

Burton Joyce Parish Council

Burton Joyce Neighbourhood Development Plan

A report to Gedling Borough Council of the Independent
Examination of the Burton Joyce 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

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Overall Finding

This is the report of the Independent Examination of the Burton Joyce Neighbourhood Development Plan. The plan area comprises the entire civil parish of Burton Joyce 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.*”¹
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 Burton Joyce Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Burton Joyce 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 Burton Joyce Neighbourhood Area which was formally designated by Gedling Borough Council (the Borough Council) on 25 April 2016. The Neighbourhood Plan has been produced by a Neighbourhood Plan Steering Group (the Steering Group), made up of members of the Parish Council supported by other local community volunteers.
4. The submission version of the Neighbourhood Plan, along with the Consultation Summary 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 20 June 2018. The Borough Council arranged a period of publication between 27 July 2018 and 14 September 2018. The Borough Council has submitted the Neighbourhood Plan to me for independent examination.

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

Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.² 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 application³.
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 area⁴ 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 plan⁵. 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 granted⁶.
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

² Paragraph 10 Schedule 4B Town and Country Planning Act 1990

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

⁴ Section 3 Neighbourhood Planning Act 2017

⁵ Section 156 Housing and Planning Act 2016

⁶ 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,⁷ 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.⁸

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁹ 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.

⁷ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁸ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

⁹ 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”.¹⁰ 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.¹¹

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.¹² 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 2004.¹³ 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.

¹⁰ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

¹¹ 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

¹² The Convention rights has the same meaning as in the Human Rights Act 1998

¹³ 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 25 April 2016. A map of the Neighbourhood Plan boundary is included as Map 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Burton Joyce parish boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁴ and no other neighbourhood development plan has been made for the neighbourhood area.¹⁵ 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;¹⁶ and the Neighbourhood Plan does not include provision about excluded development.¹⁷ 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.¹⁸ 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.¹⁹ 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,

¹⁴ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹⁵ Section 38B (2) Planning and Compulsory Purchase Act 2004

¹⁶ Section 38A (2) Planning and Compulsory Purchase Act 2004

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

¹⁸ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

¹⁹ 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 reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.²⁰

Documents

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

- Burton Joyce Neighbourhood Plan 2017-2028 Submission Version 13/06/2018.
- Burton Joyce Neighbourhood Plan Basic Conditions Statement 17 May 2018 [*In this report referred to as the Basic Conditions Statement*]
- Burton Joyce Neighbourhood Plan 2017-2028 Consultation Summary [*In this report referred to as the Consultation Statement*]
- Burton Joyce Village Appraisal June 2017
- Burton Joyce Neighbourhood Development Plan Strategic Environmental Assessment Screening Report 03/05/2018 (also includes Habitats Regulations Assessment Screening) [*In this report referred to as the SEA and HRA screening report*]
- Addendum to the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report 24/09/2018 [*In this report referred to as the Addendum to the SEA and HRA screening report*]
- Evidence Base documents available on the Neighbourhood Plan part of the Burton Joyce Parish Council website
- Representations received during the Regulation 16 publicity period and a summary of responses report prepared by the Borough Council.

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

- Correspondence between the Independent Examiner and the Borough and Parish Councils (available on the Borough council website)
- Greater Nottingham Aligned Core Strategy Part One Local Plan (adopted 2014) (ACS)
- Local Planning Document Part 2 Local Plan adopted 18 July 2018
- 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 Summary 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. Following actions to establish the Neighbourhood Area and attract volunteers the plan preparation process began with the first meeting of

the Steering Group made up of Parish Councillors, a Gedling Borough councillor and other people. A strengths, weaknesses, opportunities and threats (SWOT) analysis was undertaken and the results compared with earlier consultations undertaken as part of Village Plan and Local Plan work. Using the SWOT analysis as a basis, a vision statement and objectives were agreed in July 2016 and August 2016 respectively.

26. Consultation on the list of objectives was undertaken in February and March 2017 through a household survey, a business survey, and a children's survey each with the option of paper or online response. Together these surveys generated over 500 responses. An open day held in February 2017 was attended by 112 residents. Consultation also took place through attendance at events with seven key community groups. Summary results of this consultation were shared through the parish magazine, and made available at the village library and at the parish office.
27. Pre-submission consultation in accordance with Regulation 14 was undertaken in the period between January and March 2018. The consultation included use of a website; advertising in the parish magazine; an open day; and placing of hard copies of the Plan at the library and at the parish office. The representations arising from the consultation are comprehensively presented within Sections 11, 12, and 13 of the Consultation Statement where responses, and amendments to the Neighbourhood Plan, are set out. The suggestions made 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.
28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 27 July and 14 September 2018. Representations from 12 different parties were submitted during the period of publication. I have been provided with copies of each these representations and a summary of responses report prepared by the Borough Council.
29. 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 to “*make minor suggestions for the benefit of the Neighbourhood Plan*” 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. The Borough Council also suggested minor revisions to the Neighbourhood Plan in respect of a number of factual updates and typographical errors. I have dealt with these in the Annex to my report.

30. A representation states references to components of the Gedling Borough Local Planning Document (Part 2 Local Plan) (adopted 2018) and to the Framework need to be updated. I have dealt with these issues later in my report, and in the Annex to my report. Another representation “*welcomes the inclusion of reference to the two LPD residential site allocations at Orchard Close and Mill Field Close within paragraph 12 of the draft NP. Paragraph 13 of the draft NP suggests additional dwellings are expected on infill sites within the village to meet the OAN figure. This reflects the requirement within paragraph 3.2.20 of the Aligned Core Strategy Part 1 Local Plan (September 2014).*” A further representation proposes a minor amendment to the Green Belt boundary to facilitate development of a single dwelling fronting Bridle Road, however, a Green Belt Review is not a matter being considered in the Neighbourhood Plan. The Coal Authority has confirmed it has no specific comments on the Neighbourhood Plan. Historic England has confirmed it has no further comments beyond those submitted earlier in the plan preparation process. Representations made by Natural England; Nottinghamshire County Council; Severn Trent Water; NFU East Midlands Region; and on behalf of National Grid do not necessitate any modification of the Neighbourhood Plan in order to meet the Basic Conditions.
31. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. I placed no obligation on the Parish Council to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council confirmed no further comments were to be made.

32. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
 - b) explains how they were consulted;
 - c) summarises the main issues and concerns raised by the persons consulted; and
 - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.²¹
33. 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 Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

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

²¹ Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

35. The Basic Conditions Statement states “*The Neighbourhood Plan has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights*”. I have considered the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).²² I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention.
36. Whilst no detailed 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) the Basic Conditions Statement confirms “*great care has been taken throughout the preparation and drafting of this Plan to ensure that the views of the whole community were embraced to avoid any unintentional negative impacts on particular groups*” and “*The main issues for planning are the right to family life and in preventing discrimination. The Plan makes positive contributions, such as through seeking to provide housing to meet local needs. The population profile has revealed that there are not significant numbers of people who do not speak English as a first language and it has not been necessary to produce consultation material in other languages*”. From my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.
37. The objective of EU Directive 2001/42²³ is “*to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.*” The Neighbourhood Plan falls within the definition of

²² 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.

²³ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

'plans and programmes'²⁴ as the Local Planning Authority is obliged to 'make' the plan following a positive referendum result.²⁵

38. 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.

39. The submitted Basic Conditions Statement refers to a Strategic Environmental Assessment Screening Statement prepared by the Borough Council. The Screening Statement has been prepared on behalf of the Parish Council. The Screening Statement includes 'Table 1 Establishing the requirement for a full SEA' and 'Table 2 Assessment of the likely significant environmental effects'. The Screening Statement states at paragraph 4.8 that "*As a result of the assessment at Table 1 and Table 2, there are no significant environmental effects arising from the draft Burton Joyce Neighbourhood Plan, as such a full SEA is not required.*"

40. The Screening Statement includes a statement of reasons which states "*Gedling Borough Council has reached this conclusion on the Burton Joyce Neighbourhood Plan for the following reasons:*

- *The Plan does not allocate land for development.*
- *The Plan has been written to be in general conformity with the Part 1 and Part 2 (emerging) Local Plan and, as a result, characteristics and issues related to the strategic policies and allocations in the neighbourhood area have been considered through the Local Plan process (including Habitats Regulations Assessment and Sustainability Appraisal). The Plan does not seek to alter the development strategy proposed in the Local Plan.*
- *The policies in the Plan are considered to have a generally positive environmental impact at local level, particularly through the inclusion of local design considerations.*

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

²⁵ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

- *The analysis undertaken in Section 4 of the SEA Screening Report supports the conclusion reached, and has been confirmed through consultation with the statutory consultees*

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. I am satisfied the requirements in respect of Strategic Environmental Assessment have been met.

42. The Screening Statement document in part relates to Habitats Regulations Assessment. This is confirmed at paragraph 4.4 which includes the statement *“The Borough Council has prepared this screening assessment to determine whether a Habitats Regulation Assessment (HRA) is required in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).”* In answer to the question *“Will the PP, in view of its likely effect on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive?”* Table 1 of the Screening Statement states *“No. The Aligned Core Strategy (Part 1 Local Plan) and emerging Local Planning Document (Part 2 Local Plan) have been subject to a Habitats Regulations Assessment (HRA). Given that the Part 2 Plan is in general conformity with the Part 1 Plan, no significant effect was revealed. Similarly, the draft Burton Joyce NP has been written to be in general conformity with the Local Plan Part 1 and 2. The draft NP does not promote more development than the Local Plan and, as a result, the conclusions of ‘no likely significant effect’ of the Local Plan HRA are applicable to the Burton Joyce neighbourhood area. Therefore, it is considered that a separate HRA is not required for the draft NP.”* Table 2 states *“The neighbourhood area is not within the in-combination assessment area for the Sherwood Forest Prospective Special Protection Area (pSPA). As concluded at Stage 4 of the SEA Screening (Table 1) it is considered that there is no requirement for a Habitats Regulations Assessment for the draft NP as this has been undertaken through the Local Plan process.”* Section 5 of the Screening Report sets out a consultation response from Natural England as follows *“Habitats Regulations Assessment Screening - Natural England notes the screening process applied to this Neighbourhood Plan. We agree with the Council’s conclusion of no likely significant effect upon European designated sites. We would be*

happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us". The Screening Report states "It has also been concluded that the Burton Joyce Neighbourhood Plan does not require a Habitats Regulation Assessment (HRA)."

43. On 23 August 2018 I sought clarification from the Borough and Parish Councils in the following terms *"The Strategic Environmental Assessment Screening Report includes conclusions relating to Habitats Regulations Assessment. I have noted the Strategic Environmental Assessment Screening Report is dated 3 May 2018 and that consultation with the statutory bodies was sent on 28 March 2018. Given the timing it is not clear whether this consultation has taken account of the EU Court of Justice ruling in People Over Wind and Sweetman v Coillte Teoranta. (Judgement of the Court Seventh Chamber 12 April 2018), and will certainly not have taken account of the Court of Justice (Second Chamber) judgement of 25 July 2018 Grace, Sweetman, and National Planning Appeals Board Ireland (ECLI:EU:C2018:593). I request the Screening Report in respect to Habitats Regulations Assessment, to the extent not already done so, is reviewed in the context of these EU Court rulings and that the Borough Council confirms, in consultation with Natural England, that the Screening Report is considered to be compliant with the identified EU Court rulings, or alternatively states what actions are proposed to rectify the situation"*.

44. The Borough Council subsequently sent me an Addendum to the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report dated 24 September 2018. The Addendum Report states *"The date of the Screening Report relates to the publication of the document following consultation with the statutory bodies. The assessments within the screening report were undertaken prior to 28 March 2018 and therefore the assessment was undertaken prior to the two court rulings. The judgements relate to the fact that it is not appropriate to take account of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. It is proposed that the HRA screening is not reviewed in this instance for the following reasons:*

1. The Burton Joyce Neighbourhood Plan does not allocate land for development. The Gedling Borough Part 1 and the Part 2 Local Plans allocate land for development (Part 2 Local Plan allocates two sites in Burton Joyce) and were subject to appropriate HRA and no significant

effect was revealed. It is considered that the Burton Joyce Neighbourhood Plan is in general conformity with the Local Plan Parts 1 and 2 and as a result the conclusion of 'no likely significant effect' for the Local Plan HRA is applicable to the Burton Joyce Neighbourhood Area. The Burton Joyce Neighbourhood Plan policies relate to design and other details of development and include protective measures related to landscape and biodiversity, rather than the principle of land use.

2. The requirement for HRA relates to the potential adverse impacts on Natura 2000 sites. Whilst the Sherwood Forest Prospective Special Protection Area (pSPA) is not a formal designation, the Part 1 Local Plan at paragraph 3.17.3 confirms that a precautionary approach is taken and the pSPA is treated as if it were a confirmed European site. However, in the case of Burton Joyce Parish this falls outside of the Nature England Indicative Core Areas of the pSPA and outside of the RSPB IBA boundary five km buffer area as indicated in the plan on the Natural England Guidance Note1.

