

Worsthorne with Hurstwood Neighbourhood Development Plan

A report to Burnley Borough Council of the Independent
Examination of the Worsthorne with Hurstwood Neighbourhood
Development Plan

Copy to Worsthorne with Hurstwood Parish Council

Independent Examiner Christopher Collison

Christopher Collison

BA (Hons) MBA MRTPI MIED IHBC

Planning and Management Ltd

27 July 2025

Contents

Summary of Main Findings	2
Neighbourhood Planning	3
Independent Examination.....	3
Basic Conditions and other Statutory Requirements	5
Documents	7
Consultation.....	9
The Neighbourhood Plan taken as a whole	12
The Neighbourhood Plan Policies	19
Policy WHNP1A Landscape	21
Policy WHNP1B Worsthorne and Hurstwood Conservation Areas	23
Policy WHNP 1C Nature Recovery and Biodiversity Net Gain	24
Policy WHNP2 Worsthorne and Hurstwood Design Guide.....	25
Policy WHNP3 Separate and Distinct Settlements	27
Policy WHNP4 Housing Need and Mix.....	29
Policy WHNP5 Transport and Traffic	31
Policy WHNP6 Renewable and Low Carbon Energy Projects	32
Policy WHNP7 Community Facilities, Shops, Public Houses and Allotments	33
Conclusion and Referendum.....	34
Annex: Minor Corrections to the Neighbourhood Plan.....	35

Summary of Main Findings

This is the report of the Independent Examination of the Worsthorne with Hurstwood Neighbourhood Development Plan. The Neighbourhood Plan relates to the Parish of Worsthorne with Hurstwood which was designated as a Neighbourhood Area by Burnley Borough Council on 31 March 2017. Worsthorne with Hurstwood Parish Council is the qualifying body that has submitted the plan to the Borough Council. The plan period runs until 2032. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Neighbourhood Plan should proceed to a local referendum based on the plan area.

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. Paragraph 30 of the National Planning Policy Framework (the Framework) states that “neighbourhood planning gives communities the power to develop a shared vision for their area”.
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 Parish of Worsthorne with Hurstwood was designated as a Neighbourhood Area (the Neighbourhood Area) by Burnley Borough Council (the Borough Council) on 31 March 2017. The Worsthorne with Hurstwood Neighbourhood Development Plan (the Neighbourhood Plan) has been submitted by Worsthorne with Hurstwood Parish Council (the Parish Council), a qualifying body able to prepare a neighbourhood plan, in respect of the Neighbourhood Area. The Neighbourhood Plan has been produced by a Neighbourhood Plan Steering Group made up of Parish Councillors and other volunteers from the local community supported by consultants Kirkwells.
4. The submission draft of the Neighbourhood Plan and accompanying documents were approved by the Parish Council and submitted to the Borough Council on 7 April 2025. The Borough Council arranged a period of publication between 12 May 2025 and 23 June 2025. The Borough Council subsequently submitted the Neighbourhood Plan to me for independent examination which commenced on 24 June 2025.

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan. The report makes recommendations to the Borough Council including a recommendation as to whether the Neighbourhood Plan should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.

6. The Borough Council 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 version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be considered and can be given significant weight when determining a planning application, in so far as the plan is material to the application.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area unless the Borough Council subsequently decide the Neighbourhood Plan should not be 'made.' The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan. Paragraph 12 of the Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.
8. I have been appointed by the Borough Council 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 Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan.
9. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. As a Chartered Town Planner, I have held national positions and have extensive experience at local planning authority Director or Head of Planning Service level. I have been a panel member of the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) since its inception, and have undertaken the independent examination of neighbourhood plans in every region of England, prepared in the full range of types of urban and rural communities.
10. 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.

11. I make my recommendation in this respect and in respect to any extension to the referendum area, 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.
12. Paragraph 9 of Schedule 4B to the Town and Country Planning Act 1990 provides that the general rule is that the examination of a neighbourhood plan is to take the form of the consideration of written representations. The Planning Practice Guidance (the Guidance) states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”
13. The examiner can call a hearing for the purpose 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. This requires an exercise of judgement on my part. All parties have had the opportunity to state their case and no party has indicated that they have been disadvantaged by a written procedure. Regulation 16 responses clearly set out any representations relevant to my consideration whether the Neighbourhood Plan meets the Basic Conditions and other requirements. Those representations and the level of detail contained within the submitted Neighbourhood Plan and supporting documents have provided me with the necessary information required for me to conclude the Independent Examination. As I did not consider a hearing necessary, I proceeded based on examination of the submission and supporting documents; the written representations and comments; and an unaccompanied visit to the Neighbourhood Area.
14. This report should be read as a whole, and has been produced in an accessible format.

Basic Conditions and other Statutory Requirements

15. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions.” 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 development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

16. With respect to the penultimate Basic Condition the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for a continuation of primary and subordinate legislation, and other enactments in domestic law. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights, which has the same meaning as in the Human Rights Act 1998. All these matters are considered in the later sections of this report titled 'The Neighbourhood Plan taken as a whole' and 'The Neighbourhood Plan Policies.' Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind.

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

18. The Neighbourhood Plan relates to the area that was designated by the Borough Council on 31 March 2017. A map of the Neighbourhood Area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan does not relate to more than one neighbourhood area, and no other neighbourhood development plan has been made for the neighbourhood area. All requirements relating to the plan area have been met.

19. 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; and the Neighbourhood Plan does not include provision about excluded development (principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment, and nationally significant infrastructure

projects). I can confirm that I am satisfied that each of these requirements has been met.

