

**Bramham-cum-Oglethorpe Parish Council**

# **Bramham-cum-Oglethorpe Neighbourhood Development Plan**

A report to Leeds City Council of the Independent Examination  
of the Bramham-cum-Oglethorpe Neighbourhood Development  
Plan

Independent Examiner Christopher Edward Collison

Christopher Edward Collison

BA (Hons) MBA MRTPI MIED MCMi IHBC

Planning and Management Ltd

[collisonchris@aol.com](mailto:collisonchris@aol.com)

2 November 2018

# Contents

Page

<b>Overall Finding</b>	<b>3</b>
<b>Neighbourhood Planning</b>	<b>4</b>
<b>Independent Examination</b>	<b>5</b>
<b>Basic Conditions and other statutory requirements</b>	<b>7</b>
<b>Documents</b>	<b>9</b>
<b>Consultation</b>	<b>10</b>
<b>The Neighbourhood Plan taken as a whole</b>	<b>13</b>
<b>The Neighbourhood Plan policies</b>	<b>27</b>
Policy CF1 Protect and enhance existing community facilities	
Policy LR1 Improving public rights of way	
Policy LR2 New sports and leisure facilities	
Policy HOU1 Housing type and mix	
Policy NE1 Local Green Spaces	
Policy NE2 Enhancement and protection of nature areas and biodiversity	
Policy H1 Non-designated local heritage assets	
Policy H2 Bramham Moor Battlefield – Local Heritage Area	
Policy H3 Development within the Conservation Area	
Policy H4 Development outside the Conservation Area	
Policy H5 Key Views	
Policy UoL1 University of Leeds Estate	
<b>Summary and Referendum</b>	<b>48</b>
<b>Annex: Minor corrections to the Neighbourhood Plan</b>	<b>50</b>

## Overall Finding

This is the report of the Independent Examination of the Bramham-cum-Oglethorpe Neighbourhood Development Plan. The plan area comprises the entire civil parish of Bramham-cum-Oglethorpe within the Leeds City Council area. The plan period is 2018-2033. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for development.

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

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Bramham-cum-Oglethorpe Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Bramham-cum-Oglethorpe Parish Council (the Parish Council). The draft Plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Bramham-cum-Oglethorpe Neighbourhood Area which was formally designated by Leeds City Council (the City Council) on 15 November 2016<sup>2</sup>. The Neighbourhood Plan has been produced by the Bramham-cum-Oglethorpe Neighbourhood Plan Steering Group, made up Parish Councillors and other volunteer residents.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to Leeds City Council. Leeds City Council arranged a period of publication between 28 May and 9 July 2018. Leeds City Council has submitted the Neighbourhood Plan to me for independent examination.

---

<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012) (See paragraph 214 of the NPPF 2018 for an explanation why this Independent Examination is being undertaken in the context of the NPPF 2012)

<sup>2</sup> This designation followed changes to the Parish boundary. The previous Parish area had been designated a Neighbourhood Area on 17 September 2012

## Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.<sup>3</sup> The report makes recommendations to Leeds City Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. Leeds City Council will decide what action to take in response to the recommendations in this report.
6. Leeds City Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and the decision taken to put the plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application<sup>4</sup>.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>5</sup> unless Leeds City Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan<sup>6</sup>. The Framework is very clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted<sup>7</sup>.
8. I have been appointed by Leeds City Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and Leeds City Council. I do not have any interest in any land that may be affected by the

---

<sup>3</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

<sup>4</sup> Paragraph 216 of the National Planning Policy Framework 2012 explains full weight is not given at this stage

<sup>5</sup> Section 3 Neighbourhood Planning Act 2017

<sup>6</sup> Section 156 Housing and Planning Act 2016

<sup>7</sup> Paragraph 198 National Planning Policy Framework 2012

Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.

9. As independent examiner, I am required to produce this report and must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>8</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>9</sup>

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>10</sup> The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.*”

12. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

---

<sup>8</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>10</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

## Basic Conditions and other statutory requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>11</sup> A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>12</sup>

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>13</sup> All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan policies’.

15. In addition to the Basic Conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>14</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

---

<sup>11</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>12</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>13</sup> The Convention rights has the same meaning as in the Human Rights Act 1998

<sup>14</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

16. The Neighbourhood Plan relates to the area that was designated by Leeds City Council as a neighbourhood area on 15 November 2016. A map of the Neighbourhood Plan boundary is included as Map 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Bramham-cum-Oglethorpe parish boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>15</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>16</sup> All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>17</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>18</sup> I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>19</sup> The front cover of the Submission Version Plan clearly states the plan period to be 2018-2033.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>20</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention rights, and the other statutory requirements.
20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as,

---

<sup>15</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>19</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

<sup>20</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the National Planning Policy Framework 2012

or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.

21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.<sup>21</sup>

## Documents

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

- Bramham-cum-Oglethorpe Neighbourhood Development Plan 2018-2033 Submission Draft Plan April 2018 including Appendices 1 and 2
- Bramham-cum-Oglethorpe Neighbourhood Development Plan 2018-2033 Basic Conditions Statement April 2018 [*In this report referred to as the Basic Conditions Statement*] including Appendix 1 Strategic Environmental assessment & Habitats Regulations Assessment Screening Report October 2017 [*In this report referred to as the SEA and HRA Screening Report*]
- Bramham-cum-Oglethorpe Neighbourhood Development Plan Habitats Regulations Assessment Screening Report Update July 2018 [*In this report referred to as the HRA Screening Report Update*]
- Bramham-cum-Oglethorpe Parish Neighbourhood Development Plan Consultation Statement [*In this report referred to as the Consultation Statement*]
- Bramham-cum-Oglethorpe Neighbourhood Plan Evidence Base and other information available on the Bramham Parish Council Neighbourhood Plan website
- Representations received during the Regulation 16 publicity period

---

<sup>21</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Correspondence between the Independent Examiner and the City and Parish Councils published on the City Council website
- Leeds Core Strategy adopted November 2014
- Leeds Core Strategy Selective Review (submitted to the Secretary of State 9 August 2018)
- Natural Resources and Waste Local Plan (adopted January 2013)
- Saved Leeds Unitary Development Plan Review (UDP) (2006) Policies
- Leeds City Council Revised Submission Draft Site Allocations Development Plan Document [*submitted to the Secretary of State 23 March 2018*]
- Heritage Background Paper (February 2017) to the Leeds City Council Site Allocations Plan Submission Version
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance DCLG (June 2017) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2018
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.

## Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of

the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the Submission Plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

25. The Neighbourhood Plan Steering Group comprising three Parish Councillors and seven residents first met in January 2012. A two-session conference, attended by over 200 residents, was held in May 2012 to introduce the concept of a neighbourhood plan to the local community, and gather information from all village groups. Key messages from the event were important in the framing of questions in a subsequent questionnaire and formulation of the Neighbourhood Plan vision.
26. Feedback from the City Council Strategic Housing Land Availability Assessment (SHLAA) consultation in October 2012 informed the consideration of Neighbourhood Plan housing policies and the questionnaire. Proposals for a major development at Headley led to further City Council SHLAA consultation and a loss of impetus on the Neighbourhood Plan work. Following withdrawal of the Headley site by the landowners, progress on preparation of the Neighbourhood Plan resumed. A questionnaire was issued to all households in September 2016 which resulted in over 300 responses. A drop-in event held at the Village Hall in February 2017 and a business survey informed the first draft of the Neighbourhood Plan policies and aspirations produced in Autumn 2017.
27. Pre-submission consultation in accordance with Regulation 14 was undertaken in the period 18 December 2017 to 12 February 2018. The consultation included two drop-in sessions at the Village Hall that were publicised on the village website and in the Parish Magazine. The consultation also included local deposit of copies of the draft Plan and a survey issued to all households. 161 responses containing 264 comments were received from residents, and 12 responses containing 65 comments were received from statutory consultees and other stakeholders. The representations arising from the consultation are summarised in the Consultation Statement and comprehensively presented within the Evidence Base where responses and changes made to the Neighbourhood Plan, are set out. The suggestions have, where considered appropriate, been reflected in a number of changes

to the Plan that was approved by the Parish Council, for submission to Leeds City Council.

28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 28 May and 9 July 2018. Representations from 10 different parties were submitted during the period of publication. I have been provided with copies of each of these representations. In preparing this report I have taken into consideration all of the representations submitted during the Regulation 16 period even though they may not be referred to in whole, or in part.
29. Four representations made by local residents support the Neighbourhood Plan as a whole. One of those representations also states *“It is important to recognise that the Plan is dependent on and affected by plans and developments outside its remit and boundary. Therefore, in considering the Plan, Leeds City Council should recognise that highways and other infrastructural developments, and the content of other bordering parishes’ NPs, could impact negatively on the sustainability of the Bramham Neighbourhood Plan. This is a key consideration particularly with regard to the expansion of Bramham Primary School which lies just beyond the village boundary in Clifford, and its catchment area. There is a recognition of the need to enhance and protect the school as a facility in section 4 of the Bramham NP, and, in section 5, it points to a commensurate need to invest in traffic management measures and car parking to accommodate any expansion. Clearly such decisions reside outwith the scope of the Plan itself. In approving this NP, Leeds City Council, the Education Authority and the school must recognise the impact any expansion of the school as a result of their own policies and strategies would have on village infrastructure (eg highways, public transport, parking, pedestrian access etc), safety and (not least) the future education of Bramham village children and take such measures as necessary to manage such pressures in a sustainable way”*. This representation and the representations of the National Farmers’ Union and Natural England do not necessitate any modification of the Plan to meet the Basic Conditions. The submissions of Highways England, Selby District Council, Historic England, and The Coal Authority confirm they have no specific comments to make.
30. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation

on the Parish Council to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council responded to the opportunity to comment by stating *“we are very gratified that our Regulation 16 submission appears to satisfy not only those Consultees who took the opportunity to respond but also those neighbourhood residents who did the same”*.

31. During the course of this Independent Examination a Habitats Regulations Assessment Screening Report Update has been produced. I am satisfied this document has been subject to adequate consultation.
32. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
  - b) explains how they were consulted;
  - c) summarises the main issues and concerns raised by the persons consulted; and
  - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>22</sup>
33. The Consultation Statement and Evidence Base include information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

34. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in

---

<sup>22</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the background and supporting documents and copies of the representations provided to me.

Consideration of Convention rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

35. The Basic Conditions Statement states “*The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act*”. I have considered the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>23</sup> I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. Whilst no analysis has been undertaken to establish the impact the objectives and policies of the Neighbourhood Plan will have on persons with protected characteristics (as identified in the Equality Act 2010) from my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

36. The objective of EU Directive 2001/42<sup>24</sup> is “*to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.*” The Neighbourhood Plan falls within the definition of

---

<sup>23</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

<sup>24</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

'plans and programmes'<sup>25</sup> as the Local Planning Authority is obliged to 'make' the plan following a positive referendum result.<sup>26</sup>

37. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Leeds City Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
38. The Basic Conditions Statement states "*A screening opinion for the purposes of Strategic Environmental Assessment and Habitats Regulations Assessment has been undertaken by Leeds City Council, and informed by the Statutory Consultees; Historic England, Natural England, and the Environment Agency, see appendix below. The Screening Report concludes that the proposals in the Bramham cum Oglethorpe Neighbourhood Plan are not likely to have a significant environmental effect and that a full SEA is not required.*"
39. The Strategic Environmental Assessment Screening Report (October 2017) states "*In conclusion, as a result of the assessment carried out in Table 2 above and the more detailed consideration of the draft policies, it is considered that it is unlikely that any significant environmental effects will arise as a result of the Bramham Neighbourhood Plan. Consequently, the assessment within Table 1 concludes (subject to HRA screening outcome), that an SEA is not required when judged against the application of the SEA Directive criteria. Notably, the draft neighbourhood plan does not propose any allocations. No sensitive natural or heritage assets will also be significantly affected by proposals within the plan. The neighbourhood plan's policies seek to guide development within the Neighbourhood Area and are required to be in general conformity with those within the Local Plan. It is unlikely that there will be any significant additional environmental effects that have not already been considered and dealt with through a SEA/SA of the Local Plan. Finally, none of the environmental consultation bodies raised any concerns regarding any likely significant environmental effects.*"
40. The Draft Screening Report has been sent to Natural England, the Environment Agency, and Historic England for their opinions. The responses are included in the Screening Report. I am satisfied the

---

<sup>25</sup> Defined in Article 2(a) of Directive 2001/42

<sup>26</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

requirements regarding Strategic Environmental Assessment have been met.

