

**Matterdale Parish Council**

# **Matterdale Neighbourhood Development Plan**

A Report to Lake District National Park Authority of the  
Independent Examination of the Matterdale Neighbourhood  
Development Plan

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## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Matterdale Parish Neighbourhood Plan (the Neighbourhood Plan) has been prepared by Matterdale Parish Council (the Parish Council), a qualifying body able to lead the preparation of a neighbourhood plan.<sup>2</sup> Work on the production of the plan has been progressed through a working party comprising members of the Parish Council and other people invited onto the group to represent the Watermillock and Matterdale communities. Through terms of reference the working party were tasked with developing a Neighbourhood Plan for the Parish Council to consider.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council on 1 December 2014 when it was resolved to submit the plan and accompanying documents to the Lake District National Park Authority (the National Park Authority), which occurred on 10 December 2014.

## Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.<sup>3</sup> The report makes recommendations to the National Park Authority including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The National Park Authority will decide what action to take in response to the recommendations in this report.

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<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012)

<sup>2</sup> Section 61F(1) Town and Country Planning Act 1990 as read with section 38C(2)(a) Planning and Compulsory Purchase Act 2004

<sup>3</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

6. The National Park Authority will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission plan. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by the National Park Authority. If 'made' the Neighbourhood Plan will come into force and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area.
7. I have been appointed by the National Park Authority with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the National Park Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have more than thirty-five years professional planning experience and have held national positions and local authority Chief Planning Officer posts.
8. As independent examiner I am required to produce this report and must recommend either:
  - that the Neighbourhood Plan is submitted to a referendum, or
  - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
  - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements
9. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>4</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>5</sup>
10. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>6</sup>

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<sup>4</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>5</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>6</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

11. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

## **Basic conditions and other statutory requirements**

12. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>7</sup> A neighbourhood plan meets the basic conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the 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 (or any part of that area),
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects<sup>8</sup>

13. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>9</sup> All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan – Taken as a whole’ and ‘The Neighbourhood Plan – Neighbourhood Plan policies’.

14. In addition to the basic conditions and Convention rights, I am also required to consider whether the neighbourhood plan complies with the provisions made by or under sections 38A and 38B of the Planning and

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<sup>7</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>9</sup> The Convention rights has the same meaning as in the Human Rights Act 1998

Compulsory Purchase Act 2004.<sup>10</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 which are made pursuant to the powers given in those sections.

15. The Neighbourhood Plan relates to the area that was designated by the Lake District National Park Authority as a neighbourhood area on 26 February 2014. An incorrect date is included in the Basic Conditions Statement. The submission draft of the Neighbourhood Plan includes a map which shows the plan area is coterminous with the Matterdale Parish Council area. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>11</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>12</sup> All requirements relating to the plan area have been met.

16. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>13</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>14</sup> I am able to confirm that I am satisfied that each of these requirements has been met.

17. A Neighbourhood Plan must also meet the requirement to specify the period to which it has effect.<sup>15</sup> Paragraph 10 of the Submission Plan states “A Neighbourhood Plan should have a time period in which it applies. It is suggested that this period be up to 2030.” The Plan should, as the Basic Conditions Statement does, include a statement rather than a suggestion in this respect. The Basic Conditions Statement refers to the plan period having been chosen to align with the dates of the National Park Authority Core Strategy. This is incorrect. The National Park Core Strategy has a plan period to 2025 which is correctly stated in the Neighbourhood Plan submission version. There is no requirement for the Neighbourhood Plan period to align with the Core Strategy plan period.

**Recommended modification 1:  
Paragraph 10 should be amended to state the plan period**

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<sup>10</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A(3)); and in the 2012 Regulations (made under sections 38A(7) and 38B(4)).

<sup>11</sup> Section 38B(1)(c) Planning and Compulsory Purchase Act 2004

<sup>12</sup> Section 38B(2) Planning and Compulsory Purchase Act 2004

<sup>13</sup> Section 38A(2) Planning and Compulsory Purchase Act 2004 See recommended modification regarding Policy 11

<sup>14</sup> Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>15</sup> Section 38B(1)(a) Planning and Compulsory Purchase Act 2004

18. The role of an independent examiner of a Neighbourhood Plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>16</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan. I have been appointed to examine whether the submitted Neighbourhood Plan meets the basic conditions and Convention rights, and the other statutory requirements.
19. Neighbourhood Plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed it is important that Neighbourhood Plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
20. One representation states that transport questions are largely ignored making reference to bus services and main roads. The representation also states the former buildings of Matterdale School have been ignored as an ideal location for affordable housing and offers some suggestions in this respect. The nature of neighbourhood plans varies according to local requirements. A neighbourhood plan can be narrow in scope. There is no requirement for a neighbourhood plan to be holistic, or to include particular types of policies, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan.
21. Apart from the correction of minor errors (presented at Appendix 1 to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the basic conditions and the other requirements I have identified.<sup>17</sup>

## Documents

22. I have given consideration to each of the following documents in so far as they have assisted me in considering whether the Neighbourhood Plan meets the basic conditions and is compatible with the Convention rights:

- Matterdale Neighbourhood Plan Submission Plan
- Matterdale Neighbourhood Plan Basic Conditions Statement
- Matterdale NDP Consultation Statement

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<sup>16</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

<sup>17</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Matterdale NDP Consultation Statement Annexes (C1 –C5)
- Matterdale Neighbourhood Plan Strategic Environmental Assessment Screening Opinion (August 2014)
- Matterdale Neighbourhood Plan Strategic Environmental Assessment Screening Opinion (March 2015)
- Matterdale Neighbourhood Plan Habitats Regulations Assessment Screening Opinion (September 2014)
- Matterdale Neighbourhood Plan Habitats Regulations Assessment Screening Opinion (February 2015)
- Lake District National Park Core Strategy including Proposals Map (referred to as Local Plan Part One) (Adopted October 2010)
- Lake District National Park Allocations of Land (Local Plan Part Two) (Adopted November 2013)
- Saved policies from the Lake District Local Plan 1998
- Representations received during the Regulation 16 publicity period
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Technical Guidance to the National Planning Policy Framework (27 March 2012) [*In this report referred to as the Technical Guidance*]
- English National Parks and the Broads UK Government Vision and Circular 2020 (March 2010)
- Department for Communities and Local Government Permitted development for householders technical guidance (April 2014) [*In this report referred to as the Permitted Development Guidance*]
- Department for Communities and Local Government Planning Practice Guidance web-based resource (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- Town and Country Planning Act 1990 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Planning and Compulsory Purchase Act 2004 (as amended)
- Localism Act 2011
- Neighbourhood Planning (General) Regulations 2012 [*In this report referred to as the Regulations*]

## Consultation

23. The Neighbourhood Plan was launched to Matterdale residents in May 2014 with delivery to all electors in the parish of an Issues and Consultation questionnaire which was also sent to the National Park Authority. The 104 responses, representing a 32% return rate, were equally split between Watermillock and Matterdale. Meetings to present results and associated question and answer session were held in both of these areas with approximately 30 people attending each. Issues raised by the National Park Authority were discussed at a separate meeting.



