

Kelbrook and Sough Neighbourhood Development Plan 2021-2030

**A report to Pendle Borough Council on the Kelbrook
and Sough Neighbourhood Development Plan**

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Executive Summary

- 1 I was appointed by Pendle Borough Council in May 2022 to carry out the independent examination of the Kelbrook and Sough Neighbourhood Development Plan.
- 2 The examination was undertaken by written representations. I visited the neighbourhood area on 16 May 2022.
- 3 The Plan includes a range of policies and seeks to bring forward positive and sustainable development in the neighbourhood area. There is a very clear focus on safeguarding local character. It also proposes two sites for residential use. In the round, the Plan has identified a range of issues where it can add value to the strategic context already provided by the wider development plan.
- 4 The Plan has been underpinned by community support and engagement. It is clear that all sections of the community have been actively engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report, I have concluded that the Kelbrook and Sough Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood area.

Andrew Ashcroft
Independent Examiner
11 July 2022

1 Introduction

- 1.1 This report sets out the findings of the independent examination of the Kelbrook and Sough Neighbourhood Development Plan 2021-2030 (the 'Plan').
- 1.2 The Plan was submitted to Pendle Borough Council (PBC) by Kelbrook and Sough Parish Council (KSPC) in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework (NPPF) 2012 and its updates in 2018, 2019 and 2021. The NPPF continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether or not the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan can be narrow or broad in scope. Any plan can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The submitted Plan has been designed to be distinctive in general terms, and to be complementary to the development plan in particular. It has a clear focus on safeguarding the local environment and ensuring good design standards. It proposes two sites for residential development.
- 1.6 Within the context set out above, this report assesses whether the Plan is legally compliant and meets the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.7 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case, and that referendum results in a positive outcome, the Plan would then be used to determine planning applications within the neighbourhood area and will form part of the wider development plan.

2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by PBC, with the consent of KSPC, to conduct the examination of the Plan and to prepare this report. I am independent of PBC and KSPC. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 35 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral Service.

Examination Outcomes

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan as submitted should proceed to a referendum; or
 - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
 - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.
- 2.5 The outcome of the examination is set out in Sections 7 and 8 of this report.

Other examination matters

- 2.6 In examining the Plan I am required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
 - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
 - the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.
- 2.7 I have addressed the matters identified in paragraph 2.6 of this report. I am satisfied that the submitted Plan complies with the three requirements subject to the modifications which I have recommended on how the Plan period is captured in the Plan.

3 Procedural Matters Done

3.1 In undertaking this examination I have considered the following documents:

- the Submission Plan;
- the Basic Conditions Statement;
- the Consultation Statement;
- the Character Assessment;
- the Site Assessment Methodology and Results;
- the Green Spaces report;
- the SEA screening report (February 2022);
- the revised SEA/HRA screening report (June 2022);
- KSPC's responses to the Clarification Note;
- the representations made to the Plan;
- the adopted Pendle Local Plan Part 1 2030;
- the National Planning Policy Framework (2021);
- Planning Practice Guidance; and
- relevant Ministerial Statements.

3.2 I visited the neighbourhood area on 16 May 2022. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. The visit is covered in more detail in paragraphs 5.9 to 5.12 of this report.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted Plan, I was satisfied that the examination could proceed without the need for a public hearing. I initially advised PBC of this decision once I had received the responses to the clarification note.

4 Consultation

Consultation Process

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such, legislation requires that neighbourhood plans are supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012, KSPC has prepared a Consultation Statement. It sets out the mechanisms that were used to engage the community and statutory bodies in the plan-making process. It also provides specific details about the consultation process that took place on the pre-submission version of the Plan (September to October 2021).
- 4.3 The Statement is particularly helpful in the way in which it captures the key issues in a proportionate way and is then underpinned by more detailed appendices.
- 4.4 Section 3 of the Statement sets out details of the comprehensive range of consultation events that were carried out in relation to the initial stages of the Plan. The principal events included:
- the formation of the Steering Group;
 - the circulation of newsletters;
 - making information on the Plan available at more general events in the neighbourhood area such as the Duck Race (April 2019) and the Scarecrows Tail (May 2019);
 - the residents' survey (May/June 2019);
 - the photography competition (August 2019);
 - the engagement with local businesses; and
 - the public consultation events in the Village Hall.
- 4.5 I am satisfied that the engagement process was detailed, proportionate and robust. It sought to engage local residents, statutory bodies, local businesses and potential developers in a balanced way.
- 4.6 Section 5 of the Statement provides general information on the key comments received on the pre-submission version of the Plan. It identifies the principal changes that worked their way through into the submission version of the Plan. This process is then set out in further detail in Appendices D to I where responses are made to each representation received on the pre-submission version of the Plan.
- 4.7 It is clear that consultation has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation.

- 4.8 From all the evidence provided to me as part of the examination, I have concluded that the Plan has promoted an inclusive approach to seeking the opinions of all concerned throughout the process.

Representations Received

- 4.9 Consultation on the submitted plan was undertaken by PBC that ended on 25 April 2022. This exercise generated comments from a range of organisations as follows:

- Sport England
- National Highways
- Canal and River Trust
- Coal Authority
- Natural England
- Historic England
- Lancashire County Council
- Pendle Borough Council
- Homes England
- YLBD

- 4.10 The submitted Plan also generated representations from a local resident.

