

John Slater Planning

# St Anne's on the Sea Neighbourhood Development Plan

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## Submission Version

A Report to the Fylde Council on the Examination of the St Anne's on  
the Sea Neighbourhood Development Plan

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## Introduction

Neighbourhood planning is a process introduced by the Localism Act 2011 which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan and will work alongside the now somewhat out of date, but still adopted Fylde Borough Local Plan- As Altered- October 2005. In time that will hopefully be replaced by the Fylde Local Plan to 2032. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by St Anne's Town Council. A Steering Group was appointed to undertake the plan preparation made up of volunteers advised by planning consultants. St Anne's Town Council is a "qualifying body" under the Neighbourhood Planning legislation.

This report is the outcome of my examination of the Submission Version of the St Anne's on the Sea Neighbourhood Development Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum then the Plan will be "made" by Fylde Borough Council, which is the Local Planning Authority.

## The Examiner's Role

I was formally appointed by the Fylde Council in March 2016, with the agreement of St Anne's Town Council, to conduct this examination. My role is known as Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service, which is administered by the Royal Institute of Chartered Surveyors (RICS).

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 38 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of

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the Royal Town Planning Institute. I am independent of both Fylde Borough Council and St Anne's Town Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum, if modified.
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I am to conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the St Anne's Neighbourhood Development Plan area.

In examining the Plan, the Independent Examiner is expected to address the following questions:

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as "excluded development" and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

I am able to confirm that the Plan, does relate to the development and use of land covering the area designated by Fylde Borough Council for the St Anne's Neighbourhood Development Plan on 12<sup>th</sup> July 2013.

I can also confirm that it does specify the period over which the plan has effect namely the period from 2016 and 2031.

I can confirm that the plan does not cover any "excluded development".

There are no other neighbourhood plans covering the area covered by the Plan designation.

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St Anne's on the Sea Town Council as a parish council is a qualifying body under the terms of the legislation.

### **The Examination Process**

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

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I carried out an unaccompanied visit to the plan area during the initial stages of the examination to familiarise myself with all the sites, the town and the coastline. However, following my visit and having read closely the documentation, I had a number of questions that I felt I had to explore with the principal parties. I set these out in a note, that was circulated to the Town Council and the Planning Authority. It was also sent to a number of representors, and included a list of the questions I wished to explore at a public hearing. This was followed up by a note I produced, setting out how I wished the hearing to be conducted. Both notes are available on the respective council websites.

The Hearing took place at the Blue Room at The Palace in St Anne's on 7<sup>th</sup> June 2016 and I am very grateful for the way everyone contributed to the discussions, in such a constructive and positive manner. A note of the day's proceeding has been prepared and this is also available on the Council's website.

During the course of the discussions, the Town Council offered to make a number of changes to the policies within the Plan to reflect matters that had emerged during the discussions. I explained, at the time, that my examination would have to be on the basis of the Submission Version of the plan, but that I would be prepared to consider the changes as Suggested Amendments to the Plan that the Town Council would ask me to consider making, when making my recommendations. I did say that I would be prepared to give the Town Council a window of opportunity to reflect on the day's deliberations and to prepare a revised submission, but that other parties would also have to have an opportunity to comment on the revisions. I received a copy of the Suggested Changes Version on the plan on 20<sup>th</sup> July 2016 along with a number of consultee responses.

In this report I will refer to the Submission Version of the Plan and also to the Suggested Changes Version.

### **The Consultation Process**

The Town Council applied for neighbourhood plan status on 11 April 2013 and Fylde Council undertook consultation on that request for designation for a 6-week period, which ended on 6 June 2013. That designation was approved by Fylde Council on 12 July 2013.

Prior to the launch of the neighbourhood plan exercise, the Town Council held a number of key stakeholder meetings, with Fylde Council, Blackpool Council, Blackpool International Airport and St Anne's Civic Trust.

The first public consultation exercise took place between 14 April and 28 May 2014, launching the plan, raising public awareness and seeking views on initial draft aims for the plan. As well as establishing a website, generating press articles, holding events, including exhibitions and themed group meetings, along with a secondary school photo competition to try to engage young people. The main output from this phase of consultation was the results from the questionnaire, which have generated 307 responses. This led to the emergence of a number of initial findings–

- There is a need for more young people facilities
- No demand for additional housing
- Make use of existing vacant buildings
- Any new housing should be affordable for young people
- Protect green spaces
- Sustainable design and energy efficiency

As well as the questionnaire, the Town Council held six walk in events between 25<sup>th</sup> April and 24<sup>th</sup> May 2014 which included consideration of site specific issues. In addition, theme groups were set up looking at housing, environment, transport movement, economy, community and health and design and heritage. Eight formal written representations were received at that stage. In the report, the Town Council expressed disappointment with the level of engagement.

The second stage consultation took place a year later between 15<sup>th</sup> June and the 31<sup>st</sup> of July 2015. This was the Regulation 14 Pre Submission Version of the plan. This was publicised on the Town Council website and newsletter which was delivered to 12,000 properties as well as flyers and questionnaires being distributed at various events.

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This generated 21 written responses which were considered by the council. There was 2 workshop sessions held between Fylde Council planners and the Town Council. A further questionnaire was distributed looking at key issues. Over 250 responses were received. The responses to the Pre Submission Consultation led to a number of changes to the policies, which are fully set out in Appendix 9 of the Report on Consultation.

It is clear that the Town Council undertook wide consultation on the emerging plan, which has shaped the policies and the issues. I recognise that it must have been difficult to differentiate in the public's mind, the work being carried out on the neighbourhood plan, at the same time as the Borough Council was preparing and consulting on its own local plan. However, I am satisfied that the public and stakeholders have been able to contribute to and shape the policies in the neighbourhood plan.

