the themes of housing, transport, the environment, education, leisure and business. The Working Groups then identified the key issues on those topics for the first consultation with residents, which took place in June/July 2018.

- 3.6 The first consultation involved a survey questionnaire being distributed to every house in the Designated Area, supported by the opportunity to complete the survey on-line (using 'SurveyMonkey'). The consultation exercise was supported by local publicity, for example through the local community magazine '*Hilton and Dove Valley Life*', leaflets, posters and the use of social media platforms.
- 3.7 A total of 928 surveys were completed and returned, and the Working Groups analysed the responses and commenced work on the development of Policies to address the main issues and concerns that were raised.
- 3.8 A second community consultation exercise entitled 'The Next Step' took place in February/March 2019. This took the form of a further questionnaire survey which included questions on the emerging Policy themes. A total of 731 surveys were completed at this stage, and the Working Groups again analysed the responses for each of their respective topics.
- 3.9 A planning consultant was appointed in early-2019 to provide advice and assistance on the supporting evidence necessary to support the emerging Policies, and a number of the documents listed at paragraph 2.5 above were prepared. The draft Policies were then discussed with the District Council, and the Council's comments were taken into account in the preparation of the draft Plan for Regulation 14 consultation.
- 3.10 The Regulation 14 draft Plan was published for public consultation from 29 October to 9 December 2019. The Plan was sent to the relevant statutory bodies, including the District Council and Derbyshire County Council, stakeholders and local organisations, and was accompanied by local publicity, the use of social media and a direct mailing to over 500 people who were on the Steering Group's database. A total of 223 responses were received from statutory bodies, developers and local residents, following which the draft Plan was amended where considered appropriate to take account of the responses.
- 3.11 At its meeting held on 15 May 2020, the Parish Council resolved to formally submit the Plan to the District Council for examination under Regulation 15, and the Plan was duly submitted shortly thereafter. Regulation 16 consultation was then held for a period of six weeks from 7 September to 19 October 2020. I have taken account of the 19 responses then received, including an on-line petition with 242 supporters submitted via 'SurveyMonkey' expressing support for Policy H1 in the Plan, as well as the Consultation Statement. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the Plan, that has had regard to advice in the PPG on plan preparation and is procedurally compliant in accordance with the legal requirements.

### *Development and Use of Land*

3.12 The draft Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act, with the exception of certain aspects of Policies A1 and H6 (see paragraphs 4.22 and 4.35 below, respectively).

### *Excluded Development*

3.13 From my review of the documents before me, the draft Plan does not include policies or proposals that relate to any of the categories of excluded development.<sup>7</sup>

### *Human Rights*

3.14 Neither the District Council nor any other party has raised any issues concerning a breach of, or incompatibility with Convention rights (within the meaning of the Human Rights Act 1998). From my assessment of the Plan, its accompanying supporting documents and the consultation responses made to the Plan at the Regulations 14 and 16 stages, I am satisfied that the Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. I consider that none of the objectives and Policies in the Plan will have a negative impact on groups with protected characteristics. Many will have a positive impact.

## **4. Compliance with the Basic Conditions**

### *EU Obligations*

4.1 The District Council issued a Strategic Environmental Assessment (SEA) Screening Determination in April 2020 in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 ('the SEA Regulations'). This Screening Determination concludes that the Policies in the draft Plan will not have significant effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations, and therefore the Plan does not need to be subject to a SEA report. The Screening Determination was the subject of consultation with the Environment Agency, Natural England and Historic England, and none of these bodies raised any concerns such that a SEA would be required for the Plan.

4.2 I have considered the SEA screening process and assessment set out at Section 3 of the Screening Determination and I am satisfied that a proportionate approach has been taken and that the Plan was screened to take full account of any potential environmental impacts upon interests of environmental, health, historic and heritage importance.

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<sup>7</sup> The meaning of 'excluded development' is set out in s.61K of the 1990 Act.  
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- 4.3 The Plan was also screened by the District Council in order to establish whether the Plan required Habitats Regulations Assessment (HRA) under the Habitats Regulations. South Derbyshire and its surrounding districts contain six sites of European importance, The River Mease Special Area of Conservation (SAC), the West Midlands Mosses SAC, the Cannock Chase SAC, the Bees Nests and Green Clay Pits SAC, the Gang Mine SAC and the Peak District Dales SAC. None of these sites are within 19 kilometres of the Plan area, although the nearest part of the River Mease catchment (but not falling within the designated SAC area) is some 13 kilometres from the Plan area. The HRA Screening Assessment, which is also contained within the Screening Determination, concluded that the draft Plan did not require a stage 2 HRA (Appropriate Assessment) because of the distance of the Plan area from the sites of European importance and that no likely significant effects are likely to occur with regards to the integrity of those protected sites. I have noted that Natural England has agreed with that conclusion.
- 4.4 Therefore, I consider that on the basis of the information provided and my independent consideration of the Environmental Statement and the Plan itself, I am satisfied that the Plan is compatible with EU obligations under retained EU law.

#### *Main Assessment*

- 4.5 The NPPF states (at paragraph 29) that "*Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan*" and also that "*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies*". The NPPF (at paragraph 11) also sets out the presumption in favour of sustainable development. It goes on to state (at paragraph 13) that neighbourhood plans should support the delivery of strategic policies contained in local plans; and should shape and direct development that is outside of these strategic policies.
- 4.6 Having considered above whether the Plan complies with various legal and procedural requirements, it is now necessary to deal with the question of whether it complies with the remaining Basic Conditions (see paragraph 1.13 of this report), particularly the regard it pays to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic Development Plan policies.
- 4.7 I test the Plan against the Basic Conditions by considering specific issues of compliance of the Plan's 24 Policies, which address the following themes: Well-being; Housing; Transport; Environment; Leisure, Amenities and Services; Education; and Business. As part of that assessment, I consider whether the Policies in the Plan are sufficiently clear and

unambiguous, having regard to advice in the PPG. A policy 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.<sup>8</sup> I recommend some modifications as a result.