- 4.11 I have taken account of all the representations received. Where it is appropriate to do so, I refer to particular representations in my assessment of the policies in Section 7 of this report.

5 The Neighbourhood Area and the Development Plan Context

The Neighbourhood Area

- 5.1 The neighbourhood area consists of the parish of Kelbrook and Sough. Its population in 2011 was 1008 persons living in 470 houses. It was designated as a neighbourhood area on 24 August 2017. The neighbourhood area is irregular in shape. It is a rural parish in the Lancashire Pennines close to the Yorkshire border. It is primarily grazing farmland and includes two moors (Roger Moor and Kelbrook Moor).
- 5.2 Kelbrook and Sough are located in close proximity one to the other. Kelbrook is the larger of the two villages. Its historic core is located off Main Street to the immediate east of the A56. St Mary's Church provides an attractive focus for built development. Harden Road and Dotcliffe Road provide an extension of the village to the east. Sough lies to the north of Kelbrook. Its character is defined by the houses to the west of the A56 and the traditional terrace houses to the east of the A56. A range of commercial buildings largely occupy the space between the two settlements. The Pennine Bridleway runs through the gap between the two villages.
- 5.3 The remainder of the neighbourhood area consists of a very attractive agricultural hinterland. It provides an attractive backcloth to the elements of built development.

Development Plan Context

- 5.4 The development plan covering the neighbourhood plan area is the Pendle Local Plan Part 1 Core Strategy. It was adopted in December 2015 and covers the period up to 2030. Policy SDP2 of that Plan sets out the wider spatial strategy for the Borough. It comments that proposals for development will be supported in a series of settlements provided that they are of a nature and scale that is proportionate to the role and function of that settlement or where they have been specifically identified in the Plan to help meet the strategic growth needs of the Borough. The role each settlement category will play in the future growth of the borough is based around the following settlement hierarchy:

Key Service Centres – these will provide the focus for future growth in the borough and accommodate the majority of new development.

Local Service Centres – these will play a supporting role to the Key Service Centres and accommodate levels of new development to serve a localised catchment.

Rural Service Centres – these settlements will provide the focus for growth in Rural Pendle. Kelbrook is one of the Rural Service Centres

Rural Villages – these settlements will accommodate development primarily to meet local needs. Sough is one of the Rural Villages

- 5.5 Policy SDP2 also comments that proposals for new development should be located within a settlement boundary (which will be reviewed as part of the preparation of the Pendle Local Plan Part 2: Site Allocations and Development Policies). Proposals to

develop outside of a defined settlement boundary will only be permitted for those exceptions identified in the NPPF, or policies in a document that is part of the development plan for Pendle.

- 5.6 In addition to Policy SDP2, the following policies in the Core Strategy have been particularly important in influencing and underpinning the various policies in the submitted Plan:

Policy ENV1 Protecting and Enhancing Natural and Historic Environments
 Policy ENV2 Achieving Quality in Design and Conservation
 Policy LIV5 Designing Better places to Live
 Policy WRK1 Strengthening the Local Economy
 Policy SUP1 Community Facilities
 Policy SUP4 Designing Better Public Places

- 5.7 In December 2021, PBC decided not to proceed with the submission of the Pendle Local Plan Part 2 due to concerns that it did not reflect the impact that Brexit and the ongoing COVID-19 pandemic had brought forward for businesses, future economic growth and housing need in the Borough. PBC is now reviewing the Core Strategy and has embarked on work to prepare a new single Local Plan.

- 5.8 The submitted Plan has been prepared correctly and properly within this current adopted development plan context. In doing so, it has relied on up-to-date information and research that has underpinned existing planning policy documents in the Borough. This is good practice and reflects key elements in Planning Practice Guidance on this matter. It is also clear that the submitted Plan seeks to add value to the different components of the development plan and to give a local dimension to the delivery of its policies. This is captured in the Basic Conditions Statement.

Unaccompanied Visit

- 5.9 I visited the neighbourhood area on 16 May 2022.
- 5.10 I drove into the parish along the M65/A56 from the south and west. This gave me an initial impression of its setting and character in general terms. It also highlighted its connection to the strategic road system and to Barnoldswick to the north and east.
- 5.11 Given the compact nature of the built part of the parish, I was able to carry out most of the visit on foot. I looked in particular at the two proposed housing allocations and the two proposed character areas. I saw the various employment uses between the two settlements. In particular I saw the scale and significance of the Euravia engineering plant off the A56.
- 5.12 I saw the wealth of local footpaths both within the two villages and leading out into the countryside. I walked along the Pennine Bridleway as it headed to the west of Sough. In doing so I saw the former railway line and the remaining bridge structure.

6 The Neighbourhood Plan and the Basic Conditions

6.1 This section of the report deals with the submitted Plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped considerably in the preparation of this section of the report. It is a well-presented and informative document. The Statement is also proportionate to the Plan itself.

