

MARTON WEST MODIFIED NEIGHBOURHOOD DEVELOPMENT PLAN

Submission Draft Version

**A report to Middlesbrough Council
into the examination of the
Marton West Modified Neighbourhood
Development Plan
by Independent Examiner, Rosemary Kidd**

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1.0 Summary

- 1.1 The Marton West Modified Neighbourhood Plan has been prepared to set out the community's wishes for the revised Marton West ward in Middlesbrough.
- 1.2 The initial Marton West Neighbourhood Plan was adopted on 30 November 2016. As a result of a boundary change and the decision of Middlesbrough Council not to establish the Marton in Cleveland Neighbourhood Forum and Area, the Marton West Neighbourhood Plan area has been extended to cover the entirety of the Marton West ward and to incorporate the De Brus Park area. The Modified Plan has been prepared to cover this extended area.
- 1.3 I have made a number of recommendations in this report in order to make the wording of the policies and their application clearer, including improvements to the mapping of sites referred to in policies to ensure that the Plan meets the Basic Conditions. Section 6 of the report sets out a schedule of the recommended modifications.
- 1.4 The main recommendations concern:
 - Revisions to clarify the wording of policies and the supporting text; and
 - Improvements to the mapping of policies.
- 1.5 Subject to the recommended modifications being made to the Neighbourhood Plan, I am able to confirm that I am satisfied that the Marton West Modified Neighbourhood Plan satisfies the Basic Conditions and that the Plan should proceed to referendum.

2.0 Introduction

Background Context

- 2.1 This report sets out the findings of the examination into the Marton West Modified Neighbourhood Plan (MWMNP). The Ward of Marton West lies within the urban area of Middlesbrough.
- 2.2 The initial Marton West Neighbourhood Plan was made in 2016. Following a review of the ward boundary it was agreed to expand the Marton West Neighbourhood Forum to cover the whole of the revised ward. The Neighbourhood Area was amended on 7 January 2019 to incorporate the Newham Hall / Brass Castle Lane / De Brus Park area. The ward had a population in 2011 of 5235 people living in 2205 households.

Appointment of the Independent Examiner

- 2.3 I was appointed as an independent examiner to conduct the examination on the MWMNP by Middlesbrough Council with the consent of Marton West Neighbourhood Forum in September 2020. I do not have any interest in any land that may be affected by the MWMNP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I am a Member of the Royal Town Planning Institute with over 30 years' experience in local authorities preparing Local Plans and associated policies.

Role of the Independent Examiner

- 2.4 As an independent Examiner, I am required to determine, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether the legislative requirements are met:
 - The Neighbourhood Development Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
 - The Neighbourhood Development Plan has been prepared for an area that has been designated under Section 61G of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
 - The Neighbourhood Development Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004, that is the Plan must specify the period to which it has effect, must not include provisions relating to 'excluded development', and must not relate to more than one Neighbourhood Area; and
 - The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the Planning and Compulsory Purchase Act 2004 Section 38A.

- 2.5 An Independent Examiner must consider whether a neighbourhood plan meets the “Basic Conditions”. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The Basic Conditions are:
1. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 2. the making of the neighbourhood plan contributes to the achievement of sustainable development;
 3. 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);
 4. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
 5. prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan. The following prescribed condition relates to neighbourhood plans:
 - o Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended by the Conservation of Habitats and Species and Planning (various Amendments) Regulations 2018) sets out a further Basic Condition in addition to those set out in the primary legislation: that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

2.6 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. It is not within my role to comment on how the plan could be improved but rather to focus on whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention rights, and the other statutory requirements.

2.7 It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings. 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.

The Examination Process

2.8 The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or so that a person has a fair chance to put a case.

- 2.9 I have sought clarification on a number of matters from the Qualifying Body and/or the local planning authority in writing. I am satisfied that the responses received have enabled me to come to a conclusion on these matters without the need for a hearing.
- 2.10 I had before me background evidence to the plan which has assisted me in understanding the background to the matters raised in the Neighbourhood Plan. I have considered the documents set out in Section 5 of this report in addition to the Submission draft of the MWMNP 2016 - 2029.
- 2.11 I have considered the Basic Conditions Statement and the Consultation Statement as well as the Screening Opinions for the Strategic Environmental Assessment and Habitats Regulation Assessment. In my assessment of each policy I have commented on how the policy has had regard to national policies and advice and whether the policy is in general conformity with relevant strategic policies, as appropriate.
- 2.12 I have undertaken an unaccompanied site visit to the Plan area.