20. A neighbourhood plan must also meet the requirement to specify the period to which it has effect. The front cover of the submission version plan states the plan period to be 2024 -2032. Paragraph 2.4 of the Neighbourhood Plan confirms the plan will help to achieve the vision set out in paragraph 2.5 of the plan in 2032, and ties in with the timescale of the Burnley Local Plan.
21. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans. It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises because of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
22. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
23. 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 reflect thinking and aspiration within the local community. They should be a local product and have meaning and significance to people living and working in the area.
24. 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. I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

Documents

25. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Worsthorne with Hurstwood Neighbourhood Development Plan 2024-2032 Submission Version including Appendices 1 to 5
- Worsthorne with Hurstwood Neighbourhood Development Plan Basic Conditions Statement April 2025 [In this report referred to as the Basic Conditions Statement]
- Worsthorne with Hurstwood Neighbourhood Development Plan Consultation Statement February 2025 [In this report referred to as the Consultation Statement]
- Strategic Environmental Assessment / Habitats Regulations Assessment Screening Statement Final for the Worsthorne with Hurstwood NDP October 2024
- Information available on the Borough Council and Worsthorne with Hurstwood Parish Council websites including the Worsthorne with Hurstwood Housing Needs Assessment December 2023; the Worsthorne with Hurstwood Design Guide 2023; and the Biodiversity and Nature Conservation/Recovery in Worsthorne with Hurstwood Report, including Appendices 1 to 9 September 2024.
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the Borough Council and the Parish Council including: the initial letter of the Independent Examiner dated 24 June 2025; and the observation of a Parish Councillor relating to housing mix in respect of the Regulation 16 representations of other parties which I received on 15 July 2025; and the fact check response email of the Borough Council dated 25 July 2025 providing clarification of the settlement hierarchy and development boundaries
- National Planning Policy Framework (2024) [In this report referred to as the Framework]
- Burnley Local Plan July 2018 which was reviewed in June 2023 and was found to not need updating
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [In this report referred to as the Permitted Development Guidance]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [In this report referred to as the Guidance which should be taken to also include all Written Ministerial Statements]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- European Union (Withdrawal) Act 2018
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations]
- Neighbourhood Planning (General) (Amendment) Regulations 2015

- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species Regulations 2017
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

Consultation

26. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods. A summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan are presented in an accompanying document. I highlight here several key stages of consultation undertaken to illustrate the approach adopted.
27. The Parish Council set up a Neighbourhood Plan Steering Group comprising Parish Councillors and other volunteers from the local community. In early 2023 a consultation on key issues included a 'Get Ready' leaflet to all households; publication on a heavily-visited dedicated neighbourhood plan landing page on the Parish Council website; and staffed drop-in sessions for Worsthorne, Hurstwood, and Pike Hill in February 2023. Throughout the plan preparation process use was made of social media, as well as regular email communications. These consultations informed the development of a vision and objectives and other content of the emerging Neighbourhood Plan.
28. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan for a period of six weeks between 1 March 2024 and 15 April 2024. A copy of the Pre-Consultation Draft Plan and supporting documentation was published, and could be downloaded from, the Parish Council website. Hard copies were available on request. The consultation was also publicised on Parish Noticeboards; through a second 'Get Set' leaflet distributed to all households throughout the parish; on social media, and through direct mailing of businesses and formal consultees. Three drop-in exhibitions were held in Hurstwood, Worsthorne, and Pike Hill in March 2024. The responses to the consultation are presented in Appendices 2, 3 and 4 of the Consultation Statement which also sets out comments of the Parish Council in response and any action taken, including modification and correction of the emerging Neighbourhood Plan. Suggestions have, where considered appropriate, been reflected in changes to the

Plan that was submitted by the Parish Council to the Borough Council.

29. Following submission of a plan proposal by a qualifying body, the local planning authority will check it includes all items set out in Regulation 15, and then publicise the plan in accordance with Regulation 16. The local planning authority then sends the Independent Examiner all the documents set out in Regulation 17, which includes a copy of any representations that have been made in accordance with Regulation 16. The actions necessary under Regulation 16 and Regulation 17 are entirely matters to be undertaken by, and under the control of, the local planning authority. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication. The Borough Council arranged a period of publication between 12 May 2025 and 23 June 2025. The representations that were duly made have been published on the Borough Council website.
30. The Borough Council has provided comment on some elements of general text; the objectives of the Neighbourhood Plan; and on Policies WHNP 1A; 1B; 1C; 2; 3; 4; 5; and 7. The Borough Council has also suggested some minor modifications and corrections to the Neighbourhood Plan which I refer to in the Annex to my report.
31. United Utilities Water Limited welcomes the Plan vision and requests inclusion of an additional objective. This representation comments on Policy WHNP1C and Policy WHNP2 and requests inclusion of an additional policy relating to water and wastewater infrastructure and offers advice regarding Local Plans.
32. The Worsthorne Estate state “There has been no landowner engagement with this plan despite our client being a major stakeholder in the area. We are aware of the reallocation of housing numbers within Burnley Borough Council. However, we are not aware of the housing number having be recalculated since the reallocation. Our client remains open and able to be bringing forward residential development land in strategic locations within the parish.”
33. Lancashire County Council as the Lead Local Flood Authority has no comments as the plan contains no policies relating to surface water flood risk or surface water drainage that fall within its remit. The Coal Authority states its “records indicate that within the Neighbourhood Plan area there are recorded coal mining features present at surface and shallow depth including; mine entries, coal workings and reported surface hazards. These features may pose a potential risk to surface stability and public safety. It is noted however that the Plan does not propose to allocate any new sites for development and on this basis the Planning team at the Coal Authority have no specific comments to make on this document.” National Highways confirm no objection to the plan and no further comments. Natural England and Network Rail offer general advice but confirm no specific comments. The Environment Agency, Homes England, and Historic England confirm no comments.