### **Regulation 16 Consultation**

I have had regard, in carrying out this examination, to all the comments made during the period of final consultation on the Submitted Plan, which had been sent to the Fylde Council on 25<sup>th</sup> January 2016. This period of consultation is known as the Regulation 16 consultation and ran between 11<sup>TH</sup> February and the 14<sup>th</sup> March 2016. This consultation was organised by Fylde Council prior to it being passed to me for its examination.

In total 35 responses were received from 28 individuals or organisations (statutory and non-statutory). I will refer to the results of the Regulation 16 consultation where relevant in the specific sections dealing with the Proposed Policies. I can confirm that I have read all the representations and have had full regard to the views when conducting this examination. I can confirm that one representation was received on 18<sup>th</sup> May 2016 after the Regulation 16 consultation was closed. This was made on behalf of the Joint Administrators of Greenhurst Investments Ltd, who own land at Queensway, which had been shown as part of Blackpool Airport's landholdings. I believe there was no detriment caused by allowing that representation to be considered and indeed their consultant was invited to participate at the public hearing.

## The Basic Conditions Test

The neighbourhood planning examination process is different to a Local Plan examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.

The 5 questions which constitute the basic conditions test seek to establish: -

- Having regard to the national policies and advice contained in the guidance issued by the Secretary of State is it appropriate to make the Plan?
- Will the making of the plan contribute to the achievement of sustainable development?
- Will the making of the plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Does the making of the plan breach or is otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects.

## Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Fylde Borough Local Plan as Altered, adopted on 10<sup>th</sup> October 2005. The Borough Council is currently working on a new local plan as the previous plan is out of date. It predated the NPPF. That plan has recently reached its Publication Version which is currently out to public consultation which will be submitted for public examination early next year. This plan, whilst being the latest expression of council policy and is based on the most up to date information, is still likely to be challenged at Inquiry, not least on the matter of housing numbers (both on account of them being too high and too low). At present it is not part of the development plan and can only be accorded limited weight as an emerging plan, but the Neighbourhood Plan has been prepared in parallel with that plan and has had regard to the emerging



policies. This Neighbourhood Plan could well be made before the new Local Plan is adopted.

### **Compliance with European and Human Rights Legislation**

The Town Council submitted a screening request as to whether a full Sustainability Appraisal would be required under the EC Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations). The initial screening and consultation with the 3 statutory bodies took place in August / September 2014. There was some uncertainty as to whether the plan at that stage would be allocating sites as this was covered by plan options at that stage. The responses were considered and following further discussions the Town Council decided that the plan would be proceeding on the basis that the scenario, which was described in the Issues and Options paper, as “NDP – Lite” rather than a full comprehensive neighbourhood plan. I have to say that I still do not understand the difference. After a further rounds of discussions between Natural England, the Borough Council and the Town Council, the Local Planning Authority was able to conclude that in May 2015 that a full SEA was not required.

In addition, the draft plan has been screened under the Habitat Regulations following a request made on 27<sup>th</sup> May 2015 and it was confirmed in December 2015 that a full Habitat Regulation Assessment was not required. This view was agreed with by Natural England

There are no human rights issues that arise from the plan and I can confirm that in my opinion there are no conflict with European legislation.

### **The Neighbourhood Plan: An Overview**

A fundamental aspiration of the government policy, as set out in the NPPF, is that the planning system should deliver a significant boost to the supply of housing. The question central to this examination has been, whether the plan will deliver the objectively assessed needs for market and affordable housing. However, that requirement needs not necessarily to be based on the neighbourhood plan area, but rather should be met across the housing market area. During my examination no party was able to advise me what the specific housing requirements was, for St Annes, for the period up to 2031. Fylde Council, in its emerging local plan, is seeking to deliver housing requirement for the whole district, rather than setting individual requirements based upon the housing needs for specific settlements within that district. I can understand that approach, although it may have been helpful had the

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Town Council to conduct its own housing needs assessment to fully understand its requirements when one of its key issues was “meeting housing need, including specialist needs” especially as it sought to restrict the supply of land for housing via various policies.

However, I can see no justification for the statement in the plan “there are sufficient existing small to medium-sized sites within the settlement boundary that can accommodate new housing and meet the reasonable housing requirements of the town”. There seemed a reluctance to accept further housing, based upon the notion that it would put a strain on existing community infrastructure. Equally I am not convinced that the “outward growth and large-scale development will affect the town is contained seaside town” or that “St Anne’s has reached its sustainable spatial limit”. I was not conscious on the occasions when travelling around St Anne’s that it’s obvious quality as a lovely seaside resort, was in any way prejudiced by the number of new residential developments that were taking place or are planned, around the periphery of the town. Reading the Submission Version of the plan I got the sense that the approach was generally to be as resistant as possible to new housing.

At the present time, Fylde Council cannot demonstrate that it has a five-year supply sites and this is a major planning issue facing the district. I am sure that the historic undersupply of housing has been an underlying reason why so much new residential development has been allowed on appeal in the town.

My initial conclusion was that the original remit of the neighbourhood plan was essentially to limit the spatial growth of the town, as an objective in its own right, rather than determine how much land was going to be needed by the Town, to meet its housing requirements. In short the overall approach has been to restrict the amount of land for housing rather than an approach based on identifying what the town’s future needs are to be over the next decade.

That issue has influenced my thinking, both in terms of the questions I raised initially and also the topics which I later asked at the hearing. I fully recognise the importance of providing the spatial buffer, to prevent Blackpool from converging with St Anne’s but that is role ably performed by the Green Belt. Its permanence is one of its underlying features. In making my recommendations on what the revised settlement boundary should be, I recognise that this recommendation will disappoint the Town Council. However, I do not consider it tenable to restrict the supply of housing land, when there is an underlying need to boost housing supply.

I am aware there will be issues regarding the individual sites affected, in terms of access and ecological considerations and their integration with the Queensway development but these do not affect my conclusions as to whether the sites should

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fall inside or outside the settlement boundary, particularly if valued green space is to be retained within the urban area, a policy which has undeniable public support. The planned expansion of the town at its periphery is the only sustainable long term solution. I have to say that without the flexibility of adjusting the settlement boundary, I would not have concluded that the neighbourhood plan would be delivering sustainable development and as such it would have failed the basic conditions test.