41. The Basic Conditions Statement states *“the Neighbourhood Area is not in close proximity to any European designated nature sites so does not require an appropriate assessment under the EU Habitats Regulations.”* The Screening Report states *“The Kirk Deighton SAC is approximately 4ha in size and is located to the north of Wetherby within the administrative area of Harrogate Borough (North Yorkshire). The site lies about 500m north of the northern boundary of the Leeds City Council administrative boundary. The SAC is situated approximately 20km away from the Bramham Neighbourhood Area at its nearest point. It is therefore unlikely that any policies or proposals in the draft plan will have an effect on Kirk Deighton SAC. A location plan and the Natura 2000 data form are attached in Appendix 2. The primary reason for the protection of this site is the presence of Great Crested Newts (*Triturus cristatus*) which breed in a large pond set in a depression in grazed pasture. This main breeding pond has a water level that fluctuates widely, sometimes leading to pond desiccation. As a result, there is relatively little aquatic vegetation but egg-laying occurs and recruitment is successful intermittently; however, a large population is present, demonstrating this species’ ability to thrive in temporary pond sites. Newts range across an area comprising pasture with old hedgerows.”* *“Kirk Deighton SAC is protected due to the presence of Great Crested Newts which have a limited distance of movement of normally up to 500m. None of the Bramham Neighbourhood Area lies within 500m of the site. Furthermore, Natural England have stated within their consultation response that ‘we can confirm that in our view the proposals contained within the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect.’ “It is therefore considered that the BNP is not likely to cause a significant effect Kirk Deighton SAC or on any other European site. Consequently, the draft plan is not considered to require further assessment under Article 6 or 7 of the Habitats Directive (Art. 3.2(b))”.*
42. The Strategic Environmental Assessment and Habitats Regulations Assessment: Screening Report of October 2017 was prepared prior to the EU Court of Justice ruling in *People Over Wind and Sweetman v Coillte Teoranta*<sup>27</sup>. I requested that the Screening Report should be reviewed in the context of the EU Court of Justice ruling and that the

---

<sup>27</sup> Judgement of the Court Seventh Chamber 12 April 2018

City Council should confirm, in consultation with Natural England, that the Screening Report is considered to be compliant with the identified EU Court of Justice ruling, or alternatively states what actions are proposed to rectify the situation. In a joint response the City Council and Parish Council responded *“The Council will re-screen the Neighbourhood Plan in light of the Judgement in consultation with Natural England. The Council will provide a further update on this Matter once this screening has been re-conducted.”* On 16 August 2018 I drew to the attention of the City Council and the Parish Council to the Court of Justice (Second Chamber) judgement of 25 July 2018 Grace, Sweetman, and National Planning Appeals Board Ireland (ECLI:EU:C2018:593).

43. On 7 September 2018 I received from the City Council an HRA Screening Report Update, dated July 2018, that had been prepared with knowledge of the European Union Court of Justice Judgement in ‘People over Wind’ dated 12 April 2018, and the Court of Justice (Second Chamber) ruling on 25 July 2018 in the case of Grace, Sweetman and the National Planning Appeals Board Ireland (ECLI:EU:C2018:593).
44. The HRA Screening Report Update has been published on the City Council website for a period of 6 weeks with a statement that any interested party may make representations in respect of that document. I consider this course of action was appropriate given the inconclusive consultation response of Natural England; the stage of preparation of the Leeds Site Allocation Plan which is referred to with respect to in-combination effects; and the fact there is significant change in the Neighbourhood Plan HRA Screening Report not least an adjustment of the stated distance between the Kirk Deighton SAC and the Neighbourhood Plan area, from approximately 20 Km to approximately 5.5 Km. The only representation received in respect of the HRA Screening Report Update was from Historic England confirming no comments will be made as HRA falls outside their statutory remit.
45. The HRA Screening Report Update concludes *“It is considered that none of the policies in the Bramham NP are likely to have a significant positive or negative effect on the Kirk Deighton SAC, and therefore the NP does not give rise to, or include, any mitigation measures. In light of the above, it is considered that given that no likely significant positive or negative effects on the Kirk Deighton SAC are identified for the Bramham NP either alone or in combination with other plans or*

*projects, this HRA Screening Update therefore concludes that the Screening is legally-compliant in respect of the Judgement<sup>28</sup> and therefore does not require further Appropriate Assessment”. The HRA Screening Report Update also states “On 25 July 2018 the Court of Justice (Second Chamber) ruled in the case of Grace, Sweetman and the National Planning Appeals Board Ireland (ECLI:EU:C2018:593). The Judgement relates to how the conclusions of the Appropriate Assessment should be interpreted which in turn determines whether Article 6(3) or Article 6(4) of the Directive applies. The trigger point for the Judgement to apply is once the Screening Stage has concluded that Appropriate Assessment of a plan or project is required. This HRA Screening Update concludes that Appropriate Assessment of the Bramham Neighbourhood Plan is not required. As such this Judgement is not applicable.”*

46. From my own assessment I concur with the City Council conclusion. I conclude the Neighbourhood Plan meets the requirements of the EU Habitats Regulations.

47. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

48. I conclude that the Neighbourhood Plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

49. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. Leeds City Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations:

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and

---

<sup>28</sup> European Union Court of Justice Judgement in ‘People over Wind’ dated 12 April 2018

- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>29</sup>

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

50. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans<sup>30</sup> which requires plans to be “*consistent with national policy*”.

51. Lord Goldsmith has provided guidance<sup>31</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

52. The Basic Conditions Statement includes a statement that “*The Neighbourhood Plan has been prepared with regard to national policies as set out in the National Planning Policy Framework (NPPF) of April 2012. It is also mindful of the National Planning Practice Guidance (NPPG) published by the government in April 2014 in respect of formulating neighbourhood plans*”. The Basic Conditions Statement also includes Table 1 that sets out a brief commentary how each of the Neighbourhood Plan policies have regard to identified sections of the Framework. I am satisfied this assessment and Table demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.

<sup>29</sup> Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

<sup>30</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the National Planning Policy Framework 2012

<sup>31</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord’s Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

53. The revised National Planning Policy Framework was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in March 2012. Paragraph 214 of the revised Framework states *"The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted<sup>32</sup> on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned."* I have undertaken this Independent Examination of the Neighbourhood Plan in the context of the Framework published in March 2012.
54. The Neighbourhood Plan includes a positive vision for Bramham-cum-Oglethorpe Parish. The vision includes a component that acknowledges change with reference to *"development of housing and facilities"*. The vision includes economic dimensions with reference to shops and pubs, and social components concerned with *"a safe and invigorating environment"* and *"vibrant and dynamic community groups and societies serving all ages"*. The vision also refers to environmental considerations including conserving heritage and *"some of the highest quality countryside in Yorkshire"* and *"historic parkland on our doorstep"*. These statements are consistent with the underlying principles of the Framework, specifically, the need to jointly and simultaneously seek economic, social and environmental gains through the planning system.
55. The vision is supported by a series of strategic objectives of the Neighbourhood Plan concerned with community facilities; response to housing needs; movement including active travel; facilities that facilitate healthy lifestyles; and protection of the natural environment. These strategic objectives provide a link between the vision and the policies of the plan. These objectives are consistent with the Framework.
56. The Neighbourhood Plan includes, at section 5, a series of projects and aspirations relating to noise abatement; community development

---

<sup>32</sup> Footnote 69 of the Revised Framework states that *"for neighbourhood plans, 'submission' in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012."*

at the Pavilion; Christmas lights; active travel routes; car parking near the Primary School; play area facilities; wildlife enhancement around the Beck; character of the Village Square; traffic control; support for village assets; traffic management assessment; and public transport. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on matters considered important in the local community. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The Guidance states, *“Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements.”* The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning is consistent with this guidance and represents good practice. The Guidance states, *“Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”* I am satisfied the approach adopted in the Neighbourhood Plan presenting the projects and aspirations in a separate section, and listing that section separately in the contents page, adequately differentiates the community actions from the policies of the Plan and has sufficient regard for the Guidance.

57. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to *‘have regard to’* national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition *“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”*

58. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread

running through both plan making and decision-taking.<sup>33</sup> The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*”<sup>34</sup>.

59. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

60. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement confirms the Neighbourhood Plan has taken account of the need to contribute to the achievement of sustainable development and states “*the strategic objectives of the Neighbourhood Plan have sustainability at their heart.*” Table 3 included in the Basic Conditions Statement presents the results of an assessment of sustainability of the Neighbourhood Plan policies. The assessment shows every one of the policies makes at least a positive contribution to two of the three dimensions of sustainability, namely economic, social and environmental factors. Nine of the twelve policies are found to make a very positive contribution to two or more dimensions. No policy is found to have any negative impact.

61. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to

---

<sup>33</sup> Paragraph 14 National Planning Policy Framework 2012

<sup>34</sup> Planning Practice Guidance (Ref ID:41-072-20140306)

sustainable development by ensuring schemes are of an appropriate quality; will enhance social facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan seeks to:

- Protect and enhance existing community facilities;
- Achieve improvements to the public rights of way network;
- Establish support for new sports and leisure facilities within Bramham village and identify priorities for provision;
- Ensure housing developments incorporate dwelling types that meet local housing needs;
- Designate Local Green Spaces in 11 locations;
- Enhance and protect identified nature areas and biodiversity;
- Conserve and enhance non-designated local heritage assets;
- Protect and enhance Bramham Moor Battlefield;
- Ensure development within the Conservation Area is appropriate and meets stated guiding principles;
- Establish criteria requiring good design of proposals outside the Conservation Area;
- Protect valued key views; and
- Support research activities, appropriate reuse of vacant buildings, and small-scale renewable energy schemes on the University of Leeds Estate.

62. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

63. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.<sup>35</sup> “*Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies*”.<sup>36</sup>
64. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.*”<sup>37</sup>
65. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). Leeds City Council has informed me that the Development Plan applying in the Bramham-cum-Oglethorpe neighbourhood area and relevant to the Neighbourhood Plan comprises the Leeds Core Strategy (adopted November 2014) and the Saved UDP Review (2006) Policies. The Natural Resources and Waste Local Plan (adopted January 2013) also forms part of the Development Plan but much of that document relates to excluded development for the purposes of neighbourhood planning.
66. Leeds City Council is preparing a Site Allocations Plan which at the time of this Independent Examination of the Neighbourhood Plan is currently at Examination with Stage 2 Hearing Sessions having commenced on 9 July 2018. An opportunity to comment on a sustainability appraisal on identified HG1 sites concluded on 11 September 2018. The City Council is also preparing a Core Strategy

---

<sup>35</sup> Paragraph 16 National Planning Policy Framework 2012

<sup>36</sup> Paragraph 184 National Planning Policy Framework 2012

<sup>37</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

Selective Review. The Leeds Core Strategy Selective Review has been submitted to the Secretary of State on 9 August 2018.