34. An individual states support for the objectives and how the Neighbourhood Plan will address them. This representation states the Hurstwood Conservation Area Appraisal requires updating. Another individual comments on renovations and developments within Conservation Areas; dwelling mix requirements; and traffic calming.
35. I have been sent each of the Regulation 16 representations. In preparing this report I have taken into consideration all the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole in my report. Some representations, or parts of representations, are not relevant to my role which is to decide whether the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. Where the representations suggest additional policy matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Having regard to *Bewley Homes Plc v Waverley District Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017, and Town and Country Planning Act Schedule 4B paragraph 10(6), where representations raise concerns or state comments or objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations.
36. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. On 15 July 2025 the Parish Council sent me an observation of a Parish Councillor relating to housing mix which I refer to in my consideration of Policy WHNP4 later in my report.
37. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
 - b) explains how they were consulted;
 - c) summarises the main issues and concerns raised by the persons consulted; and
 - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.

38. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

39. This section of my report considers whether the Neighbourhood Plan, when considered 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. In considering all these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

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 development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

40. The Basic Conditions Statement states “The Submission WHNDP is fully compatible with the European Convention on Human Rights.” I have considered the European Convention on Human Rights and in particular Article 6 (fair hearing); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property). 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. Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared

in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. From my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

41. The objective of EU Directive 2001/42 (transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004) 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’ (Defined in Article 2(a) of Directive 2001/42) as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result (Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012).
42. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to the Borough Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
43. The Strategic Environmental Assessment / Habitats Regulations Assessment Screening Statement Final for the Worsthorne with Hurstwood NDP October 2024 states “An assessment against the SEA criteria to determine the likely significant effects of introducing the NPD has been carried out. It finds that it is unlikely that significant effects on the environment will arise as a result of the NDP. Whilst some, mainly positive effects of introducing the NDP are noted, it is not felt that any of the effects are significant. Therefore, on the basis that the Council’s comments on the emerging NDP are taken into account, the Council considers that Strategic Environmental Assessment is not required for the NDP.” The statutory consultees Historic England, Natural England and the Environment Agency concur with the conclusion reached. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
44. The Strategic Environmental Assessment / Habitats Regulations Assessment Screening Statement Final for the Worsthorne with Hurstwood NDP October 2024 states “After undertaking a Habitat Regulations screening assessment with regard to the need for an Appropriate Assessment, the Council is of the opinion this is not required for the NDP as it does not contain any specific development allocations or policies or proposals that would significantly affect any European site alone or in conjunction with other plans projects that have not already been subject to

appropriate assessment and appropriately mitigated.” Natural England confirm that significant effects on Habitats sites, either alone or in combination, are unlikely. I am also satisfied that the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.

45. There are 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.
46. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
47. 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 for the draft neighbourhood plan to progress. The Borough Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU environmental law obligations (directives and regulations) incorporated into UK domestic law by the European Withdrawal Act 2018 (EUWA):
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
 - when it takes the decision on whether to make the neighbourhood plan (which brings it into legal force).

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

48. I refer initially 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 tests of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy.”
49. Lord Goldsmith has provided guidance (Column GC272 of Lords Hansard, 6 February 2006) 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.”

50. The most recent National Planning Policy Framework published on 12 December 2024, sets out the Government’s planning policies for England and how these are expected to be applied. Paragraph 239 of this latest version states “For neighbourhood plans, the policies in this Framework will apply for the purpose of preparing neighbourhood plans from 12 March 2025.” The transitional arrangements will not apply in the case of this Independent Examination. The Planning Practice Guidance was most recently updated on 14 February 2024. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance, as well as Written Ministerial Statements.
51. Paragraphs 3.8 to 3.14 of the Basic Conditions Statement demonstrate how the Neighbourhood Plan policies WHNP1A; WHNP1B; WHNP1C; WHNP2; WHNP3; WHNP4; WHNP5; and WHNP6 have regard for the Framework. Whilst specific reference is not made to Policy WHNP7, I consider that policy has regard to the part of the Framework that relates to the promotion of healthy and safe communities. I am satisfied the Neighbourhood Plan has regard to relevant identified components of the Framework.
52. I am satisfied the approach adopted to address the quantity of housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for the Neighbourhood Area and provides the necessary justification that those policies (after recommended modification) that are relevant to housing supply will result in local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, and will not undermine those strategic policies. The approach taken and the choices made in the Neighbourhood Plan regarding housing provision are sufficiently evidenced and justified and have sufficient regard for the Framework and Guidance.
53. The Neighbourhood Plan includes in paragraph 2.5 a positive vision for Worsthorne with Hurstwood Parish that has economic, social, and environmental dimensions. Paragraph 2.6 of the Neighbourhood Plan identifies seven objectives relating to: protection of the natural and built environment; good quality design; identity and physical separation of individual communities; meeting local housing needs; transport; renewable and community energy projects; and community assets and services. The vision and objectives provide a framework for the policies that have been developed.