Beyond that matter I have to say that I am delighted with the way the Town Council responded to the matters discussed at the public hearing. I do believe that the proposed changes will markedly improve the final version of the plan. I will certainly be recommending making many of the changes the Town Council have suggested. As Examiner I have concentrated upon the wording of the policies which will be used for the determination of planning applications. Some of the changes that I have recommended will require amendments to the supporting text and I will leave that to the qualifying body and the planning department to prepare the necessary text which goes beyond my role as independent examiner.

I must also commend the Town Council on the revision and clarity of its thinking in promoting the concept of St Anne's on the Sea as "a Garden Town by the Sea". This is exactly the type of overarching vision to shape development within the town which neighbourhood planning should be promoting. It is a practical approach and hopefully the excellent companion documents will be adopted by Fylde Council as Supplementary Planning Documents in due course.

One of the legislative requirements that I must consider as part of my examination is whether the policies in the plan relate to the development and use of land. There are a number of instances where proposals in the plan cover matters that more properly fall within the remit of the highway authority rather than the planning authority, such as improvements to bus services and alterations to the roads and pavements. It is entirely proper that the neighbourhood plan makes reference to these matters but they should not form part of the document that constitutes the development plan. Government advice is that they can be in a companion document or clearly indicated as not part of the neighbourhood plan.

My final general comments relate to the way the plan seeks planning obligations and Community Infrastructure Levy payments. There are a large number of policies which call for payments under planning obligations or payments towards specific items under the community infrastructure levy system. Regulation 122 of the Community Infrastructure Levy Regulations 2010 requires that any contribution must be necessary to make the development of acceptable in planning terms, be directly related to the development and be fairly and reasonably related to the development.

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Furthermore, pooled obligations are limited to 5 contributions per project. Equally the issue of whether CIL is collected, is not derived from a specific neighbourhood or local plan policy but it is a requirement for payment in consequence of a Council adopting its CIL Charging Scheme. Similarly, the allocation of CIL receipts is a budgetary decision of the spending authority whether it be the Town Council or the Borough Council. It is not a policy for the use and development of land. My usual practice throughout this report will be to recommend the deletion of those elements of the neighbourhood plan policy and rather rely upon the overarching neighbourhood plan policy, DEL1.

## The Neighbourhood Plan Policies

### Policy GP1: Settlement Boundary

The plan proposes the same settlement boundary as established by the 2003 Local Plan. This was produced at a time when there was a moratorium on new housing development in the borough. Most of the land outside the settlement boundary is Green Belt, which plays a strategic role in maintaining the gap between Blackpool and St Anne's, apart from being small section to the east of Wildings Lane. NPPF advice is that it is only the local plan that can change green belt boundaries. Therefore, the only areas which lie outside the settlement boundaries and the Green Belt, are the site of the former Valentines Kennels, Lytham Moss and the paddocks to the south, which is used for the keeping horses, as well as the land on the west side of Wildings Lane, which appear to now form part of the curtilage of the adjoining residential property. As objections have been submitted to the inclusion of some of the sites, it is appropriate from me to consider whether I should recommend changes to the settlement boundary.

The primary change, from the 2003 Local Plan settlement boundary that the Town Council is proposing, is the inclusion of land at Queensway, the Kensington development, which has been granted outline planning permission.

In terms of the former Valentine Kennels site, I note that planning consent was refused for residential development, earlier this year, but not on the grounds that this site lies outside of the settlement boundary. It is to be surrounded on three sides by the new housing development. The main reason for the Development Management Committee's refusal, [which was contrary to the planning officer's recommendation] was to the principle of access to the site being from Wilding Lane, rather than being fully integrated into the adjoining residential development. Bearing in mind the need to maximise the supply of housing land and the fact that a certain amount of the site

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is previously developed land, they will be a presumption in favour of the residential development in any event. Therefore, it seems this site which, falling outside the Green Belt, could usefully be included within the settlement boundary. I do note the designation of the Kennels site as local green space and I will address that issue at the appropriate juncture. I also note that its designation as a Biological Heritage site was on the basis of there being a breeding colony of tree sparrows but the nesting box scheme no longer has been maintained and their population has accordingly declined. These are matters that need to be fully assessed at development management stage.

I understand that there is a planning application on the land to the south which is used for grazing horses. However, that land will be surrounded on three sides by housing and so its incorporation within the settlement would constitute a logical rounding off.

The final boundary issue which I have to address relates to land at Lytham Moss. Again I heard at the hearing that this land is being promoted for residential development on behalf of the landowner. In terms of the coherence of the settlement boundary, the arguments are just as compelling, as the previously referred to ie that it is the Green Belt boundary that should be the limit of the urban area. It could be argued that the logical urban edge will be the North House Lane to the east and the Green Belt to the north. However equally I am aware that there are ecological issues affecting Lytham Moss, as the land is used for grazing of overwintering birds, in this case the pink footed goose. It is identified as a Biological Heritage Site as well as being part of a wider network of linked sites of ecological importance. That, in itself, is not a reason to exclude it from changes to the settlement boundary and the consideration of any proposal would be required to have regard to the ecological impact on the site and protected species, at any application stage.

In my consideration I am also conscious that at the present time Fylde Council as local planning authority cannot identify a five-year housing supply. I heard evidence at the hearing, that the latest position was that there was a 4.8 year housing supply base-dated to 31<sup>st</sup> March 2016. Therefore, in accordance with paragraph 49 of the NPPF, policies which affect the supply of housing land, which would include the designation of land as countryside outside the Green Belt, will not be considered up-to-date, even upon the point of the making of the plan. I also have had regard to the role of the green belt is to prevent the unrestricted sprawl of large built-up areas and to prevent neighbouring towns on merging into one another.

