

CASSINGTON NEIGHBOURHOOD PLAN

2021 - 2041

JULY 2022

BASIC CONDITIONS STATEMENT

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under the Neighbourhood Planning (General) Regulations 2012 (as amended)

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1.INTRODUCTION

1.1 This statement has been prepared by Cassington Parish Council ("the Parish Council") to accompany its submission of the Cassington Neighbourhood Plan ("the Neighbourhood Plan") to the local planning authority, West Oxfordshire District Council ("District Council"), under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) ("the Regulations").

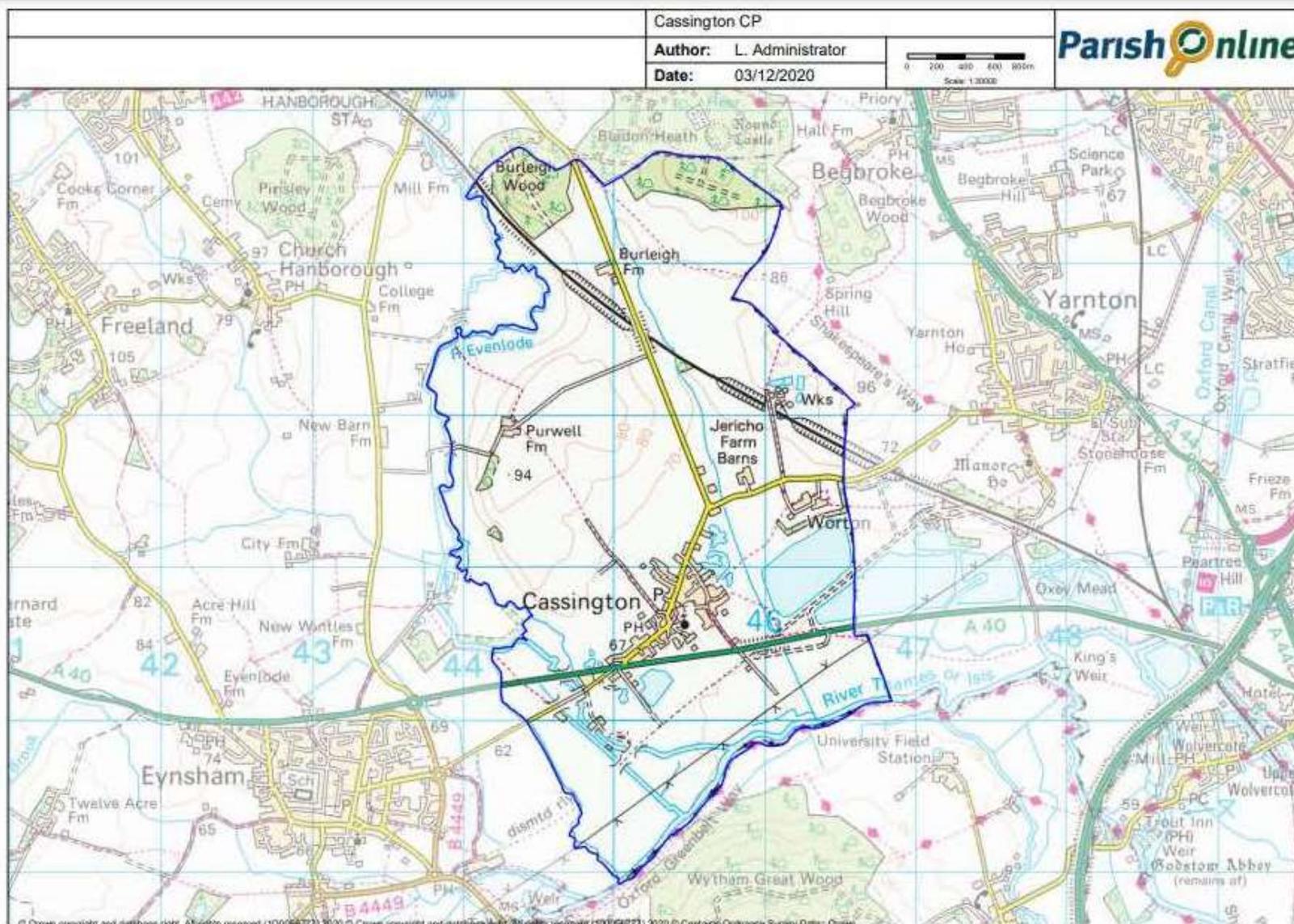
1.2 The Neighbourhood Plan has been prepared by the Parish Council, the 'Qualifying Body', for the Neighbourhood Area ("the Area"), which coincides with the boundary of the Parish of Cassington shown on Plan A below. The District Council designated the Area in December 2020.

