

**Papplewick Parish Council**

# **Papplewick Neighbourhood Development Plan**

A report to Gedling Borough Council of the Independent  
Examination of the Papplewick 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 May 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>11</b>
<b>The Neighbourhood Plan taken as a whole</b>	<b>14</b>
<b>The Neighbourhood Plan policies</b>	<b>26</b>
Policy 1 Local Green Space	
Policy 2 The Natural Environment	
Policy 3 Setting of Papplewick	
Policy 4 Re-use of Rural Buildings	
Policy 5 Surface Water	
Policy 6 Community Renewable Energy Generation	
Policy 7 Local Distinctiveness of Papplewick	
Policy 8 Public Realm	
Policy 9 Housing	
Policy 10 Community Facilities	
Policy 11 Sustainable Transport	
Policy 12 Highway Impact	
<b>Summary and Referendum</b>	<b>53</b>
<b>Annex: Minor corrections to the Neighbourhood Plan</b>	<b>54</b>

## Overall Finding

This is the report of the Independent Examination of the Papplewick Neighbourhood Development Plan. The plan area comprises the entire civil parish of Papplewick within the Gedling Borough Council area. The plan period is 2017-2028. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential 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 Papplewick Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Papplewick 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 Papplewick Neighbourhood Area which was formally designated by Gedling Borough Council (the Borough Council) on 11 August 2016. The Neighbourhood Plan has been produced by a Neighbourhood Plan Working Group (the Working Group), made up of members of the Parish Council supported by neighbourhood representatives, with input from supporting planning consultants.
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 the Borough Council. The submission was made on 18 January 2018. The Borough Council arranged a period of publication between 19 February and 5pm on Friday 6 April 2018. The Borough Council has submitted the Neighbourhood Plan to me for independent examination.

---

<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012)

## Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the Borough Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.
6. The Borough 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>3</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>4</sup> unless the Borough 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>5</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>6</sup>.
8. I have been appointed by the Borough 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 the Borough Council. I do not have any interest in any land that may be affected by the

---

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

<sup>3</sup> Paragraph 216 of the National Planning Policy Framework 2012 explains full weight is not given at this stage

<sup>4</sup> Section 3 Neighbourhood Planning Act 2017

<sup>5</sup> Section 156 Housing and Planning Act 2016

<sup>6</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>7</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>8</sup>

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>9</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>7</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>9</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>10</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>11</sup>

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>12</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>13</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>10</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>11</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>12</sup> The Convention rights has the same meaning as in the Human Rights Act 1998

<sup>13</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 the Borough Council as a neighbourhood area on 11 August 2016. A map of the Neighbourhood Plan boundary is included as Map 2 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Papplewick parish boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>14</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>15</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>16</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>17</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>18</sup> The front cover of the Submission Plan clearly states the plan period to be 2017-2028.
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>19</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>14</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>15</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

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

<sup>17</sup> Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

<sup>19</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 Framework



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 are a reflection of 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>20</sup>

## Documents

23. I have given consideration to 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:

- Papplewick Neighbourhood Plan 2017-2028 Submission Plan January 2018 including Policies Map and Section 2 Non-Planning Issues
- Papplewick Neighbourhood Plan Basic Conditions Statement January 2018 [*In this report referred to as the Basic Conditions Statement*]
- Papplewick Neighbourhood Plan Consultation Statement January 2018 including Appendices One to Five inclusive [*In this report referred to as the Consultation Statement*]
- Papplewick Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report January 2018 [*In this report referred to as the SEA and HRA report*]
- Papplewick Neighbourhood Plan Local Green Spaces January 2018
- Papplewick Neighbourhood Plan Landscape Character Appraisal Evidence Base January 2018
- Papplewick Neighbourhood Plan Issues Scoping Document and Evidence Base February 2017
- Papplewick Neighbourhood Plan Designated Area Plan January 2018

---

<sup>20</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Papplewick Parish Council submission letter dated 18 January 2018
- Evidence Base documents available on the Neighbourhood Plan part of the Papplewick Parish Council website at [http://www.papplewick.org/NeighbourhoodPlan/NPlan\\_spare1.html](http://www.papplewick.org/NeighbourhoodPlan/NPlan_spare1.html)
- Representations received during the Regulation 16 publicity period
- Greater Nottingham Aligned Core Strategy Part One Local Plan (adopted 2014) (ACS): [www.gedling.gov.uk/acs](http://www.gedling.gov.uk/acs)
- Saved Policies Gedling Borough Replacement Local Plan (adopted 2005) (RLP) (see pages 245-253 of the ACS for a list of RLP Saved Policies): [www.cartogold.co.uk/GedlingLocalPlan](http://www.cartogold.co.uk/GedlingLocalPlan)
- The Emerging Local Planning Document Part 2 Local Plan (Tracked Changes Version Main Modifications) – Main Modifications consultation ended 26 March 2018 with anticipated adoption Summer 2018: [www.gedling.gov.uk/media/gedlingboroughcouncil/documents/planning\\_policy/examinationlibrary/EX-163%20LPD%20Tracked%20Changes.pdf](http://www.gedling.gov.uk/media/gedlingboroughcouncil/documents/planning_policy/examinationlibrary/EX-163%20LPD%20Tracked%20Changes.pdf)
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance DCLG (April 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
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the 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 plan preparation process began with 'launch information and ideas workshop events' which included initial consultation on early issues in May 2016. The Neighbourhood Plan Working Group first met in November 2016. A questionnaire was circulated to all households in February 2017 which generated more than 50 responses. Consultation since that time has included use of the Parish newsletter and Parish website.
26. Pre-submission consultation in accordance with Regulation 14 was undertaken in the period between 2 October and 13 November 2017. The consultation included statutory consultees, local residents, and businesses. Consultation methods included two consultation drop-in sessions in the Village Hall and a four-page leaflet delivered to all premises within the Plan area and to residents at Moor Road who it is stated "*traditionally look to Papplewick as their 'home'.*" Plan documents were made available electronically and hard copies of the Plan were made available at Hucknall Library, the Griffin's Head public house, and the Village Hall. The representations arising from the consultation are comprehensively presented within Appendix 5 of the Consultation Statement where responses, and amendments 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 the Borough Council.
27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 19 February and 5pm on Friday 6 April 2018. Representations from 11 different parties were submitted during the period of publication. I have been provided with copies of each these representations.