Therefore, the incorporation the land identified as Countryside outside the Green Belt, into the settlement boundary would offer the town the flexibility to be able to meet its housing needs over the next 15 years, which are unlikely to diminish, but within the defensible line of the town's Green Belt. That would also be in line with the

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approach advocated in paragraph 52 of the NPPF. This does not mean the presumption in favour of residential development would by necessity override any ethological designation but that will have to be a matter that will be dealt with at the planning application stage.

Therefore, my conclusion is that the settlement boundary should be amended, by the removal of the designation of land as “open countryside outside Green Belt” on the Proposals Map. The settlement boundary should therefore follow the boundary of the Green Belt.

### *Recommendation*

That the land shown as Open Countryside outside the Green Belt be deleted and the land included within the Settlement Boundary on the Proposals Map.

### **Policy GP 2: Demonstrating viability**

This is a useful policy which sets clear criteria for the consideration of planning applications involving the loss of valued facilities. It offers a clear hierarchical approach. My only concern is that market lead housing schemes in retail areas is considered as a last resort. Government policy, as set out in paragraph 23 of the NPPF, recognises that residential development has a role in town centres, alongside retail, leisure, commercial, office, tourism, cultural and community uses. Furthermore, it also recognises that “residential development can play an important role in ensuring the vitality of centres”

I therefore do not consider that discounting residential to the use of last resort is necessarily in line with Secretary of State advice, particularly as there are limited opportunities for new residential development within the borough. This concern affects my consideration of the basic conditions.

This concern can be addressed by the deletion of the paragraph after subsection c). It also requires the deletion of the final sentence in the justification.

### *Recommendations*

Replace the Submission version of the Policy with that shown in Suggested Changes

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Remove the paragraph after subsection c) which states "where the existing use is no longer considered viable" down to "town, district or local centres" and remove the last paragraph of the Justification.

### **Policy EN 1: Protection of sites of biological and geological conservation importance**

The original Submission version of the policy offered the same level of protection to locally designated sites as internationally recognised sites. This ran contrary to the hierarchical approach which is promoted in the NPPF, a point made by Natural England

The Suggested Changes to the policy had generated a further objection from one of the parties who appeared at the hearing. They argued that the proposed revisions are in fact to backwards step when compared with the original wording.

They suggested that the original version would be capable of revision to accommodate their aspirations. However, I consider the revised policies to be more comprehensive approach and contains the important criterion that the level of protection offered by the policy is in proportion to the status of their designation. This is the approach promoted by the Secretary of State in the NPPF. I will, in my recommendations, include some elements of the revised wording suggested by the objector, which I believe improves the clarity and understanding of the policy.

#### ***Recommendations***

Replace the Submission version with the Suggested Changes Version of the policy except for the penultimate paragraph which should read:

"The level of protection and mitigation should be proportionate to the status of the habitat or species and should give appropriate weight to their importance, individually and as part of the contribution they make to the wider ecological network"

Retitle policy as per Suggested Changes

### **Policy EN2: Protection of open spaces, local green space(LGS), outdoor recreational facilities and green infrastructure**

The title of this policy has been rationalised as has the wording which has been completely revised. I consider that the policy now is a more coherent approach to Green Infrastructure which is not just a policy to protect open space from development but a mechanism to deliver improvements to the overall network of open-space, which is one of the clear ambitions that the neighbourhood plan is

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looking to achieve. This will be achieved by adopting the approaches as emboldened in the policy namely, “Protecting, Improving, Connecting, and Creating” open-space.

The only area of concern is the requirement for open space to be provided in advance of relevant development being occupied. Whilst this may be laudable ambition, it is not necessarily practical proposition where development is taking place on a phased basis. As written it will require all the open space on a development to be provided before the first unit is occupied. Often, it takes number of years for landscaped areas and open space/ play areas to become established and passed over for public usage.

The designation of land as local green space has been one of the more controversial aspects of the neighbourhood plan. A good deal of discussion took place on this issue at the hearing. Objections were made by Fylde Council as planning authority and as landowner for the inclusion of a number of the sites. The Town Council has sought to fully justify the inclusion of the open-space in the document entitled “Proposed Local Green Space Designation– Supporting Information.” It is clear that the protection of green spaces has been a fundamental aspect of the plan which has a good degree of public support. Furthermore, I got the sense from the debate at the hearing that there was a degree of distrust shown by some members of the Town Council about the Borough Council’s motives, stemming in part from a previous controversy about the development in the past of land at Ashton Gardens over a decade ago.

Since the public hearing, the Town Council has revised its list of 33 local green spaces down to 26 sites by the removal of the Marton Fold playing fields, Spring Gardens, St Anne’s parish churchyard, the inland dunes fronting Clifton Hospital, the green space at Inner Promenade, the, the geological site along Heyhouse Lane and the informal green space at Highbury Road East.

18 of the originally designated areas are owned and maintained by Fylde Borough Council and would be protected to large extent by the initial part of this policy. Therefore, in practice the issue is likely to be one of academic importance, although the Council is concerned that the policy “could prevent opportunities for appropriate development at the sites or enabling development to provide necessary enhancement of the facility itself or nearby facilities”. I am very conscious that paragraph 77 of the NPPF states that “local green space designation is not appropriate for most green spaces or open space”. I have therefore looked very closely at how the Town Council has justified the site’s inclusion against the criteria set out in the NPPF. Had there not been a justification offered for each of the sites then I would have been minded not to agree to the designations but I believe the



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supporting information, except for the following site, does allow me to conclude that the designations do meet the basic conditions. I also believe that the policy would not prevent the Borough Council from carrying out improvements to these facilities under the national guidelines, set out in the NPPF.

The one area that has been particularly difficult to justify has been the designation of the former Valentine Kennel site as local green space. It does appear that designation is part of a strategy to seek to prevent development of this parcel of land. I do not consider that this area, which is in private ownership and with no legitimate public access, meets the criteria of being demonstrably special to the local community or holds a particular local significance. It is essentially a brownfield site that will be surrounded by residential development in the coming years. The trees have been determined not to be worthy of protected status, by the non-confirmation of a TPO. Furthermore, its ecological importance did not justify being a reason for refusal to residential development in recent planning application based on the sparrows no longer occupying the site in meaningful numbers. I will be recommending that this site be removed from the list set out in Appendix 1 of local green space.