## Overview

- 4.8 The Plan is addressing a period up to 2035 and seeks to provide a clear planning framework to guide residents, businesses, the District Council and developers as to how the community wish to shape future development in the Plan area during that period. Pages 14-57 of the Plan contain specific Policies in respect of each of the themes listed above.
- 4.9 Page 7 of the Plan provides an introduction to the Plan following the designation of the Parishes as a Neighbourhood Area in March 2018 and includes a map of the designated area (on page 6).
- 4.10 Pages 8-13 of the Plan provides a general description of the Parish, including details of its recent growth, its social and community facilities and the main aspects of its local economy.
- 4.11 The Plan's Vision is set out on page 58. It states that *"As our village develops, that development will be shaped by us, its residents. We will ensure that infrastructure, services and amenities are driven by the needs of this community, not by commercial and political imperatives and take into account the impact on the wider environment. The Neighbourhood Development Plan will ensure that Hilton and its environs retain their semi-rural identity and remain a safe and sustainable village in which people in every stage and from every walk of life can enjoy living. A place we are proud to call our home."* The Plan does not contain any specific objectives leading from this Vision.
- 4.12 The Basic Conditions Statement describes how the Plan and its Policies have regard to national policies contained in the NPPF and contribute to the achievement of sustainable development. Tables 1-3 within Section 3 of the Basic Conditions Statement set out in detail how each of the Plan's 24 Policies have regard to national policies contained in the NPPF (Table 1), contribute to the achievement of sustainable development (Table 2) and are in general conformity with the strategic policies in the adopted SDLP 2011-2028 (Table 3).
- 4.13 I consider that overall, subject to the detailed modifications I recommend to specific Policies below, that individually and collectively the Plan's Policies will contribute to the achievement of sustainable patterns of development. There are also a number of detailed matters which require amendment to ensure that the Policies have the necessary regard to national policy and are in general conformity with the strategic policies of

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<sup>8</sup> PPG Reference ID: 41- 041-20140306.

the District Council. Accordingly, I recommend modifications in this report in order to address these matters.

### *Specific Issues of Compliance*

4.14 I turn now to consider each of the proposed Policies in the draft Plan, and I take into account, where appropriate, the representations that have been made concerning the Policies.

### Well-being Statement

4.15 Pages 14 and 15 of the draft Plan set out a general statement of well-being for residents within the Plan area. In addition to promoting improved connectivity for residents by footpaths and cycleways, it also addresses other aspects of health and well-being, such as sports facilities, allotments and the promotion of social activities.

4.16 It focuses in particular on the issues of noise and air quality within Hilton village, and contains two Policies (Policies N1 and A1) to address noise mitigation and air quality respectively.

4.17 Policy N1 (Noise mitigation) states that a 200 metre-wide exclusion zone along the length of the A50 as it passes through the Plan area will be kept free from any housing development. Additionally, it states that the planting of trees and hedgerows within this zone will be encouraged to mitigate the noise outside of the exclusion zone. Upon my initial assessment of the Plan, I was concerned that, as drafted, the Policy fails to provide sufficient clarity regarding its precise extent in spatial terms within the Plan area, including whether the measurement of 200 metres is taken from the centre line of the A50 or from other points along the road. I noted that the Policy failed to contain a plan showing the proposed exclusion zone, and I was specifically concerned regarding the impact of the proposed exclusion zone upon the Lucas Lane housing allocation site (Policy H1B). I therefore raised a preliminary question to the District Council and Parish Council seeking further information on these matters (as set out at paragraph 2.6 above).

4.18 The Parish Council provided me with a detailed response to this question on 22 February 2021, noting that traffic levels along the A50 have risen considerably since the by-pass was opened and that an independent environmental noise assessment for the Lucas Lane site had been commissioned from Entran Limited in 2019. The Parish Council provided a diagrammatic illustration of the extent of the proposed exclusion zone along the eastern section of the A50 as it by-passes Hilton, but not for the whole extent of the route, together with a further diagrammatic illustration of a possible site layout at the Lucas Lane site.

4.19 I have given very careful consideration to this Policy and its potential impact upon development proposals within the Plan area. I have also visited many parts of the Plan area close to the A50 road during the

course of my site visit, including the Lucas Lane site and its surroundings. It is clear that the A50 is a busy road, providing a direct link between the M1 and M6 motorways. That strategic role for the road has been reflected by many improvements along its length, including the Derby Southern by-pass and the Hilton by-pass. I have also studied the noise assessment report prepared by Entran Limited, as this constitutes the primary evidence source to support the Policy, albeit only in respect of a section of the A50 route.

- 4.20 In my assessment, the evidence supporting the Policy does not justify the designation of a 200 metre-wide exclusion zone along the length of the A50 through the Plan area. Crucially, I note that the Entran Limited report does not recommend any form of 'exclusion zone'. Indeed, at paragraph 7.3, with regard to the Lucas Lane site it states, inter alia, that *"... assessments indicate that the noise levels across the site are deemed to be suitable. Provided sufficient mitigation measures are employed, the proposed development will comply with the identified criteria"*.
- 4.21 Therefore, I consider that, as drafted, the Policy is not fully justified and requires amendment to have regard to national policy advice, principally paragraph 180 of the NPPF. The primary purpose of the Policy should be to mitigate the potential impacts of noise generated by traffic using the A50 and other major roads in the Plan area upon both new and existing developments, and not to designate a relatively arbitrary development exclusion zone. I therefore recommend modification **PM1** in order to revise the text of this Policy.
- 4.22 Policy A1 (Air quality) states that, in addition to the noise exclusion zone and the planting of green infrastructure to help absorb air pollution, there will be 'no idling zones' for parked cars in the vicinity of public buildings, commercial premises and schools within the Plan area. Upon my initial assessment of the Plan, I considered that the Policy, as drafted, is flawed in that it is not possible through land use planning policies to designate 'no idling zones' for parked cars in the vicinity of public buildings etc. Where appropriate, this would be a matter of Road Traffic law, which is not a planning function. I therefore raised a preliminary question in which I invited the Parish Council to consider redrafting the Policy to seek, in broader terms, to implement measures that will improve air quality within the Plan area, which may well extend beyond the issue of vehicle emissions. The Parish Council provided some replacement draft text for the Policy in their response dated 22 February 2021. Subject to some further amendment, to take account of the fact that I recommend the modification of Policy N1 (see above), I consider that the draft replacement text for this Policy is more appropriate and constitutes an effective land use planning policy. I therefore recommend modification **PM2** in order to revise the text of this Policy.
- 4.23 With the amendments to the Plan encompassed by recommended modifications PM1 and PM2, I consider that the draft Plan's Policies for Well-being in the Plan area are in general conformity with the strategic