Proposed Action - Publish this document as an addendum to the Screening Report, confirming that the conclusions of the Screening Report in relation to HRA are indicative as they do not take account of the following court rulings:-

- Court of Justice ruling in People Over Wind and Sweetman v Coillte Teoranta. (Judgement of the Court Seventh Chamber 12 April 2018)*
- Court of Justice (Second Chamber) judgement of 25 July 2018 Grace, Sweetman, and National Planning Appeals Board Ireland (ECLI:EU:C2018:593).*

However, it is viewed that the judgements do not alter the conclusion of no likely significant effect on European Sites either alone or in combination with other plans or projects. It is considered that the conclusions of the HRA remain robust in the light of the recent case law and that no further screening assessment is required.

Natural England have been consulted on this addendum on 5th September 2018 and submitted the following response: 'Regarding the addendum to the Burton Joyce SEA/HRA screening report, we concur with your conclusions with respect to both cases (People Over Wind and Sweetman vs Coillte case and the Grace, Sweetman, and National Planning Appeals Board Ireland) that the rulings do not alter

the HRA conclusion of no likely significant effect. We agree with this conclusion for the following reasons:

-The Burton Joyce Neighbourhood Plan does not allocate sites for development and so no mitigation measures are required.

-There are no Natura 2000 sites within or in the vicinity of the neighbourhood plan area that may be impacted by the neighbourhood plan.'

It is therefore concluded, in consultation with Natural England, that this addendum should be published confirming that the HRA Screening should not be reviewed and that the conclusions of the HRA Screening are indicative. The reasons for this conclusion are set out in section 2 and section 3 of this addendum."

45. I considered requesting the Borough Council to provide a specific consultation period to give interested parties an opportunity to comment on the Addendum to the SEA and HRA screening report but did not consider this necessary. I reached this conclusion on the basis of the contents of the SEA and HRA screening report dated 3 May 2018; and the contents of the Addendum to the SEA and HRA screening report including the Borough Council response, proposed action, and consultation and conclusion. I had also noted the Borough Council published on its website my initial statement of 23 August 2018 in which I set out my request for clarification regarding HRA, and the Borough Council stated on 24 September 2018 an intention to publish the Addendum screening report on its website. I also made it clear interested parties could comment on the Addendum screening report in my statement of progress issued on 24 September 2018, which I requested should also be published on the Borough Council website.

46. I conclude the Neighbourhood Plan meets the requirements of the EU Habitats Regulations. 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.

47. 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.

48. 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).²⁶

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

49. 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 Plans²⁷ which requires plans to be “*consistent with national policy*”.

50. Lord Goldsmith has provided guidance²⁸ 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.*”

²⁶ Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

²⁷ 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

²⁸ 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)

51. 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.
52. The revised National Planning Policy Framework was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in March 2012. Paragraph 214 of the revised Framework states *"The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted²⁹ on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned."* I have undertaken this Independent Examination of the Neighbourhood Plan in the context of the Framework published in March 2012.
53. The Neighbourhood Plan includes a positive vision for Burton Joyce. The vision includes economic components with reference to being *"commercially attractive to existing and new businesses"* and *"a range of local services"* as well as social components concerned with meeting demographic needs and providing *"a safe environment"* and *"a pedestrian friendly centre"* and retention of *"its village identity and strong community spirit"*. The vision also refers to environmental matters including *"natural beauty surrounded by greenbelt"* and reference to development being *"high quality"* that is *"sensitively located in keeping with the size and character of the village"*. 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.
54. The vision is supported by eight community objectives. These objectives relate to: providing benefit whilst minimising impact on the built and natural environment; building design; protecting landscape character; ensuring house types meet local needs; maintain and enhancing services and facilities; improving the village centre;

²⁹ Footnote 69 of the Revised Framework states that *"for neighbourhood plans, 'submission' in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012."*

encouraging active travel; and encouraging pre-application consultation on development proposals. These community objectives are consistent with the Framework and provide a link between the vision and the policies of the plan.

55. The Neighbourhood Plan includes a list of six community projects presented at Appendix A which *“will be implemented by the Parish Council over the Plan period where funding opportunities allow”*. 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 List of Community Projects in a separate appendix of the Neighbourhood Plan adequately differentiates these matters from the policies of the Plan and has sufficient regard for national policy.

56. 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.”*

57. 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.³⁰ 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”*³¹.

58. 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.

59. 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 Table 1 a summary of how the Neighbourhood Plan objectives align with elements of the Framework, and at Table 2 an *“assessment of how each policy in the Burton Joyce NP conforms to the NPPF.”* Appendix 1 of the Basic Conditions Statement seeks to demonstrate the economic, social and environmental impact of each of the Neighbourhood Plan policies. Each policy is found to have a positive impact in 2 or 3 of those dimensions and no policy is found to have any negative impact.

60. I consider every policy of the Neighbourhood Plan seeks to have a positive effect in at least one of the environmental, social and

³⁰ Paragraph 14 National Planning Policy Framework 2012

³¹ Planning Practice Guidance (Ref ID:41-072-20140306)

economic dimensions. The inclusion of monitoring and review arrangements in the Neighbourhood Plan represents good practice in seeking to ensure sustainable development is being achieved throughout the plan period.

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

- Establish a spatial strategy to guide the location and nature of development;
- Protect landscape character and enhance biodiversity;
- Establish design principles for residential development;
- Ensure housing provision meets local needs;
- Facilitate active travel;
- Protect heritage assets;
- Support environmental improvement of the village centre and resist loss of parking facilities;
- Resist proposals that result in additional on-road parking or pedestrian safety issues in the village centre, and conditionally support improvement of pedestrian safety along the A612.

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

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

63. The Framework states that the ambition of a neighbourhood plan should “support the strategic development needs set out in Local Plans”.³² “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”.³³

64. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”³⁴

65. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The Borough Council has informed me that the Development Plan applying in the Burton Joyce 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 Local Planning Document (Part 2 Local Plan) (adopted 2018)

The Borough Council has confirmed that all of the policies in these documents are considered to be strategic for the purpose of neighbourhood planning.

66. The Basic Conditions Statement confirms the Neighbourhood Plan has been prepared “in close collaboration with officers of Gedling Borough Council.” This good practice has enabled the Neighbourhood Plan and Local Plan Part 2 to be developed in parallel with the intention of avoiding conflict between the two emerging Plans. Table 3 of the Basic Conditions Statement seeks to identify for each Neighbourhood Plan policy those Saved Policies and Policies of the Part 1 and Part 2 Local Plan which it is in general conformity with.

³² Paragraph 16 National Planning Policy Framework 2012

³³ Paragraph 184 National Planning Policy Framework 2012

³⁴ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

67. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. 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.*”³⁵ 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.*”³⁶

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.