### *Recommendations*

Replace the Submission Version of the policy and the supporting text with that shown in the Suggested Changes version.

Remove Site 31 – Valentine Kennels from Appendix 1 and the Proposals Map and renumber accordingly.

Retitle policy as per Suggested Changes

### **Policy EN3: Provision of open space in residential development**

This policy in the submitted version of the plan was prepared before the publication of the Borough Councils Open Space Study. The policy required on site open space to be provided on all residential sites of 10 or more houses, irrespective of the type of housing being provided.

Following the publication of the latest version of the local plan and the open space study, the Town Council is now suggesting that the policy be deleted

### *Recommendation*

In line with the Town Council's Suggested Changes the Submission Version of the Policy EN3 be deleted.

### **Policy EN4: Starr Hills Reserve**

I can fully understand the objectives of this policy. The requirement to contribute towards the improvement and development of the facility would have to be the subject to the proposed development meeting the 3 requirements set out in Regulation 122 of the Community Infrastructure Levy Regulations.

I consider that it is highly unlikely that any development will be only acceptable if it made a contribution to this facility and in any event there would be a limit of five pooled contributions under the terms of the CIL regulations. It would be a better solution for any funding to be delivered, from a range of development across the borough. Once Fylde Council introduces its CIL charging scheme, contributions can be collected, which would be capable of contributing to the funding of this facility. However, as previously mentioned, the allocation of CIL money is a budgetary decision, to be made by the Borough Council, dependent on the sums received and the priorities which it determines. The neighbourhood plan cannot require CIL money to be allocated towards any particular project, although if the plan passes referendum and is subsequently “made”, it is could be a question for the Town Council to decide how to allocate some of the 25% CIL receipt to this or any other similar project.

I therefore recommended deletion of the second paragraph of the policy and rely on Policy DEL1.

### ***Recommendations***

The second paragraph should be deleted and renumber Policy EN3

### **Policy EN5: Urban tree supply**

This policy generally meets basic conditions. My initial concern related to the inclusion of street trees in the wording of policy, as generally the planting of trees in the urban area is not ordinarily a matter for planning control. However, as there will be some new residential development taking place, where new roads will be provided and need to be landscaped, I concur that the policy does have a value and that no alterations are necessary apart from the renumbering of the policy.

### **Policy EN6: Community tree planting**

Again this is a laudable aspirational policy, which will help deliver the vision of the

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Plan of the town being a “Garden town by the Sea”. In line with my previous I recommend that the deletion of the second paragraph.

### *Recommendation*

The second paragraph should be deleted.

Policy needs to be renumbered EN5

### **Policy CH1: Community infrastructure**

The original Submission Version of the plan referred to the preparation of a St Anne’s Local Infrastructure Plan. At the hearing it was confirmed that the LPA would not be preparing a separate infrastructure plan for the town. Its infrastructure will be included within the Fylde Infrastructure Delivery Plan.

It required any major planning application to be accompanied by a Community Infrastructure Statement for non-allocated sites or if its infrastructure requirements are not included in the Infrastructure Delivery Plan. At the hearing, a discussion took place on whether a development plan policy could require the submission of a particular supporting document, which would have to be prepared with the Town Council. It then required developer contributions and required infrastructure implications to be integrated with development phasing.

The Suggested Changes version of the plan now refers to major applications being accompanied by infrastructure information. The text still refers to applicants needing to submit this information” if the development’s essential community infrastructure requirements are not included in the up-to-date Fylde Infrastructure Delivery Plan”. One of the purposes of neighbourhood plan policy , as stated by the Planning Practise Guidance is that policy should provide clarity and certainty to decision-makers and by implications to applicants. I am not sure whether an applicant would necessarily know whether their development would necessitate additional community infrastructure, let alone, whether the infrastructure was already included in the Infrastructure Delivery Plan. Furthermore, inclusion of infrastructure in the Plan, would not necessarily be guaranteed funding.

Until such time as the CIL is introduced, any contribution must be justified on the grounds that it meets the three test set out in the Community Infrastructure Levy Regulations, as referred to in the earlier section. Similarly, when CIL is introduced any such infrastructure is capable of being funded by CIL rather than being required by virtue of this policy. The payment of CIL money is not the subject to development plan policy, it is a separate requirement which is not discretionary and is, effectively

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a tax that can be used to fund community infrastructure associated with all development taking place within the borough.

National policy is that neighbourhood plan policies must be supported by evidence and I have not seen any compelling evidence of inadequate infrastructure relating to schools, healthcare facilities, community hubs nor telecommunication or broadband infrastructure to justify having this specific policy for all residential development. If there was a case for this infrastructure, beyond relying on anecdotal evidence, I would expect to see representations from organisations such as the Local Commissioning Groups regarding NHS facilities. Similarly, I have seen no evidence or representations about the inadequacy of the broadband infrastructure within the town. The matter can, if required, be covered by Policy DEL1.

### *Recommendation*

That the policy be deleted.

### **Policy CH2: Community facilities**

The submission version of the plan refers to the identification of community facilities as Assets of Community Value. However, this is not a policy for the use and development of land. That paragraph has been removed in the Suggested Changes Version of the plan.

### *Recommendation*

Replace the Submission Version of the policy and the supporting text with that shown in the Suggested Changes version.

### **Policy CH3: Encouraging an active and healthy lifestyle**

The original policy set out in the submission version of the plan promoted a footpath and cycle network for the town. That proposal is now incorporated in policy EN2. In the Suggested Changes it proposes the deletion of the policy.

### *Recommendation*

In line with the Town Council's Suggested Changes, the Submission Version of the Policy CH3 be deleted.