28. The Environment Agency states they are very supportive of the Neighbourhood Plan. Natural England welcomes the Neighbourhood Plan and considers that it provides a valuable framework for the future sustainable development of the parish. Highways England states *“We note that Papplewick is located within the Nottingham Green Belt and as such no sites are allocated for new housing development. However, we understand that, should any development come forward, it is expected to be small-scale, and therefore we consider it will not have an impact upon the operation of the M1”*. The Office of Rail and Road and Western Power confirm they have no comments to make and the representations of National Grid do not necessitate any modifications of the Neighbourhood Plan in order to meet the Basic Conditions. Sport England have referred to a number of national policies and where they can be accessed but do not make any specific recommendations in relation to the Neighbourhood Plan. The Coal Authority states *“As you will be aware the Neighbourhood Plan area lies within the current defined coalfield. According to the Coal Authority Development High Risk Area Plans, within the Neighbourhood Plan area there are recorded risks from past coal mining activity. These risks are in the form recorded fissures/breaklines as a result of past deep mining, in addition we have records of 9 recorded hazards within the Neighbourhood Plan area. It is noted that the Neighbourhood Plan does not propose to allocate any sites for future development and therefore we have no specific comments to make”*. A representation of two residents supports the consideration of installation of traffic lights referred to in Section 2 (Non-Planning Issues) of the Plan. I refer to the status of Section 2 of the Neighbourhood Plan in paragraph 52 later in my report.

29. The representation of the Borough Council includes Appendix 3 setting out comments of the Conservation and Heritage Officer. It is stated these comments were previously submitted at the Regulation 14 stage of plan preparation. The fact that these suggestions did not result in changes to the Plan could be regarded as a missed opportunity as a number of them would have strengthened the effectiveness of the Plan. A number of the comments identify matters that should be the subject of additional text or policy provisions in the Neighbourhood Plan. There is no requirement that a neighbourhood plan should refer to particular matters or include any particular policies. My role is limited to consideration whether the Submission Plan meets the Basic Conditions and other requirements. I have recommended modifications in respect of the comments of the Conservation and

Heritage Officer where they assist clarity or where they are necessary so that the policy in question has sufficient regard for national policy.

30. Where representations include comment on the policies of the Neighbourhood Plan I have taken these into consideration when considering each of the plan policies later in my report. In preparing this report I have taken into consideration all of the representations submitted during the Regulation 16 period so far as they are relevant to my remit even though they may not be referred to in whole, or in part. Whilst some of the comments of the Borough Council have been made *“in the interests of improving the effectiveness of policies”* I have only recommended modifications where these are necessary to ensure 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.
31. 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>21</sup>
32. The Consultation Statement includes 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 Working Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

---

<sup>21</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

## The Neighbourhood Plan taken as a whole

33. 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 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

34. 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 1998”. I have given consideration to 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>22</sup> I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention.

35. 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>23</sup> is “to provide for a high level of protection of the environment and to contribute to the integration of

---

<sup>22</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>23</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

*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 ‘plans and programmes’<sup>24</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>25</sup>

37. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to the Borough 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 submission documents include a Screening Statement prepared by the Parish Council. Section 1 relates to Strategic Environmental Assessment Screening. This statement includes ‘Table 2 assessment of the likely significant effects on the environment’, and a conclusion that states “*As a result of the assessment above, based on Article 3.5 of the SEA Directive, the Neighbourhood Plan Working Group on behalf of Papplewick Parish Council consider that there will be no significant environmental effects arising from the NDP. As such, the NDP does not require a full SEA to be undertaken*”. The Screening Statement includes an Appendix 4: an assessment of reasonable policy alternatives.
39. In a representation the Borough Council states “*Paragraph 4 and the SEA & HRA Screening (January 2018) – The Borough Council agrees with the findings of this assessment. The Borough Council has had no involvement in the preparation of this assessment and has not consulted the three statutory consultees on behalf of the Qualifying Body. It is understood that the Qualifying Body consulted the three statutory consultees as part of the Regulation 14 consultation, but the Borough Council has not had sight of responses received.*
40. *Gedling Borough Council recommended several changes to the SEA & HRA Screening through the Regulation 14 consultation which have not been made. The recommended changes related to minor reference corrections and minor changes to the assessment for consistency*

---

<sup>24</sup> Defined in Article 2(a) of Directive 2001/42

<sup>25</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

*purposes with the Borough Council's Sustainability Appraisal criteria. These recommendations are attached at Appendix 4 of this response to aid the examiner however they are not considered to be required changes unless the examiner determines otherwise."*

41. The Screening Statement confirms the three statutory bodies: Historic England, Natural England, and the Environment Agency, were consulted on a draft prepared at pre-submission stage. The statutory bodies have been consulted again at the Regulation 16 stage of Plan preparation. Historic England confirms the view that the preparation of a Strategic Environmental Assessment is not likely to be required. Natural England concur with the report's conclusion that it is unlikely that any significant environmental effects will result from the implementation of the Neighbourhood Plan that were not considered and dealt with by the Sustainability Appraisal of the adopted Nottingham Aligned Core Strategy (2014). I am satisfied that the requirements in respect of Strategic Environmental Assessment have been met.
42. Section 2 of the Screening Statement document relates to Habitats Regulations Assessment. It is stated the only internationally designated site within a 15km radius of the neighbourhood area boundary is the Birklands and Bilhaugh Special Area of Conservation. The Sherwood Forest prospective Special Protection Area has also been considered. The Screening Statement states *"The Papplewick Neighbourhood Plan is considered to have only a limited impact on the prospective SPA and no impact on the SAC. The Papplewick Neighbourhood Plan only envisages very limited growth that is unlikely to result in significant increases in public recreation, water demand, or discharges of sewage or surface water drainage. The Neighbourhood Plan intends to secure the retention of other open space and local green space across Papplewick which can provide suitable opportunities for public recreation which will help to limit any need to utilise the pSPA area. Impacts from the emerging Gedling Local Planning Document will be assessed separately and appropriate changes or mitigation put in place. Any other Natura 2000 designated site are relatively distant from the Neighbourhood Plan Area, so impacts will be limited"*.
43. The Screening Statement concludes *"As a result of the screening assessment above, based on the provisions of the European Directive 92/43/EEC and the Conservation of Habitats and Species Regulations 2010, the assessment set out above concludes that the Papplewick*



*Neighbourhood Plan will not have an adverse effect on the integrity of any internationally designated sites either on its own or in combination with any other plans. Therefore, an assessment is not required.”* Paragraph 30 of the Screening Statement confirms that Natural England agreed at pre-submission stage that an HRA is not required. Natural England has been consulted again at the Regulation 16 stage of Plan preparation and “*agrees that the Neighbourhood Plan would not be likely to result in a significant effect on any European Site either alone or in combination and therefore no further assessment work under the Habitats Regulations would be required”*. I conclude the Neighbourhood Plan meets the requirements of the EU Habitats Regulations.

44. 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.

45. 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.