6.2 As part of this process, I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan in the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations; and
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

6.3 I have assessed the Plan against the basic conditions under the following headings.

National Planning Policies and Guidance

6.4 For the purposes of this examination the key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in 2021.

6.5 The NPPF sets out a range of core land-use planning issues to underpin both plan-making and decision-taking. The following are of particular relevance to the Kelbrook and Sough Neighbourhood Plan:

- a plan-led system– in this case the relationship between the neighbourhood plan, the adopted Pendle Local Plan Part 1;
- delivering a sufficient supply of homes;
- building a strong, competitive economy;
- recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
- taking account of the different roles and characters of different areas;
- highlighting the importance of high-quality design and good standards of amenity for all future occupants of land and buildings; and
- conserving heritage assets in a manner appropriate to their significance.

6.6 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development, which is identified as a golden thread running through the planning system. Paragraph 13 of the NPPF

indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.7 In addition to the NPPF 2021, I have also taken account of other elements of national planning policy including Planning Practice Guidance and ministerial statements.
- 6.8 Having considered all the evidence and representations available as part of the examination, I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It sets out a vision for the future of the neighbourhood area. In particular, it includes a series of policies to safeguard and enhance its character and appearance in general, and its relationship with the wider landscape in particular. In addition, it proposes the allocation of two sites for housing development. The Basic Conditions Statement maps the policies in the Plan against the appropriate sections of the NPPF.
- 6.9 At a more practical level, the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraph 16d). This was reinforced in Planning Practice Guidance. Its paragraph 41 (ID:41-041-20140306) indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.10 As submitted the Plan does not fully accord with this range of practical issues. The majority of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

Contributing to sustainable development

- 6.11 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. I am satisfied that the submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension, the Plan includes a policy which supports tourism development (Policy KS TOUR) and allocates two sites for residential development (Policies KS HOU 1 and HOU2). In the social dimension, it includes a policy on community facilities (Policy KS COM1). In the environmental dimension, the Plan positively seeks to protect its natural, built and historic environment. It has specific policies on design and character (Policy KS DEV1), and on green infrastructure and biodiversity (Policy KS ENV1). KSPC has undertaken its own assessment of this matter in the submitted Basic Conditions Statement.

General conformity with the strategic policies in the development plan

- 6.12 I have already commented in detail on the development plan context in the Borough in paragraphs 5.4 to 5.8 of this report.

- 6.13 I consider that the submitted Plan delivers a local dimension to this strategic context. The Basic Conditions Statement helpfully relates the Plan's policies to policies in the development plan. Subject to the incorporation of the recommended modifications in this report, I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan.

Strategic Environmental Assessment and Habitats Regulations Assessment

- 6.14 The Neighbourhood Plan General Regulations 2015 require a qualifying body either to submit 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.
- 6.15 In order to comply with this requirement, KSPC prepared a screening statement for the Plan in February 2022. During the examination, KSPC updated the screening statement and in particular extended its scope so that it more fully addressed the Habitat Regulations. The comments in the remainder of this section of the report refer to the revised screening statement (June 2022). Natural England, Historic England and the Environment Agency were consulted on the revised statement.
- 6.16 The statement is comprehensive in the way in which it addresses these various environmental matters. Based on the Stage 1 screening (in its Section 5.1) and the Stage 2 screening (in its Section 5.3) it concludes that full strategic environmental assessment is not required.
- 6.17 The associated Habitats Regulations Assessment (HRA) of the Plan is equally comprehensive. It takes account of the following protected sites:
- the South Pennine Moors;
 - the North Pennine Moors;
 - the North Pennine Dales Meadows;
 - the Bowland Fells; and
 - the Ribble and Alt estuaries

- 6.18 The statement concludes that the Plan is not likely to have significant environmental effects on a European nature conservation site or undermine their conservation objectives alone or in combination taking account of the precautionary principle. As such Appropriate Assessment is not required.

- 6.19 Having reviewed the information provided to me as part of the examination, including the responses from the three consultation bodies, I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.

Human Rights

- 6.20 In a similar fashion, I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no

evidence that has been submitted to me to suggest otherwise. In addition, there has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On the basis of all the evidence available to me, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

Summary

- 6.21 On the basis of my assessment of the Plan in this section of my report, I am satisfied that it meets the basic conditions subject to the incorporation of the recommended modifications contained in this report.

7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the policies in the Plan. In particular, it makes a series of recommended modifications to ensure that they have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is distinctive and proportionate to the parish. The wider community and KSPC have spent time and energy in identifying the issues and objectives that they wish to be included in their Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (41-004-20190509) which indicates that neighbourhood plans must address the development and use of land.
- 7.5 I have addressed the policies in the order that they appear in the submitted Plan. Where necessary I have identified the inter-relationships between the policies.
- 7.6 For clarity, this section of the report comments on all policies whether or not I have recommended modifications in order to ensure that the Plan meets the basic conditions.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

The initial section of the Plan (Sections 1-3)

- 7.8 The initial parts of the Plan set the scene for the range of policies. They do so in a proportionate way. The Plan highlights the links between the Plan's objectives and its resultant policies.
- 7.9 The Introduction provides helpful information about the context of the Plan. It sets out the role and purpose of a neighbourhood plan. In addition, it comments about the development plan context within which the Plan has been prepared. It also comments about the way in which the community has been engaged in the wider process and the effect of PBC's strategic planning context on the evolution of the Plan.
- 7.10 Whilst the Basic Conditions Statement indicates that the Plan period is 2021 to 2030, most users of the planning process will expect the Plan period to be clearly identified in the Plan itself. I recommend accordingly. The neighbourhood area is already shown in the introduction.