policies of the SDLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

## Housing

- 4.24 Pages 16-26 of the draft Plan address various issues concerning the provision of new housing within the Plan area, and contain six Policies, (Policies H1-H6) which address housing delivery including the identification of two housing allocation sites, housing mix, residential car parking standards, homes designed for energy efficiency, gardens and housing design.
- 4.25 Policy H1 (Housing delivery) states that proposals for the residential development of the sites in Policies H1A and H1B (see below) will be subject to the criteria set out within those Policies. However, the Policy is preceded by supporting text which states that, as the adopted Local Plan only extends to 2028 and as this Plan extends to 2035, there should be a moratorium on house building within the Plan area during the period 2028-2035, following an emphatic view expressed in a survey of residents. It goes on to state that *"the housing policies in this plan recognise a more practical interpretation of the (residents) survey which could help inform the successor plan to the current Local Plan"*.
- 4.26 Following my initial assessment of the Plan, I raised my concerns that this supporting text and that also part of the text of the Policy is not consistent with national planning policies as one of the preliminary questions to the Parish Council. I invited the Parish Council to provide me with a note setting out potential revised text to address my concerns. I have taken account of the Parish Council's response in my further assessment of the Policy.
- 4.27 The proposed moratorium on further house building within the Plan area during the period 2028-2035 fails to have regard to national policy contained in the NPPF, notably paragraph 13, and in so doing conspicuously fails to assist in meeting the Government's national policy objective to identify additional housing sites, which can be delivered through up-to-date development plans, of which this Plan is a part. I have noted the District Council's strong representations on this point, and it is the case that any such moratorium would mean that the Plan would fail to satisfy the Basic Conditions. I therefore recommend the deletion of the text preceding Policy H1, together with amendments to the text of the Policy, as part of modification **PM3** (see also below).
- 4.28 Policy H1A (The Mease mixed use site) relates to the proposed redevelopment of a large site east of The Mease and south of Egginton Road in Hilton. The site is also covered by Policy L3 (see paragraph 4.59 below), and recommended modification PM10 addresses necessary amendments to that Policy. Policy H1A states that development of the site will be supported if it includes between 10 and 20 sheltered bungalows (of which at least 25%

must be to Building Regulation M4(3) standard), a residential care home with a maximum of 40 beds and a minimum of seven ground floor retail units with one or two-bed affordable accommodation above ground floor level. In visiting the site as part of my site visit and addressing the requirements as set out in this Policy. I am concerned that the Policy is setting policy requirements that potentially could threaten the viability of achieving a satisfactory and well-planned redevelopment of this important previously developed site. I consider that the Policy should set a more positive approach to the redevelopment of the site, in order to support the objective of increasing the delivery of additional housing. I also consider that detailed inset maps (at a larger scale than the map on page 19 in the Plan), to show the site boundaries of both this site and the Lucas Lane site (Policy H1B) with greater accuracy, are necessary within the Plan. The recommended amendments to this Policy are also addressed by modification **PM3**.

- 4.29 Policy H1B (Lucas Lane potential development site) states that development of this site will be supported if the development retains the amenity value of Lucas Lane in line with Policies E4 and E5, and meets Policy N1, and includes low density housing of up to eight dwellings, allotments, a community orchard, woodland and a community farm based on the existing farm buildings.
- 4.30 I visited this site during the course of my site visit, taking particular account of the site's proximity to the A50 and the environmental noise assessment for the site commissioned from Entran Limited in 2019, as referenced at paragraph 4.19 above. I have considered the various representations that have been made concerning this Policy, including those made by the District Council at the Regulation 14 consultation stage, and those made on behalf of the prospective developers of the site. I also note that an outline planning permission was granted in September 2020 for the development of up to 57 dwellings at the site. I consider that this represents a commitment which should be recognised in the Plan and therefore, this Policy requires amendment to reflect the established planning position and the amendments that are recommended to other Policies in the Plan. The necessary amendments are addressed by recommended modification **PM3**.
- 4.31 As part of my assessment of Policies H1, H1A and H1B, I have taken into consideration those representations that have been made concerning these Policies. These included representations seeking the inclusion of additional housing allocation sites in the Plan, with sites to the north of Egginton Road and east of Lucas Lane, land east of Sutton Lane and land at Elm Tree Farm being proposed for inclusion in the Plan. I visited each of these sites during the course of my site visit. In my assessment, following the amendments to Policies H1, H1A and H1B that are set out in **PM3**, the Plan will be able to meet presently identified housing requirements for the period up to 2028. For the period beyond 2028 up to 2035, the Plan should be reviewed to take account of any future policies and land allocations that are contained in the Local Plan Review. The extent of any possible further

housing requirements for that period is not known at the present time. However, as modified, Policy H1 will enable proposals that are in conformity with the Plan's Policies to come forward up to 2035. Therefore, I do not consider that any further housing allocations in the Plan are necessary at this time, pending the advancement of the Local Plan Review.