Legislative Requirements

- 2.13 The neighbourhood plan making process has been led by Marton West Neighbourhood Forum which is a “qualifying body” under the Neighbourhood Planning legislation which entitles them to lead the plan making process.
- 2.14 The Basic Conditions Statement confirms that the Neighbourhood Plan area is co-terminus with the boundaries of the current ward of Marton West and that there are no other neighbourhood plans relating to that area. The area was designated by Middlesbrough Council on 7 January 2019 as a Neighbourhood Area.
- 2.15 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Plan states that this is from 2016 to 2029, the same period as the previously made plan. In the interests of clarity, I would recommend that the plan should be dated from the year it is made.
- 2.16 The Plan does not include provision for any excluded development: county matters (mineral extraction and waste development), nationally significant infrastructure or any matters set out in Section 61K of the Town and Country Planning Act 1990.
- 2.17 The Neighbourhood Development Plan should only contain policies relating to the development and use of land. The MWMNP policies are compliant with this requirement.
- 2.18 The Basic Conditions Statement confirms the above points and I am satisfied therefore that the MWMNP satisfies all the legal requirements set out in paragraph 2.4 above.

Recommendation 1:

Revise the commencement date of the Plan period to the year it is made (2021 – 2029).

The Basic Conditions

Basic Condition 1 – Has regard to National Policy

- 2.19 The first Basic Condition is for the neighbourhood plan “*to have regard to national policies and advice contained in guidance issued by the Secretary of State*”. 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 which requires plans to be “*consistent with national policy*”.
- 2.20 The Planning Practice 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.*”
- 2.21 In considering the policies contained in the Plan, I have been mindful of the guidance in the Planning Practice Guide (PPG) that:
- “Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like.”*
- 2.22 The NPPF of February 2019 (as amended) is referred to in this examination in accordance with paragraph 214 of Annex 1, as the plan was submitted to the Council after 24 January 2019.
- 2.23 The Planning Practice Guidance on Neighbourhood Plans states that neighbourhood plans should “*support the strategic policies set out in the Local Plan or spatial development strategy and should shape and direct development that is outside of those strategic policies*” and further states that “*A neighbourhood plan should, however, contain policies for the development and use of land. This is because, if successful at examination and referendum, the neighbourhood plan becomes part of the statutory development plan.*”
- 2.24 Table 1 in Appendix 2 of the Basic Conditions Statement includes comments on how the policies of the MWMNP have had regard to the NPPF. I consider the extent to which the plan meets this Basic Condition No 1 in Section 3 below.

Basic Condition 2 - Contributes to sustainable development

- 2.25 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole constitutes the Government's view of what sustainable development means in practice for planning. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental.
- 2.26 Paragraph 38 of the MWMNP sets out how the plan will contribute to the delivery of sustainable development.
- 2.27 I am satisfied that the Plan contributes to the delivery of sustainable development and therefore meets this Basic Condition.

Basic Condition 3 – is in general conformity with strategic policies in the development plan

- 2.28 The third Basic Condition is for the neighbourhood plan to be in general conformity with the strategic policies contained in the Development Plan for the area. The Development Plan relevant to the area comprises the Middlesbrough Housing Local Plan (adopted 2014), Middlesbrough Core Strategy (adopted 2008) and the Middlesbrough Regeneration DPD (adopted 2009). There are also saved policies from the 1999 Local Plan. A new Local Plan is being prepared but this is at an early stage with the publication of the Preferred Options draft programmed for January 2021. A Publication draft Local Plan dated 2018 has been withdrawn and I have not taken it into account in my examination.
- 2.29 Table 1 of Appendix 2 of the Basic Conditions Statement sets out the way that the policies of the Neighbourhood Plan conform to the relevant strategic planning policies.
- 2.30 I consider in further detail in Section 3 below the matter of general conformity of the Neighbourhood Plan policies with the strategic policies.

Basic Condition 4 – Compatible with EU obligations and human rights requirements

- 2.31 A neighbourhood plan must be compatible with European Union obligations as incorporated into UK law, in order to be legally compliant. Key directives relate to the Strategic Environmental Assessment Directive and the Habitats and Wild Birds Directives. A neighbourhood plan should also take account of the requirements to consider human rights.
- 2.32 Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that a Strategic Environmental Assessment is submitted with a Neighbourhood Plan proposal or a determination from the responsible authority (Middlesbrough Council) that the plan is not likely to have "significant effects."