At the end of the final paragraph of supporting text on page 7 add: 'The neighbourhood area is shown on the map opposite. The Plan period is 2021 to 2030'

On the front cover of the Plan change the title to 'Kelbrook and Sough Neighbourhood Development Plan 2021 to 2030'

- 7.11 Section 2 comments about the neighbourhood area and a range of matters which have influenced the preparation of the Plan. It relates to the character of the parish and the feedback received from the various consultation exercises
- 7.12 Section 3 comments about the vision and the objectives for the Plan. The former is very distinctive to the neighbourhood area and reads as follows:

'A thriving farming community based around two unique historical villages, Kelbrook and Sough, with a superior quality of life that encourages a greater sense of community, promotes sustainable economic activity for current and future generations. Kelbrook and Sough Parish is situated on the Pennines watershed with land stocked with sheep and cattle. Future development should maintain the unique character of the Parish based on the historic nature of the housing and other buildings and meet the needs of residents at different stages of their lives through the adoption of appropriate building styles and green spaces. It will be important to protect the beautiful landscape and biodiversity that surrounds us and to ensure sustainable development enhances the environment.'

This approach gets to the heart of the localism agenda.

- 7.13 The remainder of this section of the report addresses each policy in turn in the context set out in paragraphs 7.5 to 7.7 of this report.

KS DEV 1 Protecting and Enhancing the Character of Kelbrook and Sough

- 7.14 The approach taken in the Plan is to ensure that new development should protect, enhance and respond positively to the character and heritage of the natural and built environment of the parish. In particular, it sets out a series of matters with which new development should have regard.
- 7.15 The policy takes a comprehensive and positive approach to the character of the parish. In this context, it represents a positive local response to Section 12 of the NPPF.
- 7.16 I recommend two modifications in the first part of the policy. The first refines the language used and acknowledges that PBC will need to consider the wider development plan in determining planning applications. The second deletes the word 'enhance'. In some cases, it will be practicable for development proposals to 'enhance' the existing character of the parish. In other cases, this will not be practicable, and it will be sufficient to 'protect' that character. In any event, the policy also requires that development proposals should 'respond positively' to the character of the parish.
- 7.17 The third part of the policy describes the way in which the policy would be applied rather than expressing policy in its own right. On this basis, I recommend that it is deleted from the policy and repositioned into the supporting text.
- 7.18 In recommending these modifications I have taken account of KSSPC's responses to the clarification note.

In the first part of the policy replace ‘must’ with ‘should’

In the first part of the policy delete ‘enhance’

Replace the opening element of the second part of the policy with: ‘As appropriate to their scale, nature and location development proposals should have regard to the following elements of local character in the landscape, townscape and streetscape of the neighbourhood area:’

Delete the third part of the policy

At the end of the first paragraph of the ‘Interpretation’ part of the supporting text add: ‘The Character Assessment should be referred to for further explanation of the above and when interpreting Local Plan Part 1 Policies ENV 1 and ENV2 with respect to character. With respect to biodiversity, Pendle Council’s Green Infrastructure Strategy, 2019 and the Kelbrook and Sough Character Assessment should be used to help inform any green infrastructure proposals to meet Local Plan Part 1 Policy ENV1 Protecting and Enhancing Our Natural and Historic Environments. In addition, the contents of these documents should be supplemented by more site-specific assessments’

KS DEV 2 Public Realm Improvements

- 7.19 This policy seeks to fulfil one of the objectives in the Plan to retain the historical look of Kelbrook village and Sough and to maintain and enhance the physical character of the parish. It acknowledges that a wide variety of interventions in the public realm are possible and they have the potential to create improvements to its appearance and condition. In addition, it comments that where they do, they should be supported provided they maintain and enhance the physical character of the area.
- 7.20 The policy also comments that proposals for improvements to the public realm and environment (including road, pavement, street furniture, squares, public gardens and other public areas as well as proposals which improve maintenance, cleaning, appearance, safety and/or condition) will be supported provided they are in keeping with the character of the area as described in the Character Assessment.
- 7.21 The policy has been developed in a positive way. It relates to the evidence in the Character Assessment.
- 7.22 I recommend a modification to the policy so that it acknowledges that not all of the improvements anticipated may benefit from permitted development rights. I also recommend that the part of the policy about proposals to improve maintenance and cleaning of the public realm is relocated into the supporting text. Whilst such works will improve the quality and appearance of the public realm, they are not land use matters in their own right.

