

Leicester Forest East Parish Council

Leicester Forest East Neighbourhood Development Plan

A report to Blaby District Council of the Independent
Examination of the Leicester Forest East Neighbourhood
Development Plan

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Contents

Page

Summary of Main Findings	3
Neighbourhood Planning	4
Independent Examination	4
Basic Conditions and other Statutory Requirements	7
Documents	9
Consultation	11
The Neighbourhood Plan taken as a whole	14
The Neighbourhood Plan Policies	25
Policy H1: Residential Site Allocations	28
Policy H2: Limits to Development	30
Policy H3: Housing Mix	34
Policy H4: Affordable Housing	35
Policy H6: Housing Design	39
Policy ENV1: Local Green Spaces	43
Policy ENV2: Local Heritage Assets of Historical and Architectural Interest	46
Policy ENV3: Biodiversity and Wildlife Corridor	48
Policy ENV4: Sites of High Environmental Significance	50
Policy CF1: The Retention of Community Facilities and Amenities	52
Policy CF2: New or Improved Community Facilities	55
Policy BE1: Support for Existing Employment Opportunities	56
Policy BE2: Support for New Employment Opportunities	57
Policy BE3: Working from Home	59
Policy BE4: Broadband Infrastructure	60
Policy T1: Transport Requirements for New Developments	61
Conclusion and Referendum	62
Annex: Minor corrections to the Neighbourhood Plan	63

Summary of Main Findings

This is the report of the Independent Examination of the Leicester Forest East Parish Neighbourhood Development Plan. The plan area is the whole of the Parish of Leicester Forest East being also the administrative area of Leicester Forest East Parish Council. The entire plan area lies within the Blaby District Council area. The plan period is 2006-2029. The Neighbourhood Plan includes policies relating to the development and use of land.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Neighbourhood 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 the power to develop a shared vision for their area.*”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 Leicester Forest East Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Leicester Forest East 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 Leicester Forest East Neighbourhood Area which was formally designated by Blaby District Council (the District Council) on 27 May 2016. The Neighbourhood Plan has been produced by the Neighbourhood Plan Advisory Committee, which included Parish Councillors and other community volunteers, supported by consultants *Yourlocale* and the District Council.
4. The Parish Council approved the Neighbourhood Plan and supplementary documents for submission to the District Council. The District Council arranged a period of publication between 27 July 2021 to 14 September 2021 and subsequently submitted the Neighbourhood Plan to me for independent examination.

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.² The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The

¹ Paragraph 29 National Planning Policy Framework (2021)

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

District Council will decide what action to take in response to the recommendations in this report.

6. The District 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 a decision statement is issued by the Local Planning Authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is 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 District 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 District 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 District Council. I do not have any interest in any land that may be affected by the 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; and a Member of the Institute of Historic Building Conservation. I have forty

³ Paragraph 48 of the National Planning Policy Framework 2021 explains full weight is not given at this stage. Also see Planning Practice Guidance paragraph: 107 Reference ID: 41-107-20200407 Revision date: 07 04 2020 for changes in response to the coronavirus (COVID-19) pandemic

⁴ Section 3 Neighbourhood Planning Act 2017

⁵ Section 156 Housing and Planning Act 2016

⁶ Paragraph 12 National Planning Policy Framework 2021

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*”. The examiner has the ability to call a hearing for the purpose 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 the opportunity to state their case and I am satisfied the representations have all been expressed in terms that are sufficiently clear. No party has advised me that their representations are not sufficiently explained. The Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. As I did not consider a hearing necessary, I proceeded on the basis of examination of the written representations and an unaccompanied visit to the Neighbourhood Plan area.

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

12. 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 development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.¹¹

13. With respect to the penultimate Basic Condition the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for a continuation of primary and subordinate legislation, and other enactments in domestic law. As the final basic condition, on 28 December 2018, replaced a different basic condition that had previously been in place throughout part of the period of preparation of the Neighbourhood Plan there is a need to confirm the Neighbourhood Plan meets the revised basic condition.

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

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

¹¹ This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “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”.