- 2.33 A screening opinion for Strategic Environmental Assessment is included in Appendices 3, 4 and 5 of the Basic Conditions Statement. It concludes:
- “As a result of the assessment above, it is considered unlikely that any significant environmental effects will occur from the implementation of the Modified Plan that were not considered and dealt with by the Sustainability Appraisal of the Plan for the Council. As such the Modified Plan does not require a full SEA to be undertaken.”*
- 2.34 Consultation was carried out with the statutory environmental bodies on the SEA Screening Opinion in June 2020. Natural England, the Environment Agency and Historic England all responded to state that they agreed with the conclusion of the SEA Screening Assessment that an SEA is not required for the MWMNP as it is unlikely to have any significant positive or negative effects on the environment.
- 2.41 I have noted that question 4 of Appendix 3 states that there are no internationally designated nature conservation (SPA or SAC) sites within or near to Marton West. However, in order to demonstrate that the Basic Conditions have been met, a formal screening opinion under the Habitats Regulation Assessment should be carried out to confirm that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
- 2.36 I have asked the QB and LPA to undertake the HRA Screening Opinion and consult Natural England on it. Middlesbrough Council prepared the HRA Screening Report dated November 2020. The conclusion was set out in paragraph 6.2:
- “The Marton West modified Neighbourhood Plan has been prepared to be in general conformity with the relevant policies in Middlesbrough Council’s adopted development plan. The above proposed Neighbourhood Plan policies provide locally specific criteria and will not lead to likely significant effects on protected European sites.”*
- 2.37 Natural England was consulted on the screening report in November 2020 and their response was: *“Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.”*
- 2.38 I am satisfied that the SEA and HRA screening opinions have been carried out in accordance with the legal requirements.
- 2.39 The Basic Conditions Statement considers the impact of the Plan on Human Rights and concludes that: *“The Modified Plan has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights.”*

- 2.40 From my review of the Consultation Statement, I have concluded that the consultation on the MWMNP has had appropriate regard to Human Rights.
- 2.41 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the MWMNP is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

Consultation on the Neighbourhood Plan

- 2.42 I am required under The Localism Act 2011 to check the consultation process that has led to the production of the Plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.
- 2.43 The key stages of consultation on the preparation of MWMNP were:
- a) An initial informal consultation took place in October 2019 to raise awareness of residents and businesses to the need to modify the made Neighbourhood Plan following the review of the Marton West ward boundary change and the Council decision in January 2019 to recommend an early review of the made Neighbourhood Plan.
 - b) All properties in the Marton West ward were issued with a hand delivered newsletter and response form.
 - c) 40 responses were received, all of which supported the update and there were no objections.
 - d) Regular updates on progress were given at Marton West Community Council meetings, and through newsletters and the Marton West Community Facebook page.
 - e) From January 2019, the Neighbourhood Forum has regularly provided an update to residents on the progress of the modified Neighbourhood Plan, taking account of feedback from residents.
 - f) They are also summarised in the Community Council newsletter, which is hand delivered to every property in the ward on a two monthly basis, to coincide with the Community Council public meetings
 - g) The statutory pre-submission consultation was carried out in accordance with Regulation 14 from 20 January 2020 to 1 March 2020.
 - h) All residential and business properties in the Marton West ward were issued with a hand delivered newsletter and response form to comment on the Modified Plan. Links were provided to enable people to view the Modified Plan, which was also available via Facebook pages and the Council website. Material was also placed in the Marton Community Hub and Library.
 - i) Emails and letters were sent to all relevant statutory bodies included in Middlesbrough Council's Statement of Community Involvement.
 - j) 80 responses were received from residents and businesses, all of whom supported the Modified Plan.
 - k) There were no objections to the Modified Plan.

- 2.44 Middlesbrough Council undertook the consultation on the Submission Plan from 14 September to 26 October 2020. Consultation on the HRA screening report was carried out in November 2020 in accordance with their Statement of Community Involvement. This included letters and emails as well as a notice in the Community Newsletter. The documents were placed on the Council's and Community's websites and a press release was issued.
- 2.45 Forty responses were received by the deadline and a further two were received late. All responses supported the Plan, seven included comments.
- 2.46 It is clear from the evidence presented to me in the Neighbourhood Plan's Consultation Statement and the Council's Consultation Statement, that extensive consultation has been carried out during the preparation of the MWMNP.
- 2.47 I am satisfied that the pre-submission consultation and publicity has met the requirements of Regulations 14, 15 and 16 in the Neighbourhood Planning (General) Regulations 2012.
- 2.48 This report is the outcome of my examination of the Submission Draft Version of the MWMNP. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