54. The Neighbourhood Plan, on pages 48 and 52 identifies Parish Council Actions relating to transport and traffic related matters, and crime. The plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the Parish Council and the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, "Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan." I am not satisfied the Parish Council Actions are adequately distinguished from the policies of the Neighbourhood Plan. I have recommended the Parish Council Actions are transferred to a separate Appendix. I confirm the Parish Council Actions have not been subject to Independent Examination.

Recommended modification 1: Transfer the Parish Council Actions set out on pages 48 and 52 of the Neighbourhood Plan to a separate Appendix where it should be stated the Parish Council Actions do not form part of the statutory Neighbourhood Development Plan.

55. 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 the 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 except for 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."

56. At the heart of the Framework is a presumption in favour of sustainable development which should be applied in both plan-making and decision-taking. 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). 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.”

57. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.
58. The Framework states there are three dimensions to sustainable development: economic, social, and environmental. Table 1 of the Basic Conditions Statement demonstrate ways in which identified policies of the Neighbourhood Plan support the economic, social, and environmental aspects of sustainable development. The statement does not highlight any negative impacts of the Neighbourhood Plan or its policies.
59. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality to contribute to economic and social well-being; whilst also protecting important environmental features of the Neighbourhood Area. I consider the Neighbourhood Plan as recommended to be modified seeks to:
- Protect and enhance local landscape;
 - Conserve the significance of the Conservation Areas;
 - Ensure development delivers relevant biodiversity net gain;
 - Ensure development is of high design quality;
 - Maintain identified areas of separation between built areas;
 - Ensure residential development meets local housing needs;
 - Establish support for domestic and community renewable energy projects; and
 - Protect identified community facilities, shops, public houses, and allotments.
60. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan 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)

61. Paragraph 13 of the Framework states neighbourhood plans should “support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.” Paragraph 21 of the Framework states “plans should make explicit which policies are strategic policies.” Footnote 17 of the Framework states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.” Paragraph 30 of the Framework states “Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies.”
62. In this independent examination, I am required to consider 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). The Borough Council has confirmed the Development Plan applying in the Worsthorne with Hurstwood Neighbourhood Area is Burnley’s Local Plan July 2018.
63. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.” The Borough Council has confirmed for the purposes of neighbourhood planning the strategic policies comprise the policies in Section 4 of Burnley’s Local Plan Policies SP1 to SP7 inclusive, and additionally Policies HS2; HS3; EMP2; TC1; TC2; TC5; HE1; NE1; CC1; CC2; CC4; IC1; IC4; and IC5.
64. The Borough Council has informed me Burnley’s Local Plan was reviewed in June 2023 and was found to not need updating. As a result, work has not started on a new Local Plan. To satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The Guidance states “Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan.”
65. In considering a now-repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there to introduce a degree of flexibility” (Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31). The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for

neighbourhood plans refers to the strategic policies of the development plan, rather than the whole development plan.

66. The Guidance states, “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.”

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

67. Consideration as to 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 the plan as a whole and each of the plan policies below. I have taken into consideration Table 3 of the Basic Conditions Statement that demonstrates how the policies of the Neighbourhood Plan are in general conformity with relevant strategic policies. Subject to the modifications I have recommended, I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan Policies

68. The Neighbourhood Plan includes 9 policies as follows:

Policy WHNP1A Landscape

Policy WHNP1B Worsthorne and Hurstwood Conservation Area

Policy WHNP 1C Nature Recovery and Biodiversity Net Gain

Policy WHNP2 Worsthorne and Hurstwood Design Guide

Policy WHNP3 Separate and Distinct Settlements

Policy WHNP4 Housing Need and Mix

Policy WHNP5 Transport and Traffic

Policy WHNP6 Renewable and Low Carbon Energy Projects

69. Paragraph 30 of the Framework states “Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct, and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.” Footnote 17 of the Framework states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”
70. Paragraph 15 of the Framework states “The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social, and environmental priorities; and a platform for local people to shape their surroundings.”
71. Paragraph 16 of the Framework states “Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”
72. The Guidance states “A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise, and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”
73. “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.”

74. A neighbourhood plan should contain policies for the development and use of land. “This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”
75. “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.” “A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”
76. 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. I have considered any inter-relationships between policies where these are relevant to my remit.

Policy WHNP1A Landscape

77. This policy seeks to ensure development proposals will be expected to preserve, conserve, and enhance the local landscape, and sets out how landscape impacts will be assessed. The policy also seeks to establish that proposals should avoid light pollution to protect the area’s dark skies.
78. The Borough Council state significant views are not identified nor is there guidance how these should be identified. I refer to a comment of the Borough Council relating to supporting text in the Annex to my report.
79. I consider bullet point 2 of Policy WHNP1A is intended to be complementary to national policy by seeking to extend a level of protection to locally valued, non-ancient woodland within the parish. Whilst these other areas of non-ancient woodland may not be considered irreplaceable habitat, they form an important element of the rural landscape within the parish. Paragraph 136 of the Framework states existing trees should be retained wherever possible. Paragraph 193c) of the Framework states development resulting in the loss or deterioration of irreplaceable

habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (for example infrastructure projects including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills, where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework. I am satisfied application of the term “conserve and enhance” to the second bullet point of the policy provides flexibility to accommodate unavoidable limited loss of non-ancient woodland, for example to accommodate the construction of a safe site access. I am also satisfied the policy has sufficient regard for national policy relating to hedgerows.