- 4.32 Policy H2 (Housing mix) sets out a proposed housing mix for new residential developments of five or more dwellings within the Plan area. As part of my initial assessment of the Plan, I noted that the proposed housing mix is at variance to that suggested in the Hilton Housing Needs Assessment (HNA). I raised this matter as a preliminary question to the Parish Council, also noting that the District Council had raised a similar point at the Regulation 14 consultation stage. The Parish Council responded on 22 February 2021 stating, inter alia, that "*The housing mix was discussed with SDDC after their Regulation 14 response. This resulted in the mix that now appears in the Neighbourhood Plan*". In my experience, the proportion of 4/5 bedroom dwellings included in the proposed housing mix is unusually high. However, on the basis that the proposed mix has been agreed with the District Council, I am satisfied that the Policy is in general conformity with the District Council's policies. I recommend one amendment to the Policy text as modification **PM4**.
- 4.33 Policy H3 (Requirements of housing: residential car parking) sets out a car parking standard for new residential developments in the Plan area. However, it also states that garages will not count towards the requirement "*as garages are not permanently available for parking*". This is contrary to established practice in that, where provided, garages are generally regarded by local planning authorities, for development management purposes, as part of the off-street parking requirement. I consider that the Policy requires some amendment to remove this qualification, and also the requirement that parking spaces should have a parallel layout to the house. Whilst this is the preferable form of provision, it is not always possible to achieve, for example where a separate parking court to serve a number of dwellings may be required. Recommended modification **PM5** addresses the amendments to the Policy.
- 4.34 Policy H4 (Requirements of housing: homes designed for energy efficiency) sets out a range of design and energy efficiency measures that should be included within new developments in the Plan area. Whilst the majority of the measures are appropriate and in line with national and local policies to promote sustainable design and construction, the Policy cannot specify measures that exceed Building Regulations requirements. I also consider that the clause relating to air pollution will be better addressed by the recommended modification to Policy A1 and can therefore be removed from this Policy. Recommended modification **PM6** addresses the amendments to this Policy.
- 4.35 Policy H5 (Gardens) sets out minimum garden sizes for new housing built within the Plan area. It states that new build family houses must have a family sized garden. Whilst the sentiment of this statement is understood,

it would be clearer for users of the Plan if the Policy stated that its purpose is to ensure that all new dwellings, regardless of their size, are provided with adequate private amenity space. I therefore recommend modification **PM7** to address an amendment to the Policy text.

- 4.36 Policy H6 (Housing design) states that residential development should reflect the character and density of the immediate surrounding area and use building materials consistent with neighbourhood properties. It then sets out four design criteria which should be incorporated in development proposals. Upon my initial assessment of the Plan, I was concerned that the third criterion, that every new home in the Plan area should be within half a mile of a post box, is a matter for other agencies, primarily Royal Mail Group Ltd. I therefore raised a preliminary question with the Parish Council on this point, inviting the Parish Council to consider redrafting this particular criterion to reflect more appropriate planning-related requirements, such as being within suitable distance of facilities such as local shops, parks and recreational facilities, etc. The Parish Council has provided some suggested replacement text, which I consider to be appropriate, subject to one minor amendment, and this is addressed by recommended modification **PM8**. In respect of the fourth criterion concerning the incorporation of sustainable transport measures, I noted (in a preliminary question relating to Policy T3, as referenced at paragraph 2.6 above) that there is some duplication between the requirements of this Policy, Policy T1 and Policy T3. Following the Parish Council's response (see paragraph 4.43 below), I also recommend the deletion of the fourth criterion as part of modification **PM8**, as the matters concerned will be addressed by amendments to Policy T1 (see also PM9).
- 4.37 With recommended modifications PM3-PM8, I consider that the draft Plan's section on Housing and its accompanying Policies (Policies H1-H6) is in general conformity with the strategic policies of the SDLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### Transport

- 4.38 Pages 27-36 of the draft Plan address various issues concerning Transport within the Plan area, and contain three Policies, (Policies T1-T3) and four Community Policies (CP-T1-CP-T4), which address the issues of parking; highway safety and traffic management; active travel; access to schools; cycle paths and cycle parking; cycle routes; and bus services in the Plan area
- 4.39 Community Policy CP1-T1 relates to traffic speed management and refers to the provision of additional public car parking as part of Policy H1A. As pages 5-6 of the Plan make clear, this (and other Community Policies – see paragraphs 4.42, 4.44-4.45, 4.61 and 4.63 below) deal with matters which are not related land use planning matters, and as such they do not form part of my examination or part of the statutory Neighbourhood Plan.

- 4.40 Policy T1 (Active Travel) promotes the inclusion of proposals which make walking, cycling and public transport more attractive as part of new developments within the Plan area. I consider that this Policy is justified and will assist in promoting the increased use of sustainable forms of transport by new and existing residents within the Plan area. However, as noted at paragraph 4.36 above and paragraph 4.43 below, I have considered that Policies H6 and T3 duplicate matters covered by this Policy. In my assessment, this Policy should contain the Plan's requirements for the promotion of sustainable travel measures, including cycling initiatives. Following the Parish Council's response to my preliminary question on this matter, which suggested replacement and extended text for this Policy, I therefore recommend modification **PM9** to revise the text of the Policy, to include matters covered by Policy H6 (see PM8) and T3 (see PM11).
- 4.41 Policy T2 (Access to schools) states that all new housing developments must include proposals for safe travel to school, including the provision of new pedestrian crossings over The Mease in the vicinity of the new Primary School and on the A50 slip roads. In respect of this latter requirement, Highways England has stated in its representation that any proposed crossings of the A50 slip roads must meet the agency's necessary safety and design standards. I consider that the Policy should be amended to reflect this point, and this is addressed by recommended modification **PM10**.
- 4.42 Community Policy CP1-T2 seeks to reduce indiscriminate car parking in the vicinity of the schools within the Plan area. This Policy has not formed part of my examination.
- 4.43 Policy T3 (Cycle paths and cycle parking) states that development proposals must contribute to the creation and improvement of a safe, direct and convenient cycle route network, and that safe and secure cycle parking should be provided at various village shops and facilities. Upon my initial assessment of the Plan, I noted that the requirements of this Policy partially duplicate the requirements of other Policies, notably Policies H6 and T1. I therefore raised a preliminary question on this matter inviting the Parish Council to consider redrafting Policy T1, which I consider to be the primary Policy in the Plan for the promotion of cycling, to incorporate the matters covered by this Policy. As noted above, the Parish Council has provided suitable replacement and extended text for Policy T1, and therefore I consider that this Policy can be deleted from the Plan. Accordingly, modification **PM11** recommends the deletion of the Policy.
- 4.44 Community Policy CP1-T3 seeks to improve the provision of cycle lanes in the Plan area. This Policy has not formed part of my examination.
- 4.45 Community Policy CP1-T4 concerns the provision of bus services within the Plan area and seeks to explore opportunities to improve provision, particularly for the elderly and disabled. This Policy has not formed part of

my examination.