³⁵ Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31

³⁶ Planning Practice Guidance (ID ref: 41-074 201 40306)

The Neighbourhood Plan policies

70. The Neighbourhood Plan includes 9 policies as follows:

Policy NP1 Spatial Strategy

Policy NP2 Protecting the Landscape Character of Burton Joyce Parish and Enhancing Biodiversity

Policy NP3 Design Principles for Residential Development

Policy NP4 A Mix of Housing Types

Policy NP5 Conservation and Enhancement of Non-Vehicular Routes

Policy NP6 Protecting Heritage Assets

Policy NP7 Supporting Burton Joyce's Village Centre

Policy NP8 Protecting and Enhancing Community Facilities

Policy NP9 Traffic and Pedestrian Safety

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.”*³⁷

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 respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*³⁸

³⁷ Paragraphs 184 and 185 National Planning Policy Framework 2012

³⁸ Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306

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”.*³⁹
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).”*⁴⁰
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 NP1 Spatial Strategy

76. This policy seeks to establish conditional support for development proposals within the existing built up area. The policy also seeks to establish three development principles.
77. In a representation the Borough Council states *“Policy NP1 (Section 2c) – Relates to Basic Conditions A and D. It is considered inappropriate for Policy NP1 to restrict development with specific reference to ‘beyond the site allocation Orchard Close (H21)’.* This approach could result in conflict with the Borough Council’s site selection process when reviewing the Local Planning Document (2018), which may seek to address additional housing requirement in Burton Joyce. This would be contrary to Paragraph 16 of the NPPF (2012) which sets out that neighbourhood plans should ‘plan positively to support local development’. The Borough Council would support the

³⁹ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

⁴⁰ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20140306

text for section 2c which was previously used in the Regulation 14 version of the neighbourhood plan, which focuses on the principle of prominence rather than stating a specific restriction. This approach would be consistent with section 2(a) of the policy which is presented positively rather than restricting development- 'c) on the upper slopes to the east of the built-up area the village does not encroach on the open fields that are prominent from across the Valley'".

78. Another representation states *"Draft Policy NP1 sets out a number of criteria that development proposals within the Neighbourhood Plan Area are expected to meet. The principle of such a policy is generally supported. Part 1(c) of the draft policy confirms that development proposals within the built-up area will be supported where they can demonstrate that they satisfy the principles of sustainable development by, inter alia, 'conserving and where possible enhancing the landscape character and setting of the settlement in line with the recommendations of the Landscape Character Assessment and the Burton Joyce Village Appraisal'. Policy LPD10 of the adopted LPD states that planning permission will not be granted for development which would, inter alia, result in unacceptable harm to the historic environment, the natural environment or the character of the landscape. The adopted LPD Policy does not seek to restrict development completely but is specific to development that causes 'unacceptable harm'. Similarly, there is no requirement in the LPD for new developments to conserve and (where possible) enhance the landscape character and setting of settlements. LPD Policy 19 states only that 'Planning permission will be granted where new development does not result in a significant adverse visual impact or significant adverse impact on the character of the landscape.' [our emphasis]. In its current form, Policy NP1 does not meet the basic conditions for a Neighbourhood Plan because, having regard to paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended), it is not in general conformity with the strategic policies contained in the development plan. The emerging NP Policy NP1 should, therefore, provide a justification for the departure from the requirements of the LPD or amend the Policy wording to ensure it is in accordance with the requirements of the LPD Policy LPD19. Suggested alternative wording for Part 1(c) of draft Policy NP1 is as follows: 'avoiding an unacceptable harm to the character of the landscape and, where practicable, enhancing the qualities of the landscape character type in which it is situated in line with the recommendations of the Nottingham Landscape Character*

Assessment and the Burton Joyce Village Appraisal;’ Part 2 (c) of the draft policy states that development proposals are required to demonstrate that; ‘on the upper slopes to the east of the built-up area, the village does not extend beyond the site allocation Orchard Close (H21). Further encroachment on the open fields beyond the site allocation would be prominent from across the Valley and would harm landscape character.’ Reference to limiting development in this area is not included in the LPD or Aligned Core Strategy and, therefore, does not accord with the Development Plan. This part of draft NP Policy NP1 is not consistent with LPD Policy LPD19 which states that new development will be granted where it does not result in a significant adverse visual impact or significant adverse impact on the character of the landscape. Northern Trust considers this section of the policy to be inconsistent with the LPD and wholly unnecessary given this area is within the Green Belt. Paragraph 143 of the Framework confirms that a local planning authority should regard the construction of new buildings as inappropriate and ‘Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.’ Part 2 section c of NP Policy NP1 should be removed from the draft NP or additional justification should be provided to explain why this restrictive element of the policy is required, given the site is within the Green Belt where new development will be restricted in accordance with national and adopted local policy.”

79. Part 1 of the policy seeks to establish conditional support for development proposals within the existing built-up area. I consider the term “conserving” when applied to landscape character is imprecise and that an alternative focus on avoidance of harm as suggested in a representation will achieve 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. I have recommended a modification in this respect.
80. Part 2b of the policy relates to plots of existing properties on Whitworth Drive. Parts 2a and 2c of the policy have implications for development proposals outside the existing built-up area, south of the A612 beyond Mill Field Close, and on the upper slopes to the east of the built-up area. I consider it is appropriate for a Neighbourhood Plan to seek to direct development away from areas of valued landscape even though those areas may be subject to other Development Plan policies that restrict or limit development. Part 2a of the policy seeks to maintain a

clear distinction, and sense of openness, between the built-up areas of Nottingham and Burton Joyce village. This would not necessarily prevent all development. Part 2c of the policy, however, seeks to define the precise alignment of a limit to development “*beyond the site allocation Orchard Close (H21)*”. This approach to establish a definite boundary without consideration to the impact of proposals has not been sufficiently justified. I have recommended a modification in this respect.