80. I am satisfied the policy has regard for the parts of paragraph 187 of the Framework that relate to protecting and enhancing valued landscapes, and recognising the intrinsic character and beauty of the countryside. However, I agree with the Borough Council that the reference to significant views in the penultimate paragraph is imprecise. The term “may have to” in the paragraph relating to impacts on significant views does not provide a basis for the determination of development proposals. Whilst all development will have a degree of impact, I have recommended a modification that will avoid an inappropriate disproportionate policy burden on development proposals that will have a limited impact. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

81. Whilst I am also satisfied the policy has regard for paragraph 198c) of the Framework which states planning policies should limit the impact of light pollution from artificial light on intrinsically dark landscapes, the final paragraph of the policy is imprecise and does not provide a basis for the determination of development proposals. I have recommended a modification so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

82. The policy is in general conformity with the strategic policies of the Development Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

83. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance, subject to the recommended modification, the policy is

appropriate to be included in a 'made' neighbourhood plan. As recommended to be modified this policy meets the Basic Conditions.

Recommended modification 2:

In Policy WHNP1A

- **in the second bullet point after “woodlands” insert “(especially ancient)**
- **in the penultimate paragraph replace the text before “demonstrate” with “Where a development is likely to have a significant negative impact on important landscape features of large-scale sweeping moorlands and ridges; or extensive areas of pastures enclosed by drystone walls; or views of predominantly gritstone settlements within narrow valleys, proposals must”**
- **replace the final paragraph with “Development proposals must only include external lighting that is essential for the maintenance of health and safety for users of the development, and include measures to avoid light spillage beyond the development site, and beyond any plot within it, so as to avoid undue adverse impacts on dark skies.”**

Policy WHNP1B Worsthorne and Hurstwood Conservation Areas

84. This policy seeks to identify characteristics of the Conservation Areas that development proposals within the Conservation Areas should retain so that those areas should be preserved or enhanced.
85. I am satisfied it is appropriate for this policy to refer to design matters relating to the historic and built character of the Neighbourhood Area complementing the more general design guidance set out in Policy WHNP2 of the Neighbourhood Plan.
86. The Borough Council state the policy should refer to the setting and character of Conservation Areas; not prevent appropriate change; should avoid duplication of its parts; and define key views and green spaces. I agree with these points and have recommended a modification in these respects. The term “where appropriate” is imprecise and does not provide a basis for the determination of development proposals. I have recommended a modification so that it is clear not all the identified characteristics will be relevant to a proposal, and so that the policy has regard for the more balanced approach for considering potential impacts on the significance of heritage assets set out in paragraphs 212 to 216 of the Framework. The recommended modification will also ensure the policy recognises that not all elements of a Conservation Area will necessarily contribute to its significance as stated in paragraph 220 of the Framework. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is

“clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

87. This policy is in general conformity with the strategic policies of the Development Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
88. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 3:

Replace Policy WHNP1B with “Development, including infill development and building alterations, within or affecting a Conservation Area should contribute to the preservation or enhancement of the Conservation Area in a manner appropriate to the significance of the following elements where affected:

- **listed, locally listed and non-designated buildings and features, and other buildings and features that link back to the area’s history of agriculture, handloom, and factory weaving;**
- **the street pattern including clustering of historic buildings, and other elements of the urban grain including the palette of materials, vernacular and other detailing, scale, and massing of buildings, and historic street surfaces and street furniture;**
- **public views of open moorland and the surrounding countryside, green spaces, and trees where they are identified in the relevant Conservation Area Appraisal;**

Developments should use or re-use locally quarried sandstone or suitable alternatives unless it is demonstrated this is not possible.

Policy WHNP 1C Nature Recovery and Biodiversity Net Gain

89. This policy seeks to establish principles to ensure development proposals deliver appropriate biodiversity net gain in terms of type and location.
90. United Utilities Water Limited welcome flexibility to allow for off-site provision particularly in respect of existing and new infrastructure sites. On-site provision may not be the most appropriate long-term solution for the delivery of BNG when investing in key infrastructure such as water and wastewater assets. BNG should be resilient to future pressures from further development. It is critical that land at and around our key infrastructure sites is not sterilised to ensure that we are able to flexibly and most appropriately respond to future growth and environmental drivers.”

The Borough Council states the policy does not reflect the statutory BNG framework; does not add to the Local Plan policy; and sets a low bar by requiring support for delivery of one or more of the identified five visions for nature. I agree the first paragraph of the policy is not in general conformity with strategic policy and does not have sufficient regard for national policy set out in paragraphs 192 to 195 of the Framework. The identified visions do however provide a local framework to inform the preparation of development schemes. All the policies of the Neighbourhood Plan relate to the entire Neighbourhood Area only unless a smaller area is specified. I have recommended a modification so that the policy has sufficient regard for national policy and is in general conformity with strategic policy.

91. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
92. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy as recommended to be modified is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 4:
In Policy WHNP1C**

- **replace the text before the bullet points with “Development proposals should demonstrate consideration, appropriate to the scale and nature of the scheme, of the following principles identified in part 6 of ‘Biodiversity and nature conservation/recovery in Worsthorne-with-Hurstwood, Burnley 2024’”**
- **in vision 4 delete the text after “benefits”**

Policy WHNP2 Worsthorne and Hurstwood Design Guide

93. This policy seeks to establish expectations that development should deliver high quality beautiful and sustainable buildings and spaces, and that development of poor quality will not be supported.
94. United Utilities Water Limited recommends additional wording in the Design Guide relating to water efficiency in residential development and major non-residential development; relating to sustainable drainage; and relating to impact of development on the water environment including groundwater, and public water supply resources. There is no requirement for the Neighbourhood Plan to address these matters to

meet the Basic Conditions. I am unable to recommend modifications in these respects.