3.0 Neighbourhood Plan – As a whole

- 3.1 The Neighbourhood Plan is considered against the Basic Conditions in this section of the Report following the structure and headings in the Plan. Given the findings in Section 2 above that the plan as a whole is compliant with Basic Conditions No 4 (EU obligations) and other prescribed conditions, this section largely focuses on Basic Conditions No 1 (Having regard to National Policy), No 2 (Contributing to the achievement of Sustainable Development) and No 3 (General conformity with strategic policies of the Development Plan).
- 3.2 Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.
- 3.3 Basic Condition 1 requires that the examiner considers whether the plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State. Before considering the policies individually, I have considered whether the plan as a whole has had regard to national planning policies and supports the delivery of sustainable development.
- 3.4 The PPG states that “*a policy 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*”. I will consider this requirement as I examine each policy.
- 3.5 NPPF paragraph 2 states that “*Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.*” Policies in neighbourhood plans cannot determine whether any particular forms of development can be permitted. Development proposals will be considered against the policies of the development plan that is the Local Plan and Neighbourhood Plan. I am proposing modifications to Policies MW1 and MW7 to ensure they accord with this national policy.
- 3.6 The Neighbourhood Plan for the Marton West area was made in November 2016. The Marton West Modified Neighbourhood Plan has been prepared following the extension of the Marton West Neighbourhood Area to include the entirety of Marton West Ward. The Background section of the Plan explains the background to the preparation to this Modified Plan.
- 3.7 The Plan area has been extended to include the De Brus Park area in the south of the ward. The new sections of the Modified Plan are clearly distinguishable in red text. Most relate to the De Brus Park area, although there are other revisions concerning other areas and other updates to the text.

- 3.8 The MWMNP contains policies on parks and green spaces, housing, the built environment and infrastructure.
- 3.9 The Plan includes background evidence that describes the context for the plan area and the policies. Significant additions have been made concerning the heritage assets of the area, particularly relating to the Newham Hall parkland. The section on Ethos and Character has been extended to include a section on the De Brus Park area.
- 3.10 The introductory section includes a summary of the Community Involvement in the Updated Plan. This may be removed from the final plan as this evidence is included in the Consultation Statement.
- 3.11 The policies are clearly distinguishable from the supporting text by surrounding coloured boxes. Revisions to the policies of the previously made plan are shown in red text.
- 3.12 The Plan contains a map of the plan area, a map of the De Brus Area and a Sites Location Map showing the sites referred to in the MWMNP. To avoid any confusion, it is recommended that the Sites Location Map should be retitled as the Policies Map and the key revised to show the relevant policy numbers. Other improvements are recommended to improve the clarity of the Policies Map.

Recommendation 2: Revise the title of the Sites Location Map to Policies Map. Include the relevant policy numbers in the key. The boundaries of all sites should be clearly distinguishable. Designations outside the plan area should be omitted from the Policies Map but may be shown on a diagram in the plan.

The Neighbourhood Plan

Vision and Objectives

- 3.13 The vision statement remains unchanged from the original Marton West Neighbourhood Plan. An amendment has been made to one of the aims for Eagle Park to refer to the wetland at West Moor Farm.
- 3.14 A new section has been added to set out 4 aims for De Brus Park. The second aim is to “Designate the parkland setting as Local Green Space”. I will consider under Policy MW1 whether this designation is appropriate. The other objectives are delivered through the policies of the Plan.
- 3.15 Paragraph 41 sets out the objectives for the Plan. These have been reviewed and updated as necessary and two new objectives added relating to ensuring that new housing has easy access to public transport and promoting superfast broadband.