81. It is unnecessary for the policy to include the imprecise reference to “*Borough policies*” as the whole of the Development Plan is central to the determination of all planning applications. Part 1b of the policy refers to a minimum density and then goes on to state this can be exceeded in a defined area. That is the nature of a minimum. The terms “*can be*” and “*are required to*” are without consequence. The terms “*a good range of*” and “*putting an unreasonable burden on*” and “*a large area*” are imprecise. I have recommended a modification in these respects 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.
82. 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 Local Planning Document (Part 2 Local Plan) (2018), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
83. 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; delivering a wide choice of high-quality homes; requiring good design; promoting healthy communities; 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 1:
In Policy NP1**

- in part 1a) delete “as defined in Borough policies”

- in part 1b) after “hectare” delete “but can be higher” and insert a full stop
- in part 1b) after “14)” insert “higher density proposals will be supported”
- in part 1c) delete “conserving” and insert “avoiding significant harm”
- in part 1e) delete “a good range of”
- in part 1e) delete “putting an unreasonable burden on” and insert “exceeding the capacity of”
- commence part 2 with “To be supported”
- in part 2a) delete “there remains a large area of” and after “Close” insert “continues”
- in part 2c) replace the text after “does not” with “encroach on the open fields that are prominent from across the Valley”

Policy NP2 Protecting the Landscape Character of Burton Joyce Parish and Enhancing Biodiversity

84. This policy seeks to establish that development should protect landscape character and enhance biodiversity.

85. In a representation the Borough Council states “*Policy NP2 (section 3) – Comments on the locations of view corridors VP1, VP2 and VP7 (Map 11) are provided below. Given that these fall outside of the Plan Area their deletion is supported. It is acknowledged that the paragraph 128 and NP2 (section 3) have been included at the request of the Council in order to address the concern that these fall outside of the plan area, should the examiner agree that the inclusion of these view corridors is acceptable.*

- *VP1 falls outside of the Neighbourhood Plan area, and more significantly, outside of the Gedling Borough boundary. As such the Local Planning Authority does not process planning applications for this area – so the VP1 notation is not appropriate for the purpose of the policy.*
- *VP2. The eastern section of VP2 falls outside of the Gedling Borough boundary and, as such, the Local Planning Authority does not process planning applications in the eastern part. In addition, VP2 falls outside of the neighbourhood plan area. The neighbourhood plan does not apply outside of the plan area.*

- *VP7 falls marginally outside of the neighbourhood plan area. The neighbourhood plan does not apply outside of the plan area.*

Policy NP2 (section 5) – Should the policy refer to table 7 rather than table 5? Table 7 sets out specific future management principles in relation to each character area whereas table 5 relates to general pressures on landscape character.

Policy NP2 (section 8) – Relates to Basic Conditions A and D. The requirement for loss of irreplaceable habitats to be ‘wholly exceptional’ is supported, however this is not the correct approach to be taken generally in relation to all areas of importance for nature conservation. Policy LPD18 establishes a hierarchical approach to protecting biodiversity sites and outlines an avoid-mitigate-compensate approach in line with that set out in Paragraph 118 of the NPPF (2012). It is recommended that NP2 (Section 8) is amended to take a similar approach.”

86. *Another representation states “Gladman are concerned with criteria 1-3 of policy NP2 which seek to protect 7 key views highlighted on map 11 from the adverse impacts of development. We submit that new development can often be located in areas without eroding the views considered to be important to the local community and can be appropriately designed to take into consideration the wider landscape features of a surrounding area to provide new vistas and views. In addition, as set out in case law, to be valued, a view would need to have some form of physical attribute. This policy must allow a decision maker to come to a view as to whether particular locations contains physical attributes that would ‘take it out of the ordinary’ rather than selecting views which may not have any landscape significance and are based solely on community support. Opinions on views are highly subjective, therefore, without more robust evidence to demonstrate why these views are considered significant, the policy in its current form will likely lead to inconsistencies in the decision-making process.”*
 I am satisfied the Framework recognises “*the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes*”.

87. *A further representation states “The draft NP Policy NP2 states that development proposals within view corridors as shown on page 34 of the draft NP will be required to demonstrate that they will not have a significantly adverse impact on these publicly accessible views. The*

Orchard Close site allocation (LPA reference: H21) is included within view corridor VP 3. The draft Policy NP2 specifically refers to site H21 at point 7 and specifies that development proposals are required to demonstrate how a landscape scheme has minimised the visual impact of development from the public footpath along the south eastern boundary and from across the valley. This Policy is in accordance with LPD Policy 19, and a detailed landscaping scheme for the site will be submitted at detailed design stage.”

88. I am satisfied Policy NP2 is not inappropriate with respect to compatibility with future process relating to the Orchard Close development site. I am satisfied part 8 of the policy has sufficient regard for national policy set out in paragraph 118 of the Framework and is in general conformity with the strategic policies of the Development Plan. There is no requirement for the policy to more comprehensively relate to all types of areas of importance for nature conservation. Part 5 of the policy correctly refers to Table 5.
89. I am satisfied it is appropriate for the Neighbourhood Plan to identify views that are locally valued landscape. Part 2 of the policy does not prevent all development within these views but requires demonstration that the proposals will not have a significantly adverse impact on those publically accessible views. The photographs and descriptions of each of the views identified included at Appendix E of the Neighbourhood Plan provides sufficient explanation for their selection whilst also providing a baseline against which decision makers can assess significant adverse impact. Whilst viewpoints VP1, VP2 and VP7 are located outside the Neighbourhood Plan area I am satisfied part 3 of Policy NP2 only relates to development proposals within the Neighbourhood Plan area. It is, however, confusing and unnecessary for part 1 of the policy to state “*of the Parish*” and “*in Burton Joyce*”. The term “*where appropriate mitigation planting should include*” is imprecise. The term “*are encouraged*” is without consequence. The term “*most*” is untestable. I have recommended a modification in these respects 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.
90. 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 Local Planning Document (Part 2 Local Plan)

(2018), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

91. 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; 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 2:

In Policy NP2

- in part 1 delete “the landscape character of the Parish, development in Burton Joyce” and insert “landscape character development”
- in part 4 second sentence delete “Where appropriate” and insert “Any”
- in part 4 second sentence delete “include” and insert “utilise”
- in part 9 delete “are encouraged. This” and insert “will be supported where this”
- in part 9a) delete “most” and insert “more”

Policy NP3 Design Principles for Residential Development

92. This policy seeks to establish design principles for residential development.

93. A representation states “*The reference to ‘Table 8’ at the end of bullet 6 in NP Policy NP3 is incorrect. The reference should be amended to ‘Table 7’.*” I have recommended a modification in this respect.

94. In a representation the Borough Council states “*Policy NP3 – Section 8 – Relates to Basic Conditions A. The policy requirement for major developments to score ‘at least 9 greens’ does not reflect the recommended principles set out in BFL12. Page 4 of the BFL12 (2015) document recommends that proposals ‘secure as many greens as possible’ and ‘avoids reds’. The achievement of 9 greens is a requirement to achieve Build for Life accreditation (i.e. of very high*

standard). The NPPF (2012) is clear at paragraph 59 that design policies should avoid unnecessary prescription or detail. Whilst good quality design in Gedling Borough is supported, it is recommended that the policy requirement to achieve 9 greens is removed to ensure that this policy is not unnecessarily prescriptive. The insertion of the words 'where viable' within this criterion would be supported."