24. The Pre-submission Draft Matterdale Neighbourhood Plan was informed by the earlier consultation and published on 6 October 2014 through emails and post to consultees, insertion of pages on three websites, and physical copies were made available at five locations in the plan area as well as being available through the Parish Clerk. A copy of the plan was also available at the National Park Authority offices in Kendal. Notices were displayed on three Parish notice boards. The pre-submission consultation closed on 14 November 2014. A summary of main issues and concerns raised and how these were addressed is included in the consultation statement itself, and in Annex D, and in the Basic Conditions Statement in respect of comments made by the National Park Authority. Given the nature of the comments of the National Park Authority I consider the approach adopted avoids potentially confusing duplication and through use of appropriate signposting meets the requirements of the Regulations.<sup>18</sup>
25. At appropriate points in the plan preparation process articles have appeared in the Cumberland and Westmorland Herald, and in the local parish magazines 'Together' and 'Grapevine'.
26. The Submission Plan has been the subject of a Regulation 16 publicity period initially closing on 20 February 2015, but extended until 27 February 2015 to allow receipt of further anticipated responses. A total of seven representations were properly submitted during this publicity period, all of which I have taken into consideration in preparing this report, even though they may not be referred to in whole.
27. The Environment Agency, English Heritage, and United Utilities responded stating those organisations had no comments to make on the Neighbourhood Plan.
28. Natural England has commented "*Natural England made detailed comments at the previous consultation stage via correspondence dated: 13 November 2014, reference: 134017, the comments were particularly around designated sites and BAP habitat, it does not appear that these comments have been incorporated into the plan. Therefore Natural England would like to take this opportunity to reiterate the points made in the previous response and ask that these be incorporated. We would specifically like to take this opportunity to reiterate: We advise that the neighbourhood plan includes criteria based policies for the protection and enhancement of the international, national and locally designated sites present. This is in line with paragraph 113 of the NPPF which makes it*

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<sup>18</sup> The Neighbourhood Planning (General) Regulations 2012 15 (2) (d)

*clear that distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological network. The neighbourhood plan should always seek to avoid environmental impacts by directing development away from the most sensitive areas with mitigation considered only when this is not possible.*" Whilst I would have no objection to inclusion of a suitable statement in the Neighbourhood Plan I am unable to recommend a modification as this is not necessary to meet the basic conditions.

29. The National Park Authority representations were in the first instance submitted by officers and later, within the extended period for representations, confirmed to have been ratified by members of the Park Strategy and Vision Committee becoming the formal response of the National Park Authority. The detailed comments are headed with a note stating "*This response focuses on those policies where elements remain contentious.*" These representations, that suggest deletion of policies MNP1 and MNP11 and modification of policies MNP2 and MNP3, are referred to in the consideration of policies section of this report.
30. One representation from two people includes comment principally in respect of the housing related policies. The representation suggests the consultation process has been inadequate, and re-states comments made on the consultation plan of June 2014 on the basis "*the original plan does not appear to have been amended at all in response to my genuine concerns*". The representation raises strong objection to the language used in several statements in the plan and makes comment about "*undue influence*" in the plan. I have only taken these matters into consideration where it is within my role to do so. The comments on specific policies are referred to in the consideration of policies section of this report.
31. Another representation from two other people states that when policies 1, 2, 3, 7, and 11 are considered the neighbourhood plan "*is an overwhelmingly unsatisfactory blueprint for local development.*" The comments on these policies and comments on the other policies are referred to in the consideration of policies section of this report.

## The Neighbourhood Plan – Taken as a whole

32. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this.

Consideration of Convention rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

33. I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>19</sup> I have seen nothing in the submission draft of the Neighbourhood Plan that indicates any breach of the Convention. Although no equalities impact assessment has been undertaken the submission draft of the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

34. The objective of EU Directive 2001/42<sup>20</sup> is “to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.” The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>21</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>22</sup>

35. The Lake District National Park Authority issued a Strategic Environmental Assessment Screening Opinion dated August 2014 in liaison with the

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<sup>19</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

<sup>20</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>21</sup> Defined in Article 2(a) of Directive 2001/42

<sup>22</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

Environment Agency. Regulations require that before making a determination the responsible authority shall consult the consultation bodies<sup>23</sup>. The Guidance states, “*When deciding on whether the proposals are likely to have significant environmental effects, the local planning authority should consult the statutory consultation bodies.*” The Guidance states that the consultation bodies are English Heritage, Natural England, and the Environment Agency.

36. The Lake District National Park Authority has issued a Strategic Environmental Assessment Screening Opinion dated March 2015 after consulting the statutory consultation bodies. The opinion is structured to include the necessary criteria and considers each policy in turn. The opinion states “*The neighbourhood plan area contains a variety of designated sites that may be affected by the policies in the plan, but in our opinion the extent of these affects can only feasibly be fully determined at the point of application. The draft policies do not themselves guarantee development, nor does it propose identifiable locations where development is specifically sought; they provide a framework from which a judgement is made on whether the development proposal is acceptable. The strategic policies in the Core Strategy (CS25, CS26) along with the draft policies in the neighbourhood plan (MNP10)<sup>24</sup> seek to avoid environmental impacts on the most sensitive areas within the Parish. With this in mind, we do not consider it necessary to carry out a full Strategic Environmental Assessment on the draft neighbourhood plan. This determination follows a methodological assessment carried out having regard to the SEA Directive and Schedule 1 and 2 of the Environmental Assessment of Plans and Programmes Regulations 2004.*” The opinion concludes, “*The draft Matterdale Neighbourhood Plan does not require a full SEA to be undertaken.*” The opinion satisfies the requirement to prepare a statement of reasons for the determination.

37. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive):

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and

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<sup>23</sup> Regulation 9 Environmental Assessment of Plans and Programmes Regulations 2004

<sup>24</sup> Policy MNP 9 in the Submission Draft Neighbourhood Plan

- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force)

38. The National Park Authority prepared a Habitats Regulations Assessment Screening Opinion dated September 2014. The National Park Authority is required to consult the appropriate nature conservation body and have regard to any representations made by that body<sup>25</sup>. The National Park Authority has prepared a further Habitats Regulations Assessment Screening Opinion dated February 2015. I have been provided with a letter from Natural England dated 27 February 2015 confirming “*Natural England agrees with the conclusions in the HRA screening opinion that a full assessment is not required. Natural England has reached this decision on the basis that the Neighbourhood Plan is in conformity with the higher tier Lake District Core Strategy and Allocations Development Plan Document*”. The Habitats Regulations Assessment Screening Opinion dated February 2015 concludes “*In order to assess whether the draft Matterdale Plan will have effects on the integrity of European sites, we have based our decision on the assumption that planning applications will be approved. Taking all of the above factors into account, we are of the opinion that it is reasonable to conclude that the Plan is unlikely to have an adverse effect on the integrity, either alone or in combination with any other plan or project, on the European sites identified in this assessment. This is due primarily to the anticipated scale and type of development and its location.*” I have not seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site.

39. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

40. I conclude that the neighbourhood plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations, and
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

<sup>25</sup> Regulation 61 Conservation of Habitats and Species Regulations 2010

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

41. I refer to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans<sup>26</sup> which requires plans to be “*consistent with national policy*”.
42. Lord Goldsmith has provided guidance<sup>27</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”
43. The Basic Conditions Statement seeks to illustrate the Neighbourhood Plan has been prepared with regard to national policies as set out in the Framework<sup>28</sup>. Paragraphs of the Framework are identified with a summary of their relevance to neighbourhood planning, and how they have been taken account of in the Matterdale Neighbourhood Plan.
44. The Neighbourhood Plan states a vision. This vision relates to matters appropriate to a Neighbourhood Development Plan, is written clearly, and adopts a positive approach of aiming to enable development. The vision does not constrain the objectives of the Framework, and in particular has regard to the Framework aims: of delivering a wide choice of high quality homes; of building a strong competitive economy; of supporting a prosperous rural economy; of conserving and enhancing the historic environment; of conserving and enhancing the natural environment; and supporting high quality communications infrastructure.
45. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that

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<sup>26</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

<sup>27</sup> the Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord’s Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

<sup>28</sup> Including specific statements in respect of paragraphs 16, 183, 184, and 185 of the Framework



need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan the Neighbourhood Plan meets the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.*”

46. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.<sup>29</sup> The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*”.
47. The Basic Conditions require my consideration whether the making of the neighbourhood plan contributes to the achievement of sustainable development. I am not required to assess whether or not the plan makes a particular contribution. I am seeking to establish whether or not the Neighbourhood Plan makes a contribution to sustainable development. The requirement is that there should be a contribution. There is no requirement as to the nature or extent of that contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.
48. The Basic Conditions Statement sets out a statement as to how the Neighbourhood Plan makes a contribution to sustainable development. I am of the opinion that the statement demonstrates that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. In particular I note the Neighbourhood Plan makes provision for housing development on farms and for employees generally. The plan supports appropriate employment

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<sup>29</sup> Paragraph 14 National Planning Policy Framework 2012

development and communications services whilst seeking to conserve the natural environment. I conclude the Neighbourhood Plan contributes to the achievement of sustainable development.

49. Subject to my recommended modifications of the Submission Plan relating to specific policies, as set out later in this report, I find that the Neighbourhood Plan, taken as a whole, has regard to national policies and advice contained in guidance issued by the Secretary of State and contributes to the achievement of sustainable development.

Consideration whether 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 (or any part of that area)

50. The Framework states that the ambition of the neighbourhood should “support the strategic development needs set out in Local Plans”.<sup>30</sup> “Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies”.<sup>31</sup>
51. Statutory weight is given to neighbourhood development plans that are in general conformity with the strategic policies of the development plan for the local area, and have appropriate regard to national policy. This ensures neighbourhood plans cannot undermine the overall planning and development strategy set out in the development plan for the local area.
52. The National Park Authority has informed me that the Development Plan applying in the Matterdale neighbourhood plan area comprises:
- a. Lake District National Park Core Strategy including Proposals Map (referred to as Local Plan Part One) (Adopted October 2010)
  - b. Lake District National Park Allocations of Land (Local Plan Part Two) (Adopted November 2013)
  - c. Saved policies from the Lake District Local Plan 1998
53. The Minerals Safeguarding Areas (Local Plan Part Three) is an additional component of the Development Plan but this does not appear to impact in

<sup>30</sup> Paragraph 16 National Planning Policy Framework 2012

<sup>31</sup> Paragraph 184 National Planning Policy Framework 2012



any particular way on the Neighbourhood Plan and the Neighbourhood Plan does not include matters that relate to policies of that plan. Additionally minerals matters are excluded matters for the purposes of policy making in neighbourhood plans.

54. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.” The National Park Authority has confirmed “The Core Strategy (Local Plan Part One) sets out the strategic policies to show how we will deliver the Vision for the National Park by 2025”.
55. As the Core Strategy and the saved policies of the Lake District Local Plan 1998 predate the Framework, the Framework takes precedence where there is a conflict.
56. Consideration whether 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 (or any part of that area) has been addressed through examination of each of the plan policies below.

## **The Neighbourhood Plan – Neighbourhood Development Plan policies**

57. The Submission Plan includes 11 policies:
- 1: Housing Provision
  - 2: Local Needs Housing (Conversions, Reinstatement and Subdivision)
  - 3: Affordable Local Needs Housing (New Build)
  - 4: Housing for Employees
  - 5: Housing on Farms
  - 6: Broadband
  - 7: Micro Business and Live Work Support
  - 8: Holiday Parks
  - 9: Environment
  - 10: Heritage
  - 11: Parish Consultations
58. The Guidance states that “Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood

*should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.” “Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*

59. *“When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with*
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy*
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy*
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”*

60. *“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.”*

61. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*

62. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance*

*with the development plan, unless material considerations indicate otherwise*".<sup>32</sup>

63. If to any extent a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn.
64. Policies of the Neighbourhood Plan extensively include the phrase "*be permitted*". The Framework states "*the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise*". This basis for decision making should be made clear through inclusion of an introductory statement, or policies should use the term "be supported" in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise.

**Recommended modification 2:**

**The basis of decision making on planning applications should be clarified as indicated**

**Policy MNP1: Housing Provision**

65. This policy seeks to establish a quantum of housing provision to be permitted throughout the plan period. The policy indicates a level of total provision unless there is clear evidence of housing need. The policy anticipates front loading in the early years. The policy wording is "*The Neighbourhood Plan will generally allow an average of 1 or 2 new dwellings per year within Matterdale Parish subject to the overall figure not being more than 25 dwellings up to 2030 unless there is clear evidence of housing need. It is recognised however, that a higher annual figure may come forward and be permitted in the early years of the adoption of this policy as the latent demand for housing in Matterdale is met.*"
66. Core Strategy policy CS05 anticipates approximately 7% of all development across the National Park to take place in the East Distinctive Area. This equates to 63 new dwellings in the period 2010 to 2025. The Core Strategy policy CS02 seeks to direct at least 50% of development to rural service centres, approximately 20% to villages, and no more than

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<sup>32</sup> See section 38(6) of the Planning and Compulsory Purchase Act 2004.

30% in cluster communities and open countryside. Across the East Distinctive Area there is one rural service centre and four villages. There are no rural service centres, villages or cluster communities identified within Matterdale Parish; the whole Parish is classified as open countryside.