95. The Borough Council question clarity including whether new development includes extensions and alterations, and question the reference to national policy. I have recommended modification in these respects to improve clarity and avoid unnecessary duplication of policies so that the policy has sufficient regard for paragraph 16 of the Framework. The provisions of paragraph 139 of the Framework should not be repeated.
96. To be read alongside the Guidance, Government published the National Design Guide on 1 October 2019 to set out the characteristics of well-designed places and demonstrate what good design means in practice. The National Design Guide was updated on 30 January 2021 to align with the National Model Design Code and Guidance Notes for Design Codes published separately (as forming part of the Guidance) on 20 July 2021, and have been last updated on 14 October 2021.
97. Paragraph 132 of the Framework states “neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development”. Policy WHNP2 is supported by the Worsthorne with Hurstwood Neighbourhood Design Guide 2023. This design guide has been prepared as part of the Neighbourhood Plan preparation process and can carry weight in decision making. The design guidance set out in Part 4 of the Design Guide has regard for paragraph 135 of the Framework which sets out design principles of development that planning policies should ensure. The Design Guide has been influenced by local character and context. I am satisfied that through use of the term “be informed by and respond positively to” Policy WHNP2 avoids being overly prescriptive and can accommodate appropriate innovation. The first paragraph includes the term “will be expected to” and is confusing regarding roles in the design process so does not provide a clear basis for the determination of development proposals. I have recommended a modification in this respect so the policy has sufficient regard for national policy and is “clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
98. The policy is in general conformity with the strategic policies of the Development Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
99. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 5:

Replace Policy WHNP2 with “All development proposals, including extension and alteration of buildings, should deliver high quality, beautiful, and sustainable buildings and spaces. To be supported proposals must demonstrate how they have been informed by and respond positively to the design guidance in Part 4 of the Worsthorne with Hurstwood Neighbourhood Design Guide 2023”

Policy WHNP3 Separate and Distinct Settlements

100. This policy seeks to establish that named areas of open land will be retained to maintain the separation of settlements. The policy also seeks to establish that new housing development in Worsthorne village should retain the village’s compact built form.
101. The Borough Council states the focus of the policy and relationship to Local Plan policies is unclear.
102. Local Plan Policy SP4 defines Worsthorne as a Main Village where medium scale housing development and small-scale employment schemes are appropriate. Hurstwood is defined as a Small Village where development is limited to small scale housing schemes and limited small-scale employment. Policy SP4 also supports development, subject to stated criteria, within the Development Boundaries defined on the Policies Map that include Worsthorne, Hurstwood and Burnley (which includes Pike Hill and Brownside). Policy SP4 also states that development in the open countryside will be strictly controlled and that development proposals should not lead to coalescence of settlements.
103. Part 4.3 of the Worsthorne with Hurstwood Design Guide 2023 which supports the Neighbourhood Plan states “Village Separation. The Neighbourhood Area comprises 4 small settlement areas - Pike Hill (which forms part of the Burnley urban area), Brownside, Worsthorne and Hurstwood. Each area is separated by natural green gaps. This degree of separation is crucial to creating and maintaining the village feel of parts of the neighbourhood and preventing urban coalescence. This something that the NPSG and wider community would like to retain in order to preserve village structure and prevent coalescence of the settlements. The allocated housing sites sit at the settlement edges of Brownside and Worsthorne. Should any site come forward for development, it will be necessary to respond sensitively and positively to the green gaps between settlements. It is therefore important that any future development of these sites provides hedgerow boundary treatments and tree planting to screen the visual impact of development on the neighbouring areas and wider landscape.” The Borough Council has advised me this paragraph of the Design Guide “includes references to identified settlements, named settlements and

self-contained settlements which are not correct.” The Borough Council explain Brownside and Pike Hill form part of Burnley and The Bottins is two farms – Higher Bottin Farm and Lower Bottin Farm – within the Open Countryside. This understanding has informed my recommended modification of Policy WHNP3.

104. The use of the term “retained in order to maintain the separation” in the first and second paragraphs of Policy WHNP3 has the effect, without sufficient justification, of seeking to prevent any form of development which would be a stricter regime than even national Green Belt policy that provides for a range of types of development that are not inappropriate. I have recommended a modification so that the policy recognises Local Plan allocations. There are some other limited forms of development that may be appropriate in the open land areas named in Policy WHNP3. I am satisfied sustainable development, through careful consideration to siting and design, or other mitigation measures, may be shown to not significantly adversely affect the character of the open land in maintaining a visual separation between identified built areas. I have recommended a modification of the policy to make it clear it is not seeking to prevent all development within the identified settings but is seeking to avoid significant adverse visual effect on open land character, which in turn will ensure the named built areas will maintain their distinctive character and separate identities adjoining countryside. In this way the Neighbourhood Plan is seeking to shape and direct development. I have recommended a modification in these respects so that the policy is in general conformity with the strategic policies of the Development Plan, and has sufficient regard for national policy, and is clearly written and unambiguous as required by paragraph 16 of the Framework.
105. The final paragraph of the policy is seeking to direct new housing development to retain the compact built form of Worsthorne village. I agree with the Borough Council that this part of the policy is not necessary as a Development Boundary is established by strategic Policy SP4. This part of the policy will cause confusion. I have recommended it is deleted to avoid unnecessary duplication of policies as required by paragraph 16 of the Framework.
106. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
107. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 6:

Replace Policy WHNP3 with “To be supported development proposals, that are not Local Plan allocations, must demonstrate they will not significantly adversely affect the open character of the intervening land to diminish the visual separation of:

- **Worsthorne (Main Village) and Brownside (in Burnley); or**
- **Worsthorne (Main Village) and Hurstwood (Small Village); or**
- **Worsthorne (Main Village) and The Bottins (comprising Higher Bottin Farm and Lower Bottin Farm); or**
- **Brownside and Pike Hill (both in Burnley).”**

In the Policy title replace “Settlements” with “Communities” and adjust the Index page of the Neighbourhood Plan accordingly.

