

## **Leeds City Council**

### **Decision Statement – Bramham-cum-Ogglethorpe Neighbourhood Development Plan**

#### **Planning & Compulsory Purchase Act 2004 The Neighbourhood Planning (General) Regulations 2012**

#### **Regulation 18 Decision Statement**

##### **1. Summary**

- 1.1 Following an independent examination, Leeds City Council now confirms that it is making modifications to the Bramham-cum-Ogglethorpe (hereafter Bramham) Neighbourhood Plan as set out in Table 1 below. The Plan will then proceed to a Neighbourhood Planning Referendum.
- 1.2 In accordance with the independent examiner's recommendations, the Bramham Neighbourhood Plan will proceed to referendum based on the Bramham Neighbourhood Area as designated by Leeds City Council on 15<sup>th</sup> November 2016.
- 1.3 This Decision Statement, the examiner's report and the draft Bramham Neighbourhood Plan and supporting documentation are available on the Council's website:  
<http://www.leeds.gov.uk/council/Pages/Neighbourhood-planning.aspx>.
- 1.4 They are also on the Bramham Neighbourhood Plan website <http://bramham.org.uk/>
- 1.5 Hard copies of the Decision Statement and the examiner's report are available for inspection at:
  - Leeds City Council, The City Centre Hub, Woodhouse Lane, Leeds, LS2 8LX (Mon, Tues, Thurs, Fri 8.30 – 17.00, Weds 9.30 - 17.00),
  - Wetherby Library, 17 Westgate, Wetherby, LS22 6LL (Mon 10.00 – 17.00, Tues 09.00 – 19.00, Weds, Thurs, Fri 9.00 – 17.00, Sat 10.00 – 16.00)
  - Bramham Post Office, 12 Front St, Bramham, Wetherby LS23 6RD (during opening hours)
  - Bramham Medical Centre, Clifford Rd, Bramham, Wetherby LS23 6ZA (during opening hours)

##### **2. Decisions and Reasons**

- 2.1 The examiner has concluded that subject to the specified modifications being made to the Plan, the Bramham Neighbourhood Plan meets the Basic Conditions stated and other relevant legal requirements.

- 2.2 The Council accepts all of the modifications and the reasons put forward by the examiner for them with the exception of the second part of recommended modification 12. The examiner’s reasons and recommended modifications are set out in Table 1, followed by the Council’s decisions and reasons. In respect of recommended modification 12, an explanatory footnote is provided to supplement the information provided in Table 1.
- 2.3 The Council is satisfied that subject to the modifications specified in Table 1 below the Plan meets the relevant Basic Conditions mentioned in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990, is compatible with the Convention Rights and complies with the provision made by or under s38A and s.38B of the Planning & Compulsory Purchase Act 2004
- 2.4 To meet the requirements of the Localism Act 2011, a referendum which poses the question “Do you want Leeds City Council to use the Neighbourhood Plan for Bramham-cum-Oglethorpe to help it decide planning applications in the neighbourhood area?” will be held in the Bramham Neighbourhood Area. It is anticipated that the referendum will take place in February 2019.

**This Decision Statement is dated 21 December 2018**

**TABLE 1 Schedule of Modifications Recommended in the Examiner’s Report**

Modification Number	Page/Part of the Plan	Examiner’s recommended changes	Examiner’s reason	Leeds City Council’s decision and reason
<b>4.1 Community Facilities</b>				
<b>CF1: Community Facilities</b>				
M1 - Recommended Modification 1	Policy CF1: Community Facilities, page 15  Map 18, page 59	In Policy CF1 <ul style="list-style-type: none"> <li>delete “are of a scale appropriate to their surroundings” and insert “will not result in a loss of residential or visual amenity”</li> <li>after “services” insert “identified on Map 18”</li> </ul> Map 18 should be presented at a scale that allows the identification of the location of the community facilities and services.	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.	Agree to modify the text and maps as indicated to comply with the examiner’s recommendations.
<b>4.2 Leisure and Recreation</b>				
<b>LR1: Improving Public Rights of Way</b>				
M2 – Recommended Modification 2	Policy LR1: Improving Public Rights of Way, page 16	In Policy LR1 <ul style="list-style-type: none"> <li>delete “New developments should” and insert “To be supported new developments must demonstrate that they”</li> <li>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.”</li> </ul>	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.	Agree to modify the text as indicated to comply with the examiner’s recommendations.
<b>LR2: New Sports and Leisure Facilities</b>				

M3 – Recommended Modification 3	Policy LR2: New Sports and Leisure Facilities, page 19	In Policy LR2 <ul style="list-style-type: none"> <li>• delete “strongly”</li> <li>• replace b) with “Demonstrate they will not harm residential amenity or the local character of the natural and built environment.”</li> </ul>	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 the 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.	Agree to modify the text as indicated to comply with the examiner’s recommendations.
<b>4.3 Housing</b>				
<b>HOU1: Housing Type and Mix</b>				
M4 – Recommended Modification 4	Policy HOU1: Housing Type and Mix, page 21	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:”	<p>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.</p> <p>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. 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 HOU1 is not seeking to establish any requirements but is defining the type of development that will be supported.</p> <p>Whilst the justification for the policy is grounded in local survey responses this does not preclude decision making being based</p>	Agree to modify the text as indicated to comply with the examiner’s recommendations.

			on updated evidence of local needs that may emerge during the plan period.	
<b>4.4 Natural Environment</b>				
<b>NE1: Local Green Space</b>				
M5 – Recommended Modification 5	Policy NE1: Local Green Space, page 23	In Policy NE1 after “sites” insert “identified on maps in Appendix 2”	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.	Agree to modify the text as indicated to comply with the examiner’s recommendations.
<b>NE2: Enhancement and Protection of Nature Areas and Biodiversity</b>				
M6 – Recommended Modification 6	Policy NE2: Enhancement and Protection of Nature Areas and Biodiversity, page 29  Section 4.4.2, new maps required	In Policy NE2 <ul style="list-style-type: none"> <li>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:”</li> <li>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.</li> </ul>	<p>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.</p> <p>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</p>	Agree to modify the text and include new maps as indicated to comply with the examiner’s recommendations.