67. In the justification for policy MNP1 set out in paragraph 21 of the Submission Plan it is suggested that Matterdale (Parish) should be regarded as a sixth area of the National Park East Distinctive Area, in addition to the five settlement centres, where limited development should occur. It is stated this would allow, “say, 10 dwellings” to which are added an additional, “say, 15 dwellings” to 2025, “allowing for an increase in housing supply as required by the NPPF 47 and the requirements for neighbourhood planning to be pro-development.”
68. By contrast the Basic Conditions Statement states the policy could allow around 17 dwellings up to 2025 representing a 26% (more accurately 27%) proportion of the 63 dwellings to be permitted in the east distinctive area. It is stated “*This is in line with the 30% figure suggested in CS02. There is no conflict between the MNP and the LDNPA strategy on the number of dwellings to be provided in Matterdale.*”
69. The Basic Conditions Statement states, “*The rationale for the approach of setting out a housing figure is to provide a degree of comfort and certainty to local people that housing to meet their needs can be provided within their community both within the current strategic policy framework and beyond. It simply sets out in numerical terms the underlying principles in the Core Strategy that allows housing in dispersed settlements and communities like Matterdale. Matterdale Parish is the second most populous community in the Eastern Distinctive area, but its housing needs are not obviously accommodated for within the settlement hierarchy of the Core Strategy. Development proposals for local needs housing have been too easily rejected by decision makers on the basis of isolation from services and facilities and the reliance on the private car. Such decision taking, if continued, would unreasonably undermine the ability of the community to retain its vibrancy and sustainability and exacerbate the already high levels of second home ownership in the parish. By providing an explicit level of housing that is expected within the parish, decisions would be more likely to support housing proposals that the community wants and needs.*”
70. The National Park Authority comments “*We acknowledge that in order to support and maintain Matterdale Parish as a sustainable and vibrant community, some development is necessary. CS02 sets out those*

*circumstances where new dwellings are permitted in the open countryside, and MNP2 and MNP3 add detail and shape to the strategic policy. Policy MNP1 aims to facilitate up to 25 new dwellings in the open countryside over the plan period; this is 40% of the new housing development anticipated across the whole of the East Distinctive Area during the plan period. Crucially, this facilitates at least 40% of new development within open countryside which is in conflict with the strategic policy approach in CS02 which states this should be no more than 30% in Cluster communities and the Open Countryside. In line with the strategic housing policy CS18, all new housing in Matterdale Parish should be based on evidence of housing need, not demand, and located in accordance with the relevant planning policy. We do not consider the figure proposed is based on a robust methodology and therefore does not accurately identify the housing need in Matterdale Parish. Given that CS02 sets out those circumstances where new dwellings are permitted in the open countryside, and MNP2 and MNP3 add detail and shape to the strategic policy, we consider this policy is superfluous and suggest it is deleted.”*

71. A representation states *“It is manipulative to try to emphasise that by describing Matterdale as 'open countryside' that this puts Matterdale unfairly at odds etc. It could reasonably be stated that this approach to planning has offered good protection to Matterdale in line with the aims of National Park and that there is sufficient opportunity within current planning constraints for development. In fact Matterdale has seen a number of new homes built over the past two years thus evidencing the effectiveness of current policy implementation. The intention to use population size as the main indicator for classifying Matterdale as a 6th development when that population is not in a cluster community is not reasonable or logical. It also fundamentally conflicts with LDNPA intentions.”*

72. Another representation states the policy *“makes reference to a 'latent demand for housing', yet no Housing Needs Survey has been undertaken to verify this statement. The previous Survey of 2009/10 identified a need for 5 new houses. When dwellings are placed for sale in the parish, it often takes quite some time for them to be sold. Whilst recognising that the target of 25 would be 'needs led', this target uses up 40% of the Eastern area allowance of 63 dwellings, although that area includes five other settlement centres.” “CS02 does not allow anything like this level of development in the open countryside, detailing a clear set of 'special circumstances'. As Matterdale is not considered a Cluster, it is wrong to use the 30% Cluster development allowance in support of MNP 1 target figure.”*

73. I note all parties are referring to unadjusted Core Strategy housing provision figures even though a significant part of the plan period has elapsed. It is evident that the difference in the percentage of the Core Strategy allowance for East Distinctive Area dwellings in open countryside being stated in the basic conditions statement and in the National Park Authority representation is explained by the different plan periods of the Neighbourhood Plan and the Core Strategy. Regardless of this difference the Neighbourhood Plan is proposing a high proportion of the dwelling allowance for the East Distinctive Area as a whole, without appropriate needs based supporting evidence why this should be the case.
74. The Guidance states “*The Framework is clear that local planning authorities should, through their Local Plans, meet objectively assessed needs unless any impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted.*” Such policies include those relating to sites within a National Park. The Guidance states “*neighbourhood plans should deliver against the objectively assessed evidence of needs*”.<sup>33</sup> Whilst a neighbourhood plan is able to shape and direct sustainable development in their area the Framework states that this is outside the strategic elements. Neighbourhood plans must be in general conformity with the strategic policies of the local plan. There is no evidence in the submission Neighbourhood Plan and supporting documents to demonstrate the scale of local housing need. I consider the Submission Plan fails to demonstrate housing need to support the policy.
75. The policy is imprecise and fails to provide a clear basis for decision making in respect of planning proposals. In particular the elements of the policy “generally allow an average of 1 or 2” and “recognising a higher annual figure may come forward” do not provide sufficient clarity that a decision maker can apply the policy consistently and with confidence when determining planning applications. Additionally there is no stated basis for the limitation on the pace of development.
76. Having regard to the Guidance there is a failure to demonstrate proportionate, robust evidence to support the choices made and the approach taken. This situation is of particular significance in the context of the statement in the Framework that “*Great weight should be given to conserving landscape and scenic beauty in National Parks which ... have the highest status of protection in relation to landscape and scenic*

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<sup>33</sup> NPPG paragraph 040



*beauty.*” The policy does not meet the basic conditions. I recommend the policy is deleted from the neighbourhood plan

**Recommended modification 3:  
Delete policy MNP1**

**Policy MNP2: Local Needs Housing (Conversions, Reinstatement and Subdivision)**

77. This policy seeks to establish criteria based support for local needs housing through reinstatement of former dwellings, conversion, re-use, and subdivision.

78. The policy wording states “*Local Needs Housing will be permitted where it meets any (or some) of the criteria in list A and all of the criteria in list B:*

*List A*

- 1. The reinstatement of a former dwelling including ruins*
- 2. The conversion of existing traditional (pre 1947) buildings*
- 3. The reuse of redundant traditional (pre 1947) buildings*
- 4. The subdivision of existing dwellings*

*List B*

- 1. The proposal including any access tracks will not have a significant unacceptable impact on the landscape or visual amenity of the area*
- 2. All normal site planning requirements are met*
- 3. The renewable energy requirement of CS16 is increased to 50% provided, where necessary, through rebuilding/redesign in energy efficient methods rather than preserving inefficient building techniques. This may involve demolition and rebuild.*
- 4. The design is of high quality and sensitive to the cultural and environmental context of the site and the size of the dwelling is a consequence of the design process.”*

79. The supporting text at paragraph 26 refers to “*agricultural buildings*” in respect of reuse and conversion whereas the policy refers to “*buildings*”. Where there is a conflict of this nature the wording of the policy prevails. However a correction of paragraph 26 would help achieve clarity. I have included this point as a minor correction in the appendix to my report.