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

‘The Neighbourhood Plan taken as a whole’¹³ 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 2004.¹⁴ 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.
16. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 27 May 2016. A map of the Neighbourhood Plan boundary is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Leicester Forest East Parish boundaries, being also the administrative area of Leicester Forest East Parish Council. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁵ and no other neighbourhood development plan has been made for the neighbourhood area.¹⁶ 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;¹⁷ and the Neighbourhood Plan does not include provision about excluded development.¹⁸ 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.¹⁹ Part 1.4 of the Neighbourhood Plan confirms the plan period will be up to 2029 which it is explained deliberately mirrors the plan period for the Adopted Blaby Local Plan.

¹³ Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind

¹⁴ 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)).

¹⁵ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

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

¹⁷ Section 38A (2) Planning and Compulsory Purchase Act 2004

¹⁸ Principally minerals, waste disposal, development automatically requiring Environmental Impact assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

¹⁹ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

The front cover of the Submission Draft Plan document clearly states the plan period to be 2006-2029.

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.²⁰ 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, 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. 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.²¹ I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

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:

²⁰ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2021

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

- Leicester Forest East Parish Neighbourhood Plan Submission Version January 2020 including Appendices A to F
- Leicester Forest East Neighbourhood Plan Consultation Statement [*In this report referred to as the Consultation Statement*]
- Leicester Forest East Neighbourhood Plan 2006-2028 Statement of Basic Conditions Statement [*In this report referred to as the Basic Conditions Statement*]
- Leicester Forest East Neighbourhood Plan Strategic Environmental Assessment Screening Determination
- Leicester Forest East Neighbourhood Plan Strategic Environmental Assessment and Appropriate Assessment Screening Opinion Report July 2018
- Evidence and other background documents and information published on the District Council and Parish Council websites
- Representations submitted during the Regulation 16 publicity period including the representations of the District Council
- Correspondence between the Independent Examiner and the District and Parish Councils including: the initial letter of the Independent Examiner 22 September 2021; the Parish Council comments on Regulation 16 representations that I received on 11 October 2021; the letter of the Independent Examiner seeking clarification of various matters dated 20 October 2021; and the combined response on behalf of the Parish Council and the District Council that I received on 5 November 2021.
- Blaby District Local Plan (Core Strategy) Development Plan Document 2013 [*In this report referred to as the Core Strategy*]
- Blaby District Local Plan (Delivery) Development Plan Document 2019 and accompanying Policies Map 2019 [*In this report referred to as the Local Plan Delivery DPD*]
- New Local Plan Options document
- National Planning Policy Framework (2021) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- European Union (Withdrawal) Act 2018

- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

Consultation

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

25. The Leicester Forest East Neighbourhood Plan Advisory Committee first met in November 2015 and continued to meet throughout the plan preparation process. Minutes of meetings have been published. A staffed open event was held in September 2016 to gather thoughts and ideas. In February 2017 three theme groups including a total of approximately 20 people were established to analyse ideas emerging from the first consultation event and begin working towards the preparation of a plan document. The remit of the theme groups was: housing and the built environment; environment (natural and historic); and a sustainability group concerned with economic growth, community facilities and transport. A questionnaire distributed to every household in April 2017 was accompanied by drop-in consultation events and generated 158 responses. Other communication with local people and other stakeholders has been achieved through use of village noticeboards; agenda items at Parish Council meetings and use of the Parish Council website; leaflets and fliers distributed to each household; letters and emails to stakeholders; and open events. Owners of areas proposed for Local Green Space designation were contacted individually by letter.

26. Pre-submission consultation in accordance with Regulation 14 was

undertaken between 12 October 2018 and 23 November 2018 which was promoted through the Parish website; an article published in the LIFE magazine (Parish magazine); a display at the Leicester Forest East Library and at St Andrew's Church; and a leaflet drop to all homes in the Parish. Statutory organisations and other stakeholders who were consulted directly are listed on pages 10 and 11 of the Consultation Statement. Appendix F of the Neighbourhood Plan sets out the responses to representations received and amendments made to the Neighbourhood Plan. The suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the District Council.