46. 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. Gedling Borough 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
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>26</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

---

<sup>26</sup> Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

## Neighbourhood Plan contributes to the achievement of sustainable development

47. 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>27</sup> which requires plans to be “*consistent with national policy*”.
48. Lord Goldsmith has provided guidance<sup>28</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.*”
49. The Basic Conditions Statement includes at paragraphs 26 to 35 a series of statements that demonstrate how the Neighbourhood Plan has regard to identified paragraphs of the Framework. A reference is also made to Planning Practice Guidance.
50. The Neighbourhood Plan includes a positive vision for Papplewick. The vision includes economic components with reference to a “*place to work*” as well as social components concerned with being vibrant and referring to “*a range of local services*”. The vision also refers to environmental matters including “*the highly valued rural character*” and an “*attractive place to live*” 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.
51. The vision is supported by four objectives of the Neighbourhood Plan. These objectives relate to: historic built environment; natural environment, countryside and Green Belt; community matters; and

---

<sup>27</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 Framework

<sup>28</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)

avoidance of adverse impact arising from growth in adjoining areas. These objectives are consistent with the Framework. A Table presented at paragraph 46 of the Neighbourhood Plan demonstrates how the objectives provide a link between the vision and the policies of the plan. The Table demonstrates how each policy contributes to the achievement of one or more objectives.

52. The Neighbourhood Plan includes in Section 2 consideration of Non-Planning Issues described as community aspirations and Parish Council ambitions “*which supplement the Policies in the Neighbourhood Plan.*” 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 that the presentation of the Non-Planning Issues in a separate section of the Neighbourhood Plan, which clearly states “*This section does not form part of the statutory Development Plan*” adequately differentiates these matters from the policies of the Plan and has sufficient regard for national policy.
53. 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.”*

54. 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>29</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>30</sup>.

55. 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.

56. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system. The Basic Conditions Statement sets out at page 9 a series of statements that refer to relevant paragraphs of the Framework. From my own assessment I consider every Policy of the Neighbourhood Plan seeks to have a positive effect in at least one of the environmental, social and economic dimensions.

57. 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>29</sup> Paragraph 14 National Planning Policy Framework 2012

<sup>30</sup> Planning Practice Guidance (Ref ID:41-072-20140306)

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

- Designate six Local Green Spaces;
- Protect and enhance key components of the natural environment;
- Ensure key vistas are not adversely affected by development;
- Support re-use of rural buildings for appropriate uses;
- Avoid surface water flood risk;
- Support small scale community renewable energy generation;
- Ensure developments reinforce local distinctiveness;
- Identify and protect important non-designated heritage assets;
- Maintain high quality public realm;
- Ensure new housing is appropriate to a Green Belt location and is of a type that responds to local needs;
- Supports suitable new or improved community facilities; and
- Avoid negative highway impacts arising from development.

58. 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)

59. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local*

*Plans*".<sup>31</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>32</sup>

60. 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>33</sup>

61. 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). The Borough Council has informed me that the Development Plan applying in the Papplewick neighbourhood area and relevant to the Neighbourhood Plan comprises:

- Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) (ACS) and Policies Map
- Gedling Borough Replacement Local Plan (2005) Saved Policies (RLP) (Pages 245-253 of the ACS list the RLP Saved Policies)

The Borough Council has confirmed that all of the policies in these documents are considered to be strategic for the purpose of neighbourhood planning. As the Local Plan Saved Policies predate the Framework, the Framework takes precedence where there is a conflict.

62. The Borough Council is currently preparing the Local Planning Document (Part 2 Local Plan). I have viewed the emerging Local Planning Document Part 2 Local Plan (Tracked Changes Version Main Modifications) available on the Borough Council website. Main Modifications consultation ended 26 March 2018. It is currently anticipated adoption of the Part 2 Local Plan will occur in Summer 2018. This emerging Plan is not yet part of the Development Plan.

---

<sup>31</sup> Paragraph 16 National Planning Policy Framework 2012

<sup>32</sup> Paragraph 184 National Planning Policy Framework 2012

<sup>33</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

63. In a representation the Borough Council states “*The emerging Local Planning Document (Part 2 Local Plan) is currently being examined with the Main Modifications consultation having concluded on 26th March 2018. The Borough Council is now awaiting the Inspector’s Report with an anticipated adoption timescale of summer 2018*” and “*The Examiner’s Report (September 2017) of the Calverton Neighbourhood Plan (Gedling Borough) confirms at paragraph 2.2 that there is no requirement for a neighbourhood plan to be in conformity with an emerging Local Plan, but that the aim is that the two should be complementary and conflicts between them minimised. This reflects advice given in Planning Practice Guidance reference ID 41-009-20160211, which states that ‘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’. Where comments relate to non-conformity with the Basic Conditions, this is stated. All other comments are provided for the benefit of the examiner and in the interest of improving the effectiveness of policies*”.

64. Whilst the Borough Council refer to the Independent Examination of the Calverton Neighbourhood Plan this is not a matter for my consideration. In answer to a question “*Can a neighbourhood plan come forward before an up-to-date Local Plan is in place?*” 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>34</sup>*

65. The Neighbourhood Plan can proceed ahead of preparation of the new Part 2 Local Plan. I am mindful of the fact that should there ultimately be a conflict between the Neighbourhood Plan, and the new Part 2 Local Plan when 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.

66. 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 Part 2 Local 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.<sup>35</sup> 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

<sup>34</sup> Planning Policy Guidance Paragraph: 009 Reference ID: 41-009-20160211

<sup>35</sup> The Borough Council has work underway to prepare The Vale of Aylesbury Local Plan. The Local Development Scheme dated December 2014 indicates adoption is intended in July/August 2017



Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

67. 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>36</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.

68. 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>37</sup>

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

69. 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.

---

<sup>36</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

<sup>37</sup> Planning Practice Guidance (ID ref: 41-074 201 40306)

## The Neighbourhood Plan policies

70. The Neighbourhood Plan includes 12 policies as follows:

- Policy 1 Local Green Space
- Policy 2 The Natural Environment
- Policy 3 Setting of Papplewick
- Policy 4 Re-use of Rural Buildings
- Policy 5 Surface Water
- Policy 6 Community Renewable Energy Generation
- Policy 7 Local Distinctiveness of Papplewick
- Policy 8 Public Realm
- Policy 9 Housing
- Policy 10 Community Facilities
- Policy 11 Sustainable Transport
- Policy 12 Highway Impact

71. 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>38</sup>

72. 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*

---

<sup>38</sup> Paragraphs 184 and 185 National Planning Policy Framework 2012

*respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”<sup>39</sup>*

73. *“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>40</sup>

74. *“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>41</sup>

75. 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 1 Local Green Space**

76. This policy seeks to designate six Local Green Spaces. I have visited each of these areas. 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 10, 11, and 12 within Appendix 1 at a scale that is sufficient to identify the precise boundaries of each Local Green Space proposed for designation. I recommend a modification so that Policy 1 refers to these maps. This will ensure that the policy provides

---

<sup>39</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306

<sup>40</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

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

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.

77. In a representation the Borough Council states *“The proposed Local Green Space designations named ‘Moor Pond Woods and Dam Banks’ and ‘Papplewick Dam Woods’ are proposed as Local Green Spaces in the emerging Local Planning Document”* and *“The policy wording is supported and is identical to Policy NE1 of the Calverton Neighbourhood Plan which was found to meet the Basic Conditions”*. The Borough Council has also provided an assessment *“whether or not the sites would have been supported for designation had they been assessed consistently alongside other sites proposed through the Local Planning Document process”*. The assessment concludes that the proposed Local Green Spaces at St James’ Churchyard, and at Papplewick and Linby Cricket Ground would not be designated and that the other four proposals would be designated. The comments of the Conservation and Heritage Officer submitted by the Borough Council suggest the policy should refer to the setting of heritage assets.