80. The submission draft of the Neighbourhood Plan explains it is difficult to see how any affordable local needs housing will be provided by current policy in Matteredale. It is stated the Parish Council considers that it should be simpler for older people to adapt, extend or convert ancillary housing to

meet the needs of older age including providing housing for carers. There is no clear evidence presented to explain whether this issue is of particular local significance. The policy does not refer to older people in any way.

81. A representation states *“When examining the locational strategy of MNP, it is interesting to note that, in response to Question 4 of the Public Consultation Questionnaire, there were only 33 responses from a total of 104 who wanted all of Matterdale Parish to be defined as a Cluster Community. There were 53 responses which did not endorse the idea of even part of the Parish being a Cluster. Despite these reservations expressed by electors, the locational aspects of MNP 2 have remained unchanged. The inclusion of ruins (List A, bullet 1) would clearly force new build in the open countryside and the reuse of redundant traditional buildings (List A, bullet 3) would probably have the same consequences; and when List A is considered in the light of the renewable energy requirements (List B, bullet 3), new build would clearly be the norm in most local housing provision. MNP does not provide any evidence as to why such development in the open countryside is needed, whether through listing special circumstances or specific locations.”*

82. Another representation states *“I am supportive of affordable housing. The Matterdale plan seems to suggest that it too is supportive but makes no specific recommendation in this regard. Given the level of specificity elsewhere this is inconsistent. It indicates that there is no genuine intentionality around supporting the development of affordable housing. Dockray would be an appropriate location for affordable development. List A is not appropriate. Specifically*

*1. Reinstatement of former dwelling including ruins. Ruins are such that any development would require what is effectively a new build and this should be clearly stated bringing about as it should coat tailing obligations. There should be no development of ruins. There is a huge risk of very settled isolated housing being disturbed by such developed. It is further a risk that any site that could once have been accommodation will be brought into the planning realm. If this provision were to be accepted then the financial gain to be made from such developments should be mitigated by requiring that any ‘planning gain’ be reinvested in the local community as grant toward affordable housing development which is thus far inadequately addressed.*

*2. Reinstatement of former dwellings. This is broadly the same provision as above. A former dwelling may, of course, be used as an agricultural or commercial or business space but it is also true that former dwelling could be used to include a ruin. This needs to be specifically excluded in order that new build in the open countryside is*



*specifically excluded. Given that Matterdale is a distinct and small area it would be helpful to designate in this document those sites that would be viewed as 'former dwellings' that could be considered as development sites. It should also be the case that reinstatement of former dwellings should not happen unless they are within the area of Watermillock or possibly Dockray but not in the open countryside or hamlets. Reinstatement should be considered as new build.*

*3. Conversion of traditional agricultural buildings. Our concern is that where traditional building may be converted into dwellings there will follow a need for more agricultural buildings which will therefore no longer be in the traditional style. We have already seen the erection of a number of large modern barns in Matterdale and whilst this is consistent with supporting the local community to thrive it is unhelpful to create a demand for more of these structures given that over time they will damage the spectacular landscape of the lake district. Reuse of redundant traditional agricultural buildings - This should not happen unless they are within the area of Watermillock or possibly Dockray but not in the open countryside or hamlets. List B should be amended to add*

- Not in open countryside or*
- And (if the proposals for Matterdale as a settlement is accepted) not within 500m of another occupied property. This will then protect the rural nature of existing properties.*
- It offers no interference or detriment to existing business.”*

*83. The National Park Authority state “This policy provides criteria to determine residential applications involving conversions, reinstatement and subdivision. List A is considered to be a locally distinct approach and links directly with CS02 ‘Open Countryside’ bullet 4, by expressing the scenarios where this bullet is appropriate. However, we consider bullet 3 in List B of MNP2 will force new build and not the re-use of buildings which is the thrust of this policy. New build is considered under MNP3. In the same vein, the reference ‘including ruins’ needs to be clarified for the purpose of ensuring the policy is applied consistently, as this scenario could lead to new build and therefore should be considered under MNP3. Suggested modifications: In order to acknowledge the distinct characteristics and limited development opportunities within Matterdale Parish, List A should be expressed as the ‘special circumstances’ where homes in the countryside would be acceptable as required by paragraph 55 of the NPPF. And to give expression to the exceptions set out in CS02 Open countryside. We suggest bullet 3 is redrafted to include, in the case of new build, a reference to MNP3. This will provide the decision maker with clarity to apply the policy consistently.”*

84. The Policy fails to provide decision makers with the necessary clarity to determine planning applications. The meaning of the phrase “*and the size of the dwelling is a consequence of the design process*” is unclear and should be deleted. Secondly the term ruin is not defined. It is unclear whether the policy would apply, for example, to what is no more than a small part of an unstable gable end of a former dwelling. An extension to the first listed criterion in List A would provide clarity by requiring that the replacement dwelling should be substantially (in excess of 50%) externally faced employing materials which have been salvaged from the site itself.
85. A building which is to be reinstated or reused may have historic value. It may be regarded as a heritage asset even though not designated. In such circumstances, to have regard to the Framework there must be a presumption in favour of the retention of any element of the building that contributes to its significance, and proposals resulting in the loss of any significance or harm to it will need to demonstrate that they are necessary to achieve public benefits that outweigh that harm or loss. The policy should be modified to reflect the approach relating to safeguarding of heritage significance set out in the Framework. Without this test the policy would not satisfy the basic conditions.
86. Core Strategy policy CS16 requires all new housing developments to generate energy from decentralised and renewal or low-carbon sources to reduce the predicted CO2 emissions by 10% or more. The policy allows adjustment of the requirement where the applicant provides evidence to demonstrate it is not viable for a particular type or location of development. Policy CS16 also encourages all developments to exceed the 10% target where feasible. Criterion 3 of List B of policy MNP2 states “*The renewable energy requirement of CS16 is increased to 50% provided, where necessary, through rebuilding/ redesign in energy efficient methods rather than preserving inefficient building techniques. This may involve demolition and rebuild.*” The selection of a 50% target is not evidenced. The Guidance states “*proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*”.
87. The policy does not have regard for the Framework which allows for demonstration that compliance with requirements for decentralised energy supply is not feasible or viable for a type of development or its design.
88. Reference is made in the Basic Conditions Statement to national policy for the change of use of barns allowing installation of replacement walls

and roofs. I note General Permitted Development Order Class MB does not apply in National Parks.<sup>34</sup>

89. Criterion 3 does not demonstrate regard to ensuring viability and deliverability in accordance with paragraph 173 of the Framework. I consider criterion 3 in List B does not have regard to national policy and guidance and should be deleted in order for the policy to meet the basic conditions.
90. The policy as stated does guard against adverse and unacceptable impact on the landscape and visual amenity of the area and therefore is consistent with the requirement of the Framework to give great weight to conserving landscape and scenic beauty in National Parks. The criterion that “*all normal site planning requirements are met*” does not provide clarity for decision makers in respect of development proposals but a requirement that they should maintain and incorporate local design features and materials, respect amenity of neighbouring buildings regarding scale and layout, and not adversely affect highway safety would provide clarity and be consistent with the Framework.
91. The policy represents a statement of special circumstances as required by paragraph 55 of the Framework. With regard to the suggestion in a representation that list B should be extended to include additional criteria, it is beyond my role to introduce new areas of policy to the neighbourhood plan other than in order to meet the basic conditions and other requirements.
92. Subject to recommended modification the policy has regard to those aspects of the Framework relating to delivering a wide choice of high quality homes; requiring good design; and conserving and enhancing the natural environment. As modified the policy will meet the basic conditions.