- 4.46 With recommended modifications PM9-PM11, I consider that the draft Plan's Policies for Transport are in general conformity with the strategic policies of the SDLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

## Environment

- 4.47 Pages 36-47 of the draft Plan cover the theme of the Environment within the Plan area. This section of the Plan contains six Policies (Policies F1 and E1-E5) addressing the topics of flood mitigation; Green Spaces; retaining village identity; community land; nature conservation; and biodiversity.
- 4.48 Policy F1 (Flood mitigation) states that opportunities will be taken with landowners and statutory bodies to explore better water management of upland areas to reduce the flow of floodwater, including the use of sustainable drainage systems, landscaping, green roofs, rainwater harvesting and tree planting. I consider that the Policy is appropriately drafted and is consistent with national policy advice to seek to reduce flood risk.
- 4.49 Policy E1 (Green spaces) proposes the designation of 19 Local Green Spaces, which are all within and around Hilton village and are identified on the map at page 43 in the Plan.
- 4.50 SDDC has prepared and adopted (on 24 September 2020) a Local Green Spaces Plan<sup>9</sup> for the district, which now comprises part of the adopted Development Plan for the Hilton Plan area, together with the SDLP (Parts 1 and 2). All of the 19 proposed Local Green Spaces set out in the Plan are designated within the adopted SDDC Local Green Spaces Plan and, therefore, I do not consider the sites in any further detail within this report. Nevertheless, I visited each of the sites during the course of my site visit to familiarise myself with their specific characteristics. I also noted that the site titles and addresses within the Plan are not entirely consistent with those listed in the adopted Local Green Spaces Plan, and I consider that there should be a consistent approach for the benefit of users of both Plans to ensure clarity. Furthermore, I am not satisfied that Policy E1 is consistent with Policy BNE8 in the adopted SDLP, and that the Policy text requires some amendments accordingly. I therefore recommend modification **PM12** in order to address these matters.
- 4.51 Policy E2 (Retaining village identity) states that the existing separation between the villages in the Plan area should be maintained to ensure retention of individual character. In this respect, the Policy is more

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<sup>9</sup> View at: <https://www.southderbyshire.gov.uk/our-services/planning-and-building-control/planning/planning-policy/local-plan/local-green-spaces-plan>

specifically concerned with safeguarding the gap between the settlements of Hilton and Marston-on-Dove. In my assessment, the principle of this Policy is justified as it is clear that development within the areas between settlements could progressively result in a loss of character within the smaller settlements. However, I consider that, as drafted, the Policy does not provide an effective development management policy for the assessment of planning applications by the District Council. I therefore recommend revised text for this Policy and this is addressed by modification **PM13**.

- 4.52 Policy E3 (Community land) states that development proposals which increase land for community gardening, orchards and allotments will be supported and given priority. All planning applications must be considered on their own merits, and therefore the Policy should not indicate that certain applications will be given priority. Subject to an amendment to delete that reference, I consider that the Policy is justified and reflects the community's land use aspirations. I recommend modification **PM14** to address the amendment to this Policy.
- 4.53 Policy E4 (Nature conservation) seeks to ensure that all new development must demonstrate a high level of landscaping and planting in keeping with the local area, create new habitats and maintain and extend linked habitats to provide wildlife corridors. Subject to some amendments to the Policy text, in order to improve the effectiveness of the Policy for development management purposes, I consider that it is justified and again reflects the community's aspirations for the promotion of nature conservation in the Plan area. Recommended modification **PM15** addresses the amendments to the Policy text.
- 4.54 Policy E5 (Biodiversity) seeks to protect and enhance biodiversity within the Plan area, and states that proposals for housing and commercial development should seek to achieve biodiversity net gain. Some amendments to the text of the Policy are necessary, again to improve its effectiveness for development management purposes by the District Council, and these are addressed by modification **PM16**.
- 4.55 With the amendments to the Plan encompassed by recommended modifications PM12-PM16, I consider that the draft Plan's Policies for the Environment in the Plan area are in general conformity with the strategic policies of the SDLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

#### Leisure, Amenities and Services

- 4.56 Pages 48-53 of the draft Plan cover the theme of Leisure, Amenities and Services within the Plan area. This section of the Plan contains three Policies (Policies L1-L3) and one Community Policy (CP-L1), and seeks to ensure that the provision of recreational, healthcare and retail facilities

within the Plan area, but most especially in Hilton, meets the needs of the growing community.

- 4.57 Policy L1 (Recreational facilities) states that developer contributions will be sought through Section 106 agreements linked to planning permissions for new residential development for improvements to the sports and play facilities within the Plan area. Subject to one amendment, I consider that the Policy is appropriately drafted and clearly relates to one of the priorities for improvements to community infrastructure linked to future residential development proposals in the Plan area. Recommended modification **PM17** addresses the necessary amendment to the Policy.
- 4.58 Policy L2 (Healthcare facilities) also seeks to secure developer contributions to improve the quality and accessibility of health and social care facilities within the Plan area. I consider that the Policy is justified and again reflects one of the Plan's priorities for improvements to community infrastructure. However, the Policy requires some amendments in order to provide greater clarity for users of the Plan. Recommended modification **PM18** addresses the necessary amendments to the Policy.
- 4.59 Policy L3 (Hilton village shopping centre development) relates to a large site east of The Mease and south of Egginton Road in Hilton, which is a proposed housing and mixed-use development site in the Plan covered by Policy H1A (see paragraph 4.28 above). Policy L3 relates to one element of the preferred form of development at the site. I have given careful consideration as to the necessity for the Policy, as it potentially leads to some possible confusion for users of the Plan, even more so as there are no cross-references in the Plan between Policies H1A and L3. Additionally, neither Policy H1A nor Policy L3 are accompanied by a detailed inset map (at a larger scale than the maps presently included in the Plan), linked to the Policies and showing the site boundaries with greater accuracy. As noted above, I have recommended the inclusion of such inset maps for both Policies H1A and H1B.
- 4.60 In my assessment, Policy L3 can be justified as it forms an important part of the Plan's objectives to improve community services and facilities in Hilton. However, the text of the Policy requires some significant amendments: firstly, to make full reference to Policy H1A and its accompanying inset map; secondly, to reflect the revised Use Class Order introduced in September 2020; and thirdly, to provide improved clarity for users of the Plan. Furthermore, I note that the Policy as drafted stipulates that a minimum of seven retail units should be provided at the site. The District Council has raised a representation that a retail proposal of six units can be supported, but that the requirements of Policy L3, as drafted, could hinder potential development opportunities. I conclude on this point that the Policy should indicate that a development of at least six retail units within Use Class E should be specified. Recommended modification **PM19** encompasses the necessary amendments to the Policy.