67. The Neighbourhood Plan can proceed ahead of preparation of the Site Allocations Plan and the Core Strategy Selective Review. The Guidance states: *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- *the emerging neighbourhood plan*
- *the emerging Local Plan*
- *the adopted development plan*

*with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help*

*minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.*<sup>38</sup>

68. The Neighbourhood Plan states *“Whilst it is feasible for a NDP to allocate sites for new homes, the Neighbourhood Plan Steering Group (NPSG) for Bramham has chosen against this route, due to the advanced stage that the Leeds City council Site Allocations Process had reached at the time the Plan process in Bramham was reinvigorated in 2016.”* This approach represents good practice. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the emerging Site Allocations Plan and the emerging Core Strategy Selective Review when they are adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan, however the Guidance is clear in that potential conflicts should be minimised.
69. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Site Allocations Plan is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.
70. In considering a now repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated *“the adjective ‘general’ is there to introduce a degree of flexibility.”*<sup>39</sup> The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

---

<sup>38</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20160211

<sup>39</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

71. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”<sup>40</sup>

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

72. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## The Neighbourhood Plan policies

73. The Neighbourhood Plan includes 12 policies as follows:

Policy CF1 Protect and enhance existing community facilities

Policy LR1 Improving public rights of way

Policy LR2 New sports and leisure facilities

Policy HOU1 Housing type and mix

---

<sup>40</sup> Planning Practice Guidance (ID ref: 41-074 201 40306)

Policy NE1 Local Green Spaces

Policy NE2 Enhancement and protection of nature areas and biodiversity

Policy H1 Non-designated local heritage assets

Policy H2 Bramham Moor Battlefield – Local Heritage Area

Policy H3 Development within the Conservation Area

Policy H4 Development outside the Conservation Area

Policy H5 Key Views

Policy UoL1 University of Leeds Estate

74. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.”* *“Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*<sup>41</sup>

75. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*<sup>42</sup>

76. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*<sup>43</sup>

---

<sup>41</sup> Paragraphs 184 and 185 National Planning Policy Framework 2012

<sup>42</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306

<sup>43</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

77. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”<sup>44</sup>*

78. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

### **Policy CF1 Protect and enhance existing community facilities**

79. This policy seeks to establish conditional support for development proposals which include measures to protect and/or improve one or more of 14 listed community facilities and services.

80. The term *“are of a scale appropriate to their surroundings”* is imprecise. The policy should refer to Map 18. Map 18 is not of sufficient scale to identify the location of the facilities referred to. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

81. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Strategic Policy P9.

---

<sup>44</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20140306

82. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy has regard to the components of the Framework concerned with promoting healthy communities; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 1:  
In Policy CF1**

- **delete “are of a scale appropriate to their surroundings” and insert “will not result in a loss of residential or visual amenity”**
- **after “services” insert “identified on Map 18”**  
**Map 18 should be presented at a scale that allows the identification of the location of the community facilities and services.**

**Policy LR1 Improving public rights of way**

83. This policy seeks to establish that new developments should take opportunities to improve and/or extend the active travel network, and that new provision should be appropriate and sensitive to local character. The policy also seeks to establish that loss of existing byways, bridleways, footpaths and cycleways will be resisted.

84. The term “*should take opportunities*” is without consequence. The term “*be appropriate and sensitive to local character*” is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

85. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Spatial Policy 11.

86. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport; requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended Modification 2:**

##### **In Policy LR1**

- **delete “New developments should” and insert “To be supported new developments must demonstrate that they”**
- **replace the second sentence with “To be supported new provision must demonstrate it will enhance and not harm the local character of the natural and built environment.”**

#### **Policy LR2 New sports and leisure facilities**

87. This policy seeks to establish conditional support for development proposals for the provision of new sports and leisure facilities within Bramham village and identifies priorities for provision.

88. The Framework states “*Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities*”. The determination of planning applications does not enable expression of the degree of support for a proposal. The term “*take into account*” is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

89. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Strategic Policies G1 and P9.

90. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design; promoting healthy communities; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 3:  
In Policy LR2**

- delete “strongly”
- replace b) with “**Demonstrate they will not harm residential amenity or the local character of the natural and built environment.**”

**Policy HOU1 Housing type and mix**

91. This policy seeks to establish that strategic policy relating to affordable housing provision will apply, and requires dwelling types to be appropriate for local needs. The policy also seeks to establish an order of priority for provision of types of dwellings.

92. The term “*seek to incorporate*” and the listing of types of properties “*in order of priority*” do not provide a basis for the determination of planning proposals. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

93. The policy refers to homes “*suitable for the elderly*”. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.<sup>45</sup> The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 states neighbourhood plans should not set out “*any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings*”. Policy

---

<sup>45</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>

HOU1 is not seeking to establish any requirements but is defining the type of development that will be supported.

94. Whilst the justification for the policy is grounded in local survey responses this does not preclude decision making being based on updated evidence of local needs that may emerge during the plan period.
95. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Strategic Policy H4.
96. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with delivering a wide choice of high-quality homes. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 4:**

**In Policy HOU1 replace the second sentence before point a) with “To be supported development proposals must demonstrate that they will contribute to meeting local housing needs. Proposals that incorporate the following types of homes will be supported:”**

**Policy NE1 Local Green Spaces**

97. This policy seeks to designate Local Green Spaces in 11 named locations.
98. The policy wording reflects paragraph 78 of the Framework which states “*Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts*”. Paragraph 76 of the Framework states “*Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new*

*development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed and be capable of enduring beyond the end of the plan period.*” The wording of the policy reflects the terms of the designation of Local Green Spaces set out in paragraph 76 of the Framework where it is stated communities will be able to rule out development other than in very special circumstances.

99. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on Maps in Appendix 2 of the Neighbourhood Plan at a scale that is sufficient to identify the precise boundaries of each Local Green Space proposed for designation. The policy should refer to those maps. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
100. In respect of the areas intended for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.
101. Paragraph 77 of the Framework states that: *“Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*
- *where the green space is in reasonably close proximity to the community it serves;*
  - *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*

- *where the green area concerned is local in character and is not an extensive tract of land.*<sup>46</sup>

I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.

102. I now consider whether there is sufficient evidence for me to conclude that the areas proposed for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance. The Neighbourhood Plan sets out in Appendix 1 a justification for the designations. Whilst the justification in respect of each area is brief, I conclude each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

103. I find all the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 76 and 77 of the Framework concerned with the identification and designation of Local Green Space. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Spatial Policy 13, and Core Strategy Strategic Policies P12 and G6. Subject to the recommended modification I consider that this policy meets the basic conditions.

**Recommended Modification 5:**

**In Policy NE1 after “sites” insert “identified on maps in Appendix 2”**

**Policy NE2 Enhancement and protection of nature areas and biodiversity**

104. This policy seeks to protect named nature areas from development that would harm their nature conservation value. The

---

<sup>46</sup> Paragraph 77 National Planning Policy Framework 2012

policy also seeks to establish that new development proposals should provide opportunities for wildlife and/or biodiversity enhancement, and that existing trees, hedges and other landscape features of value to biodiversity should be retained, or their loss compensated for.

105. The Framework states “*to minimise impacts on biodiversity*” planning policies should identify and map components of the local ecological networks. The sites referred to in the policy should be mapped at a scale sufficient to identify the precise boundaries of the land concerned. The term “*will be protected*” does not provide a basis for decision making in respect of development proposals. I have recommended a modification in these respects so that the policy has regard for national policy and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

106. The Policy includes reference to hedges. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations but exclude any hedgerow which is within, or borders, a domestic garden. It is appropriate for the Neighbourhood Plan to seek to introduce an additional regime. The policy refers to existing trees. The Framework states development resulting in loss of ancient and veteran trees should be refused unless the need for, and benefits of, the development in that location clearly outweigh the loss. I have recommended a modification in this respect so that the policy has regard for national policy.

107. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Strategic Policies G8 and G9.

108. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 6:  
In Policy NE2**

- replace the text before “Wildlife area” with “To be supported development proposals must demonstrate they will avoid harm to the integrity and effectiveness of the following nature areas:”
- after “retention.” insert “Loss of aged or veteran trees will only exceptionally be supported where it is demonstrated the need for, and benefits of, development in that location clearly outweigh the loss.

**Include in the Neighbourhood Plan, maps of the nature areas referred to in the policy, at a scale sufficient to identify the precise boundaries of the land concerned.**

**Policy H1 Non-designated local heritage assets**

109. This policy seeks to establish that non-designated local heritage buildings and other assets will be conserved or enhanced wherever possible for their historic significance and/or their importance to local distinctiveness, character and sense of place. The policy also lists non-designated local heritage assets currently identified. Policies Map A includes a “*Village Asset*” symbol in 14 locations.

110. The Guidance states “*Where it is relevant, neighbourhood plans need to include enough information about local heritage to guide decisions and put broader strategic heritage policies from the Local Plan into action at a neighbourhood scale.*”<sup>47</sup> The Guidance also states “*Local Planning Authorities may identify non-designated heritage assets*”<sup>48</sup> and “*Local lists incorporated into Local Plans can be a positive way for the local planning authority to identify non-designated heritage assets against consistent criteria so as to improve the predictability of the potential for sustainable development.*”<sup>49</sup> The Leeds Core Strategy at Policy P11 states that the City Council will conserve and enhance locally significant undesignated assets and their settings, particularly those which help to give Leeds its distinct identity. The Heritage Background Paper (February 2017) to the Leeds

---

<sup>47</sup> Planning Practice Guidance Reference ID: 18a-007-20140306

<sup>48</sup> Planning Practice Guidance Reference ID: 18a-039-20140306

<sup>49</sup> Planning Practice Guidance Reference ID: 18a-041-20140306

City Council Site Allocations Plan Submission Version states “*Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes that are not designated but have a degree of significance meriting consideration in planning decisions, because of their heritage interest. Non-designated heritage assets are identified by the local planning authority.*”

111. It is appropriate for a community to use the neighbourhood plan preparation process to identify buildings and structures of local interest and to include policies to require particular consideration of assets that have been formally recognised by the City Council in the determination of planning applications. It is not appropriate to imply locally identified assets will be recognised by the City Council as heritage assets.
112. In an email dated 10 July 2018, which has been published on both the Parish Council and City Council websites, I sought clarification from the Parish and City Councils regarding this matter. The joint response from the Parish and City Councils that I received on 24 July 2018, which has also been published on the websites referred to stated “*Whilst it is recognised that the Council does not have a formal Local List of Non-Designated Heritage Assets, the Examiner is referred to the City Council’s proposed modification to the Site Allocations Plan (page 4), which amends the generic considerations for all proposed sites in the Revised Submission Draft SAP. The Council’s position is that the existing work on non-designated heritage assets is not exhaustive or exclusive. It is noted that the Examiner is minded to recommend that the second part of Policy H1 of the Neighbourhood Plan is changed to a Community Action. The Parish Council would be comfortable with this recommendation as the list would remain in the Plan (although not as part of planning policy) and would ask that the examiner considers how the protection and enhancement of heritage assets in Bramham can still remain a part of the Neighbourhood Plan.*” I have recommended a modification such that the status of the locally identified non-designated heritage assets should be clarified and the process to achieving their formal recognition should be explained.
113. Paragraphs 131 to 136 of the Framework establish a policy regime for the determination of proposals that affect designated and non-designated heritage assets. The balancing of considerations is a part of the judgement necessary in the determination of proposals. In the case of harm to non-designated heritage assets the Framework states it is necessary to balance the scale of any harm or loss and the

significance of the asset. Paragraph 135 of the Framework states “*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*” Whilst Policy H1 provides an additional level of detail or local approach to guide the determination of planning applications it does not reflect the balanced judgement required by national policy. I have recommended a modification in this respect.

114. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Strategic Policy P11.

115. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended Modification 7: In Policy H1**

- **replace the first sentence with “Development proposals that directly or indirectly affect non-designated heritage assets will be assessed having regard to the scale of any harm or loss and the significance of the heritage asset including their importance to local distinctiveness, character and sense of place.”**
- **delete the second sentence with list of buildings and transfer those to a Community Action which states “The following buildings and features of the built environment are nominated for assessment by Leeds City Council as potential Non-Designated Heritage Assets”. The supporting text will require adjustment and the process for formal recognition by the City Council should be explained.**

## Policy H2 Bramham Moor Battlefield – Local Heritage Area

116. This policy seeks to define the Bramham Moor Battlefield as an important Local Heritage Area and establish five principles that development within or adjacent to the battlefield area should comply with.
117. The National Planning Policy Framework (March 2012) sets out that registered battlefields are designated heritage assets of the highest significance. The sites of 46 particularly important battles are included on the Register of Historic Battlefields, which was established in 1995, and is administered by Historic England. The Historic England Battlefields Registration Guide (most recent edition published 18 December 2017) sets out the principal designation criteria. These are notably historical significance and secure identification of location where troops drew up, deployed and fought while in battle formation, but also topographic integrity; archaeological potential; documentation; military innovations; biographic association; and commemoration. The Register does not include all sites of conflict. Bramham Moor Battlefield is not included on the Register of Historic Battlefields and the UK Battlefields Resource Centre website does not include information regarding the Bramham Moor Battlefield. The Historic Environment Records includes an entry relating to the site of the battle of Bramham Moor<sup>50</sup> and an entry relating the Medieval Cross “*suggested to be a Percy Cross*”.<sup>51</sup>
118. Paragraphs 131 to 136 of the Framework establish a policy regime for the determination of proposals that affect designated and non-designated heritage assets. The balancing of considerations is a part of the judgement necessary in the determination of proposals. In the case of harm to non-designated heritage assets the Framework states it is necessary to balance the scale of any harm or loss and the significance of the asset. Paragraph 135 of the Framework states “*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*” I am satisfied Policy H1 as recommended to be

---

<sup>50</sup> West Yorkshire Archaeology Advisory Service (WYAAS) monument number 6115

<sup>51</sup> West Yorkshire Archaeology Advisory Service (WYAAS) monument number 6020

modified provides an additional level of detail or local approach to guide the determination of planning applications that affect non-designated heritage assets reflecting the balanced judgement required by national policy.

119. The Guidance states “*Where it is relevant, neighbourhood plans need to include enough information about local heritage to guide decisions and put broader strategic heritage policies from the Local Plan into action at a neighbourhood scale.*”<sup>52</sup> The Guidance also states “*Local Planning Authorities may identify non-designated heritage assets*”<sup>53</sup> and “*Local lists incorporated into Local Plans can be a positive way for the local planning authority to identify non-designated heritage assets against consistent criteria so as to improve the predictability of the potential for sustainable development.*”<sup>54</sup> The Leeds Core Strategy at Policy P11 states that the City Council will conserve and enhance locally significant undesignated assets and their settings, particularly those which help to give Leeds its distinct identity. The Heritage Background Paper (February 2017) to the Leeds City Council Site Allocations Plan Submission Version states “*Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes that are not designated but have a degree of significance meriting consideration in planning decisions, because of their heritage interest. Non-designated heritage assets are identified by the local planning authority.*”

120. It is appropriate for a community to use the neighbourhood plan preparation process to identify heritage assets of local interest and to include policies to require particular consideration of assets that have been formally recognised by the City Council in the determination of planning applications. It is not appropriate to imply locally identified assets will be recognised by the City Council as heritage assets. The status of the locally identified non-designated heritage assets should be clarified and the process to achieving their formal recognition should be explained.

121. In an email dated 10 July 2018, which has been published on both the Parish Council and City Council websites, I sought clarification from the Parish and City Councils regarding this matter. The joint response that I received on 24 July 2018, which has also been published on the websites referred to stated “*It is noted that the*

---

<sup>52</sup> Planning Practice Guidance Reference ID: 18a-007-20140306

<sup>53</sup> Planning Practice Guidance Reference ID: 18a-039-20140306

<sup>54</sup> Planning Practice Guidance Reference ID: 18a-041-20140306

*Examiner is minded to recommend that the nomination of Bramham Moor Battlefield for assessment as a potential non-designated heritage asset becomes a Community Action, the Parish Council is comfortable with this and notes the Examiner's comments regarding Policy H2. This is welcomed.*" I have recommended a modification so that a Community Action is inserted in the Neighbourhood Plan proposing the Bramham Moor Battlefield identified on Map 8 is nominated for assessment by Leeds City Council as a potential Non-Designated Heritage Asset to be added to a local list of heritage assets compiled and curated by the City Council. I have also recommended a related modification of the policy title.

122. The terms "*respect*" and "*green spaces*" and "*not compromise*" and "*take into account*" are imprecise and do not provide a basis for the determination of development proposals. The Framework states "*the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes*". I am satisfied the significance of the Bramham Moor Battlefield to local people has been adequately explained and has been tested through extensive consultation. Planning policy must operate in the public interest. I have recommended a modification to clarify that reference to views must be those seen from locations to which the general public have free and unrestricted access. I have recommended a modification in these respects so that the policy has regard to national policy and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
123. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Strategic Policies P11 and P12.
124. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment and conserving

and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 8:**

- **replace Policy H2 with “To be supported development proposals must demonstrate that they do not diminish the integrity and interpretation of, nor reduce access to, nor significantly adversely affect views from publicly accessible locations, of the Bramham Moor Battlefield valued landscape area identified on Map 8.”**
- **insert a Community Action which states “The Bramham Moor Battlefield identified on Map 8 is nominated for assessment by Leeds City Council as a potential Non-Designated Heritage Asset”. The supporting text will require adjustment and the process for formal recognition by the City Council should be explained.**
- **delete “- Local Heritage Area” from the policy title**