**Recommended modification 4:  
In policy MNP2**

- **Extend criterion 1 in List A after “ruins” adding “where the replacement dwelling will be substantially (in excess of 50%) externally faced employing materials which have been salvaged from the site itself.”**
- **Delete criterion 2 in List B and replace with “Proposals should maintain and incorporate local design features and materials,**

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<sup>34</sup> Provision MB1 (j) The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014

**respect amenity of neighbouring buildings regarding scale and layout, and not adversely affect highway safety.”**

- **Delete criterion 3 in List B and replace with “Proposals resulting in the loss of any significance or harm to a heritage asset will need to demonstrate that they are necessary to achieve public benefits that outweigh that harm or loss.”**
- **Delete “and the size of the dwelling is a consequence of the design process” from criterion 4.**

### **Policy MNP3: Affordable Local Needs Housing (New Build)**

93. This policy seeks to establish conditional support for new build local needs housing only where an equivalent number of affordable local needs houses are delivered; or other specified size and location criteria are met; or where the proposal is within a cluster community as defined within the Development Plan.

94. The policy wording is “New build local needs houses may be permitted only where:

1. An equivalent number of Affordable Local Needs houses are delivered as part of the proposal (secured through a s106 undertaking) and provided the following criteria are met:
  - The sites for both the Local Needs and Affordable Local Needs dwellings are acceptable to the Parish Council
  - A financial appraisal of the proposal shows it is viable within the terms of 173 of NPPF providing a site value for the Local Needs dwelling of £150,000 and £20,000 for the Affordable Local needs Dwelling (index linked) is used
  - All other site planning requirements are met

Or

2. The proposed dwelling meets all the following criteria:
  - Limited to 125m<sup>2</sup> internal floorspace
  - Is on the site of an existing building or forms an infilling or rounding off of an existing group of buildings
  - Is within close proximity to other housing

Or

3. Is within a ‘cluster community’ as defined within the LDNPA Core Strategy / Local Plan

95. The National Park Authority states “*This policy provides the criteria to determine applications for new build homes in the open countryside. The recent amendments to national planning practice guidance regarding*

*planning obligations are a material consideration but do not apply to exception sites. With regards to bullet one, the policy needs to be clear that the bullet refers to exception sites. Matterdale Parish has no cluster communities defined by the Core Strategy (Local Plan Part One); therefore the third bullet is not relevant. We consider the policy title is ambiguous and does not accurately reflect the content of the policy. We suggest the title is changed to 'New build housing'. Bullet three should be deleted as it is not relevant. Reference should be made to exception sites in bullet one to ensure there is no potential conflict with National Planning Practice Guidance."*

96. A representation states: *"MNP 3 also falls foul of CS02 and NPPF55 because of locational aspects. Whilst no evidence of Affordable Housing need has been presented, it is also clear that the Parish has a limited number of smaller dwellings."*

97. This policy is consistent with the intent of the Framework relating to delivering a wide choice of high quality homes. Whilst the Framework states *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities"* it is also stated *"local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances"*. The English National Parks and the Broads UK Government Vision and Circular 2020 (March 2010) guides National Park Authorities to *"maintain a focus on affordable housing... to ensure that the needs of local communities in the Parks are met"*. National planning policy defines specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development, as set out in the Written Ministerial Statement on small-scale developers.<sup>35</sup> The Guidance states *"the national policy restrictions on seeking planning obligations contributions do not apply to development on Rural Exception Sites."* It is necessary for the policy to state that it relates only to rural exception sites in order to be in general conformity with policy CS18 of the Core Strategy and to have regard to national policy. I recommend a modification in this respect.

98. The criterion that the sites for both the local needs and affordable local needs dwellings are acceptable to the Parish Council does not provide clarity as to the sites or type of sites that would be acceptable. The

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<sup>35</sup> Small-scale Developers The Minister of State, Department for Communities and Local Government Written Statement 28 November 2014

criterion also attempts to impose a veto on decision making by the Local Planning Authority which is beyond the remit of a neighbourhood plan. Modification of the policy is recommended in this respect in order to meet the basic conditions.

99. There is no stated evidence to support the site value figures included in the second criterion. The Guidance states *“proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”*. I recommend that the site value figures should be deleted. The second criterion does require an approach within the terms of paragraph 173 of the Framework and in that respect is consistent with national policy.

100. The criterion that *“all normal site planning requirements are met”* does not provide clarity for decision makers in respect of development proposals. The policy should guard against adverse and unacceptable impact on the landscape and visual amenity of the area consistent with the requirement in a National Park and should require proposals to maintain and incorporate local design features and materials, respect amenity of neighbouring buildings regarding scale and layout, and not adversely affect highway safety. Modification of the policy is recommended in this respect.

101. No evidence is presented to support the dwelling internal floorspace size limit in the second circumstance and the location criteria, in particular *“infilling” “rounding off”* and *“within close proximity”* are imprecise not offering adequate guidance to decision takers. Whilst the third circumstance that new build local needs houses are within a cluster community is at present superfluous that situation could change during the neighbourhood plan period. Such designation itself would however, not be sufficient to justify development, having regard to national policy. The policy title does not provide clarity to decision makers. I have therefore recommended modifications in these respects in order to meet the basic conditions.

#### **Recommended modification 5:**

##### **In policy MNP3**

- **Delete the policy title and insert “Linked new build local needs housing and affordable local needs housing”**
- **Delete “The sites for both the Local Needs and Affordable Local Needs dwellings are acceptable to the Parish Council” and replace with “The proposal relates to a rural exception site”**



- Delete “providing a site value for the Local Needs dwelling of £150,000 and £20,000 for the Affordable Local Needs Dwelling (index linked) is used.”
- Delete “All normal site planning requirements are met” and insert “The proposal including any access tracks will not have a significant unacceptable impact on the landscape or visual amenity of the area and the proposed accommodation should maintain and incorporate local design features and materials, respect amenity of neighbouring buildings regarding scale and layout, and not adversely affect highway safety.”
- Delete “Or 2 The proposed dwelling meets all the following criteria:  
 limited to 125m2 internal floorspace  
 is on the site of an existing building or forms an infilling or rounding off of an existing group of buildings  
 is within close proximity to other housing  
 Or 3 Is within a ‘cluster community’ as defined within the LDNPA Core Strategy/Local Plan”

#### **Policy MNP4: Housing for Employees**

102. This policy seeks to establish criteria based support for hostel and one bedroom units for employees of existing businesses. This policy is consistent with the aspects of the Framework relating to delivering a wide choice of high quality homes; building a strong competitive economy; and supporting a prosperous rural economy. The Framework states that new isolated homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. The policy represents a locally distinct approach with regard to a topic on which the Development Plan is silent. The National Park Authority has not raised objection to this policy in its Regulation 16 representation.