### **Policy DH1: Creating a distinctive St Anne's**

The wording of the policy has not changed between the Submission Version and the Suggested Changes version of the plan. Paragraph 183 of the NPPF states: "Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need"

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I find the aspirations set out in the Plan to deliver the vision of St Anne's as a "Garden Town by the Sea" to be the most powerful element of this plan. The plan has, alongside its companion documents, established a clear aspiration of how new development can reflect the quality and style of new development the town aspires to. The policy provides the mechanism to require applicants to show how their proposals will contribute to the delivery of this vision. This it is an important policy which meets basic conditions and no changes are required.

### **Policy DH2: Corridors and gateways**

Again these policy is unchanged between the two versions of the plan. I find the policy to be a positive mechanism to drive the improvement of the physical appearance of these important routes. The only issue relates to the funding of the policy. It refers to the use of CIL but as previously stated the use of CIL money is a budgetary rather than a land-use policy decision. I do think that it is appropriate that any development within the corridors should contribute to the aspirations for the environmental enhancement of the area where the development is taking place, either through pooled contributions or through the carrying out of direct landscaping schemes, that are shaped by the guidance. The local planning authority will, at the appropriate time, be determining whether it wishes to include the St Anne's Corridor and Gateway Strategy and the Blackpool Airport Corridor Improvement Area within its Regulation 123 List, in order to be able to collect funding and development across all the borough to be used on this project. That is not a matter that the neighbourhood plan can determine.

### ***Recommendation***

Delete the last sentence of the Suggested Changes version of the policy.

### **Policy SS1: Blackpool airport**

The only variation between the Submission Version of the plan and the Suggested Changes version is the requirement the master plan for the Blackpool Airport Corridor Enterprise Zone to be consulted upon with the town council rather than requiring the town council's agreement. That was the subject of discussion at the hearing. I appreciate that other parties will also be consulted so that can be covered by the insertion of "including" between "consultation" and "with"

The policy has been the subject of a number of representations. One objection was to the inclusion of land at Queensway, which have been shown as part of Blackpool Airport. The Town Council confirmed that the land in question does not form part of the airport's landholdings and that the boundary had been incorrectly drawn. On the

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Suggested Changes version of the plan this cartographical error has been corrected on the revised Plan 2.

Objections have also been made on behalf of Blackpool Airport. Firstly, they believe the use of the term “open land” is an ambiguous description. Their suggested amendment would allow airport related development to be located into the Green Belt. To put new build development, even if related to the airport, would be harmful to the openness of the greenbelt and should not be allowed, except in very special circumstances.

The construction of new buildings for an airport use would not accord with the well-established national guidance of what constitutes “appropriate development” in the Green Belt, as set out in paragraph 89 of the NPPF. Whilst acknowledging the economic benefits being sought within the Enterprise Zone, I am conscious that the effect of the proposed alteration would be to free up development land outside the green belt for non-airport uses by putting airport related development that, could in part, remain located outside the Green Belt, into the Green Belt.

It is not appropriate for a neighbourhood plan to establish that a particularly use, would constitute very special circumstances. That must be a matter that has to be promoted and determined at the planning application stage. I note that the airport does enjoy some permitted development rights, including the construction of buildings subject to certain size limitations set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 for operational development. The fact that they can be constructed, notwithstanding the Green Belt designation, does not undermine the national policy against planning permission being granted for inappropriate development. I do not consider that a policy would meet basic conditions if the neighbourhood plan advanced a policy which allowed development, contrary to national green belt policy, to be promoted.

At the hearing it was confirmed that Fylde and Blackpool’s respective development management committees would be responsible for agreeing the master plan for the Airport’s enterprise zone. Their deliberation would have to consider whether to allow all types of airport related development in the Green Belt as part of the master plan. I therefore propose to change “must” to “should” as this is a matter for the approval of the actual decision makers in respect of the masterplan to address,

I have some concerns that some parts of the policy are not policy but justification for the policy namely the fourth paragraph of the policy.

Both Lancashire County Council and the Local Enterprise Partnership have recommended that the policy should be retitled Blackpool Airport Enterprise Zone. I consider that is an acceptable title that better reflects the area covered by the policy.

### *Recommendation*

That the policy be retitled Blackpool Airport Enterprise Zone.

Delete paragraph 4 of the policy and insert in the penultimate paragraph “including with relevant organisations including ” between” consultation” and “with”.

Replace Plan 2 with that prepared as part of the Suggested Changes.

Replace “must” with “should” in the last paragraph.

### **Policy SS2: Island site**

There have been no objections to this policy and I confirm that it meets basic conditions.

### **Policy E1: The town centre and town centre development**

The Submission Version of the plan sought to encourage the diversity of uses that support the vitality and viability of the town and local centres, so long as the uses were taking place above ground floor level. National planning policy is that town centres can benefit from a range of uses in addition to shops which collectively contribute to the success of these areas. There was a debate at the hearing about removing restriction to upper floors and I am pleased to say that the Suggested Changes version removes the limitation of only allowing alternative uses above ground floor level. That change brings a policy into line with national policy and advice.

The revised policy now meets basic conditions and no further alterations are required.

### *Recommendation*

Delete” above ground floor level” from the third paragraph of the Submission Version as per the Suggested Changes.

### **Policy E2: Primary shopping frontages**

The original Submission Version of the plan imposes a limit of non-retail uses to 25% of the units within the block. My questions and comments made at the hearing, raised specifically the point that the number of unit methodology did not differentiate

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between the change of use of a small kiosk or the loss of a department store.

The Suggested Changes version does look at the consideration of the viability of existing uses. The principle of the policy is to recognise that a range of uses can contribute to a successful and vibrant town centre. It is not considered that it is necessary for an applicant to have to show that an ongoing retail use remains a viable when a say restaurant use wishes to be allowed, which equally could contribute to the vitality the centre. This can be achieved if the test is not applied to Class A uses.