**Policy H3 Development within the Conservation Area**

125. This policy seeks to establish key guiding principles for development proposals within the Conservation Area.

126. The meaning of the term “*positive structures*” is unclear. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

127. By requiring development proposals to “*respond sensitively and creatively to its historic environment, character and appearance*” the policy has sufficient regard for the balanced approach of the Framework to the conservation and enhancement of the historic environment. The setting of a heritage asset is an important consideration. The Framework recognises the importance that setting can have in the significance of a heritage asset. The contribution of setting to the significance of any asset should be understood to inform the appropriate development response. The Glossary to the Framework defines setting of a heritage asset as “*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an*”

*asset, may affect the ability to appreciate that significance or may be neutral*". I have recommended a modification so that the policy refers to the setting of the Conservation Area.

128. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Strategic Policy P11.

129. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 9:  
In Policy H3**

- **delete "Within the defined Conservation Area, development proposals" and insert "Development proposals within, or affecting the setting of, the defined Conservation Area"**
- **in part d) delete "positive"**
- **in part d) delete "within" and insert "that make a positive contribution to the significance of"**

**Policy H4 Development outside the Conservation Area**

130. This policy seeks to establish eight design principles for development outside the Conservation Area.

131. The Framework states *"local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally"* and: *"Planning policies and decisions*

*should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness".* The policy seeks to reinforce local distinctiveness and encourage innovative design whilst avoiding unnecessary prescription referred to in paragraphs 60 and 59 of the Framework.

132. Whilst it is appropriate to use the Neighbourhood Plan preparation process to determine community support for projects to be treated as priorities for investment in local infrastructure the term "*provide appropriate local infrastructure*" is imprecise. The Framework states "*If setting local parking standards for residential and non-residential development, local planning authorities should take into account: • the accessibility of the development; • the type, mix and use of development; • the availability of and opportunities for public transport; • local car ownership levels; and • an overall need to reduce the use of high-emission vehicles.*" The term "*sufficient to the scale of the development*" is also imprecise. The intention to not support proposals resulting in any loss of off-road parking in every instance is not sufficiently justified. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

133. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Strategic Policy P10.

134. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

## **Recommended Modification 10:**

### **In Policy H4**

- **delete point c)**
- **replace points g) and h) with “g) To be supported development proposals must demonstrate they will not result in additional on-street parking of vehicles.”**

### **Policy H5 Key Views**

135. This policy seeks to establish that development should have regard to key views.
136. The term “*to protect*” is imprecise and the requirement is without consequence. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
137. Paragraph 109 of the Framework states that “*the planning system should contribute and enhance the natural and local environment by protecting and enhancing valued landscapes*”. The inclusion in the Neighbourhood Plan of images of the short-range and the long-range views provides evidence of the attributes of the valued views. I am satisfied the selection of views has been adequately explained and their local significance has been tested through extensive consultation. Planning policy must operate in the public interest. I have recommended a modification to clarify important views relate to views that can be seen from locations to which the general public have free and unrestricted access.
138. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in Core Strategy Strategic Policy P12.
139. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has

regard to the components of the Framework concerned with requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 11:**

**In Policy H5 replace the text before “(identified” with “To be supported development proposals must demonstrate consideration of visual impact and careful design so that they will not significantly harm the following key views where seen from publicly accessible locations”**

**Policy UoL1 University of Leeds Estate**

140. This policy seeks to establish support for stated activities and developments within the University of Leeds Estate which is identified on Maps 15 and 16.
141. The policy refers to *“the continued use of existing facilities for research activities”*. Continued use does not require planning permission. I have recommended a modification so that the policy relates to development proposals associated with continued use of existing facilities for research activities. In this way the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
142. The reference to reuse and conversion of existing, vacant buildings within the three main areas of built development (Wise Warren Farm, Headley Hall Farm, and Spen Farm) includes the imprecise term *“appropriate, viable uses”*. The Framework states neighbourhood plans should *“support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings”*. I have recommended a modification so that the policy has regard for national policy. The development of small-scale renewable energy schemes has regard for the components of the Framework that support the delivery of renewable energy and associated infrastructure.
143. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Bramham-cum-

Oglethorpe Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [adopted November 2014]; the Saved Unitary Development Plan Review [2006] Policies; and the Natural Resources and Waste Local Plan [adopted January 2013]) and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

144. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; supporting a prosperous rural economy; and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 12:  
In Policy UoL1**

- before “the continued” insert “**Development associated with**”
- delete “**appropriate**” and after “**viable**” insert “**business and enterprise**”

## Summary and Referendum

206. I have recommended 12 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

207. I am satisfied that the Neighbourhood Plan<sup>55</sup>:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990 and meets the Basic Conditions:

---

<sup>55</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>56</sup>

**I recommend to Leeds City Council that the Bramham-cum-Oglethorpe Neighbourhood Development Plan for the plan period up to 2033 should, subject to the modifications I have put forward, be submitted to referendum.**

208. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>57</sup> I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”<sup>58</sup>. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Leeds City Council as a Neighbourhood Area on 15 November 2016.**

<sup>56</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>57</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>58</sup> Planning Practice Guidance Reference ID: 41-059-20140306

## Annex: Minor Corrections to the Neighbourhood Plan

209. A number of consequential modifications to the general text, and in particular the justification of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

210. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>59</sup> I recommend minor change only in so far as it is to correct an error or where it is necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework:

In section 4.5.4 fifth paragraph after “13” insert “and map 14”

### **Recommended modification 13:**

**Modification of general text will be necessary to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.**

Chris Collison  
Planning and Management Ltd  
[collisonchris@aol.com](mailto:collisonchris@aol.com)  
2 November 2018  
REPORT ENDS

---

<sup>59</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990