78. I have earlier in my report explained that my role does not extend to consideration of the Calverton Neighbourhood Plan or its Independent Examination. Whilst I note two of the proposed Local Green Space designations are included within larger areas that are proposed for designation in the emerging Part 2 Local Plan this does not preclude designation in the Neighbourhood Plan. Whilst the Borough Council has offered an opinion that suggests two of the proposed Local Green Spaces (St James’ Churchyard and the Papplewick and Linby Cricket Ground) would not be designated *“had they been assessed consistently alongside other sites proposed through the Local Planning Document process”* that is not a basis for my consideration. The factors leading to the conclusion of the Borough Council are however matters for my consideration.

79. The wording of the policy does not adequately reflect 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. The Neighbourhood Plan is not able to designate Local Green Spaces on terms that are different to those set out in the Framework. The term *“Inappropriate development”* is in any case imprecise and without further explanation does not provide a basis for decision taking in

respect of development proposals. A reference to the setting of heritage assets would unnecessarily duplicate national policy. The Framework does not provide for the protection of the setting of a Local Green Space. The requirement in the policy that development should not adversely affect the tranquillity of the Local Green Spaces is inappropriate as tranquillity has not been identified as a factor in the “*demonstrably special significance*” of two of the sites proposed for designation. I have recommended a modification in these respects.

80. I have given consideration to the possibility of the policy including explanation of “*very special circumstances*”. Such circumstances may be that development is proposed that would clearly enhance the Local Green Space for the purposes for which it was designated, or proposals are made for essential infrastructure that cannot be located elsewhere. I have concluded such explanation would necessarily be incomplete and that decision makers must rely on paragraph 78 of the Framework that states “*local policy for managing development within a Local Green Space will be consistent with policy for Green Belts*” and the part of the Framework that relates to ‘Protecting Green Belt land’, in particular paragraphs 87 to 91 inclusive.

81. The Framework states “*the Local Green Space designation will not be appropriate for most green areas or open space*”. Designating a green area as Local Green Space would give it protection consistent with that in respect of Green Belt but as the Neighbourhood Plan area is washed over as Green Belt it is necessary to consider whether any additional local benefit would be gained by designation as Local Green Space. It is also necessary to consider whether additional benefit is achieved where other designations apply.

82. All of the proposed Local Green Spaces are in Green Belt. Paragraph 79 of the Framework states “*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence*”. The Framework states local policy for managing development within a Local Green Space should be consistent with policy for Green Belts. The Guidance states “*One potential benefit in areas where protection from development is the norm (eg villages included in the green belt) but where there could be exceptions is that the Local Green Space designation could help to identify areas that are of particular importance to the local community.*”<sup>42</sup> Paragraphs 4

---

<sup>42</sup> Planning Practice Guidance Paragraph: 010 Reference ID:37-010-20140306

and 16 of the Local Green Spaces Report consider the case for additional benefit and identify the possibility of pressure for development and confirm that the sites proposed for designation are demonstrably special to the local community. I am satisfied designation is appropriate under these circumstances.

83. I have noted the proposed Local Green Space at St James' Churchyard and driveway is situated in a Conservation Area. The regime set out in paragraphs 131, 137, and 140 of the Framework, relevant to the conservation and enhancement of a Conservation Area (including assessment of the desirability of new development; looking for opportunities for new development making a positive contribution to local character and distinctiveness; and assessment of the benefits of enabling development) together provide a very different approach to that arising from designation as Local Green Space which is seeking to rule out new development other than in very special circumstances. Similarly, where the proposed Local Green Spaces are subject to other existing designations for nature conservation; protected open space; mature landscape area; and historic park and garden these do not precisely replicate the aims of, nor preclude, a designation as Local Green Space.

84. 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”* and *“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.”*

85. 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.

86. The Framework states that Local Green Space 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>43</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.

87. The Local Green Spaces report is an example of good practice in that evidence that the areas proposed for designation as Local Green Space are “*demonstrably special to a local community and hold a particular local significance*” is well structured using the headings appropriate to consideration of the suitability of areas for designation. The Local Green Spaces report provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance. I find that 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.

88. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policies 3 and 16.

89. 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

---

<sup>43</sup> Paragraph 77 National Planning Policy Framework 2012

healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 1:**

##### **In Policy 1**

- **after “The following sites” insert “(identified on Maps 10, 11, and 12 in Appendix 1)”**
- **delete “Inappropriate” and insert “New”**
- **delete all text after “circumstances”**

#### **Policy 2 The Natural Environment**

90. This policy seeks to establish principles for protection and enhancement of identified features of the natural environment.

91. In a representation the Borough Council states the policy should be amended to clarify its intentions. In another representation the Environment Agency states *“We are particularly supportive of Policy 2 which requires development proposals to provide additional biodiversity and/or environmental improvements, in certain areas. This will really help to deliver net gains in biodiversity, contributing to the overarching aspirations of the National Planning Policy Framework (NPPF).”* Natural England states *“We particularly welcome Policy 2: The Natural Environment, which will help to ensure that biodiversity and landscape character is protected and enhanced throughout the area.”*

92. The Framework states *“to minimise impacts on biodiversity”* planning policies should identify and map components of the local ecological network including wildlife corridors. Paragraph 109 of the Framework states the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The Framework also states *“planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.”*

93. It is not clear from the opening part of the policy before the colon how the policy is to be applied. The term *“promoted wherever possible”* is imprecise. 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.

94. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policies 16 and 17.
95. 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 2:**

##### **In Policy 2**

- **delete the first words “Proposals that” and insert “Proposals will be supported where they”**
- **delete “including” and insert “in particular”**
- **delete “promoted wherever possible” and insert “supported”**

#### **Policy 3 Setting of Papplewick**

96. This policy seeks to establish that development should not adversely affect 11 key vistas identified on Map 5.
97. In a representation the Borough Council states *“The principle of Policy 3 is supported however it is considered that more information should be included to ensure the policy is more effective. As currently drafted, the policy leaves a significant level of interpretation to the decision maker which could lead to inconsistent policy interpretation over the plan period. Paragraph 154 of the NPPF is clear that policies should provide a ‘clear indication’ as to how to react to development proposals. Policy 3 seeks to protect ‘key features’ however Appendix 2 of the plan does not define these features in any great detail. It is recommended that the final sentence of Paragraph 4.3 is removed and*