- 4.61 Community Policy CP1-L1 concerns the provision of improved street lighting and pavements at Witham Close in Hilton. This Policy has not formed part of my examination.
- 4.62 With the recommended modifications PM17-PM19, I consider that the draft Plan's Policies for Leisure, Amenities and Services are in general conformity with the strategic policies of the SDLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### Education

- 4.63 Page 54 of the draft Plan addresses educational provision in the Plan area. This section does not include any land-use planning policies but does contain one Community Policy (Policy CP-ED1) which concerns adult education. This Policy has not formed part of my examination.

### Business

- 4.64 Pages 55-57 of the draft Plan cover the theme of Business within the Plan area. This section of the Plan contains four Policies (Policies B1-B4) and seeks to support and encourage opportunities for business development and growth in the Plan area, including home working.
- 4.65 Policy B1 (Business units) seeks to encourage the development of new business units within the existing Hilton settlement boundary and the conversion of existing buildings for business use across the Plan area. It states that business uses will be restricted to Use Classes A, B1, C1, C2, D1 and D2. These Use Classes relate to the previous Use Class Order, prior to the introduction by the Government of a revised Use Class Order in September 2020.<sup>10</sup> The Policy therefore requires amendment to reflect those revisions. Furthermore, I do not consider that it is appropriate to define Use Classes C1 and C2 within the scope of this Policy, as any planning proposals for the use of residential properties for business use will need to be assessed principally against other Policies in this Plan and the Local Plan in order to ensure that the impacts of such proposals, for example concerning noise and car parking, are acceptable. The recommended amendments to the Policy are addressed by modification **PM20**.
- 4.66 Policy B2 (Home working) promotes and supports home working within the Plan area. Two amendments are necessary to the text of the Policy, and these are addressed by recommended modification **PM21**.
- 4.67 Policy B3 (Conversion of business property to domestic use) states that proposals for the redevelopment or change of use of existing business use to non-employment uses will only be supported if the existing use is no

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<sup>10</sup> View at: [The Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

longer economically viable and the site has been actively marketed for at least 12 months. Whilst the principle of retaining existing properties that are in business use for their continued use for employment purposes is acceptable, the Policy does need to reflect the fact that permitted development rights do exist for the change of use of some properties falling within certain categories of employment use to residential use. Additionally, amendments are also needed to the text of the Policy and its title for improved clarity. These matters are addressed by recommended modification **PM22**.

4.68 Policy B4 (Broadband) seeks to ensure that new development within the Plan area makes provision for the enhancement of digital infrastructure incorporating full fibre broadband connections. An amendment is necessary to the text of the Policy and this is addressed by recommended modification **PM23**.

4.69 With the recommended modifications PM20-23 to Policies B1-B4, I consider that the draft Plan's section on Business is in general conformity with the strategic policies of the SDLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

#### *Other Matters*

4.70 There is the likelihood that there will be a need to formally review the Plan during the Plan period, particularly following a future review of the South Derbyshire Local Plan, which presently extends to 2028. The Plan as drafted does not contain a statement regarding a potential future review during the period up to 2035 to take account of a Local Plan Review, and I consider this to be an omission. I therefore recommend modification **PM24** to add a further paragraph to the final section of the Plan in order to address this point.

#### *Concluding Remarks*

4.71 I consider that, with the recommended modifications to the Plan as summarised above and set out in full in the accompanying Appendix, the Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan 2020-2035 meets the Basic Conditions for neighbourhood plans. As an advisory comment, when the Plan is being redrafted to take account of the recommended modifications in this report, it should be re-checked for any typographical errors and any other consequential changes, etc.

## 5. Conclusions

### *Summary*

- 5.1 The Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan 2020-2035 has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the Plan, and the supporting documents submitted with the Plan together with the Parish Council's responses to my preliminary questions.
- 5.2 I have made recommendations to modify certain Policies and other matters to ensure that the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### *The Referendum and its Area*

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan 2020-2035, as modified, has no Policies or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Area.

### *Overview*

- 5.4 It is clear that the Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan is the product of much hard work undertaken since 2017 by the Parish Council, its Neighbourhood Plan Steering Group and the many individuals and stakeholders who have contributed to the preparation and development of the Plan. In my assessment, the Plan reflects the land use aspirations and objectives of the Hilton communities for the future planning of their Parish up to 2035. The output is a Plan which should help guide the area's development over that period, making a positive contribution to informing decision-making on planning applications by South Derbyshire District Council.

*Derek Stebbing*

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 15	<p><u>Policy N1 – Noise Mitigation</u></p> <p>Delete Policy text in full, and replace with:</p> <p><b>“Proposals for new development on sites within the Plan area that are close to the major road network, and principally the A50 road, shall be accompanied by a noise assessment report to identify any mitigation measures that may be necessary to avoid any adverse impacts upon health and the quality of life for residents, employees and others occupying the development.</b></p> <p><b>Where required, such measures shall include additional landscaping, including the planting of trees and hedgerows, and relevant building design features.”</b></p>
PM2	Page 15	<p><u>Policy A1 – Air Quality</u></p> <p>Delete Policy text in full, and replace with:</p> <p><b>“Proposals for new development within the Plan area shall, where required, include an assessment of air quality impacts within the vicinity of the proposed development site arising from traffic serving the development. Proposals which are assessed as leading to a deterioration of existing measured air quality will not be supported.”</b></p>
PM3	Pages 16-18	<p><u>Policy H1 – Housing Delivery</u></p> <p>Pages 16 and 17– delete all supporting text under the heading of ‘Housing delivery’.</p> <p>Page 18 – delete the final paragraph of text on this page in full, and replace with:</p> <p><b>“The Lucas Lane residential development site is situated close to the A50, and development proposals will need to be accompanied by a noise assessment</b></p>