Replace the policy with:

‘Insofar as planning permission is required, proposals for improvements to the public realm and environment including road, pavement, street furniture, squares, public gardens and other public areas will be supported where they are

in keeping with the character of the area as described in the Character Assessment'

Replace the Justification with:

'A wide variety of interventions in the public realm are possible and they have the potential to create improvements to its appearance and condition and where they do, they should be supported provided they maintain and enhance the physical character of the area. Some enhancement works may benefit from permitted development rights. Whilst they are not directly land use matters, the Parish Council will actively support and encourage associated proposals which improve maintenance, cleaning, appearance, safety and/or condition of the public realm'

KS ENV 1 Green Infrastructure

- 7.23 The policy comments that proposed improvements to the green infrastructure of the Parish will be supported. It also comments that the Pendle Council Green Infrastructure Strategy and the Kelbrook and Sough Character Assessment should be considered when determining planning applications and interpreting any relevant Local Plan Policy with respect to green infrastructure.
- 7.24 I am satisfied that the policy has regards to national policy and is in general conformity with the requirements of Policy ENV1 of the Core Strategy.
- 7.25 I recommend that the policy is modified to take account of two related matters. The first is that it contains significant elements of supporting text. I recommend that they are deleted from the policy and repositioned to the supporting text. The second is to ensure that the policy can be applied on a proportionate basis. As submitted, the policy has a universal basis and different proposals will have different opportunities to enhance green infrastructure.
- 7.26 PBC suggest that the policy should make a closer relationship between the green spaces listed in the Character Assessment and the policy itself. This approach would improve the role and purpose of the policy. However, such an approach would shift the emphasis of the policy into one which would safeguard the identified green spaces and goes beyond that required to ensure that the Plan meets the basic conditions. As set out in paragraph 1.4 of this report, it is not within my remit to revise the nature of the policies in the Plan.

Replace the policy with:

'Improvements to the green infrastructure of the Parish will be supported. As appropriate to their scale, nature and location, development proposals should respond positively to the Pendle Council Green Infrastructure Strategy and Kelbrook and Sough Character Assessment'

At the end of the Justification section of the supporting text add:

'The Pendle Council Green Infrastructure Strategy and Kelbrook and Sough Character Assessment should be considered when determining planning applications and interpreting any relevant Local Plan Policy with respect to green infrastructure. In

particular, the Character Assessment's sections on Landscape and Topography, Biodiversity and Green and Natural Features, General Patterns of Built Form and Open Space, Main Uses and Mix of Uses and Views and Vistas and Enclosure provide detailed information on the existing elements of green infrastructure in the parish'

KS HER 1 Non-designated Heritage Assets

- 7.27 The policy celebrates the interesting built heritage within the neighbourhood area. It identifies a series of non-designated assets. Together with the listed buildings, they are shown on the plan within the wording of the policy.
- 7.28 The second part of the policy comments that proposals which affect the significance of non-designated heritage assets will be determined by considering the extent to which those aspects of the asset that contribute to its significance, are conserved or enhanced.
- 7.29 I am satisfied that the proposed non-designated assets have been identified as a result of appropriate local research. I saw their nature and significance during the visit.
- 7.30 I recommend a detailed modification to the second part of the policy to ensure that it has regard to paragraph 203 of the NPPF. Otherwise, it meets the basic conditions. It will contribute significantly to the delivery of the environmental dimension of sustainable development.

Replace the second part of the policy with:

'Proposals affecting a non-designated heritage asset should conserve, and where practicable enhance, those aspects of the asset which contribute to its significance. In determining planning applications affecting a non-designated heritage asset, a balanced judgement will be made having regard to the scale of any harm or loss and the significance of the heritage asset.'

KS HER 2 Historic Environment

- 7.31 This is a more general policy which addresses the historic environment of the parish. It comments that proposals affecting any part of the historic environment should have consideration for the site's context and heritage significance and proposals which impact, directly or indirectly, on a heritage asset or its setting, and be accompanied by a heritage statement to address identified matters.
- 7.32 In general terms, I am satisfied that the policy has regards to Section 16 of the NPPF. However, in order to bring the clarity required by the NPPF, I recommend that the detailed wording of the policy is modified. The format of the recommended modification follows that suggested by PBC with some detailed revisions. Otherwise, it meets the basic conditions. As with Policy KS HER1, it will contribute significantly to the delivery of the environmental dimension of sustainable development.

Replace the policy with:

‘Proposals affecting any part of the historic environment should respond positively to the site’s context and heritage significance.

Proposals which directly or indirectly impact on a heritage asset or its setting, should be accompanied by a heritage statement which:

a. describes the significance of any heritage assets affected, including any contribution made by their setting;

b. proportionately evaluates the effect that the proposed development would have on the significance of a heritage asset taking into account the asset’s importance; and

c. sets out measures applied within the design process to avoid, limit and where necessary mitigate the effects caused by the development on the significance of the heritage asset.’

Site Allocations

- 7.33 The Plan allocates two sites for residential uses (Policies HOU1 and HOU2). The wider context towards future development in the parish is set out in Section 4.4 of the Plan. It highlights the way in which the sites were identified and selected.
- 7.34 I am satisfied that the process followed has been both appropriate and robust. The two sites are in sustainable locations either within or on the edge of Kelbrook. Their size and location are such that they are in general conformity with the spatial strategy for the Borough as set out in the Local Plan Part 1.
- 7.35 As set out in Section 5 of this report, PBC is reviewing its planning policies following its decision not to press ahead with Local Plan Part 2. In the absence of any definitive statement on the way in which this process will develop, it is difficult to come to any definitive statement about the way in which the allocations proposed in the submitted Plan would relate to the emerging development plan context. However, they are not of a scale which would affect the existing approach towards the distribution of new housing in the Borough which has a focus on development in the M65 corridor (70%), the West Craven Towns (18%) and the rural areas (12%). As such, I am satisfied that the approach taken has regard to Section 41-009-20190509 of Planning Practice Guidance about the relationship between an adopted local plan, an emerging neighbourhood plan and an emerging local plan. In effect the two allocations proposed in the Plan reflect the current planning policy context. One of the proposed sites is brownfield in its nature and the other is a site which already has planning permission and where development has not started. Nevertheless, I recommend that an additional element of text is included in the Plan about how the package of policies would be monitored and potentially reviewed once an up-to-date Local Plan has been adopted.
- 7.36 In both cases, the policies identify an upper threshold for the development of the site. I recommend that the yield of each site is addressed in the supporting text. This will be

a matter for the development management process to determine based on the way in which development proposals respond to the various criteria in the two policies.