Policy MW1 Parks & Green Spaces

- 3.16 This policy includes the most significant addition to the Neighbourhood Plan: the proposal to designate the parkland to the south of Newham Hall as a Local Green Space.
- 3.17 NPPF paragraph 100 sets out the criteria to be used to assess the suitability of sites for designation as Local Green Spaces. The background evidence report prepared by the Neighbourhood Plan Forum entitled “*Justification for designation of Newham Hall Parkland as Local Green Space (LGS)*” has assessed the area against these criteria.
- 3.18 Middlesbrough Council has prepared a statement on the Submission MWMNP and is seeking clarification as to whether the proposed designation is the appropriate mechanism to be applied. They state that the majority of the proposed LGS has been designated as “primary open space” under saved Policy E8 of the Local Plan (1999). They consider that this is a more appropriate mechanism for protecting this open space. They state that this area, along with an additional parcel of land, was identified as a protected open space under Policy INFRA8 of the 2018 Publication Local Plan. They state that they are proposing to address this matter again through the emerging Local Plan, where the Preferred Options stage is currently timetabled for January 2021.
- 3.19 The area proposed as Local Green Space constitutes the parkland to the Grade II listed Newham Hall. The Hall was completed in 1880 for the ironmaster John Mills. Newham Hall and its associated buildings and parkland setting have largely been conserved. The report by Land Use Consultants prepared in 2017 “*Landscape and historic environment value of land south of Newham Hall, Middlesbrough*” includes the following description of the area:

“The site comprises an intact 19th-century designed landscape, laid out at the same time as construction of Newham Hall. It represents an important, and rare, survival of a 19th century industrialist’s mansion and farm complex. As a historic environment asset, the combination of hall and landscape is of at least regional significance, and potentially greater given the rarity of survival of ironmasters’ houses in the region and more generally.”

“The landscape of this parcel comprises deliberately laid out parkland with mature trees, providing a formal setting for Newham Hall at the centre of the area. The undulating landscape slopes down generally from south to north, and the level of enclosure varies accordingly across the area. The principal landscape features are the rows of mature specimen trees, lined up along field boundaries and along the sinuous access drive. The house is surrounded by a dense shelter belt which also contains the outbuildings and extends to the west. Clumps of woodland and roadside trees are also present. The lodge, gates and associated estate fencing form an important aspect of this landscape character.”

“It remains a tranquil area, physically and perceptually separate from the built up area to the north. Built development has occurred at De Brus Park in the east of the area, where a single row of large detached houses sits uneasily at the edge of the parkland.The Newham Hall parkland is self-contained with few direct relationships to the adjacent landscapes.

“The good condition, historical significance and distinctiveness of the designed landscape within this parcel makes the whole composition of this landscape sensitive to change.”

- 3.20 The Neighbourhood Forum’s supporting paper states that *“Historic England assessed the parkland for ‘registration’ purposes in October 2019. Their report sets out the special interest between the landscape and the Grade II Listed hall stating that it appears that the hall was carefully designed and orientated to provide ‘a framed view northwards to Ayresome Ironworks with the principal rooms enjoying views across the gardens, parks and out to the North York Moors and Roseberry Topping.’ It goes on to set out how the gardens provide views back towards the hall and thus ‘very significantly contribute to the special interest of the Grade II Listed building. The wider parkland is also a key aspect to the setting of the hall and significantly contributes to the interest of the listed building, providing essential meaning to two further listings, the lodge and associated gateway...’ It concludes that ‘the Newham Hall landscape is thought to be the most complete and best surviving example (of a country house estate) in the area.”*
- 3.21 Historic England stated that the parkland did not, however, fulfil the criteria to be included in their Register of Parks and Gardens of Special Historic Importance in England. They did consider it to be of regional importance. In the circumstances it may be appropriate for Middlesbrough Council to consider designating it as a Park or Garden of Regional or District Importance with a suitable policy in their development plan to protect its significance and landscape quality as the setting to Newham Hall. However, Middlesbrough Council has not indicated that they are proposing such a designation.
- 3.22 The Marton West Neighbourhood Forum has commented that Historic England has welcomed the use of a Local Green Space designation to recognise the historic significance of the parkland. They also welcome that the landscape has been identified as a non-designated heritage asset. They have supplied me with a copy of Historic England’s letter of 28 February 2020 in response to the Pre-Submission Draft Plan where these comments were made.
- 3.23 The saved Policy E8 from the 1999 Local Plan does not protect the parkland, rather it proposes that *“new open space with public access will be provided on the parkland area to the south of Newham Hall”*. The area excluded the south east corner of the parkland. Paragraph 1.71 states that *“the Third Review of the Coulby Newham Master Plan approved by the Council in June 1991, included provision for the development of a Country Park. The Review highlighted the need to protect and enhance the existing landscape and to*

provide informal recreational activities. It was against this background that 250 acres of land centred around Newham Hall was designated to be developed as a Country Park.”