95. Another representation states "Policy 3 sets out a list of design criteria that all new development will be measured against. Gladman are concerned that some of the criterion in the policy are overly prescriptive and could limit suitable sustainable development coming forwards. Gladman suggest more flexibility is provided in the policy wording to ensure high quality residential developments are not compromised by overly restrictive criteria. We suggest regard should be had to paragraph 60 of the previous Framework which states that; "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"
96. The policy as a whole and its constituent parts are without consequence. The term "and modern" is imprecise. Footnote 34 does not reflect the national definition of major development. I have recommended a modification in these respects 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.
97. 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." The Framework states "local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally" and "Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is,

*however, proper to seek to promote or reinforce local distinctiveness*⁴¹. The policy has regard for these elements of national policy.

98. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.⁴² The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. I consider part 8 of Policy NP3 is appropriate in that it relates to design standards rather than technical standards. It is however necessary to recognise the need for attention to viability and deliverability as required by paragraph 173 of the Framework, and the need for design policies to avoid unnecessary prescription as required by paragraph 59 of the Framework. I have recommended a modification in these respects.
99. 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 Local Planning Document (Part 2 Local Plan) (2018), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
100. 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 NP3

⁴¹ Paragraphs 59 and 60 National Planning Policy Framework 2012

⁴² <https://www.gov.uk/guidance/housing-optional-technical-standards>

- commence the policy with “To be supported residential development proposals must comply with the following design principles:”
- in part 2 delete “Particular attention should be given to” and insert “Utilise”; and replace “reflect” with “reflects”; and insert “Policy” before NP2
- in part 3 delete “also”; and after “existing character” insert “area”
- in part 6 replace “see Table 8” with “(see Table 7”
- in part 8 after “no reds” delete the full stop and after the close brackets’ symbol insert “unless it can be demonstrated that there are constraints which make this not possible or viable.”
- in footnote 34 after “dwellings” insert “or”

Policy NP4 A Mix of Housing Types

101. This policy seeks to establish that housing schemes must deliver a housing mix that meets local needs and encourages small dwellings, especially those suitable for older people, to be located within a 10-minute walk of the village centre.

102. In a representation the Borough Council states “*Policy NP4 (Section 3) – the M4(2) Category 2 building regulations standards are optional requirements that only apply where a planning condition is imposed as part of granting planning permission. This policy would mean that the building regulations assessment of the resulting development would be against M4(2) rather than M4(1), as set out in the document. The raising of standards in this respect is justified as it seeks to respond to local demographic need. The Council supports the caveat within the policy that the imposition of such requirements should not affect the viability of the scheme. For clarity, it may be helpful to amend section 3 to explain that the standards relate to accessibility*”.

103. Another representation suggests the policy should be amended to refer to wider housing needs and not just local needs. A further representation states “*Whilst noting the intentions of the policy to provide an appropriate mix of housing as influenced by local needs, we are concerned with criteria (3) of the policy which seeks to ensure proposals for 1-3 dwellings will be expected to meet the standards set*

out in Building Regulations Requirement M4(2). When seeking to apply the optional standard for accessibility, it must be remembered that the Government has not made this a mandatory standard and therefore it is not considered necessary for all homes to be built to part M4(2). Therefore, in order for the Parish Council to be able to include such a requirement within the BJNP, appropriate evidence and a viability assessment must be provided. Without these documents we suggest this element of the policy should be deleted”.

104. A further representation states *“The Draft NP states at paragraph 165 on page 47 that there is a demonstrable need for smaller housing suitable for downsizing and for starter homes. In this context, draft Policy NP4 relates to housing mix of proposed schemes and seeks to deliver a mix that reflects the demonstrable need for smaller dwellings. Policy NP4 goes on to state that new dwellings within the Neighbourhood Plan Area should meet the national minimum space standards. This requirement does not fully accord with LPD Policy LPD37 which, at paragraph 11.3.11, confirms that ‘It is not currently proposed to include a policy on Space Standards in the Local Planning Document although the importance of the national space standards is recognised.’ Similarly, paragraph 127 of the Framework states that ‘Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified.’ No such justification has been provided by the Parish Council. In its current form Policy NP4 does not meet the basic conditions for a Neighbourhood Plan because it is not in general conformity with the strategic policies contained in the development plan. The Draft NP should, therefore, accord with the requirements of the LPD by removing the third point from draft Policy NP4 or provide a suitable justification for the specific house type requirements listed and the need for an internal space standard.”*

105. It is appropriate for a neighbourhood plan policy to relate to local housing needs only. There is no requirement for a neighbourhood plan policy to relate to wider housing needs. The Greater Nottingham Aligned Core Strategy does not envisage Burton Joyce meeting wider housing needs. The policy is, however, without consequence. I have recommended a modification in this respect 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.

106. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.⁴³ The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*.

107. The issue of standards for accessible and adaptable dwellings is covered by Part M Volume 1: Access to and use of dwellings. This includes requirement M4(1) Category 1 – Visitable dwellings, and optional requirement M4(2) Category 2 - Accessible and adaptable dwellings of The Building Regulations 2010 (incorporating 2016 amendments for used in England). This approved document sets out what, in ordinary circumstances, may be accepted as reasonable provision for compliance with the relevant requirements of the Building Regulations. As recommended to be modified Policy NP4 is not seeking to establish any requirements but is using the Building Regulations as a means to define a type of development that will be supported. 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.

108. 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 Local Planning Document (Part 2 Local Plan) (2018), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

109. 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 including those concerned with delivering a wide choice of high-quality homes. Subject to the recommended modification this policy meets the Basic Conditions.

⁴³ <https://www.gov.uk/guidance/housing-optional-technical-standards>

Recommended modification 4:

In Policy NP4

- **commence part 1 with “To be supported”**
- **in part 3 delete “will be expected to meet will be expected to meet the” and insert “that meet accessibility”**
- **in part 3 delete “unless it can be demonstrated to the satisfaction of Gedling Borough Council that this would affect the viability of the scheme” and insert “will be supported”**
- **in part 4 replace “encouraged” with “supported”**

Policy NP5 Conservation and Enhancement of Non-Vehicular Routes

110. This policy seeks to establish support for proposals that facilitate and enhance the attractiveness of active travel.
111. In a representation the Borough Council supports this policy.
112. Encouragement does not provide a basis for the determination of planning applications. Determination of planning applications does not provide an opportunity to express the intensity or degree of support. I have recommended a modification in these respects 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.
113. Part 2 of the policy could be interpreted as applying outside the neighbourhood area which it cannot. It is unnecessary for the policy to include the imprecise reference to “*Borough policies*” as the whole of the Development Plan is central to the determination of all planning applications. It should be clarified the reference to “NP2” is to “Policy NP2”. I have recommended a modification in these respects also.
114. 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.” Policy NP5 has regard for these aspects of national policy.