*replaced by the insertion of Section 5: Key Characteristics (pages 35 and 36) of the Papplewick Landscape Character Assessment. This sets out a general list of key characteristics including positive and negative aspects and its inclusion would be helpful in interpreting Policy 3. In addition, the Borough Council would support the inclusion of annotated photography as part of Appendix 2 of the plan, setting out key features; however, this may not be possible at this stage. To clarify, comments on Policy 3 are not made as a non-conformity issue with the Basic Conditions, however the Borough Council would strongly support the recommended changes to increase the clarity of Policy 3” and “In terms of interpreting the protection of ‘views of areas of landscape, Policy 10 and 16 of the ACS already give weight to the protection of landscape character in line with the recommendations of the Greater Nottingham Landscape Character Assessment (GNLCA).”*

98. The comments of the Conservation and Heritage Officer submitted by the Borough Council suggest the policy should refer to potential archaeology however this would unnecessarily duplicate national policy. The comments also suggest demolition of inappropriate development may improve views. I am satisfied the policy wording is appropriate in such circumstances where planning permission is required.
99. 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 vistas relate to views that can be seen from locations to which the general public have free and unrestricted access. Vista e is shown on Map 5 as extending beyond the Neighbourhood Plan area boundary which it cannot. The Neighbourhood Plan can only relate to land within the Neighbourhood Area. I have recommended Vista e should be modified on Map 5 so as not to extend outside the Neighbourhood Plan area. At the fact checking stage of the preparation of my report the Borough Council has suggested vista ‘l’ on Map 5 should be re-titled vista ‘k’ in order to achieve an un-interrupted alphabetical sequence. I have recommended this minor revision is made. The vistas where shown on the Policies Map do not include lettering. I have recommended the vistas where shown on the Policies Map should include a letter notation for identification purposes, and I have recommended the final sentence of supporting text in paragraph 4.3 is replaced by Section 5 of the Papplewick Landscape Character Assessment 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.

100. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policies 3, 10 and 16.

101. 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; protecting Green Belt land; 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 3 after “Map 5” insert “where seen from publicly accessible locations”**
- **On Map 5 Vista e should be modified so as not to extend outside the Neighbourhood Plan area and Vista ‘l’ should be re-titled Vista ‘k’.**
- **Vistas where shown on the Policies Map should include a lettering notation.**

**Replace the final sentence of Paragraph 4.3 with Section 5: Key Characteristics (pages 35 and 36) of the Papplewick Landscape Character Assessment.**

**Policy 4 Re-use of Rural Buildings**

102. This policy seeks to establish conditional support for proposals for re-use, conversion and adaptation of rural buildings for small business, recreation, or tourism purposes.

103. In a representation the Borough Council states “*This is a built environment policy, and as such should be included under the ‘Built*

*Environment’ section of the Plan. Whilst I would have no objection to this policy being transferred to the Built Environment part of the Plan I have not recommended a modification in this respect as it is not necessary to meet the Basic Conditions. The Borough Council also states “Bullet 5 of Policy 4 is more restrictive than policies set out in the Development Plan as it requires development proposals to ‘not have an adverse impact’ on historic and biodiversity features. With regards to the historic environment Policy ACS 11 and emerging Policies LPD 26-31 seek to protect heritage assets in line with their significance. With regards to biodiversity Policy ACS 17 and emerging Policy LPD 18 seek to protect designated sites in line with their biodiversity value. In order to ensure that unnecessary conflict does not result from Policy 4, bullet 5, it is requested that the criterion is amended to read: ‘The development will not have an undue adverse impact on any archaeological, architectural, historic, environmental features or protected species in line with protections given in the Development Plan’.”*

104. *“The criteria set out in Policy 4 largely duplicate policies set out elsewhere in the Development Plan, as set out in the table below. The Borough Council has no objection to the inclusion of the policy on this ground.”*

<b>Policy 4</b>	<b>Duplication</b>
Bullet 1	Covered by national Green Belt policy paragraphs 89 and 90.
Bullet 2	Covered by Policy 7 (Local Distinctiveness of Papplewick) and Policy 8 (Public Realm) of the neighbourhood plan.
Bullet 3	Covered by Green Belt policy - emerging Policy LPD12.
Bullet 4	Covered by Green Belt policy - emerging Policy LPD12.
Bullet 5	Covered elsewhere in the Development Plan (see paragraph 22 of this response). Architectural protections are covered by Policy 7 (Local Distinctiveness of Papplewick) of the neighbourhood plan.
Bullet 6	Covered by emerging Policies LPD57 (Parking Standards) and LPD61 (Highway Safety).
Bullet 7	Covered by emerging Policies LPD32 (amenity of neighbours); LPD61 (traffic) and LPD3 (Flooding). Also covered by Policy 5 (Surface Water) of the neighbourhood plan.

105. The comments of the Conservation and Heritage Officer submitted by the Borough Council suggest the policy should refer to instances where buildings are in a Conservation Area and refer to residential uses. It is not necessary to modify the policy in these respects in order to meet the Basic Conditions.
106. I have earlier in my report explained the Neighbourhood Plan is not tested against the policies of the emerging Part 2 Local Plan. It is unnecessary and confusing for the policy to state “*having regard to other policies of the development plan*”. This could mislead a reader to think other policies of the Development Plan only apply when this is stated. The Development Plan should be read as a whole. The third bullet point does not add any additional level of detail or local approach to Green Belt policy. The term “*which encourage*” does not provide a basis for determination of planning applications. The term “*adequate parking*” 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.
107. The Framework states planning policies should “*support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development*” and “*support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres*”. The Framework also states “*neighbourhood plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well-designed new buildings*”.
108. The term “*the use is appropriate to the rural location*” does not have sufficient regard for national policy and is imprecise. The requirement that development should not have any adverse impact on archaeological or historic features does not have sufficient regard for national policy which requires a balanced approach. The Framework establishes an approach to the conservation and enhancement of

biodiversity based on avoidance, mitigation, and as a last resort harm should be compensated for. I have recommended a modification in these respects also.

109. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policy 4.

110. 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 supporting a prosperous rural economy; requiring good design; protecting Green Belt land; 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 4:**

##### **In Policy 4**

- **delete “which encourage” and insert “for”**
- **delete the first and third bullet points**
- **replace the fifth bullet point with “It is demonstrated any harm to the significance of a heritage asset is outweighed by the public benefit and that any harm to environmental features that cannot be avoided are adequately mitigated or as a last resort compensated;”**
- **in the sixth bullet point after “within the site” insert “so that no on-road parking occurs”**

#### **Policy 5 Surface Water**

111. This policy seeks to establish that development will not be permitted that will result in additional surface water flows in identified flood risk areas, and also seeks to safeguard water quality targets for the River Leen and support sustainable drainage systems including measures to support biodiversity.