1.3 The policies described in the Neighbourhood Plan relate to the development and use of land in the designated Area. They do not relate to 'excluded development', as defined by the Regulations. The plan period of the Neighbourhood Plan is from 2021 to 2041, the end date of which corresponds with the proposed plan period of the emerging Local Plan Review. This will enable the two plans to neatly operate alongside each other and to be monitored and reviewed on a similar timeframe.

1.4 The statement addresses each of the four 'Basic Conditions', which are relevant to this plan, required of the Regulations and explains how the submitted Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Town & Country Planning Act.

1.5 The Regulations state that a Neighbourhood Plan will be considered to have met the Conditions if:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Development Plan,
- b) (Not relevant for this Neighbourhood Plan),
- c) (Not relevant for this Neighbourhood Plan),
- d) The making of the Neighbourhood Development Plan contributes to the achievement of sustainable development,
- e) The making of the Neighbourhood Development Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- f) The making of the Neighbourhood Development Plan does not breach and is otherwise compatible with EU obligations.



Plan A: The Designated Neighbourhood Area

1.6 The responsibility for determining if a Neighbourhood Plan has had regard to national policy and is in general conformity with strategic policy rests with a combination of the qualifying body, the local planning authority and the independent examiner (Planning Practice Guidance §41-070 and §410-074). Case law, established in the Tattenhall Neighbourhood Plan in 2014 (see §82 of EWHC 1470) but endorsed by the Courts on a number of occasions since, makes clear that:

“... the only statutory requirement imposed by Condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted Development Plan as a whole ... any tension between one policy in the Neighbourhood Plan and one element of the ... Local Plan (is) not a matter for the Examiner to determine.” (our emphasis)

1.7 The case acknowledged that there will often be tensions between different strategic policies when considered against the non-strategic policies of a specific local area covered by a Neighbourhood Plan. It sensibly concluded that such tensions can only be resolved by the qualifying body using its planning judgement to strike an appropriate balance across the plan as a whole. The examination tests the extent to which the qualifying body has exercised its judgement in a reasonable way. The fact that the local planning authority, in its representations on the plan, indicates that it would strike the balance differently, does not disable the qualifying body from doing so.

1.8 It is noted that the case law has not yet explicitly established the same principle for Condition (a) in respect of the regard to national policy, but it seems reasonable to expect the Courts would reach the same conclusion, given there will also be a range of national policies influencing plan making, and that some of those policies may also be in tension. It is therefore expected that the examination of this Condition will take the same approach as Condition (e).

1.9 For these reasons, sections 3 and 5 of this Basic Conditions Statement highlight how policies of the Neighbourhood Plan are considered to meet Conditions (a) and/or (e), explaining how the qualifying body has exercised its judgement in those cases “where different parts of national policy need to be balanced” (§070) and how it has taken into account the criteria of §074 on general conformity. Finally, it explains how the Neighbourhood Plan as a whole meets Conditions (a) and (e).

1.10 The Parish Council is also mindful of the Levelling Up and Regeneration Bill placed before Parliament in May 2022. The Bill proposes to make changes to both the development plan and management system. It indicates that there is a future for neighbourhood planning in that system. Once the Bill has received Royal Assent and the associated regulations and changes to national policy are in place, necessary amendments to the proposed policy provisions will be considered in a first review of the made Neighbourhood Plan.

2.BACKGROUND

2.1 The decision to proceed with a Neighbourhood Plan was made by the Parish Council at the end of 2020. The key driver of this decision was a sense of wanting to plan positively for the future of the Parish, but within the context of a rural Parish with little services, taking into account the cumulative effect of major strategic allocations adjacent to the Parish, not only in the West Oxfordshire District, but also the neighbouring Cherwell district. The Parish Council considered having a Plan would improve the way in which future development proposals are managed through expressing the identity of the existing village community.