103. The reasoned justification for the policy refers to the tourist and agricultural sectors but the policy is worded to relate to any existing business. The policy does not place any restriction on the amount of accommodation other than the size of the workforce of the business concerned, nor does it require co-location of the accommodation and the business. The criterion that “All other site planning criteria are met” is not sufficiently precise to guide decision makers. The policy does not demonstrate that great weight is to be given to conserving landscape and scenic beauty in the National Park as specified in the Framework. I

recommend modification of the policy in order to meet the basic conditions.

**Recommended modification 6:**

**In policy MNP4**

**Delete “All other site planning criteria are met” and insert “The proposed accommodation is;**

- **located within the site of the established business or immediately adjacent to it;**
- **in close proximity to existing buildings;**
- **of a design and scale, and in a location, that is not harmful to landscape and scenic beauty, and is not detrimental to visual amenity; and**
- **located so that highway safety is maintained.”**

**Policy MNP5: Housing on Farms**

104. This policy seeks to establish support for an additional dwelling on farm enterprises or rural businesses. This policy is consistent with the aspects of the Framework relating to delivering a wide choice of high quality homes, building a strong competitive economy, and supporting a prosperous rural economy.

105. The Framework states that new isolated homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. The policy represents a locally distinct approach to an issue that is not specifically addressed in the Development Plan. The policy is in general conformity with policies of the Development Plan that have some relevance namely policies CS02, CS05, CS22a, and CS18. The National Park Authority has not raised objection to this policy in its Regulation 16 representation. Family owned is not a sufficiently precise term to guide decision makers. The aim of the policy would not justify implementation of multiple proposals on a site in open countryside in a National Park as that would not have sufficient regard for national policy set out in the Framework. I recommend modification of the policy so that it meets the basic conditions.

**Recommended modification 7:**

**In policy MNP5**

- **The policy title should be amended to “Housing on farms or at rural businesses”**



- **Delete the first sentence and insert “A single proposal during the plan period for one additional dwelling at each owner occupied established farm enterprise or rural business to be used by family members, holiday letting, or renting to local people or workers will be supported.”**
- **In the final paragraph delete “will need careful consideration to allow both the flexibility the policy intends and also to” and insert “must”**
- **In the final line after “existing farmyard” add “or rural business premises”**

### **Policy MNP6: Broadband**

106. This policy seeks to establish support for broadband related infrastructure development. The policy is consistent with the element of the Framework that recognises advanced high quality communications infrastructure is essential for sustainable economic growth stating *“The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.”*

107. This policy is also consistent with the aspects of the Framework relating to the building of a strong, competitive economy; supporting a prosperous rural economy; and promoting healthy communities. The policies of the Development Plan are silent in respect of broadband related infrastructure. This policy meets the basic conditions.

### **Policy MNP7: Micro Business and Live Work Support**

108. This policy seeks to establish support for development related to micro businesses including live-work proposals. The Framework states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. The Framework states: *“Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings.”*

109. This policy is consistent with the aspects of the Framework relating to the building of a strong, competitive economy; supporting a prosperous rural economy; and promoting healthy communities. The policy is in general conformity with policies CS02 and CS05 of the Development Plan. Whilst new build facilities are not listed as being a type of development supported by policy CS22 they are not explicitly opposed by that policy. A representation states “*This contravenes the LDNPA policy and is unacceptable*”. The National Park Authority has not raised objection to this policy in its Regulation 16 representation. Inclusion of the size of premises restriction in the wording of the policy is necessary to provide sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. I consider the policy is in general conformity with the strategic policies of the Development Plan, representing a local application of policy, and meets the basic conditions.

**Recommended modification 8:**

**After “will be supported” add “where the workspace involved is less than 150 square metres”**

**Policy MNP8: Holiday Parks**

110. This policy seeks to establish circumstances and conditions that must be satisfied for new holiday parks, or physical extension of holiday parks, to be permitted. The policy also relates to proposals for permanent caravan homes and permanent homes within holiday parks. This policy is consistent with the aspects of the Framework relating to the building of a strong, competitive economy; supporting a prosperous rural economy; and conserving and enhancing the natural environment. The National Park Authority has not raised objection to this policy in its Regulation 16 representation.

111. The policy seeks to address a local issue. The reference to those qualities that make this part of Matterdale Parish locally distinctive in the reasoned justification is unclear. Paragraph 38 of the submission plan identifies the settlement pattern of Matterdale as giving it its special identity. In order to provide decision makers with necessary clarity this local definition should be included in the policy in order for it to be taken into consideration alongside the defined special qualities of the National Park as a whole in applying the policy.

112. The requirement for landscaping and/or screen planting to be in place and effective prior to the siting of any caravans is appropriate and has regard to the approach of the Framework to a National Park context.

113. The reference to planning obligations should be extended to refer also to planning conditions attached to any planning permission in order to achieve clarity. The final sentence of the policy does not provide clarity through use of the phrase “for example” without specifying other circumstances. Clarity regarding the issue of a permanent home for an employee can be achieved by linking the policy to policy MNP4.

**Recommended modification 9:**

**In policy MNP8**

- **After “special qualities of the” insert “Lake District National Park and of the settlement pattern of the Matterdale”**
- **After “obligations” insert “or planning conditions attached to any planning permission”**
- **Delete “where, for example, an essential need for a full time employee can be evidenced” and insert “through application of policy MNP4”**

**Policy MNP9: Environment**

114. This policy establishes a requirement that all development proposals will be expected to conserve and enhance the special qualities of Matterdale and the wider Lake District. This policy is consistent with the aspects of the Framework relating to conserving and enhancing the natural environment and requiring good design.

115. There is a general duty on all public bodies to have regard to the two statutory purposes of National Parks.<sup>36</sup> In order to meet the basic conditions I recommend modification of the Neighbourhood Plan so that it more clearly demonstrates it has regard to national policy and guidance issued by the Secretary of State in respect of the National Park context. The Framework requires the planning system to “*provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency*”.<sup>37</sup> The policy does not offer guidance as to the special qualities of Matterdale which the supporting paragraph identifies as the settlement pattern. This quality should be stated in the policy in order to achieve clarity for decision makers.

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<sup>36</sup> As required by Section 11A of The National Parks and Access to the Countryside Act 1949.

<sup>37</sup> Paragraph 17 National Planning Policy Framework 2012

### **Recommended modification 10:**

#### **In policy MNP9**

- **Insert “of the settlement pattern” before “of Matterdale”**
- **After “development proposals” insert “Great weight will be given to conserving landscape and scenic beauty, and the conservation of wildlife and cultural heritage.”**
- **The supporting text to policy MNP9 should include reference to the purposes and duty of National Parks; paragraphs 115 and 116 of the Framework; and signposting to the English National Parks and the Broads: UK Government Vision and Circular 2010.**

### **Policy MNP10: Heritage**

116. This policy seeks to establish that any development that has a detrimental effect on designated heritage assets will be refused. This policy is not consistent with the aspects of the Framework relating to the conserving and enhancing of the historic environment and in particular paragraphs 133 and 134 which establish the need for assessment of proposals on the basis of the degree of harm to designated heritage assets and the need to weigh considerations. The policy does not have regard to national policy and does not meet the basic conditions.