112. In a representation the Borough Council states *“Policy 5 effectively duplicates protections set out in emerging Policy LPD 4. However, there is some conflict in that the Neighbourhood Plan strictly does not permit development resulting in additional surface water, whereas the LPD establishes a process that considers appropriate mitigation, practicability and the vulnerability of individual sites and wider catchments. It is considered appropriate for Policy 5 to be re-drafted to be complementary to the aims of emerging Policy LPD 4.”*
113. The Guidance states *“Where the Strategic Flood Risk Assessment, or other available flood risk maps or information, indicates that part or parts of a neighbourhood plan area may be at risk of flooding, the qualifying body will need to have regard to the National Planning Policy Framework’s policies on flood risk.”* The Framework states *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.”* The Framework also states when new development is brought forward in areas which are vulnerable to the range of impacts arising from climate change, *“care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure”* and *“Applications for minor development and changes of use should not be subject to the Sequential or Exception Tests but should still meet the requirements for site-specific flood risk assessments.”* I have earlier in my report explained that the Neighbourhood Plan is not tested against the emerging Part 2 Local Plan but that conflicts should be avoided. I have recommended a modification on this basis and so that the policy has regard for national policy.
114. In another representation the Environment Agency states *“Our only recommendation is that you check the wording of Policy 5, as it currently refers to surface water flood maps being produced by the Environment Agency. We no longer lead on the management of surface water flood risk and this responsibility has transferred to Nottinghamshire County Council, in their role as Lead Local Flood Authority (LLFA). We recommend that you consult the LLFA on your Plan, to make sure that the Plan refers to the most up to date information on surface water flood risk”.* I have recommended a modification so that the policy refers to the Lead Local Flood Authority

(LLFA) and that Maps 6 and 7 should be based on the records of the LLFA.

115. It is unnecessary and confusing for the policy to state “*in Papplewick*” as all of the policies of the Neighbourhood Plan apply in the whole of the Plan area unless a particular part of the Plan area is specified. 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.

116. The policy includes the term “will not be *permitted*”. It is not appropriate for a policy to indicate that proposals will be permitted or not permitted as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.<sup>44</sup> All material considerations will not be known until the time of determination of a planning proposal. I have recommended a modification in this respect.

117. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policies 1 and 18.

118. 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 meeting the challenge of climate change and flooding; and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:  
In Policy 5**

- **replace the text before “areas of” with “Development proposals will only be supported where it is demonstrated they will not increase the risk of flooding in the”**

---

<sup>44</sup> Paragraph 196 National Planning Policy Framework 2012



- delete “Environment Agency in Papplewick” and insert “Lead Local Flood Authority”

**Maps 6 and 7 should reflect, and be stated to be based on, the latest records held by the Lead Local Flood Authority.**

### **Policy 6 Community Renewable Energy Generation**

119. This policy seeks to establish support for small scale community renewable energy generation proposals.

120. In a representation the Borough Council states “*This policy applies only to community renewable energy generation specifically for local community facilities (i.e. those identified under Policy 10 of the Plan). As such, this policy does not apply to community energy generation schemes that would provide for multiple private dwellings (the Qualifying Body has confirmed the intention of Policy 6 in their Consultation Statement, page 58). It is suggested that the following supporting text is included to clarify the above: ‘Policy 6 does not apply to community renewable energy generation schemes that provide for dwellings’. Policy 6 largely duplicates the criteria set out in emerging Policy LPD1 and LPD2, as such no objections are made. It is noted that Policy 6 gives weight to making provision for ‘benefits to the local community’ without defining these within the supporting text. The objective/ effectiveness of this criterion is unclear as the principle of a renewable energy scheme could be argued to be beneficial simply by its nature (i.e. in terms of carbon footprint reduction or resulting financial savings).*”

121. The first criterion of the policy clearly states the nature of schemes that will be supported. It is unnecessary for the policy to state the types of schemes to which it does not apply. Duplication or partial duplication with policies of the emerging Part 2 Local Plan is not a matter for my consideration. The second criterion is imprecise and does not have sufficient regard for national policy with respect to support for renewable energy generation without the need for local community benefits as set out in paragraph 97 of the Framework and ensuring viability of development schemes as required by paragraph 173 of the Framework. I have recommended a modification in this respect.

122. The comments of the Conservation and Heritage Officer submitted by the Borough Council suggest the policy should refer to

the setting of heritage assets and potential archaeological remains however this is not necessary to meet the Basic Conditions. The Framework establishes a balanced approach to the assessment of proposals that harm the significance of designated and non-designated heritage assets. I have recommended a modification so that the policy has regard for national policy.

123. It is unnecessary and confusing for the policy to state “*in Papplewick*” as all of the policies of the Neighbourhood Plan apply in the whole of the Plan area unless a particular part of the Plan area is specified. 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.

124. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policy 1.

125. 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 protecting Green Belt land; meeting the challenge of climate change and flooding; 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 6:**

##### **In Policy 6**

- **delete “in Papplewick”**
- **delete the second criterion**
- **after “Conservation Area” insert “unless it is demonstrated the public benefit outweighs the harm to the significance of a designated heritage asset, or in the case of a non-designated heritage asset it is demonstrated the proposal is acceptable taking into account the scale of harm or loss and the significance of the asset”**

## Policy 7 Local Distinctiveness of Papplewick

126. This policy seeks to establish design principles so that development proposals reinforce local distinctiveness. The policy also seeks to identify 11 buildings or groups of buildings as Locally Designated Heritage Assets and encourage locally important heritage assets.
127. In a representation the Borough Council states *“To improve clarity of this policy, refer to Appendix 3 (Locally Designated Heritage Assets) of the Plan in the third paragraph of the policy text. The final paragraph should refer to ‘locally designated heritage assets’ in order to be consistent with the rest of the text.”* The comments of the Conservation and Heritage Officer submitted by the Borough Council suggest the inclusion of details of window and door styles and surface finishes, as well as aspects of the character of views.
128. Paragraph 58 of the Framework in stating planning policies should aim to ensure that developments establish a strong sense of place makes specific reference to *“streetscapes and buildings to create attractive and comfortable places to live, work and visit.”* Paragraphs 59 and 60 of the Framework state *“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 requirement that specific materials should be used in the Conservation Area is unnecessarily prescriptive. I have recommended a modification in this respect. Inclusion of additional details as proposed in representations is not necessary to meet the Basic Conditions.
129. The second paragraph of the policy list a number of features but is imprecise as to where these features are to be observed and it is also unclear whether reference is being made specifically to the Conservation Area or to the Plan area as a whole. With the exception of those design principles where I have recommended a modification I

am satisfied Policy 7 seeks to reinforce local distinctiveness whilst avoiding unnecessary prescription.