2.2 The Parish Council wished to use its neighbourhood plan as a means of demonstrating how its vision would lead to more sustainable development in keeping with the rural village character and sensitive Green Belt status in between major strategic growth proposals, even though national policy places significant constraints on neighbourhood planning in the Green Belt. A steering group was formed comprising the residents and Parish Council representatives. The group has been delegated authority by the Parish Council to make day-to-day decisions on the preparation of the Neighbourhood Plan. However, as the qualifying body, the Parish Council approved the publication of the Pre-Submission plan in January 2022 and the Submission Plan now.

2.3 The Parish Council has consulted local communities extensively over the duration of the project. It has also sought to work closely with officers of the District Council to collate and examine the evidence base, to design and iterate policy proposals and to define the proper relationship between the Neighbourhood Plan and the emerging Local Plan. The nature and outcome of these various publicity and consultation exercises are set out in the separate Consultation Statement.

2.4 A schedule of the policies showing the position of the District Council in respect of whether or not in its planning judgement each policy meets the basic conditions is included in Section 5 below as an equivalent to a 'statement of common ground' for the benefit of the examiner. In this respect, the Parish Council acknowledges that the Planning Practice Guidance (§41-053) states that "it is only after the independent examination has taken place and after the examiner's report has been received that the local planning authority comes to its formal view on whether the draft neighbourhood plan meets the basic conditions."

2.5 However, the Parish Council is also mindful that, once submitted for examination, it has no further opportunity to modify the Neighbourhood Plan, other than through its withdrawal and resubmission. Further, S12(4) of Schedule 4B of the Town & Country Planning Act 1990 defines the local planning authority as the decision maker in respect of determining if the basic conditions have been met in order to make a neighbourhood plan, with modifications to the submitted plan as necessary. But the Planning Practice Guidance regards the task of arriving at a planning judgement to be shared by the local planning authority, the qualifying body and examiner during the examination, in collectively considering if the basic conditions have been met (§41-070 and §41-074).

2.6 In which case, it is vital that both the qualifying body and the examiner are left in no doubt of the position of the local planning authority at the examination stage. But it is also important that the examiner's position is also properly understood, most especially if the examiner intends to come to a different planning judgement to that of the local planning authority and the qualifying body. In this regard, the Parish Council notes the advice to the examiner in §2.9.6 of the NPIERS 'Guidance to service users and examiners' (2018) in respect of the standard of proof that the examiner must apply in reaching a planning judgement and in its §2.14.1 in respect of the requirement for accuracy, clarity and simplicity.

2.7 The Neighbourhood Plan contains 10 land use policies (CAS1 – CAS10), which are defined on the Policies Map where they apply to a specific part of the Area. The Plan has deliberately avoided containing policies that duplicate adopted development plan policies or national policies that are already used to determine planning applications in the Area. The policies are therefore a combination of site-specific or other proposals and of development management matters that seek to refine and/or update existing policies to secure their specific application to this Parish.

3. CONDITION (A): REGARD TO NATIONAL PLANNING POLICY

3.1 The Neighbourhood Plan has been prepared with full regard to national policies as set out in the National Planning Policy Framework (NPPF) and of the Planning Practice Guidance (PPG) in respect of formulating Neighbourhood Plans. The NPPF was first published in 2012 and subsequently revised in February 2019, and again in 2021 during the project. It is this latter version that has guided the preparation of the Neighbourhood Plan and this Statement includes references to that latest version in this section. In overall terms, there are five NPPF paragraphs (§13, §18, §28, §29, §31) that provide general guidance on neighbourhood planning, to which the Neighbourhood Plan has directly responded:

General Paragraphs

3.2 The Parish Council believes the Neighbourhood Plan “support(s) the delivery of strategic policies contained in local plans ... and ... shape(s) and direct(s) development that is outside of these strategic policies” (§13). It considers the Neighbourhood Plan contains only non-strategic policy proposals or proposals that refine strategic policy to fit the circumstances of the Area without undermining the purpose and intent of those strategic policies (§18). It considers that the Neighbourhood Plan sets out more “detailed policies for specific areas” including “the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies” (§28). The Neighbourhood Plan does “not promote less development than set out in the strategic policies for the area or undermine those policies” (§29). And finally, The Plan is “underpinned by relevant and up-to-date evidence” (§31). This is considered to be “adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take(s) into account relevant market signals” (§31).