### **Recommended modification 11:**

#### **Delete policy MNP10**

### **Policy MNP11: Parish Consultations**

117. This policy seeks to establish a mechanism whereby Parish Council consultation responses should be given significant additional weight by the National Park Authority in consideration of particular planning proposals.

118. The National Park Authority objects to the policy. Another representation concludes “*We believe that the existing decision making process allocates the correct weight to local opinion and that a high level of responsibility should be retained at the strategic level to both avoid the problems identified (above) and to ensure a consistency of decision making across the National Park.*” A further representation includes “*this emphasis on the weight of the parish council over the LDNPA view is unhelpful*” and “*the current system is fairer.*”

119. The policy relates to the process for determination of planning applications. The policy does not meet the requirement to relate to the use and development of land. It is not possible for a Neighbourhood Plan to specify the weight to be applied to any consideration by the Local Planning Authority in undertaking the duty to determine planning applications. It would however be possible for the neighbourhood plan to include a statement of intent in general text to the effect that the Parish Council will in appropriate cases request that significant additional weight should be assigned to its representations. The policy does not meet the basic conditions.

**Recommended modification 12:  
Delete Policy MNP11**

## **Summary and Referendum**

120. I have recommended the following modifications to the Submission Plan:

**Recommended modification 1:  
Paragraph 10 should be amended to state the plan period**

**Recommended modification 2:  
The basis of decision making on planning applications should be clarified as indicated**

**Recommended modification 3:  
Delete policy MNP1**

**Recommended modification 4:  
In policy MNP2**

- **Extend criterion 1 in List A after “ruins” adding “where the replacement dwelling will be substantially (in excess of 50%) externally faced employing materials which have been salvaged from the site itself.”**
- **Delete criterion 2 in List B and replace with “Proposals should maintain and incorporate local design features and materials, respect amenity of neighbouring buildings regarding scale and layout, and not adversely affect highway safety.”**
- **Delete criterion 3 in List B and replace with “Proposals resulting in the loss of any significance or harm to a heritage**

asset will need to demonstrate that they are necessary to achieve public benefits that outweigh that harm or loss.”

- Delete “and the size of the dwelling is a consequence of the design process” from criterion 4.

**Recommended modification 5:**

**In policy MNP3**

- Delete the policy title and insert “Linked new build local needs housing and affordable local needs housing”
- Delete “The sites for both the Local Needs and Affordable Local Needs dwellings are acceptable to the Parish Council” and replace with “The proposal relates to a rural exception site”
- Delete “providing a site value for the Local Needs dwelling of £150,000 and £20,000 for the Affordable Local Needs Dwelling (index linked) is used.”
- Delete “All normal site planning requirements are met” and insert “The proposal including any access tracks will not have a significant unacceptable impact on the landscape or visual amenity of the area and the proposed accommodation should maintain and incorporate local design features and materials, respect amenity of neighbouring buildings regarding scale and layout, and not adversely affect highway safety.”
- Delete “Or 2 The proposed dwelling meets all the following criteria:  
limited to 125m2 internal floorspace  
is on the site of an existing building or forms an infilling or rounding off of an existing group of buildings  
is within close proximity to other housing  
Or 3 Is within a ‘cluster community’ as defined within the LDNPA Core Strategy/Local Plan”

**Recommended modification 6:**

**In policy MNP4**

Delete “All other site planning criteria are met” and insert “The proposed accommodation is;

- located within the site of the established business or immediately adjacent to it;
- in close proximity to existing buildings;
- of a design and scale, and in a location, that is not harmful to landscape and scenic beauty, and is not detrimental to visual amenity; and
- located so that highway safety is maintained.”

**Recommended modification 7:**

**In policy MNP5**

- **The policy title should be amended to “Housing on farms or at rural businesses”**
- **Delete the first sentence and insert “A single proposal during the plan period for one additional dwelling at each owner occupied established farm enterprise or rural business to be used by family members, holiday letting, or renting to local people or workers will be supported.”**
- **In the final paragraph delete “will need careful consideration to allow both the flexibility the policy intends and also to” and insert “must”**
- **In the final line after “existing farmyard” add “or rural business premises”**

**Recommended modification 8:**

**In policy MNP7**

**After “will be supported” add “where the workspace involved is less than 150 square metres”**

**Recommended modification 9:**

**In policy MNP8**

- **After “special qualities of the” insert “Lake District National Park and of the settlement pattern of the Matterdale”**
- **After “obligations” insert “or planning conditions attached to any planning permission”**
- **Delete “where, for example, an essential need for a full time employee can be evidenced” and insert “through application of policy MNP4”**

**Recommended modification 10:**

**In policy MNP9**

- **Insert “of the settlement pattern” before “of Matterdale”**
- **After “development proposals” insert “Great weight will be given to conserving landscape and scenic beauty, and the conservation of wildlife and cultural heritage.”**
- **The supporting text to policy MNP9 should include reference to the purposes and duty of National Parks; paragraphs 115 and 116 of the Framework; and signposting to the English National Parks and the Broads: UK Government Vision and Circular 2010.**



**Recommended modification 11:  
Delete policy MNP10**

**Recommended modification 12:  
Delete Policy MNP11**

121. I also make the following recommendation in Appendix 1 below

**Recommended modification 13:  
Identified errors that are typographical in nature or arising from updates should be corrected**

122. I am satisfied that the Neighbourhood Plan<sup>38</sup>:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the basic conditions:

having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the 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 (or any part of that area),

does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and

the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects<sup>39</sup>

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<sup>38</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

<sup>39</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007



**I recommend to Lake District National Park Authority that the Matterdale Neighbourhood Development Plan for the plan period up to 2030 should, subject to the modifications I have put forward, be submitted to referendum.**

123. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>40</sup> In all the matters I have considered I have not seen anything that suggests the referendum area should extend beyond the boundaries of the plan area as they are currently defined.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area defined by the Lake District National Park Authority on 26 February 2014.**

#### Appendix 1: Minor Corrections to the Neighbourhood Plan

I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>41</sup> The Neighbourhood Plan includes a small number of errors that are typographical in nature or arise from updates. I recommend modification as follows:

Paragraph 14 delete “Distinctyive” insert “Distinctive”

Reference to buildings in policy MNP2 and to agricultural buildings in Paragraph 26 should be aligned

Paragraph 26 insert “be” after “can”

Inclusion of Core Strategy policies represents unnecessary duplication and may prove unhelpful should those polices change during the neighbourhood plan period.

The Glossary should define local need housing and local need affordable housing to reflect the Housing Provision SPD March 2014

The recommended modifications will necessitate consequential adjustment of text.

**Recommended modification 13:  
Identified errors that are typographical in nature or arising from updates should be corrected**

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26 March 2015  
REPORT ENDS

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<sup>40</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>41</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990