130. The Guidance states it is the role of the local planning authority to recognise non-designated heritage assets.<sup>45</sup> The Borough Council website states “*Although some buildings are of architectural or historic importance, not all meet the criteria to become ‘listed’ buildings. The Replacement Local Plan identifies a list of ‘local interest buildings’ in Appendix One. The emerging Local Planning Document proposes to update this list following adoption of the plan, and re-name the list to ‘locally important heritage assets’.*” 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 those assets in the determination of planning applications. It is not appropriate to imply those assets identified will be recognised by the Borough Council as heritage assets. I have recommended a modification in this respect.
131. 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.*” It is unnecessary for the policy to attempt to repeat national policy. I have recommended a modification to delete the final paragraph of the policy which does in any case not reflect the balanced approach of national policy.
132. It is unnecessary and confusing for the policy to state “*will need to accord with the relevant policies set out in the development plan*”. The Development Plan should be read as a whole. The phrase is also imprecise. 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.
133. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan

---

<sup>45</sup> Planning Practice Guidance Reference ID 18a-041-20140306

(2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policies 10 and 11.

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

**Recommended modification 7:  
In Policy 7**

- **after “be timber” insert “unless it is demonstrated that use of alternative materials will enhance the significance of the Conservation Area”**
- **move the fourth sentence to become the second sentence**
- **delete “identified as Locally Designated” and insert “nominated for assessment as Locally Important “**
- **delete the final paragraph**

**Policy 8 Public Realm**

135. This policy seeks to establish that proposals should not have a negative, but have positive, impact on the public realm.
136. In a representation the Borough Council states “*Paragraphs 2 and 3 are Parish Council intentions rather than land use planning policies. It is recommended that these are removed from the policy text.*” The second and third paragraphs of the policy include the imprecise terms “*where appropriate*” and “*community identity*”. Those paragraphs relate to proposed actions of the Parish Council. These statements cannot be used to guide the determination of planning applications. I have recommended these statements are transferred to Section 2 of the Plan as community actions and are replaced with a suitable policy statement. This will ensure 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. The comments of the Conservation and Heritage Officer submitted by the Borough Council suggest the inclusion of requirements relating to the improvement of roads, pavements and their environs, and reduction of highway signage. A modification in these respects is not necessary to meet the Basic Conditions.
138. It is confusing and unnecessary for the first paragraph to include the term “*within Papplewick*” as all of the policies of the Neighbourhood Plan relate to the entire Neighbourhood Area unless they specifically refer to a part of the area. The term “*have the potential to*” introduces uncertainty. It is inappropriate for the policy to refer to “*any new development*” as not all proposals will affect the public realm. The term “*will be expected to*” does not establish a basis for the determination of planning proposals. I have recommended a modification in these respects.
139. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policy 10.
140. 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 8:**

##### **In Policy 8**

- **delete “have the potential to”**
- **delete “Any new development will be expected to” and insert “Where development proposals affect the public realm they must”**
- **delete “within Papplewick”**
- **delete the second and third paragraphs which should be transferred to Section 2 of the Neighbourhood Plan and insert “Schemes that will demonstrably improve the public**

**realm, including any that help create a distinctive identity in the Mansfield Road area, will be supported.**

### **Policy 9 Housing**

141. This policy seeks to establish principles for the determination of proposals that create new homes.
142. In a representation the Borough Council states *“In the first paragraph (last sentence), change the word ‘preserved’ to ‘conserved’, in order to ensure a consistent approach with historic environment policies set out in the emerging Local Planning Document. It is only in the case of Listed Buildings that features should be ‘preserved’ and this is acknowledged by emerging Policy LPD27.”* I have recommended a modification that resolves this issue. The comments of the Conservation and Heritage Officer submitted by the Borough Council suggest the policy should refer to house types and designs that would be acceptable for small scale infilling. A modification in this respect is not necessary to meet the Basic Conditions.
143. The first sentence merely repeats national policy and does not add any additional level of detail or distinct local approach. I have recommended it is deleted. Whilst the second sentence also includes some repetition of national policy it does introduce a distinct local approach. The term *“preserved”* is not applicable to small scale infill development. The reference to derelict buildings being *“within the Parish”* is unnecessary and confusing as all of the policies of the Neighbourhood Plan relate to the entire Neighbourhood Area unless they specifically refer to a part of the area. I have recommended a modification in these respects.
144. The first sentence of the second paragraph states an administrative approach and not a policy for the determination of proposals. The third paragraph of the policy is a statement of intent and should be transferred to Part 2 of the Neighbourhood Plan. I have recommended a modification that will ensure 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.
145. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and

Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policies 2 and 8.

146. 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; requiring good design; protecting Green Belt land; 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 9**

- **In the first paragraph delete “within the Parish”**
- **replace the text after “provided that” with “any new build or alterations reflect local building characteristics”**
- **replace the second and third paragraphs with “Proposals for the provision of homes designed for occupation by older people will be supported where robust evidence of local need can be demonstrated.”**
- **The third paragraph should be transferred to Part 2 of the Neighbourhood Plan**

#### **Policy 10 Community Facilities**

147. This policy seeks to establish conditional support for proposals that result in new or improved and expanded community facilities. The policy seeks to resist loss of specified community facilities unless stated circumstances apply. The policy also supports provision of small-scale local retail facilities and proposals to enhance the visitor experience at Papplewick.

148. The terms *“unacceptable”*, *“access arrangements”* *“satisfactorily provided”*, *“satisfactorily addresses parking provision”*, *“poorly used”*, and *“adequate replacement”* are imprecise. The Framework states *“development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”*. The term *“in principle”* does not provide a basis for decision making on development proposals. The term *“accessible to local*



*residents by means of a range of modes of transport (walking, cycling and vehicular)” does not provide clarity regarding the definition of local residents, and it is not clear which locations will not be acceptable.*

149. 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*”. Paragraph 74 of the Framework states “*Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:* • *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements;* or • *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location;* or • *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*” I have recommended a modification so that the policy has sufficient regard for national policy.
150. Paragraph 70 of the Framework states planning policies should plan positively for the provision and use of community facilities and guard against unnecessary loss. The Framework sets out national policy relating to the location of new retail development. The reference to promotion of healthy communities includes, in paragraph 70, the term “*local shops*”. The policy has regard for these aspects of national policy.
151. In a representation the Borough Council states “*Support policy. It is noted that community facilities are already protected either as Protected Open Space (under policies LPD20 and ACS16) or as community facilities (under policies LPD56 and ACS12).*” I have earlier in my report explained that the Neighbourhood Plan is not tested against the emerging Part 2 Local Plan. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACAS Policies 12, 13 and 16.
152. 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

healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 10:  
In Policy 10**

- **In the first paragraph replace the bullet points with:**
  - **“The proposal will not adversely affect residential amenity through noise, fumes, smell or other disturbance;**
  - **The proposal will not lead to severe traffic congestion or severely adversely affect the free flow of traffic; and**
  - **The proposal includes safe access arrangements and will not result in on-road parking.”**
  
- **In the second paragraph replace the text after “supported” with “where it will not adversely affect the amenity of neighbouring residents and will not result in on-road parking.”**
  
- **In the third paragraph after “facilities will” replace the text before the bullet points with “not be supported unless it is demonstrated they are no longer required, or are not viable, or that equivalent or better provision is being made in no less a convenient location for users:”**

**Policy 11 Sustainable Transport**

153. This policy seeks to establish that the Parish Council will work with other parties to achieve named sustainable transport improvements.