3.3 The NPPF provisions of meeting local housing needs (as per §66/§67) are not relevant to this Neighbourhood Plan as the Parish and the main village settlement is ‘washed over’ by the Green Belt and strategic policy has made no provision for any changes to Green Belt boundaries in this location (as per §140). This Neighbourhood Plan is therefore unable to make any allocations to meet local housing needs. Existing provisions on exceptions to the construction of new buildings in the Green Belt (as per §149) will continue to apply in this respect.

Specific Paragraphs

3.4 Each policy engages one or more specific paragraphs of the NPPF. Those that are considered to be of the most relevance and substance are identified in Table A below.

Table A: Neighbourhood Plan & NPPF Conformity Summary

No.	Policy Title	NPPF Ref.	Commentary
CAS1	Cassington Nature Recovery Network	174, 179	The policy contributes to and enhances the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures through identifying, mapping and safeguarding these components. It is therefore consistent with the aims of §174 and §179 in these respects.
CAS2	Active Travel	100, 104	The policy requires that transport issues are considered from the earliest stages of development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued. The policy is therefore consistent with §104 in this respect. It also seeks to improve the use of public rights of way to encourage walking cycling and horse-riding in the Parish, as per §100.
CAS3	Dark Skies	185	The brightest levels of light pollution can already be seen in the Parish and is likely to be made worse by future development. The policy therefore seeks to limit the impact of light pollution in line with the provisions of §185.
CAS4	Cassington Conservation Area	127-129, 189	'Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development' (§127). The policy seeks to bring 'clarity about design expectations' within the Cassington Conservation Area and the wider Parish (§128). The specific matters included in the policy 'provide a local framework for creating beautiful and distinctive places' to deliver a 'consistent and high quality standard of design' (§128). More generally, the policy approach follows that of the new National Model Design Code in identifying those key attributes of the village scape that contribute to defining the essential character of the Conservation Area.
CAS5	Design Code for Cassington Village		
CAS6	Locally Listed Buildings	203	This policy identifies a number of local heritage assets to engage the provisions of §203. They have been derived from the Character Assessment which describe the value of each asset carried out as part of the preparation of the neighbourhood plan.

CAS7	Local Services and Community Facilities	93	This policy seeks to protect popular and cherished social, recreational and cultural facilities across the Parish whilst supporting those facilities to develop and modernise providing it does not result in the unnecessary loss of valued facilities in line with §93.
CAS8	Zero Carbon Buildings	56, 152, 154, 157	This policy is a local response to a global challenge, the local community being convinced by the international evidence that ensuring zero carbon building performance through the PassivHaus standard is the most simple and cost-effective approach to take. In doing so, it is consistent with the aims and provisions of §152, §154 and §157. It is inspired by innovative development plan making work in other parts of the country that has demonstrated this type of provision is necessary and possible in managing development proposals until national policy provisions are implemented. Its provision for post-occupancy evaluation of buildings constructed outside of the standard is consistent with PINS model conditions of this type and is therefore considered in line with the use of planning conditions, as per §56.
CAS9	Infill Residential Development	149	The policy guides the application of national policy for limited infill in villages as set out in §149e making it clear what this means in practice within the context of Cassington.
CAS10	Affordable Housing	62, 78, 79, 104, 126, 149	The policy guides the application of national policy for limited affordable housing as set out in §149f making it clear what this means in practice either through limited infill or rural exception sites within the context of Cassington. The policy also seeks to influence housing mix for proposals coming forward to deliver a wide choice of homes that reflects local demand and to create a demographically balanced community in accordance with §62, §78 and §79. The policy also seeks to avoid issues surrounding privacy, amenity and access in accordance with the provisions of §104 and §126.

3.5 It is considered that all the policies have had full regard to national policy. None of the policies of the Neighbourhood Plan have required a balancing exercise to be undertaken in having regard to national policy as none are considered to be inconsistent with national policy. As a result, the Neighbourhood Plan, as a whole, meets Condition (a).

4. CONDITION (D): CONTRIBUTING TO ACHIEVING SUSTAINABLE DEVELOPMENT

4.1 As a Strategic Environmental Assessment Report has not been required of the Neighbourhood Plan, the Statement sets out in Table B below how each of the policies contribute to the achievements of sustainable development. It does so by identifying the potential of each policy to lead to significantly positive (dark green), moderate positive (light green), neutral (yellow), moderate adverse (light red) or significant (dark red) adverse effects, taking into account the proposed mitigation measures.