- 3.24 It is evident that this proposal for a country park has not been implemented. In any case saved Policy E8 is a proposal and does not include any specific measures to protect or safeguard the intrinsic qualities of the parkland area.
- 3.25 The background evidence and representations refer to various proposals that the Council has made for the parkland including:
- a) Planning application for the development of 38 houses in 1995 which was called in and refused. However the cul-de-sac of 15 houses (De Brus Park) was commenced. Permission for an additional 5 dwellings was granted in 2014.
 - b) An extension to the golf course proposed in the 2013 Core Strategy and Housing DPD was deleted from the Plan following the Public Examination.
 - c) A proposal for 10 houses in the parkland adjacent to the existing cul-de-sac was proposed in the Middlesbrough Local Plan Preferred Options of May 2018 (which has been withdrawn).
- 3.26 From the evidence presented to me it is clear that the parkland to Newham Hall is clearly defined and intact except for the area at the south east corner that has been lost to the cul-de-sac of housing development of De Brus Park. Historic England has confirmed the significance of the parkland as the setting for the listed Newham Hall and the quality of the parkland as of regional importance. There is however, no formal designation in the Council’s development plan to protect and safeguard the parkland for its historic or landscape importance.
- 3.27 Representations have referred me to a number of documents that have been prepared to support objections by local residents to various proposals that have been made by the Council over the last 25 years. The Council has appointed independent consultants to review and critique these studies and to propose recommendations about the opportunities and constraints of the future use of the parkland. This study has given consideration to the possibility of further housing development adjacent to De Brus Park. However, there are no policies in the adopted development plan for any housing development on the land that is not included in the proposals for the country park.
- 3.28 My role as Examiner is to consider whether the area fulfils the criteria of NPPF paragraph 100. I will also consider whether the designation of the area would be in conformity with the development plan.
- 3.29 I consider that the proposed LGS is in reasonably close proximity to the community it serves. It is located to the south-east of the community of Coulby Newham which is planned to be extended towards Newham Hall. The agricultural land north of Newham Hall is allocated for housing development

under Policy H26 of the Housing Local Plan. There are footpath links across the parkland to the footpath network of the surrounding area.

- 3.30 The background evidence summarised above, demonstrates the particular local significance of the parkland in terms of its historic importance as the setting for the Grade II listed Newham Hall and associated buildings and structures. This is confirmed by Historic England that *“the Newham Hall landscape is thought to be the most complete and best surviving example (of a country house estate) in the area.”*
- 3.31 The area has a distinctive beauty created by the planned landscape and the designed landscape vistas. The area has important recreational value to the community who can readily access this attractive parkland to walk along the footpath network within and through the area. The tranquillity of the area, on the fringe of the urban area of Middlesbrough, makes this area valuable to the community. Of the 42 representations received to the Submission draft Plan, thirty-four supported the plan as a whole and five have made specific comments in support of the proposed LGS designation for the Newham Hall parkland.
- 3.32 Paragraph 100 of the NPPF states that Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. The NPPG advises that blanket designation of open countryside adjacent to settlements will not be appropriate.
- 3.33 On my site visit I noted that the proposed LGS is a self-contained area, bounded by Brass Castle Lane to the south west and strong tree belts along the north west and eastern boundaries. It is clearly identifiable as the landscaped parkland to Newham Hall and has a distinctive character, markedly different to the open countryside to the south.
- 3.34 The NPPG also advises that the *“designation of any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.”*
- 3.35 The Local Plan proposals for future housing development relate to land to the north of Newham Hall. The importance of preserving the character of the parkland setting of Newham Hall is recognised in Policy H26 e) of the Housing Local Plan which states that development to the north should *“preserve the character and appearance of the setting of the Grade II listed structures Newham Hall, Newham Hall Lodge and Newham Hall Gate”*.
- 3.36 Most of the parkland is identified as a “Proposed primary open space” under saved Policy E8 of the Local Plan (1999). It is considered that the designation of the area as a Local Green Space would be in conformity with this policy proposal.