115. 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 Local Planning Document (Part 2 Local Plan) (2018), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 5:

In Policy NP5

- in parts 1,2,4, and 5 replace “encouraged” with “supported”
- In part 2 delete “as identified in Borough policies”
- in part 2 delete “and beyond”; and after “parish” replace “to” with “including any heading towards”
- in part 4 delete “particularly”
- in part 5 after “with” insert “Policy”

Policy NP6 Protecting Heritage Assets

117. This policy seeks to establish an approach to the determination of proposals affecting locally important heritage assets. The policy also identifies sites nominated for assessment as locally important heritage assets.

118. In a representation the Borough Council states “*The ‘Community Church & School Room, Meadow Lane (2)’ is already identified as a Grade II Listed Building (list entry number 1227463) and therefore cannot be identified as a non-designated heritage asset*”. I have recommended a modification in this respect.

119. Another representation states “*Policy 6 seeks to protect, conserve and enhance the historic environment and heritage assets of the Parish. Gladman are concerned the policy does not align with the*

policy tests required in relation to designated and non-designated heritage assets as set out in national policy. With reference to designated heritage assets, the Parish Council should refer specifically to paragraphs 133 and 134 of the previous Framework which sets out that Councils should assess the significance of the designated heritage asset and where there is less than substantial harm, this should be weighed in the planning balance against the public benefits of the proposal. Where there is deemed to be substantial harm, then the proposal would need to achieve substantial public benefits to outweigh that harm. For non-designated heritage assets, the policy must reflect the guidance set out within paragraph 135 of the previous Framework. This states that the policy test that should be applied in these cases is that a balanced judgement should be reached having regard to the scale of any harm and the significance of the heritage asset. Gladman believe that this policy needs to be redrafted in order to ensure that it conforms with the guidance and requirements set through national policy. Further to this, Gladman are concerned with the reference in criteria (2) to 'planning permission will only be granted'. We would like to remind the Parish Council that it is not within the remit of a Neighbourhood Plan to determine planning applications, and as such the wording should be amended to read 'supported' or 'not supported'."

120. The Guidance states it is the role of the local planning authority to recognise non-designated heritage assets.⁴⁴ 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. The Policy is satisfactory in this respect.

121. Paragraph 135 of the Framework states “*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*” I have recommended a modification in this respect so that the policy has regard for national policy.

⁴⁴ Planning Practice Guidance Reference ID 18a-041-20140306

122. Encouragement is not a basis for the determination of planning applications. It is unnecessary for the policy to include the imprecise reference to “*Gedling Borough policies*” and “*Borough policies*” as the whole of the Development Plan is central to the determination of all planning applications. It is confusing to use the term “*in Burton Joyce*” as all the Neighbourhood Plan policies apply throughout the whole of the Neighbourhood Area unless they specify a precise geographic area of application. I have recommended a modification in these respects 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.

123. The policy includes the term “*planning permission will only be granted*”. It is not appropriate for a policy to indicate that proposals will be granted planning permission as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁴⁵ All material considerations will not be known until the time of determination of a planning proposal. I have recommended a modification in this respect.

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 Local Planning Document (Part 2 Local Plan) (2018), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

**Recommended modification 6:
In Policy NP6**

- **replace part 1 with “Development proposals leading to the total loss of locally important heritage assets will only be supported where it is clearly demonstrated this scale of**

⁴⁵ Paragraph 196 National Planning Policy Framework 2012

harm is justified taking into account the significance of the heritage asset.”

- **in part 2 delete “In addition to Borough policies, planning permission will only be granted for” and replace “in Burton Joyce” with “will only be supported”**
- **delete “Community Church and School Room”**

Policy NP7 Supporting Burton Joyce’s Village Centre

126. This policy seeks to establish support for specified environmental improvements to the village centre. The policy also seeks to establish that proposals that result in loss or adverse effect on car parking provision in the village centre will not be supported unless specified circumstances can be demonstrated.

127. In a representation the Borough Council supports this policy.

128. The policy refers to the imprecise term “*the village centre*”. I have recommended a modification in this respect 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.

129. 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 Local Planning Document (Part 2 Local Plan) (2018), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended modification 7:

In Policy NP7 after “to the village centre” insert a reference to a map showing the spatial definition of the village centre at sufficient scale to identify property boundaries

Policy NP8 Protecting and Enhancing Community Facilities

131. This policy seeks to establish conditional resistance of redevelopment of named community facilities. The policy also seeks to establish conditional support for the improvement or extension of community facilities. The policy also states an intention to seek contribution to improved public transport as part of major development proposals in accordance with Nottinghamshire County Council policies.
132. In a representation the Borough Council recommends the reference to Nottinghamshire County Council policies should be deleted. I have recommended this imprecise reference is deleted. Limitation of the policy to only apply in the context of redevelopment proposals, but remaining silent with respect to proposals for an adverse change of use is not consistent with the Framework that states planning policies should “*guard against the unnecessary loss of valued facilities and services*”. The term “*within the Parish*” is unnecessary and confusing as all the policies of the Neighbourhood Plan apply within the Neighbourhood Area. I have recommended a modification in these respects 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.
133. It is appropriate for a community to use the Neighbourhood Planning process to agree an approach to the raising and utilisation of funds as a planning gain.
134. 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 Local Planning Document (Part 2 Local Plan) (2018), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
135. 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 8:

In Policy NP8

- **after “redevelopment” insert “or change of use”**
- **delete “within the Parish”**
- **delete “in accordance with Nottinghamshire County Council policies”**

Policy NP9 Traffic and Pedestrian Safety

136. This policy seeks to establish that proposals within the village centre should provide adequate off-street parking and achieve safe access arrangements. The policy also seeks to establish conditional support for proposals to improve pedestrian safety along the A612.
137. Part 1 of the policy is without consequence. It is unnecessary and confusing to state the policy applies “*through Burton Joyce Parish*” as all the Neighbourhood Plan policies apply throughout the Neighbourhood Area. Part 1 of the policy refers to the imprecise terms “*adequate*” and “*the village centre*”. I have recommended a modification in these respects 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.
138. 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 Local Planning Document (Part 2 Local Plan) (2018), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
139. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport and requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy NP9

- **commence Part 1 with “To be supported”**
- **after “village centre” insert “in the areas where on-street parking affects pedestrian safety, identified on Map 17,”**
- **replace 1 a) with “they will not result in additional on-street parking; and”**
- **delete “through Burton Joyce Parish”**

Summary and Referendum

140. I have recommended 9 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

141. I am satisfied that the Neighbourhood Plan⁴⁶:

- 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 Town 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;
 - 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

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

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.⁴⁷

I recommend to Gedling Borough Council that the Burton Joyce 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.⁴⁸ The Plan includes the whole Parish of Burton Joyce. I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁴⁹. 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 25 April 2016.