KS HOU 1 Allocation of Land at Dotcliffe Yard for Housing

- 7.37 The policy allocates land at Dotcliffe Yard for residential purposes. The site is a brownfield site currently occupied by redundant buildings and partly used for caravan storage.
- 7.38 I am satisfied that the site is appropriate for residential use. It is in a primarily residential area and will make a good use of a prominent site.
- 7.39 The policy is criteria-based. The initial heading for the criteria comments about a viability assessment. I recommend that the issue about the extent to which any work on viability may affect a proposal's ability to meet the criteria is captured in the supporting text. This will leave the criteria as free-standing elements.
- 7.40 In general terms, I am satisfied that the criteria are relevant and distinctive and will ensure the development of the site in a high-quality fashion. I recommend modifications to the criteria to ensure that they have the clarity required by the NPPF. In some cases, I recommend the deletion of supporting and/or explanatory text in the various criteria and, where it is not already included, incorporated into the supporting text. Finally, I recommend the deletion of criterion h) which relates to a tenure-blind development. The matter is adequately addressed in Policy KS HOU3. Nevertheless, I recommend that the supporting text draws attention to this separate requirement.
- 7.41 Otherwise, the policy meets the basic conditions. It will assist significantly in securing the development of the site in the way anticipated by the local community.

Replace the opening part of the policy with:

'The Plan allocates land at Dotcliffe Road, as shown on the site plan below for residential development.

The development of this site should incorporate the following requirements:'

Replace criterion a) with: 'The delivery of a high-quality design which incorporates urban design principles as set out in the National Design Guide and as outlined in the Kelbrook and Sough Character Assessment and responds positively to the character of the adjacent built environment and landscape, including views into and from the site. The design, siting and layout of housing should relate positively to nearby housing in the area particularly along Millbeck Lane and Dotcliffe Road'

Replace criterion d) with: 'A single point of vehicular access off Dotcliffe Road appropriately positioned so as to ensure safe access and egress from the local highway network'

Replace criterion e) with: ‘Alternatives to car-based travel are designed into the scheme and in particular green links to public transport and active travel (walking and cycling)’

Replace f) with: ‘A sensitive approach towards the integrity of the nearby watercourses’

Replace g) with: ‘The design and layout of the proposal enhances or creates linkages to the wider green infrastructure network where practicable, and creates greenspace for both amenity purposes and for biodiversity value’

Delete criterion h)

Replace i) with: ‘The design and layout take a flood-resilient approach’

Replace j) with: ‘The layout, construction details and phasing of the development should proceed in accordance with a schedule of archaeological investigations and any associated works for recording any identified features of historical importance.’

Replace the first two paragraphs of the Justification with:

‘The site is approximately 0.16ha in area and historically was part of Dotcliffe Mill to the north, in Millbeck Lane which has recently been redeveloped for housing. Planning permission has already granted for three detached houses on the site (17/0077/FUL). In that proposal the dwellings were ‘two and a half storeys’ with rooms in the roof space served by roof lights. It will be possible to fit more houses on the site if they are smaller. In addition, terraces might be more in keeping with the character of the area. It is on this basis that the site is anticipated to yield five dwellings. Policy HOU1 sets out a series of criteria to ensure that the site is redeveloped in a positive way. All the criteria should be incorporated into the development unless it can be demonstrated that they would make the development unviable.’

At the end of the third paragraph of the justification add: ‘The first criterion of the policy sets out the importance of securing a development which responds positively to its location within the village. The impact of the development on the rural feel of existing and potential views of the site should be mitigated by landscaping and boundary treatments and the arrangement and height of housing along the edges of the development. In addition, the development of the site should comply with Policy KS HOU3 of this Plan to the extent that it should be tenure blind’

KS HOU 2 Allocation of Land at Cob Lane for Housing

- 7.42 The policy allocates land at Cob Lane for residential purposes. The site is in agricultural use. I am satisfied that the site is appropriate for residential use. It is in a primarily residential area and will be seen as a natural extension of the village. There is a history of planning permissions for the residential development of the site.