The requirement, in the final part of the policy, that “a well-designed and appropriate window display” is beyond the scope of planning control.

### *Recommendations*

Delete Submission Version and insert the Suggested Version but amend it by the inserting at the end of subsection c) “unless the proposed use is a use falling within Class A of the Town and Country Planning (Use Classes) Order 1987 as amended.

Delete the last sentence of the subsection d).

### **Policy E3: Secondary shopping frontage**

The same issues, relating to secondary shopping areas apply in the same way as they do with primary shopping areas and my same conclusions apply.

### *Recommendations*

Delete Submission Version and insert the Suggested Version but amend it by the inserting at the end of subsection c) “unless the proposed use is a use falling within Class A of the Town and Country Planning (Use Classes) Order 1987 as amended.

Delete the last sentence of the subsection d).

### **Policy E4: Employment and enterprise**

The requirements of businesses to “meeting the needs of the local community” is an unnecessary restriction. It goes against the principle of supporting economic activity as set out in the NPPF.

The final criteria for considering the acceptability proposals is that they should not have an adverse impact on the local highway network. The NPPF states in paragraph 32 that “development should only be prevented or refused on transport grounds where the residual cumulative impacts of developments are severe”.



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I will be recommending the use of the same threshold.

### *Recommendations*

Delete “that meet the needs of the community” from the first paragraph

### **Policy E5: Office development**

I am satisfied that this policy meets basic conditions and no changes are required.

### **Policy E6: Leisure, culture and tourism**

It is a requirement the policies should relate “to the use and development of land”. The first bullet point relates to how the image of the town will be promoted. That is an entirely appropriate objective for the Town Council to pursue as part of its tourism promotion strategy, but it does not form part of the development plan. Reference can however be included in the supporting text. This equally applies to the promotion of beach leisure, marine tourism and recreation events. The provision of designated coach drop-off facility similarly lies outside the scope of planning control.

### *Recommendations*

Delete subsection a), g) and i)

### **Policy E7: Tourism accommodation**

I have no objections to the policies which cover the protection of tourist accommodation within the Holiday Area as defined on the Proposals Map.

I do have concerns regarding the final element of the policy which will not allow the conversion of properties to market residential use. That runs contrary to the aims of the NPPF, which are to encourage a significant increase in housing supply and to encourage the change of use of commercial buildings into residential uses.

### *Recommendation*

Delete “affordable” before housing.

### **Policy T1: Accessibility for all**

This policy meets basic conditions and no changes are required. The changes now include the requirement that all schemes to are required to have regard to “other development plan policies”.

#### ***Recommendation***

Insert “subject to other development plan policies”.

### **Policy TR2: Better public transport**

I have major concerns that much of this policy deviates from being proposals for the “use and development of land”. The only elements of the policy which has land-use implications rather than being reliant on budgetary decisions on highway management matters are the improvements to the railway stations and the extension of the Tram network as set out in the Suggested Changes. The other matters are clearly important to the development of the town and in line with Government advice set out in the Planning Practise Guidelines that these matters can be properly set out in a companion document or clearly differentiated parts of the plan which does not form part of the development plan and will not go to referendum.

In the light of my conclusions relating to DEL1 as CIL payments are not discretionary. I will propose the deletion of the final paragraph.

#### ***Recommendations***

Delete subsections a), b) and c) from the Suggested Changes Version and deletion of the final paragraph.

### **Policy TR3: Residential car parking**

The first paragraph is not a policy but it is the reasoning for policy and should be incorporated within the justification. The principles behind the location of curtilage parking are sound, but there will be locations or particular types of development where the achievement of the policy cannot be achieved. That matter can be addressed without compromising the trust of the policy by the introduction of the caveat “wherever possible”. The LPA has suggested that the policy would be better if included in the Design Guide but as far as the basic conditions are concerned there is no reason not to have the requirements as a neighbourhood plan policy.

### ***Recommendation***

Delete the first paragraph.

### **Policy TR4: Town centre parking**

This policy relates to the town council's desire to be involved with the development of a car parking strategy for St Anne's town centre. There was a discussion about this at this hearing and the conclusion reached was that it was not actually at policy relating to the use and development of land. In the Suggested Changes the Town Council is promoting the removal of this policy.

### ***Recommendation***

In line with the Town Council's Suggested Changes the Submission Version of the Policy TR4 be deleted.

### **Policy TR5: Getting around St Anne's**

I consider that the achievement of the linked network is an important part of the vision and strategy for the neighbourhood plan. However, these specific proposals are more matters that fall under the responsibility of the Highway Authority than through the planning system. However, the one area where the aspirations of the policy can be delivered, is through influencing new development at the planning application stage. My recommendation is that the final paragraph be retained along with this essential parts of the first section which gives the context for the policy. The remaining elements can be included in the non-development plan section of the document.

### ***Recommendation***

Renumber as TR4 and replace the Submission Version and replace with Suggested Changes but delete all text between "on /off street cycle routes" to "electric buggies" and the final paragraph.

### **Policy HOU1: Housing development**

Following the hearing there has been a significant change in the text of the policy although it only is achieved by the addition of only four words. In the Submission

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Version, housing was only to be allowed on previously developed land, which lay within the settlement boundary, including on infill sites. I expressed major concern that the housing policies were inadequate and could mean the plan did not meet the basic conditions, as it will prevent the town meeting its own housing requirements and hence the achievement of sustainable development. That position has now changed as a result of the proposed Suggested Changes. All development for housing on previously developed sites whether inside or outside the settlement boundary as well as the land within the settlement boundary will be supported. The second sentence presumes in favour for residential development on infill and redeveloped site in the town. However, that element is now unnecessary - they will also either be brownfield sites and/or land within the settlement boundary. I therefore propose to delete that part of the sentence as it is both unnecessary and I am concerned that retaining it will cause ambiguity.

### *Recommendation*

Delete Submission Version and insert Suggested Changes but delete “on infill and redevelopment sites within the town” in the second sentence.