		<p><b>report and, if necessary, by suitable noise mitigation measures.”</b></p> <p><u>Policy H1</u></p> <p>Delete second paragraph of Policy text and replace with:</p> <p><b>“Elsewhere in the Plan area, proposals for new residential development within the Hilton settlement boundary will be supported where they comply with all relevant Policies in this Plan. Proposals for residential development beyond the Hilton settlement boundary will not be supported unless they meet the national and local criteria for appropriate development within the countryside.”</b></p> <p><u>Policy H1A</u></p> <p>Amend title of this Policy to read: <b>“The Mease mixed use development site”</b>.</p> <p>Delete existing Policy text in full, and replace with:</p> <p><b>“Proposals for the mixed-use redevelopment of this site, as shown on Map _*, will be supported where proposals include:</b></p> <ul style="list-style-type: none"> <li><b>i) an appropriate level of new residential dwellings, including affordable housing, and</b></li> <li><b>ii) specialist residential accommodation for older persons, and</b></li> <li><b>iii) the provision of retail units within Use Class E and associated car parking provision as set out in Policy L3.</b></li> </ul> <p><b>Development proposals should comply with all relevant Policies in this Plan.”</b></p> <p><u>Policy H1B</u></p> <p>Amend title of this Policy to read: <b>“Lucas Lane housing development site”</b>.</p>
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		<p>Delete existing Policy text in full, and replace with:</p> <p><b>“Proposals for the residential development of this site, as shown on Map _*, will be supported where proposals include:</b></p> <ul style="list-style-type: none"> <li><b>i) an appropriate level of new residential dwellings, including affordable housing, and</b></li> <li><b>ii) an appropriate landscaping scheme which safeguards the amenity value of Lucas Lane, and</b></li> <li><b>iii) noise mitigation measures, if required following a noise assessment report, in accordance with Policy N1, and</b></li> <li><b>iv) open space and amenity areas in accordance with the District Council’s standards.</b></li> </ul> <p><b>Development proposals should comply with all relevant Policies in this Plan.</b></p> <p><b>(Outline planning permission was granted in 2020 for the development of up to 57 dwellings at this site.)”</b></p> <p>*Insert two Inset Maps of a suitable scale in the Plan, to show the boundaries of the sites covered by Policies H1A and H1B, and to be referenced with the Policies as above.</p>
PM4	Page 20	<p><u>Policy H2 – Housing Mix</u></p> <p>Delete the words “including in the Local Plan planned development,” from the Policy text.</p>
PM5	Page 22	<p><u>Policy H3 – Requirements of housing: residential car parking</u></p> <p>Delete the first sentence of the second paragraph of Policy text.</p> <p>Delete the words “and with a parallel layout” from the second sentence of the second paragraph of Policy text.</p>

PM6	Page 22	<p><u>Policy H4 – Requirements of housing: homes designed for energy efficiency</u></p> <p>Delete the words “above that required by building regulations.” in the third bullet point clause of the Policy text and replace with: <b>“which contribute to achieving reduced energy usage.”</b></p> <p>Delete the text of the seventh bullet point clause in full.</p> <p>Delete the word “allowed” in the eighth bullet point clause and replace with <b>“supported”</b>.</p>
PM7	Page 23	<p><u>Policy H5 – Gardens</u></p> <p>Delete the first sentence of Policy text and replace with:</p> <p><b>“New housing within the Plan area should make provision for adequate private amenity space for each dwelling as follows:”</b>.</p> <p>Insert bullet points ahead of each of the subsequent two sentences of Policy text.</p>
PM8	Page 24	<p><u>Policy H6 – Housing Design</u></p> <p>Delete the text of the third bullet point criterion in full and replace with:</p> <p><b>“All new development should be located within 800 metres walking distance of shops, parks, recreational facilities and services including medical services.”</b></p> <p>Delete the text of the fourth bullet point criterion in full.</p>
PM9	Page 30	<p><u>Policy T1 – Active Travel</u></p> <p>Delete existing Policy text in full, and replace with:</p> <p><b>“All proposals for new development in the Plan area should include proposals which make walking, cycling and public transport more attractive, including safe pedestrian access to provide links to</b></p>

		<p><b>existing footpaths, cycling routes and public transport.</b></p> <p><b>Development proposals should contribute to the creation and improvement of a safe, direct and convenient cycle route network, between homes and local destinations, such as schools and shops, and to the wider cycle network.</b></p> <p><b>Safe and secure storage and parking for cycles should be provided at local facilities, including the Village Hall, the Wellbrook Medical Centre, shops and schools."</b></p>
PM10	Page 30	<p><u>Policy T2 – Access to Schools</u></p> <p>Add new second sentence of Policy text as follows:</p> <p><b>"Any proposals for new pedestrian crossings on the A50 slip roads will be subject to the agreement of Highways England."</b></p>
PM11	Page 31	<p><u>Policy T3 – Cycle Paths and Cycle Parking</u></p> <p>Delete the Policy and its text in full and amend the Contents page accordingly.</p>
PM12	Page 43	<p><u>Policy E1 – Green Spaces</u></p> <p>Amend the title of the Policy to read: <b>"Local Green Spaces"</b>.</p> <p>Delete Policy text in full, and replace with:</p> <p><b>"The 19 sites listed above and shown on the map on page 43 are all designated as Local Green Spaces in the adopted SDDC Local Green Spaces Plan.</b></p> <p><b>In accordance with Policy BNE8 in the adopted Local Plan, the Local Green Spaces will be protected from development except in very special circumstances or for the following limited types of development where they preserve the openness of the Local</b></p>