		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.	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.	
<b>4.5 Heritage</b>				
<b>H1: Non Designated Local Heritage Assets</b>				
M7 – Recommended Modification 7	Policy H1, page 31  Section 4.5.1, page 30  Section 5, pages 60 - 61	In Policy H1 <ul style="list-style-type: none"> <li>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.”</li> <li>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.</li> </ul>	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.  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	Agree to modify the text as indicated to comply with the examiner’s recommendations

			<p>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.</p> <p>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.</p>	
<b>H2: Bramham Moor Battlefield – Local Heritage Area</b>				
M8 – Recommended Modification 8	Policy H2: Bramham Moor Battlefield – Local Heritage Area, page 34  Section 4.5.1, pages 32 – 33	<ul style="list-style-type: none"> <li>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</li> </ul>	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.	Agree to modify the text as indicated to comply with the examiner’s recommendations

	<p>Section 5, pages 60 - 61</p>	<p>valued landscape area identified on Map 8.”</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• delete “- Local Heritage Area” from the policy title</li> </ul>	<p>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 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.</p> <p>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</p>	
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			be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.	
<b>H3: Development within the Conservation Area</b>				
M9 – Recommended Modification 9	Policy H3: Development within the Conservation Area, pages 38 - 39	In Policy H3 <ul style="list-style-type: none"> <li>delete “Within the defined Conservation Area, development proposals” and insert “Development proposals within, or affecting the setting of, the defined Conservation Area”</li> <li>in part d) delete “positive”</li> <li>in part d) delete “within” and insert “that make a positive contribution to the significance of”</li> </ul>	<p>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.</p> <p>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.</p>	Agree to modify the text as indicated to comply with the examiner’s recommendations
<b>H4: Development outside the Conservation Area</b>				

M10 – Recommended Modification 10	Policy H4: Development outside the Conservation Area, page 41	<p>In Policy H4</p> <ul style="list-style-type: none"> <li>• delete point c)</li> <li>• 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.”</li> </ul>	<p>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.</p>	Agree to modify the text as indicated to comply with the examiner’s recommendations
<b>H5: Key Views</b>				
M11 – Recommended Modification 11	Policy H5: Key Views, page 45	<p>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”</p>	<p>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.</p> <p>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</p>	Agree to modify the text as indicated to comply with the examiner’s recommendations

			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.	
<b>4.6 University of Leeds (UoL)</b>				
<b>UoL1: University of Leeds Estate</b>				
M12 – Recommended Modification 12	Policy UoL1: University of Leeds Estate, page 57	<p>In Policy UoL1</p> <ul style="list-style-type: none"> <li>before “the continued” insert “Development associated with”</li> <li>delete “appropriate” and after “viable” insert “business and enterprise”</li> </ul>	<p>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.</p> <p>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.</p>	<p>Agree to modify the text of criteria one of Policy UoL1 as indicated to comply with the examiner’s recommendations.</p> <p>Do not agree to modify the text of criteria two of Policy UoL1 as indicated. The term “appropriate” as proposed in the submission draft Policy reflects the status of the University of Leeds Estate as being situated within the Green Belt and accommodates that there are proposals within the emerging Site Allocations Plan to allocate site HG1-53 for housing. The inclusion of “business and enterprise” could undermine the objectives of the neighbourhood plan and the Council to support the sustainable development of the University of Leeds</p>

				Estate. <sup>1</sup> The Council does not consider that this recommended modification is necessary for the Plan to meet the Basic Conditions, not is it required to make the Plan compatible with any Convention Rights and therefore the modification is not required.
M13 – Recommended Modification 13	Throughout the Plan	Modification of general text will be necessary to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.	<p>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.</p> <p>I am able to recommend modification of the Neighbourhood Plan in order to correct errors. 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.</p>	Agree to modify the text as indicated to comply with the examiner’s recommendations

<sup>1</sup> The terms “appropriate” and “viable” as proposed in the submission draft Policy UoL1 reflect that the University of Leeds Estate is situated within the Green Belt and the phrase appropriate reflects NPPF terminology. In order to support the continued operation of the site for research activities, as per Objective 7 of the submission draft Bramham Neighbourhood Plan and criteria 1 of Policy UoL1, some of the vacant buildings on the site may need to be converted to other viable uses that would be appropriate in a Green Belt setting. Indeed, the Council has proposed the allocation of Site HG1-53 Spen Common Lane, Bramham, for housing in the Submission Draft Site Allocations Plan. The introduction of the words “business and enterprise” to the Policy could undermine proposed development and would be contrary to NPPF (2012) Para 184 which sets out the relationship between neighbourhood plans and strategic development needs. The Council’s intention to not make the recommended modification to criteria 2 of Policy UoL1 has been agreed with Bramham Parish Council who have stated that criteria 2 of the policy as proposed in the submission draft Neighbourhood Plan supports the reuse and conversion of existing vacant buildings for appropriate viable uses within the context of the overall support set out in the draft Plan for the continued use of the University of Leeds Estate for research activities. The Parish Council therefore agrees with the Council’s intention to not make the examiner’s recommended modification to criteria 2 of Policy UoL1.