154. In a representation the Borough Council states “*The policy as drafted is a Parish Council intention rather than a land use planning policy. Recommend amending the wording of the text from ‘Papplewick Parish Council will work with...’ to ‘Proposals will be supported in principle for...’.*”. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on matters considered important in the local community and to be treated as priorities for investment in local infrastructure. The intended action that the Parish Council will work with other organisations to improve transport infrastructure is without doubt highly desirable and will be key success factors in the positive transformation of the area over the Plan period. This intended action does not relate directly to

the development and use of land and as such cannot serve a role in the determination of planning applications. It is inappropriate for a policy to rely on the actions of organisations where there is no certainty that they will be fulfilled throughout the Plan period. It is also inappropriate for the policy to limit support to proposals arising from named sources. 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.

155. Paragraphs 35 and 75 of the Framework state *“Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people”* and *“Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.”* The policy has regard for these aspects of national policy. I have recommended a modification to clarify the policy including reference to the public transport network relates to land-use matters and in particular sustainable transport infrastructure.

156. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policy 14.

157. 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. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 11:**

**In Policy 11 replace the text before the bullet points with “Proposals of parties, including local landowners, bus companies, Gedling Borough Council and Nottinghamshire County Council, to develop the following sustainable transport infrastructure will be supported:”**

## Policy 12 Highway Impact

158. This policy seeks to establish that new development should not negatively impact on the highway network and establish design criteria for alterations to existing highways or new highways.
159. In a representation the Borough Council states *“It is noted that Policy 12 is similar to a policy that has been found to meet the basic conditions in the Calverton Neighbourhood Plan (Policy ISF3), however the wording of the first paragraph does differ. It is understood that Nottinghamshire County Council as Highway Authority may have concerns with this policy. Where such concerns are raised, the Borough Council supports the position of the Highways Authority. Planning Practice Guidance (Paragraph 045 – ID 41-045-20140306) sets out that Qualifying Bodies should engage with transport infrastructure providers.”* I have earlier in my report explained that my role does not extend to consideration of the Calverton Neighbourhood Plan or it’s Independent Examination. Nottinghamshire County Council has not commented on the policy. The Framework states *“development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”*. I have recommended a modification in this respect.
160. The comments of the Conservation and Heritage Officer submitted by the Borough Council suggest the policy should refer to safety and local distinctiveness. A modification in this respect is not necessary to meet the Basic Conditions.
161. In accordance with paragraph 173 of the Framework I have recommended the deletion of the requirement for improvement of safety as this policy obligation may threaten the ability of certain schemes to be delivered viably. It is in any case inappropriate to require a proposal to address existing safety issues as requirements must directly relate to the development as established by paragraph 204 of the Framework.
162. The policy is in general conformity with the strategic policies of the Development Plan, namely the policies included in the Greater Nottingham Aligned Core Strategy (Part One Local Plan) (2014) and Policies Map, and the Gedling Borough Replacement Local Plan (2005) Saved Policies and provides an additional level of detail or distinct local approach to that set out in the strategic policies, and in particular ACS Policy 15.

163. 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 and requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 12:  
In Policy 12**

- before “negatively” insert “severely”
- before “congestion” insert “severe”
- delete “safety and”

## Summary and Referendum

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

165. I am satisfied that the Neighbourhood Plan<sup>46</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:
  - 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;

---

<sup>46</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- 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>47</sup>

**I recommend to Gedling Borough Council that the Papplewick Neighbourhood Development Plan for the plan period up to 2028 should, subject to the modifications I have put forward, be submitted to referendum.**

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>48</sup> The Plan includes the whole Parish of Papplewick and although I have noted some consultation has occurred in the Moor Road area outside the Parish 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>49</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 Gedling Borough Council as a Neighbourhood Area on 11 August 2016.**

#### Annex: Minor Corrections to the Neighbourhood Plan

166. A number of consequential modifications to the general text, and in particular the justification of policies sections, of the Neighbourhood

<sup>47</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>48</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>49</sup> Planning Practice Guidance Reference ID: 41-059-20140306

Plan will be necessary as a result of recommended modifications relating to policies.

167. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>50</sup> I recommend the following minor changes 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:

168. In a representation the Borough Council has suggested minor revisions including typographical errors and factual updates as follows:

- Paragraph 11 – Amend reference from ‘Transport’ to ‘Traffic and Transport’ in the text and diagram to better reflect the contents of the Plan.
- Paragraph 15 – Remove text ‘(In Preparation)’ from the diagram given LPD anticipated adoption of summer 2018.
- Paragraph 24 – Insert following text into last sentence: ‘...under the emerging Ashfield Local Plan’.
- Paragraph 25 – In the second sentence, replace the text ‘is scheduled to be’ to ‘was’.
- Paragraph 1.5 – The final sentence is factually incorrect. The emerging Ashfield Local Plan proposes that area no.4 (as shown on Map 3) is protected under Policy EV5 (Protection of Green Spaces and Recreation Facilities). EV5 is not a ‘Local Green Space’ designation. It is recommended that the wording is amended to read: ‘Ashfield District Council proposes to protect that area under Policy EV5 (equivalent to an open space designation)’.
- Paragraph 3.3 – insert full stop at the end of the paragraph.
- Paragraph 5.6 – Typo – ‘Promote a viable and sustainable farming and the rural economy in Papplewick Parish’.

At the fact checking stage of the preparation of my report the Borough Council has suggested vista ‘l’ on Map 5 should be re-titled vista ‘k’ in order to achieve an un-interrupted alphabetical sequence. I recommend these minor revisions are made to the Neighbourhood Plan.

169. The Borough Council has suggested the proposed Local Green Space on ‘Land to the Rear of the Griffin’s Head Public House’ should

---

<sup>50</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

be shown on Map10 of Appendix 1 and that Map 12 should be deleted. Whilst I would have no objection to this change, which would also require further modification of the wording of Policy 1, I have not recommended a modification as it is not required to meet the Basic Conditions.

170. The Borough Council has in Appendix 4 of its Regulation 16 representation repeated recommended changes to the SEA and HRA Screening Report that were made at the earlier Regulation 14 stage. The recommended changes include the following corrections:

- Amend reference to “Site of Importance for Nature Conservation (SINC)” to “Local Wildlife Site” in Table 2 Criterion f) and in page 21
- Amend “Appendix 1” to “Appendix 2” in paragraphs 25 and 26
- Add “Plan” to the end of the third sentence in paragraph 18.<sup>51</sup>

I recommend these minor corrections are made. The Borough Council has recommended other changes to the SEA and HRA Screening Report, in some cases to improve clarity, and in other cases to state an alternative opinion. I would have no objection to these changes being made but have not recommended a modification as the changes are not necessary to meet the Basic Conditions.

**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 May 2018  
REPORT ENDS

---

<sup>51</sup> This comment was amended at the fact checking stage of preparation of my report