### **Policy HOU2: Housing for a sustainable community**

This policy sought to rebalance housing provision, to attract and economically active families. At that hearing the local planning authority position was that there was still an unmet need for small units and furthermore that the major new housing developments would deliver primarily residential development for families. The policy is now proposed for deletion in the Suggested Changes Version of the plan.

### *Recommendation*

In line with the Town Council's Suggested Changes the Submission Version of the Policy HOU2 be deleted.

### **Policy HOU3: New Apartments**

This was a topic which is engaged a degree of time at the hearing. The objective of the original submission was to resist solely new apartment developments and where flats were included as part of the mixed development, to limit them to 20% of the units within the scheme. Much of the debate centred on concerns that the Town Council were articulating, regarding the conversion of existing large properties into flats and houses in multiple occupation (HMOs). This was in terms of the standard of accommodation and the effect of the change of use on the development on the

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amenity of the area. On the other hand, Fylde Council in its representations were concerned that the policy could lead to larger properties falling into disrepair if there was a presumption against their conversion. The revised policy in Suggested Changes now is a completely different policy which deals with the criteria for the consideration of planning applications for the conversion of properties to flats or HMOs. I consider this policy is appropriate and will ensure that the effect on the character of the area as well as to ensure the problem an acceptable standard of accommodation within the property are considered. These are matters that are consistent with national and local policy and meets the basic conditions test.

### ***Recommendation***

Delete the Submission version and renumber as policy HOU2 and insert wording as set out in the Suggested Changes Version of the Plan.

### **Policy HOU4: Retirement hubs**

I am satisfied that this policy meets the basic conditions and no alterations are required.

### ***Recommendation***

Policy to be renumbered Policy HOU3

### **Policy HOU5: Residential design**

There was a debate at the hearing in response to question I have raised, as to whether it was appropriate to require an outline application to have to be submitted with the masterplan, be demonstrate that the development could be properly integrated into its setting. The Suggested Changes Version makes reference to the submission of an illustrative masterplan which addressed my concerns.

### ***Recommendation***

Renumber as Policy HOU4 and delete the Submission version and replace policy HOU4 as set out in the Suggested Changes Version of the Plan.

### **Policy SU1: Incorporate sustainable urban drainage into new development**

The policy is essentially in line with up to date national advice on dealing with surface water drainage in new development. My only concern is the requirement that development contributions will be required from the provision and maintenance of SuDS which is not provided as part of the development. My conclusions regarding the collection of CIL are the same as in previous sections, along with the need for

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any planning obligations to meet the three objectives set out in Regulation 122 of the CIL Regulations.

### *Recommendation*

Delete the last paragraph of the Submission Version.

### **Policy SU2: Decentralised energy networks and district heating systems**

The Submission Version of the plan put the requirements to explore decentralised energy supply and district heating/cooling systems was for “major development” i.e. 10 units. That threshold has now been raised to 100+ homes in the Suggested Changes Version of the plan. I believe that that is much more practical threshold and I propose to accept that recommendation. I am aware that the Secretary of State in his statement to the House of Commons dated 25<sup>th</sup> March 2015 stated that “Local authorities or qualifying bodies preparing neighbourhood plans should not.... set out ..any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.” I therefore consider that this section should be better included in the Design Guidance and not be a development plan policy.

### *Recommendation*

That the Policy be deleted and the contents be moved to the Design Guide.

### **Policy DEL1 Developer contributions**

I have raised concerns that the policy for development contributions did not necessarily meet the test of planning obligations. The Suggested Changes version introduced a requirement for a direct relationship to the development. The latest version of the plan is the clarity that the assessment of the requirements lay with Fylde Council. I am concerned that the reference to “the Council” could be misconstrued and could be considered to refer to the Town Council. I will make it clear that any contribution to the list of nine items set out in the policy, has to be directly related to the development, which is the test as to whether the planning application will be refused had it not been to the contribution being made.

### *Recommendation*

Replace the Submission version with the Suggested Changes version but insert in the fourth paragraph, “so long as there is a direct relationship with the development” at the end of the first sentence.

Insert “Fylde” Council into the last paragraph.

### **The Referendum Area**

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance I can confirm that the area of the St Anne’s on the Sea Neighbourhood Development Plan as designated by Fylde Council is the appropriate area for the Referendum to be held and the area for the referendum does not need to be extended.

### **Summary**

The St Anne’s on the Sea Neighbourhood Plan has much to commend itself, aspiring to high quality new development, reflecting the expectations that all schemes should contribute to the achievement of the “Garden Town by the Sea”. Equally it promotes exciting new initiatives such as trying to link open space within the town to the coast. I am delighted to recognise the enthusiasm and vision that has gone into the demonstrating how new development can help shape the town over the next fifteen years. The Town Council is to be congratulated on taking such a positive approach and using the neighbourhood planning process to set out a clear vision for the town.

However, my concern has been to the approach that the plan has taken to providing the new homes that the community is going to need and I am making a number of what must seem significant changes to policy, beyond even what the Town Council has promoted in its Suggested Changes version of the Plan and to the settlement boundary. I have to make it clear that had I not felt that I was in a position to recommend these changes, it was very likely that I would have reached a different conclusion as to whether the Plan should be allowed to proceed to referendum. Neighbourhood Plans have to be prepared having regard to Secretary of State advice which is clearly to secure a boost in the supply of housing. As originally submitted the plan I felt that the Plan would not be providing for sustainable development for the whole plan period. I recognise that some of my changes will not be popular recommendations, but it has allowed me to come to the view that taken as a whole the Plan, if amended by my recommendations, would now meet all the

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statutory requirements, including the basic conditions and should be allowed to proceed to referendum.

**I am therefore delighted to recommend to Fylde Council that the St Anne's on the Sea Neighbourhood Development Plan, as modified by my recommendations, should now proceed to referendum.**

JOHN SLATER BA(Hons), DMS, MRTPI

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10<sup>th</sup> August 2016