Table B: Neighbourhood Plan & Sustainable Development					
Policy		Social	Economic	Environmental	Commentary
CAS1	Cassington Nature Recovery Network	Light Green	Yellow	Dark Green	The policy will have a significant positive environmental effect in ensuring that development proposals contribute to the multi-functional roles of green infrastructure assets including their recreational, ecological and climate change roles. It will have moderate social effect as the network comprises a range of publicly accessible spaces that will benefit from the policy provisions. Its economic effect is neutral.
CAS2	Active Travel	Dark Green	Yellow	Light Green	The policy will have significant positive social effects in encouraging healthier lifestyles by walking and cycling and to a lesser extent reducing traffic to improve air quality. Its economic effect is neutral.
CAS3	Dark Skies	Light Green	Light Green	Yellow	This policy has moderate positive social and environmental benefits by improving enjoyment of the night skies while at the same time reducing the impact of artificial light on wildlife although the extent of its application is limited to development within the parish. Its economic effect is neutral.
CAS4	Cassington Conservation Area	Light Green	Yellow	Dark Green	The policy will have a significant positive environmental effect and a moderate social effect in conserving the essential character of the village, and some of its history (especially that of its

CAS5	Design Code for Cassington Village		Conservation Area and Listed Buildings), which local people care about. Its economic effect is neutral.
CAS6	Locally Listed Buildings		The policy will have a significant positive environmental effect and a moderate social effect in ensuring that features of local historic and/or architectural value are understood and kept as far as possible in new development proposals as part of retaining the character of the Parish, for the enjoyment of the local community. Its economic effect is neutral.
CAS7	Local Services and Community Facilities		The policy will have a significant positive social effect in protecting the range of community facilities that are well used and cherished by the village communities. Its economic and environmental effects are neutral although retaining facilities will avoid having to travel elsewhere.
CAS8	Zero Carbon Buildings		The policy will have a significant positive environmental effect in maximising the zero-carbon performance of all new buildings. It will have moderate social and economic effects in the ongoing financial savings to the building (residential and commercial) occupiers in energy costs.
CAS9	Infill Residential Development		The policies will have significant positive social effects by containing and managing the sustainable infill growth of the village and directing future schemes to those parts of the parish where development may be appropriate as well as starting to address the current imbalance in the range of housing types in the village. The containment of the village will ensure that its historic rural character, and the surrounding landscape, will be protected avoiding causing a negative environmental effect. Its economic effect is neutral.
CAS10	Affordable Housing		

4.2 The cumulative effect of the policies will be to make very significant positive differences to the quality of the local environment, with the benefits they will deliver for people living and working in the Parish. The economic effects are mostly considered to be neutral and national and strategic policy provisions will continue to apply in this respect. There are many, much larger and far better-connected neighbourhoods in this area that are more sustainable locations for future significant housing and economic growth schemes (and where there will be many more opportunities to reuse brownfield land for these purposes).

5. CONDITION (E): GENERAL CONFORMITY WITH THE STRATEGIC POLICIES OF THE DEVELOPMENT PLAN

5.1 The Neighbourhood Plan has been prepared to ensure its general conformity with the strategic policies of the development plan for the West Oxfordshire District, that is the West Oxfordshire Local Plan 2031 (“the Local Plan”), and the Oxfordshire Minerals & Waste Local Plan Part 1 – Core Strategy (“the Minerals & Waste Plan”), taken as a whole. The Parish Council has also been very mindful of the Local Plan Review to 2041, largely driven by the preparation of a county-wide Oxfordshire Plan 2050 for the longer-term spatial development of Oxfordshire which will inform a Local Plan Review.

5.2 In accordance with Planning Practice Guidance (§ 41-009), this Statement does not seek to demonstrate general conformity with the policies of the Local Plan Review to 2041, which in any event is too early in its preparation to be of any help. However, it is noted that the proposals and evidence base for the emerging Oxfordshire Plan 2050 may be used to inform the Neighbourhood Plan. To this end, it has to date set out that there limited rural growth will feature in the Oxfordshire Plan 2050. This is especially important as the Parish Council seeks to re-assert the value of the plan-led system to 2041.

5.3 Cassington is defined as a ‘Village’ in the settlement hierarchy and remains ‘washed over’ by the Oxford Green Belt in the adopted Local Plan. The Local Plan makes no development allocations in the neighbourhood area but there are major strategic allocations adjacent to the designated neighbourhood area within West Oxfordshire and the neighbouring area of Cherwell. An assessment of the general conformity of each policy is contained in Table C below.