- 3.37 The south eastern field of the parkland was excluded from the area to be proposed as primary open space. A planning application for housing development on the area was dismissed on appeal in 1995. The only area of the parkland that has been lost to housing development is the incongruous cul-de-sac of housing development at De Brus Park.
- 3.38 The development plan recognises the importance of the parkland area as the setting of Newham Hall, although there are no specific policies in the Local Plan to safeguard it. No evidence has been presented to me of any overriding housing need that cannot be met elsewhere in the urban area to justify further erosion of the south eastern field of the parkland. No justification has been presented as to why the south eastern parcel of the parkland should not be included in the Local Green Space.
- 3.39 I therefore conclude that the designation of the whole of the parkland area as proposed in the MWMNP accords with national planning policy and guidance.
- 3.40 NPPF paragraph 101 sets out guidance on the wording of policies to manage development in the Local Green Space and states that they should be consistent with those on Green Belts. NPPF paragraph 143 states that *“inappropriate development (ie that which would be harmful to the Green Belt) should not be approved except in very special circumstances”*.
- 3.41 I am recommending modifications to introduce a new paragraph to manage development in the LGS in accordance with national policy on LGS and heritage and revisions to the wording of the final paragraph of Policy MW1 to simplify and clarify it so that it can be applied consistently by decision makers. I am also recommending revisions to the first and third paragraphs in accordance with paragraph 3.5 above
- 3.42 The representation from the Environment Agency expresses concern that the commentary in paragraph 65 does not accord with NPPF paragraph 170. They note that NPPF paragraph 175 states that where significant harm to biodiversity results from a development it would be expected that this would be avoided, adequately mitigated for, or at the last resort, compensated for. The test of weighing public benefit against potential harm to natural features is not found in national policy and guidance.
- 3.43 I consider that paragraph 65 amounts to a policy statement, not justification to the Policy MW1, and agree with the points made by the Environment Agency that it does not accord with national planning policy. I am therefore recommending that paragraph 65 should be deleted and replaced with a reference to paragraph 170 of the NPPF.

Recommendation 3: Revise Policy MW1 as follows:

Revise the first paragraph to read: “Development *proposals should not* have an adverse effect on”

Add a new paragraph before the third paragraph of the policy to read: “*Inappropriate development that would be harmful to the Local Green Space should not be approved except in very special circumstances. The valued parkland setting of the Grade II listed Newham Hall, Newham Hall Lodge and Newham Hall Gate should be preserved and enhanced, where appropriate, in a manner compatible with its historic landscape design.*”

Revise the third paragraph of the policy to read “*Development should not result in the loss of green space, veteran, notable and mature trees, and local valued landscapes which make a positive contribution to the character of the area and local amenity.*”

Delete paragraph 65 and replace with “*Development proposals should contribute to and enhance the natural and local environment in accordance with NPPF paragraph 170.*”

Policy MW2 Housing Allocations

Policy MW3 Small Unallocated Sites

- 3.44 The justification to these policies has been updated to reflect the up to date position on the housing requirement and delivery in the Middlesbrough Local Plan area. The adopted Local Plan did not set an indicative housing requirement for the Marton West Ward. Paragraph 68 of the MWMNP states that there is no requirement for additional housing allocations up to 2024, above that already allocated in the 2014 Housing Local Plan. The LPA has confirmed that any requirement post 2024 will be dependent on the emerging Local Plan and its housing requirement.
- 3.45 The MWMNP demonstrates that the housing supply in the plan area has increased recently due to amendments to the permission for the Grey Towers Farm site and two small windfall sites.
- 3.46 It is acknowledged that the MWMNP only makes provision for housing up to 2024 and not for the whole plan period to 2029. However, Middlesbrough Council has indicated that they would be unable to provide an indicative housing requirement for the Neighbourhood Plan area until the emerging Local Plan is progressed. At such time it will be for the Neighbourhood Plan Forum to consider whether to rely on any allocations in the emerging Local Plan or to review the Neighbourhood Plan to allocate additional sites. In any case NPPG states that neighbourhood plans are not required to plan for housing.
- 3.47 I make no comments on the wording of Policies MW2 and MW3.

Policy MW4 Land at the Ford Riding School – Brass Castle Lane

- 3.48 The Environment Agency has commented in their representation that the wording of this policy should be revised to replace “upkeep” with “long term maintenance”. I agree that this would provide greater clarity.
- 3.49 The Environment Agency has commented that they are supportive of the Plan’s policies towards the wetland at West Moor Farm. (Policies MW1 and MW4)

Recommendation 4: Revise Policy MW4 as follows:

Replace “upkeep” with “*long term maintenance*”.

Policy MW5 Built Environment

- 3.50 I make no comments on Policy MW5.

Policy MW6 Design

- 3.51 I make no comments on Policy MW6.

Policy MW7 Backland Development

- 3.52 I am recommending a revision to the first line of the policy to avoid the use of the phrase “development will be permitted” in accordance with paragraph 3.5 above. Consequential revisions to the wording of the bullet points will be required.