		<p><b>Green Space and do not harm the purpose for its designation:</b></p> <p><b>i) The construction of a new building providing essential facilities for outdoor sport. Outdoor recreation, cemeteries, allotments or other uses of the open land;</b></p> <p><b>ii) The carrying out of an engineering or other operation.”</b></p> <p>Amend the list of sites set out on page 43 to read as follows:</p> <p><b>“1. Land off Pegasus Way</b></p> <p><b>2. Land between A5132 and New Road</b></p> <p><b>3. Willowfields</b></p> <p><b>4. South of Egginton Road/Corner of Peacraft Lane (‘Roma’s Garden’)</b></p> <p><b>5. South of Main Street (Village Green and Play Area)</b></p> <p><b>6. Land north of Egginton Road</b></p> <p><b>7. Bren Way</b></p> <p><b>8. Corner of Bren Way/Enfield Close</b></p> <p><b>9. Enfield Close</b></p> <p><b>10. Bancroft Close</b></p> <p><b>11. Foss Road (Play Area)</b></p> <p><b>12. Mease Meadow</b></p> <p><b>13. Humber Street/Welland Road (Memorial Meadow)</b></p> <p><b>14. Amenity area south of cycle route, Avon Way (Trusley Brook)</b></p> <p><b>15. Amenity area south of cycle route, Washford Road (Orwell Road)</b></p> <p><b>16. Amenity area adjoining cycle route, The Mease</b></p> <p><b>17. Land adjacent to Hilton Brook, The Mease</b></p>
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PM13	Page 44	<p><u>Policy E2 – Retaining Village Identity</u></p> <p>Amend the title of the Policy to read: <b>“Safeguarding Village Identity”</b>.</p> <p>Delete Policy text in full, and replace with:</p> <p><b>“Development proposals within the countryside beyond the Hilton settlement boundary, as shown on the map on page 43, will be assessed in terms of their impact upon the character of the area and the settlements and hamlets that lie within the countryside. Proposals which would result in the loss of the character and identity of such settlements will not be supported.”</b></p>
PM14	Page 45	<p><u>Policy E3 – Community Land</u></p> <p>Delete the words “and given priority” from the text of the Policy.</p>
PM15	Page 46	<p><u>Policy E4 – Nature Conservation</u></p> <p>Delete Policy text in full, and replace with:</p> <p><b>“Development proposals in the Plan area should include landscaping schemes, which seek to retain and protect existing wildlife habitats, create new habitats through the planting of native species and maintain and extend linked habitats to provide wildlife corridors. Where possible, they should integrate existing trees, hedgerows and vegetation.”</b></p>
PM16	Page 47	<p><u>Policy E5 – Biodiversity</u></p> <p>In the second line of Policy text, delete the word “accepted” and replace with <b>“supported”</b></p> <p>In the second sentence of Policy text, delete existing text and replace with: <b>“Proposals for new residential and commercial development in the Plan area should seek to deliver no net loss to</b></p>

		<p><b>biodiversity and achieve a measurable net gain.”</b></p> <p>In the fifth sentence of Policy text, amend text to read: <b>“All designated Local Wildlife Sites and the Hilton Nature Reserve SSSI will be protected from development.”</b></p>
PM17	Page 49	<p><u>Policy L1 – Recreational Facilities</u></p> <p>Amend first sentence of Policy text to read:</p> <p><b>“Developer contributions through Section 106 Agreements will be sought from new residential developments permitted in the Plan area for the improvement and enhancement of sports and children’s play facilities.”</b></p>
PM18	Page 51	<p><u>Policy L2 – Healthcare Facilities</u></p> <p>Delete the Policy text in full, and replace with:</p> <p><b>“Developer contributions through Section 106 Agreements will be sought from new residential developments permitted in the Plan area for the improvement and accessibility of health and social care facilities, including integrated community health facilities.”</b></p>
PM19	Page 53	<p><u>Policy L3 – Hilton Village Shopping Centre Development</u></p> <p>Delete Policy text in full, and replace with:</p> <p><b>“Hilton Parish Council will support the inclusion of retail units as part of the wider development proposals for The Mease housing allocation site, as defined on Inset Map 1, and set out in Policy H1A.</b></p> <p><b>The development of at least six retail units falling within Class E of the Use Class Order 2020 will be supported together with parking provision for up to 40 cars and adequate servicing arrangements for larger vehicles.”</b></p>

PM20	Page 56	<p><u>Policy B1 – Business units</u></p> <p>Delete first paragraph of Policy text in full, and replace with:</p> <p><b>“Appropriate development proposals for small-scale and micro-businesses will be supported through the conversion of existing buildings within the Plan area, or by the development of new buildings within the Hilton settlement boundary. Business use will be restricted to commercial, business and services uses falling within Class E of the Use Class Order 2020 and will be subject to the requirements of other relevant Policies in this Plan.”</b></p>
PM21	Page 56	<p><u>Policy B2 – Home working</u></p> <p>Delete the word “permitted” within the second line of Policy text and replace with <b>“supported”</b>.</p> <p>Delete the word “does” in the third line of Policy text and replace with <b>“do”</b>.</p>
PM22	Page 57	<p><u>Policy B3 – Conversion of business property to domestic use</u></p> <p>Amend title of Policy to read: <b>“Proposals for the redevelopment or conversion of business properties”</b>.</p> <p>Delete existing Policy text in full and replace with:</p> <p><b>“Proposals for the redevelopment or change of use of properties currently in business use to other uses, including residential use, will only be supported if the existing use is no longer economically viable and the property has been actively marketed for at least 12 months without restriction.</b></p> <p><b>This Policy only applies to those proposals which require planning permission, and not to proposals for which Permitted Development rights are applicable.”</b></p>

PM23	Page 57	<p><u>Policy B4 – Broadband</u></p> <p>Amend Policy text to read as follows:</p> <p><b>“Proposals for new development in the Plan area should enable the enhancement of digital infrastructure and incorporate full fibre broadband connections, including ducting capable of accommodating more than one digital infrastructure provider.”</b></p>
PM24	Page 58	<p><u>Vision for the future</u></p> <p>Add new paragraph, to follow existing text, as follows:</p> <p><b>“When necessary, we shall keep the Plan up to date by undertaking a formal review of its Policies and proposals, particularly when the current South Derbyshire Local Plan is reviewed to extend beyond 2028. We shall need to take account of any implications arising from that Local Plan Review, to ensure that this Plan remains an important part of the statutory development plan for the Parish.”</b></p>