Table C: Neighbourhood Plan & Development Plan Conformity Summary

No.	Policy Title & Refs	Commentary
CAS1	Cassington Nature Recovery Network	This policy refines Local Plan Policies EH3 – EH4 in relating its broad biodiversity and natural environment principles to this Parish.
CAS2	Active Travel	The policy refines Local Plan Policy EH4 by providing a local element to its provisions on active travel routes.
CAS3	Dark Skies	The policy is consistent with, and refines, Local Plan Policies EH2 and EH8 in identifying the existing status of dark skies in the Parish that form an essential part of the distinctive rural character of the area.
CAS4	Cassington Conservation Area	The policy refines Local Plan Policies OS4 and EH9 by identifying local context and specific design features of the built and natural environment and the wider Parish.
CAS5	Design Code for Cassington Village	
CAS6	Locally Listed Buildings	This policy refines Local Plan Policy EH9 in identifying non-designated heritage assets in the Parish to which the policy applies.
CAS7	Local Services and Community Facilities	This policy refines Local Plan Policies E5 in identifying local services and community facilities and sport, recreation and children's play facilities in the Parish to which this policy applies.
CAS8	Zero Carbon Buildings	There are no strategic policies relating to the matter however it is considered that the policy complements Local Plan Policy EH6. The policy therefore brings this policy context up to date with contemporary thinking and national policy provisions for tackling climate change through the energy performance of new buildings.
CAS9	Infill Residential Development	The policy guides the application of national policy on the Green Belt to which Local Plan Policy OS2 defaults but is considered also meets the requirements of Local Plan Policy OS2 which supports limited development which respects the village character and local distinctiveness by making it clear what limited infill means in practice within the context of Cassington. The remaining provisions of Local Plan Policies OS2 and H2 will continue to apply.

CAS10	Affordable Housing	The policy firstly refines Local Plan Policy H4 in identifying a local need for affordable housing and retains its provisions for affordable housing provision within the built-up area. The policy then guides the application of national policy on the Green Belt, specifically limited affordable housing for local community needs, by making it clear what limited affordable housing for local community needs means in practice within the context of Cassington. This is considered to be in line with the provisions of Local Plan Policies OS2 and H2 which supports limited development which respects the village character and local distinctiveness. Policy H2 draws particular attention to the general principles of Policy OS2 for housing development which includes directing schemes on land within the Green Belt to national provisions on the Green Belt. The remaining provisions of Local Plan Policies OS2 and H2 will continue to apply.
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5.20 It is considered that all the policies are in general conformity with the strategic policies of the adopted development plan. As a result, the Neighbourhood Plan, as a whole, meets Condition (e).

6. CONDITION (F): COMPATABILITY WITH EU LEGISLATION

6.1 As noted in Section 4, West Oxfordshire District Council provided a screening opinion that has determined that a Strategic Environmental Assessment is not required, following consultation with statutory bodies, as per Regulation 9 of the Environmental Assessments of Plans and Programmes Regulations 2004 (as amended). A copy of the screening opinion is published separately. The Parish Council Forum has therefore met its obligations in relation to the EU Directive 2001/42 in respect of assessing the potential for significant environmental effects of the policies of the Neighbourhood Plan.

6.2 The Parish Council has also met its obligations in relation to the habitat provisions of EU Directive 92/43/EEC (and the associated Conservation of Natural Habitats and Wild Flora and Conservation of Habitats and Species Regulations 2017 (as amended)). In this regard, the Parish Council provided the West Oxfordshire District Council with all the necessary information it required for the purposes of determining whether an Appropriate Assessment was required or to carry out the Appropriate Assessment if one was required. West Oxfordshire District Council's Habitats Regulations Screening Assessment concludes that the making of the Neighbourhood Plan is not likely to have a significant effect on a European site (as defined in the 2017 Regulations) either alone or in combination with other plans or projects.

6.3 The Parish Council has been mindful of the fundamental rights and freedoms guaranteed under the European Convention on Human Rights in process of preparing the Neighbourhood Plan and considers that it complies with the Human Rights Act. The Neighbourhood Plan has been subject to extensive engagement with those people local to the area who could be affected by its policies and their views have been taken into account in finalising the Plan.