- 7.43 The policy is criteria-based. The initial heading for the criteria comments about a viability assessment. I recommend that the issue about the extent to which any work on viability may affect the ability to meet the criteria is captured in the supporting text. This will leave the criteria as free-standing elements.
- 7.44 A representation has been received on the policy from the owner of the site (YLBD). It supports the allocation of the site in general terms and makes detailed comments on the criteria included in the policy. I have taken account of the comments made in recommending modifications to the policy
- 7.45 In general terms, I am satisfied that the criteria are relevant and distinctive and will ensure the development of the site in a high-quality fashion. In particular they draw attention to the sensitive relationship of the site to the surrounding countryside, and to the listed building (Yellow Hall) to the west. I recommend modifications to the criteria to ensure that they have the clarity required by the NPPF. In some cases, I recommend the deletion of supporting and/or explanatory text in the various criteria and, where it is not already included, incorporated into the supporting text. Finally, I recommend the deletion of criterion h) which relates to a tenure-blind development. It is adequately addressed in Policy KS HOU3. Nevertheless, I recommend that the supporting text draws attention to this separate requirement.
- 7.46 Otherwise, the policy meets the basic conditions. It will assist significantly in securing the development of the site in the way anticipated by the local community.

Replace the opening part of the policy with:

The development of this site should incorporate the following requirements:

Replace criterion a) with: ‘The delivery of a high-quality design which incorporates urban design principles as set out in the National Design Guide and as outlined in the Kelbrook and Sough Character Assessment and responds positively to the character of the adjacent built environment and landscape, including views into and from the site. The design, siting and layout of housing should relate positively to nearby housing in the area particularly along Cob Lane and Waterloo Road and to the listed Yellow Hall to the west’

Replace criterion d) with: ‘A single point of vehicular access off Cob Lane appropriately positioned so as to ensure safe access and egress from the local highway network’

Replace criterion e) with: ‘Alternatives to car-based travel are designed into the scheme and in particular green links to public transport and active travel (walking and cycling)’

Replace f) with: ‘A sensitive approach towards the integrity of the nearby watercourses’

Replace g) with: ‘The design and layout of the proposal enhances or creates linkages to the wider green infrastructure network where practicable and creates greenspace for both amenity purposes and for biodiversity value’

Delete criterion h).

Replace the Justification with:

‘The site is in agricultural use and is located to the south of Cob Lane, to the south east of the main village just outside, but adjacent to the defined settlement boundary. Planning permission was granted for 9 dwellings in 2021. The site is proposed to be allocated in the Plan in the event that the existing permission is not implemented. The development of the site needs to be sensitive to its immediate surroundings. In particular Yellow Hall, a row of listed dwellings, is located to the west of the site. The site is surrounded by countryside to the south and east. In addition, the site slopes upwards from Old Stone Trough Lane, as Cob Lane rises away to the east.

The first criterion of the policy sets out the importance of securing a development which responds positively to its location within the village. The impact of the development on the rural feel of existing and potential views of the site should be mitigated by landscaping and boundary treatments and the arrangement and height of housing along the edges of the development. In addition, the development of the site should comply with Policy KS HOU3 of this Plan to the extent that it should be tenure blind’

KS HOU 3 Tenure Blind Housing

- 7.47 The policy comments that housing should be designed so that it is tenure blind so that it is not possible to determine the tenure of the housing from the design or location of a development.
- 7.48 The element of policy which is supporting text is already included in the Justification. As such I recommend a modification to the policy accordingly

Replace the policy with: ‘Proposals for new housing should be designed and arranged in a way such that they are tenure-blind’

KS PATH Improvements to Existing Footpaths, Bridleways, Cycleways, and Rights of Way

- 7.49 This policy relates to the network of rights of way in the parish. I saw their importance during the visit. The policy comments that the improvement of the network of footpaths, bridleways and cycleways including signage and provision or upgrading of crossing points will be supported to improve the connections for residents to the village facilities and to the countryside. It also requires that new developments should ensure preservation of parish footpaths, bridleways and open space. Finally, it comments that the closure of a route will be resisted unless a satisfactory alternative route is provided. I recommend modifications to the final elements of the policy to bring the clarity required by the NPPF. In particular the modification acknowledges that improved connections may not always be practicable to deliver. Otherwise, the policy meets the

basic conditions. It will contribute significantly to the delivery of the environmental and social dimensions of sustainable development.

Replace the final two sentences of the policy with: ‘Where practicable cycle routes and footpaths should be incorporated within new developments and link into wider existing networks. Development proposals which would involve the closure of a cycle route or footpath route will not be supported unless a satisfactory alternative route is provided.’

KS TOUR Tourist and Visitor Facilities

- 7.50 The policy offers support for suitable tourism development. The Justification indicates that ‘tourist related developments may lead to additional traffic and other impacts but they may also bring benefits and increased facilities or resources to local residents and contribute to the prosperity and sustainability of the communities. Tourism and leisure development should therefore be appropriate to the small size of the village, parish and existing tourism facilities’
- 7.51 The policy comments that proposals for tourism development must be in a location, and of a design and scale, that is in keeping with the rural character of the settlement and the wider landscape setting and protects local landscape character as defined in the Character Assessment.
- 7.52 I am satisfied that the policy takes an appropriate approach to this matter in general, and that it has regard to national policy. I recommend a detailed modification to the wording of the policy so that it has the clarity required by the NPPF. Otherwise, it meets the basic conditions. It will contribute towards the delivery of both the economic and the environmental dimensions of sustainable development.

Replace the policy with:

‘Proposals for tourism development will be supported where they are in a location, and of a design and scale, that is in keeping with, and protects, the rural character of the settlement and the wider landscape setting as defined in the Kelbrook and Sough Character Assessment.’