Annex: Minor Corrections to the Neighbourhood Plan

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

143. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁵⁰ 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

⁴⁷ 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

⁴⁸ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁴⁹ Planning Practice Guidance Reference ID: 41-059-20140306

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

predictability and efficiency as required by paragraph 17 of the Framework:

Policy NP1 part 1 after “development by” replace semi-colon with colon

Policy NP1 part 2 embolden c)

Policy NP2 parts 5 and 9 replace semi-colon with colon before the lists

Policy NP3 part 1 line 3 delete repeated “in”

A note should be added to Map 8 to clarify “Local Centre” is referred to as “village centre” in the Neighbourhood Plan

I recommend these minor corrections are made.

The Borough Council also suggested minor revisions to the Neighbourhood Plan in respect of a number of factual updates and typographical errors as follows:

- There are several references to the ‘emerging’ or ‘publication’ Local Plan Part 2 which are no longer correct given that this plan was formally adopted in July 2018. As a general point, it may be helpful to consistently refer to the Aligned Core Strategy and the Local Planning Document (or the Local Plan Part 1 and the Local Plan Part 2) rather than interchanging these references.
- Paragraph 3 and 4 – amend paragraphs to reflect that the Local Planning Document (Part 2 Local Plan) was adopted by Gedling Borough Council in July 2018. As a result, the 2005 Gedling Replacement Local Plan has been superseded.
- Paragraph 7 – May be worth clarifying that the Glebe Farm application was not granted due to lack of 5YLS, but rather that it was a brownfield site in the Green Belt.
- Paragraph 12 – delete text ‘Publication Draft’.
- Paragraph 12 – amend references to ‘LPD 64’ and ‘LPD 69’ to ‘LPD 63’ and ‘LPD 68’ respectively. Policy numbering altered upon adoption due to a deleted policy.
- Paragraph 12 – Policy LPD 63 refers to 80 homes being delivered in Burton Joyce during the plan period (rather than the need being for 80 homes).
- Paragraph 31 – Amend paragraph to reflect that the Replacement Local Plan (2005) has now been superseded.
- Paragraph 44 – Remove first and second sentence. The Replacement Local Plan 2005 was superseded in July 2018 as such Appendix 1 of this plan is no longer relevant. Paragraph 9.7.4 of the LPD acknowledges that Appendix 1 of the Replacement Local Plan will be the starting point for identifying

Locally Important Heritage Assets. The selection criteria process is currently being prepared.

- Paragraph 44 – Amend 3rd sentence to reflect that the Local Planning Document has now been adopted
- Paragraph 45 – third sentence. Insert text ‘previously identified’ in the 2005 Replacement Local Plan.
- Paragraph 51 – first sentence. Replace ‘forms’ with ‘formed’ and delete ‘draft’.
- Paragraph 53 – the definition of affordable housing is set out in the glossary to the LPD and Annex 2 of the NPPF.
- Paragraph 63 – amend to read ‘The Local Planning Document (2018) defines the local centre for the village and establishes the uses in relation to protecting the viability of the village centre that will be supported (Policy LPD 50)’.
- Paragraph 68 – first sentence. Delete ‘emerging’.
- Paragraph 86 – first sentence. Delete ‘publication draft’ and insert ‘Part 2 Local Plan’.
- Map 8 title - Delete ‘publication draft’ and insert ‘Part 2 Local Plan’. Amend reference from Proposals Map to Policies Map.
- Paragraph 98 – second sentence. Delete ‘draft’.
- Table 4 title and footnote 25 – amend ‘2018’ to read ‘2017’.
- Community Vision (Paragraph 100) – amend reference to ‘in 15 years’ time’ to ‘over the plan period’. This change would be consistent with the plan period up to 2028 as stated in the plan.
- Paragraph 120 – Delete text ‘publication draft’ and ‘draft publication draft’.
- Amend ‘LPD 68’ to read ‘LPD 63’ as this is the correct policy that sets out the required housing distribution.
- Footnote 26 – Amend footnote as it refers to a tracked changes version that supported the examination of the LPD. Replace with ‘Local Planning Document (2018)’
- Paragraph 127 – the paragraph following paragraph 127 should be numbered (or follow on from paragraph 127).
- Paragraph 131 – final sentence is incomplete and should be removed.
- Paragraph 137 – first sentence. Remove ‘publication draft’
- Paragraph 139 – first sentence. Remove ‘publication draft’.
- Paragraph 140 – the second sentence should be reworded as is currently unclear. Amend to read ‘it is considered by local people to have a high landscape value’.
- Table 6 – third bullet. Remove text ‘publication draft’
- Paragraph 147 – first sentence. Remove text ‘proposed’ and ‘publication draft’.
- Policy NP4 (3) – the words ‘will be expected to meet’ have been repeated within the criterion.
- Paragraph 185 – second sentence. Replace ‘can identify heritage assets’ with ‘can nominate heritage assets’

- Paragraph 187 – delete ‘emerging’ from first sentence. Delete ‘publication draft’ from second sentence.
- Paragraph 195 – first sentence. Amend ‘two’ to read ‘eleven’, as eleven facilities are identified in paragraphs 196 - 215, or elaborate.
- Paragraph 186 – amend first sentence to read ‘The Neighbourhood Plan Heritage Report prepared by Burton Joyce and Bulcote Local History Group (footnote) nominates 17 locally significant buildings or structures to be assessed against GBC’s selection criteria for identifying non-designated heritage assets’ Continue the paragraph with “*Gedling Borough Council is currently drafting selection criteria for the identification of Locally Important (non-designated) Heritage Assets which are to be based on the approach taken by Mansfield District Council and the latest Historic England Advice.*”
- Paragraph 210 – remove ‘emerging’.
- Paragraph 220/ Footnote 49 – delete the text ‘publication draft’ and remove web link in the footnote which refers to an examination version of the LPD. Amend reference to the Proposals Map to the Policies Map.
- Paragraph 228 – Amend reference to ‘Annual Monitoring Report’ – now called ‘Authority Monitoring Report’.

I recommend these updates and corrections are also made.

The Borough Council has also in respect of Appendix H recommended that the Burton Joyce Village Appraisal is attached to the Neighbourhood Plan to ensure that it is readily available throughout the plan period. I recommend this addition 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.

**Recommended modification 10:
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
16 October 2018
REPORT ENDS