Policy WHNP4 Housing Need and Mix

108. This policy seeks to direct the nature and location of any affordable homes provision within the Neighbourhood Area. The policy also seeks a housing mix that includes smaller dwellings. The policy also requires housing proposals to support a mix of house types and tenures in line with the latest parish housing needs assessment.

109. The Borough Council state the first two clauses are unclear; that there is a need to contribute to meeting wider housing needs as well as those of the parish; and that the second and third clauses are inconsistent. The Borough Council also state there is a need to consider the implications of development since 2011 on development of remaining sites. In response to me providing an opportunity to comment on the Regulation 16 representations the Parish Council stated “one of our Parish Councillors with extensive knowledge in the field of property development made the following observation ‘I think as our survey work is more up to date than BBC’s we should stand by it and maintain that their designation of the majority of sites in the parish for 3/4/5 bed houses has caused a localised imbalance and why shouldn’t this be addressed on a local level which is the point of a neighbourhood plan compared to the local plan.’

110. I agree with the Borough Council the first and second parts of the policy are unclear. Paragraph 16 of the Framework states plans should avoid unnecessary duplication of policies that apply to a particular area including policies in the Framework. It is unnecessary and confusing for Policy WHNP4 to refer to Local Plan Policies HS2 and HS3, as the Development Plan should be read as a whole. Paragraph 64 of the Framework states “provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas.” It is unnecessary to duplicate this scale of scheme restriction in Policy WHNP4.

111. Paragraph 64 of the Framework states “where a need for affordable housing is identified, planning policies should specify the type of affordable housing required (including the minimum proportion of Social Rent homes required), and expect it to be met on-site unless: a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities.

Strategic Policy HS2 states “Any affordable housing required should be provided:

- i. on-site where this can be achieved without compromising other important policy considerations or viability; or
- ii. off-site where on-site provision has been satisfactorily demonstrated not to be justified under i) and where it can be demonstrated that the contribution would facilitate the delivery of affordable housing of an appropriate type at a suitable policy-compliant site.”

Policy WHNP4 seeks to prioritise on-site affordable homes provision. The term “prioritise” is imprecise and adds nothing to the national policy requirement, nor is it in general conformity with the strategic policy.

112. Paragraph 63 of the Framework states, within the context of paragraph 62, planning policies should reflect an assessment of the size, type and tenure of housing needed for different groups in the community. Strategic Policy HS2 states “Where affordable housing is being delivered, the Council will seek to ensure an appropriate tenure mix using the following percentages as a guide (and sizes and types as set out in Policy HS3) - Affordable Rent or Social Rent: 80% - Intermediate tenure: 20%.” I agree with the Borough Council that the requirement of the second sentence of the bullet point in Policy WHNP4 would not normally be deliverable. The requirement for such a diverse mix of tenures represents a burdensome obligation that does not have sufficient regard for paragraph 34 of the Framework.

113. . Part 4 of Strategic Policy HS3, indicates a proportion of up to 65% of dwellings on a major development scheme could, subject to other stated considerations, be one- or two-bedroom size homes. I am satisfied the degree of potential departure of the penultimate paragraph of Policy WHNP4 (which requires schemes to include smaller dwellings) from Policy HS3 in terms of the mix of dwelling sizes is limited and has been sufficiently justified for me to conclude that in this respect Policy WHNP4 is in general conformity with the strategic policies of the Development Plan. However, the relationship between the final and penultimate parts of Policy WHNP4 is unclear, and the term “to provide opportunities for First Time Buyers and residents to downsize” is a statement of explanation that cannot be required through determination of a development proposal. The evidence leads to a conclusion that support for smaller homes should apply to housing proposals at all scales and not be limited to major schemes only. The penultimate paragraph also requires modification to correct an error.

114. I have recommended a modification in all these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework. I am satisfied Policy WHNP4 includes provision to adjust to evolving local housing need throughout the plan period.
115. The policy, as recommended to be modified, is in general conformity with the strategic policies of the Development Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
116. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

Replace Policy WHNP4 with “Housing development proposals that demonstrate the mix of house types and tenures will contribute to meeting local housing needs identified in the Worsthorpe and Hurstwood Housing Needs Assessment December 2023, or more recent parish assessment of housing needs, will be supported. Development proposals for smaller, one- or two-bedroom dwellings, will be supported.”