KS COM 1 Community Assets

- 7.53 The policy identifies the importance of five community facilities to local people. They are the Village Hall, St Marys Church, Kelbrook Primary School, the Village Hall Car Park and Sough Memorial Park.
- 7.54 The policy seeks to include the five facilities as Assets of Community Value. It also comments that proposals that will enhance the viability and/or community value of the assets will be supported. Similarly, it comments that proposals that result in either the loss of the asset or in significant harm to the community value of an asset will be resisted, unless it can be clearly demonstrated that the operation of the asset, or the ongoing delivery of the community value of the asset, is no longer financially viable.
- 7.55 As submitted, the inherent effectiveness of the policy depends on a successful application process to designate the five facilities as Assets of Community Value

(ACV). Moreover, the designation of ACV is a separate legal process. In these circumstances I recommend that the policy is reconfigured so that it identifies the five facilities as important community facilities. In this context KSPC could then pursue a parallel programme of seeking their designation as ACV. This approach would have the added value of providing immediate protection to the five facilities through the development plan process.

- 7.56 I recommend consequential modifications both to the supporting text and to the title of the policy. Otherwise, it meets the basic conditions. It will contribute significantly to the delivery of the social dimension of sustainable development.

Replace the policy with:

‘1. The Plan identifies the following important community facilities as a result of their acknowledged importance to the life and enjoyment of the local community:

- Village Hall;
- St Marys Church;
- Kelbrook Primary School;
- Village Hall Car Park; and
- Sough Memorial Park.

2. Proposals that will enhance the viability and/or community value of the important community facilities will be supported.

3. Proposals that would result in either the loss of an important community facility or in significant harm to an important community facility will not be supported unless it can be demonstrated that the operation of the community facility is no longer financially viable.’

At the end of the Justification add:

‘Policy KS COM1 has identified five important community facilities. The Parish Council will also seek to include these sites on the local planning authority’s register of Assets of Community Value. This will provide the Parish Council or other community organisations within the parish with an opportunity to bid to acquire any of the facilities on behalf of the local community in the event that it is placed for sale on the open market’

Replace the title of the policy with: ‘Important Community Facilities’

Other matters – General

- 7.57 This report has recommended a series of modifications both to the policies and to the supporting text in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modification to the policy concerned, I have highlighted them in this report. However, other changes to the general text may be required elsewhere in the Plan as a result of the recommended modifications to the policies. It will be appropriate PBC and KSPC to have the flexibility to make any necessary consequential changes to the general text. I recommend accordingly.

Modification of general text (where necessary) to achieve consistency with the modified policies.

Other matters – Specific

- 7.58 Lancashire County Council has made separate representations to the Plan both generally and in its capacity as the Lead Local Flood Authority in particular. In some cases, the representations suggest detailed refinements to the Plan.
- 7.59 The comments are very comprehensive. They would improve the level of detail in the Plan and the way in which it responds to development-related issues. Nevertheless, the suggested changes are not necessary to ensure that the Plan meets the basic conditions. In particular, the lack of the inclusion of such details within the Plan would not prevent PBC from making development management decisions in a way which reflects its own standards and those of the County Council.

Other matters – Monitoring and Review of the Plan

- 7.60 The Plan has carefully set out the uncertainty over the direction of travel of the review of the Pendle Local Plan. I am satisfied that KSPC has approached this matter in a responsible way and which has regard to the relevant sections of Planning Practice Guidance.
- 7.61 In addition Section 5 of the Plan comments in a very thorough way about the way in which KSPC will monitor the effectiveness of the submitted Plan in the event that it is 'made'.
- 7.62 Within this wider context, I recommend that the Introduction to the Plan comments about the potential need for a full or partial review of the Plan once the emerging Pendle Local Plan has been adopted. This will be important in its own right. It may be particularly important given that the Planning Acts comment that if there is any conflict between the different elements of the development plan that conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. In effect elements of a 'made' neighbourhood plan have the ability to become out of date once the emerging Local Plan has been adopted.

At the end of Section 1 Introduction add:

'Monitoring and Review

Section 5 of the Plan provides details about how the Plan will be delivered in general, and the way in which the Parish Council will assess decisions made on individual planning applications.

The neighbourhood plan has been prepared within the context of the Pendle Local Plan Part 1 (the Core Strategy) which was adopted in December 2015. The Borough Council is currently reviewing the Local Plan. Plainly this review process will affect the wider development plan. As such, the Parish Council will assess the need or otherwise for a full or a partial review of the 'made' neighbourhood plan within six months of the adoption of an updated Local Plan.'

8 Summary and Conclusions

Summary

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2030. It is distinctive in addressing a specific set of issues that have been identified and refined by the wider community.
- 8.2 Following the examination of the Plan, I have concluded that the Kelbrook and Sough Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.

Conclusion

- 8.3 On the basis of the findings in this report, I recommend to Pendle Borough Council that, subject to the incorporation of the modifications set out in this report, the Kelbrook and Sough Neighbourhood Development Plan should proceed to referendum.

Referendum Area

- 8.4 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as designated by PBC on 24 August 2017.
- 8.5 I am grateful to everyone who has helped in any way to ensure that this examination has run in an efficient fashion.

Andrew Ashcroft
Independent Examiner
11 July 2022