Recommendation 5: Revise the Policy MW7 to read:

“Backland or tandem development *should:*

- **Incorporate separate....**
- **Provide an acceptable standard of residential amenity for the new dwelling.....**
- **Provide an adequate open area within the curtilage of...**
- **Reflect the scale and character....**

Policy MW8 Design to reduce Surface Water Run-Off

- 3.53 Northumbrian Water supports the policy. I make no comments on Policy MW8.

Policy MW9 Public Transport

3.54 I make no comments on Policy MW9.

Policy MW10 Parking

3.55 I make no comments on Policy MW10.

Policy MW11 Lingfield Primary School Parking

3.56 I make no comments on Policy MW11.

4.0 Referendum

- 4.1 The Marton West Modified Neighbourhood Plan reflects the views held by the community as demonstrated through the consultations and, subject to the modifications proposed, sets out a realistic and achievable vision to support the future improvement of the community.
- 4.2 I am satisfied that the Neighbourhood Plan meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified, meets the Basic Conditions namely:
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contributes to the achievement of sustainable development;
 - is in general conformity with the strategic policies contained in the Development Plan for the area; and
 - does not breach, and is otherwise compatible with, EU obligations and human rights requirements
- 4.3 **I am pleased to recommend to Middlesbrough Council that the Marton West Modified Neighbourhood Development Plan should, subject to the modifications I have put forward, proceed to referendum.**
- 4.4 I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. In all the matters I have considered I have not seen anything that suggests the referendum area should be extended 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 designated by Middlesbrough Council on 7 January 2019.

5.0 Background Documents

5.1 In undertaking this examination, I have considered the following documents

- Marton West Modified Neighbourhood Plan Submission Draft Version 2016 - 2029
- Marton West Modified Neighbourhood Plan Basic Conditions Statement, including screening opinion for SEA, undated (file name July 2020)
- Marton West Modified Neighbourhood Plan HRA Report November 2020
- Marton West Modified Neighbourhood Plan Consultation Statement undated (file name July 2020)
- Marton West Modified Neighbourhood Plan – Middlesbrough Council Consultation Statement on Submission, November 2020
- Marton West Modified Neighbourhood Plan – Supporting Paper - Justification for designation of Newham Hall Parkland as Local Green Space (LGS) undated
- Landscape and historic environment value of land south of Newham Hall, Middlesbrough, Prepared by Land Use Consultants on behalf of Middlesbrough Council, January 2017
- National Planning Policy Framework 2019 (as amended)
- Planning Practice Guidance March 2014 (as amended)
- The Town and Country Planning Act 1990 (as amended)
- The Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012
- Middlesbrough Housing Local Plan (adopted 2014)
- Middlesbrough Core Strategy (adopted 2008)
- Middlesbrough Regeneration DPD (adopted 2009)
- Middlesbrough Local Plan (1999) saved policies.

6.0 Summary of Recommendations

Recommendation 1:

Revise the commencement date of the Plan period to the year it is made (2021 – 2029).

Recommendation 2: Revise the title of the Sites Location Map to Policies Map. Include the relevant policy numbers in the key. The boundaries of all sites should be clearly distinguishable. Designations outside the plan area should be omitted from the Policies Map but may be shown on a diagram in the plan.

Recommendation 3: Revise Policy MW1 as follows:

Revise the first paragraph to read: “Development *proposals should not* have an adverse effect on

Add a new paragraph before the third paragraph of the policy to read: “*Inappropriate development that would be harmful to the Local Green Space should not be approved except in very special circumstances. The valued parkland setting of the Grade II listed Newham Hall, Newham Hall Lodge and Newham Hall Gate should be preserved and enhanced, where appropriate, in a manner compatible with its historic landscape design.*”

Revise the third paragraph of the policy to read “*Development should not result in the loss of green space, veteran, notable and mature trees, and local valued landscapes which make a positive contribution to the character of the area and local amenity.*”

Delete paragraph 65 and replace with “*Development proposals should contribute to and enhance the natural and local environment in accordance with NPPF paragraph 170.*”

Recommendation 4: Revise Policy MW4 as follows:

Replace “upkeep” with “*long term maintenance*”.

Recommendation 5: Revise the Policy MW7 to read:

“Backland or tandem development *should:*

- Incorporate separate....
- Provide an acceptable standard of residential amenity for the new dwelling.....
- Provide an adequate open area within the curtilage of...
- Reflect the scale and character....