Policy WHNP5 Transport and Traffic

117. This policy seeks to establish conditional support for transport and traffic improvements.
118. The Borough Council states the term “Woonerf principles” should be explained. I have recommended a modification in this respect so that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
119. The prioritisation of pedestrians and cyclists through Woonerf principles in the policy has sufficient regard for paragraph 111d) of the Framework that states planning policies should provide for attractive and well-designed walking and cycling networks. The parts of the policy that support development of improved parking at specified locations and that improve road safety are also consistent with the promotion of sustainable transport as set out in part 9 of the Framework.
120. Bullet point one of Policy WHNP5 refers to operations of public transport services and not the development and use of land. The matters referred to in bullet

point one are not appropriate for inclusion in a Development Plan policy. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

121. The policy is in general conformity with the strategic policies of the Development Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
122. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy, as recommended to be modified, is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 8:

**In Policy WHNP5 delete the first bullet point and transfer the text to the Appendix referred to in my recommended modification 1.
Add a footnote to explain the term Woonerf principles.**

Policy WHNP6 Renewable and Low Carbon Energy Projects

123. This policy seeks to establish conditional support for domestic and community renewable energy projects.
124. Paragraph 162 of the Framework states policies should support appropriate measures to ensure the future health and resilience of communities and infrastructure to climate change impacts.
125. The policy is in general conformity with the strategic policies of the Development Plan. In this instance, in the interests of clarity, it is appropriate for the policy to identify relevant Local Plan policies. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies. I have recommended a modification to more specifically refer to the relevant part of the Design Guide so that the policy is “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
126. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’

neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy WHNP6 after “guidance in” insert “Part 4.6 Sustainability and Climate Change of”

Policy WHNP7 Community Facilities, Shops, Public Houses and Allotments

127. This policy seeks to identify existing community facilities, shops and public houses and establish their loss, or change of use into non-community-based uses will only be supported in stated circumstances. The policy also seeks to identify allotments that will be protected under Local Plan Policy NE2.
128. The Borough Council states the opening text does not cover one of the premises listed; the term “satisfactory evidence” should be explained; and there is reference to a Policies Map that does not exist. I have recommended a modification in these respects so that the policy is “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
129. Paragraph 97 of the Framework states planning policies should plan positively for the provision of community facilities, guard against the unnecessary loss of valued facilities and services, and ensure established shops facilities and services are able to develop and modernise and are retained for the benefit of the community.
130. The policy is in general conformity with the strategic policies of the Development Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
131. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy, as recommended to be modified, is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 10:

Replace Policy WHNP7 with “Development proposals resulting in the loss of the community facilities and services listed below will only be supported where the proposals:

- **will result in equivalent or enhanced facilities or services of the same type, including adequate car parking spaces, in no less accessible location for users; or**

- **demonstrate, through satisfactory marketing evidence over a minimum period of 12 months, there is no longer a demand for the facility or service.**

Proposals for new or enhanced community facilities or services will be supported where they are compatible with the other Policies of the Neighbourhood Plan and the Burnley Local Plan.”

Continue the list of facilities and services adding “Existing allotment sites” to the list. Modify the Policy title to “Policy WHNP7 - Community Facilities and Services” and adjust the Index page of the Neighbourhood Plan accordingly

Conclusion and Referendum

132. I have recommended 10 modifications to the Submission Version Plan. I recommend an additional modification in the Annex to my report. The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them. I am satisfied that the Neighbourhood Plan 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
- 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.

I recommend to the Borough Council that the Worsthorne with Hurstwood Neighbourhood Development Plan for the plan period up to 2032 should, subject to the modifications I have put forward, be submitted to referendum.

133. 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. I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area.” I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by the Borough Council as a Neighbourhood Area on 31 March 2017.

Annex: Minor Corrections to the Neighbourhood Plan

134. I have only recommended modifications and corrections 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. 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. Supporting text must be adjusted to achieve consistency with the modified policies.

135. The Borough Council has proposed the following minor modifications:

- Ensure all the links from the Contents page work correctly.
- Amend paragraph 2.1 to “The separation of the settlements which make up the area, which are Burnley (including Pike Hill and Brownside), Worsthorne and Hurstwood.”
- In the second Objective replace “good” with “high”
- Amend the third Objective to “To maintain the identity and distinct physical separation between the settlements within the neighbourhood area.”
- Amend paragraph 4.1 to read “have regard to”
- Improve the quality of Figures 3, 4, 5, 7 and 8 and add a copyright notice.
- In paragraphs 5.14, 5.15, and 5.16 refer to Worsthorne Conservation Area Appraisal February 2018

- In paragraph 5.16 replace “maintained or improved” with preserved or enhanced”
- Modify Paragraphs 5.21 and 5.22 so it is clear they are not policy statements
- Ensure all references to the Framework make clear which version is referred to
- In paragraph 5.30 clarify the status of the Design Guide
- In paragraph 5.39 correct the policy reference to WHNP4
- Delete paragraph 5.40 which has not been sufficiently justified
- Update paragraphs 4.43 and 4.44 to reflect housing delivery since 2011
- In paragraph 5.51 reverse the order of sentences 1 and 2

I recommend these minor modifications including updates and corrections are made.

Recommended modification 11:

Modify policy explanation sections, general text, figures, and images, and supporting documents to achieve consistency with the modified policies; to achieve updates and correct identified errors; to achieve necessary clarifications; and to ensure sufficient regard for national policy.

The Borough Council has made additional suggestions that would improve the Neighbourhood Plan. I agree these suggestions are desirable but am unable to recommend a modification in these respects as the changes are not necessary to meet the basic conditions. I would have no objection to the following changes to the Neighbourhood Plan:

- Use of a larger font
- Left aligning the text
- Number the objectives
- Number the policy clauses and bullet points
- In paragraph 2.1 refer to the Local List of non-designated heritage assets and possibly identify additions

Chris Collison
Planning and Management Ltd
27 July 2025
REPORT END