27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 27 July 2021 to 14 September 2021. Representations from 10 different parties were submitted during the period of publication including a substantial representation of the District Council.
28. The District Council has made representations in relation to the Development Plan for the District; Policies H1; H2; H3; H4; ENV1; ENV3; ENV4; CF1; BE1; BE2; and T1; and general points. Severn Trent has made representations in relation to Policies H1; H6; ENV1; and ENV4 as well as providing general development related advice. Where representations raise concerns or state objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations.²²
29. The Environment Agency confirmed it had no formal comment to make. The representations of a member of the public; Leicester City Council; West Leicestershire, and East Leicestershire and Rutland Clinical Commissioning Groups; Leicestershire County Council; the Coal Authority; Sport England; Historic England; the representation on behalf of the National Grid; and the general advice offered by Severn Trent do not necessitate any modification of the Neighbourhood Plan to meet the Basic Conditions or other requirements.
30. A number of the representations, in particular that of Leicestershire County Council, include suggestions for additions to the Neighbourhood Plan, but these are not a matter for my consideration

²² *Bewley Homes Plc v Waverley District Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6)

unless the addition is necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements I have identified.

31. I have been provided with copies of all of the representations including the representation made by the District Council. In preparing this report I have taken into consideration all of the representations where they are relevant to my role even though they may not be referred to in whole, or in part.
32. 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 submitted the following comment on 11 October 2021 *“The Parish Council did respond to the Tesco Planning Application at the time it was live, Blaby District Council noted the Parish Council’s comments but the application was approved anyway.”* I requested the District Council to publish the Regulation 16 representations and the Parish Council comment on its website.
33. 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.²³
34. The submitted Consultation Statement and appendices to the Neighbourhood Plan include information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Advisory Committee has taken great care to ensure stakeholders have

²³ Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

35. 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 submission, background, and supporting documents, and copies of the representations and other material 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 development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

36. Paragraph 3.13 of 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 Article 6 (1) (fairness); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).²⁴ Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst no Equalities Impact Assessment has been undertaken in respect of the Neighbourhood

²⁴ 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.

Plan from my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

37. The objective of EU Directive 2001/42²⁵ 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 ‘plans and programmes’²⁶ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²⁷
38. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Blaby District 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. A Strategic Environmental Assessment and Appropriate Assessment Screening Opinion Report July 2018, upon which the Consultation Bodies were consulted, concluded “*The Leicester Forest East Neighbourhood Plan is a relatively self-contained plan and considers policies at a local level to ensure that development meets the needs of the community. A significant proportion of The Plan area is already built-up with relatively modern housing estates. The plan aims to protect the area’s open spaces, which have largely been delivered in combination with modern residential development. The level of development proposed is unlikely to impact any Natura 2000 sites. The Plan seeks to allocate two sites for a total of 76 dwellings. These sites are also proposed allocations within the emerging Blaby District Local Plan Delivery DPD; and have been subject to SA as part of this process. One (small) site has been identified for a Local Green Space designation. A Biodiversity and Wildlife Corridor has also been identified to safeguard locally significant habitats and species. This includes Leicester Forest East Spinney semi-natural woodland, which is identified as a Priority Habitat by Natural England. These policies*

²⁵ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

²⁶ Defined in Article 2(a) of Directive 2001/42

²⁷ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

will have a positive effect on the environment. The single listed building within the Neighbourhood Area (Boyer's Lodge, Warren Lane) is recognised within the Plan. Other buildings and structures identified as being locally important have also been identified for preservation and enhancement". Paragraph 4.4 of the Screening Opinion Report states "The assessment set out in Table 1, concludes that it is unlikely that any significant environmental effects will occur as a result of the implementation of the Leicester Forest East Neighbourhood Plan." I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

40. The Strategic Environmental Assessment and Appropriate Assessment Screening Opinion Report July 2018 identified three internationally designated sites for assessment namely:

- Rutland Water Special Protection Area and Ramsar site (Rutland) (approximately 33km from the eastern boundary of the District of Blaby);
- River Mease Special Area of Conservation (Leicestershire and Derbyshire) (approximately 19km from the north-western boundary of the District of Blaby); and
- Ensor's Pool Special Area of Conservation (Nuneaton, Warwickshire) (approximately 10km from the southern boundary of the District of Blaby).

The Screening Opinion Report considered the potential effects of relevant Neighbourhood Plan policies on these identified sites and concluded *"The Leicester Forest East Neighbourhood Plan includes policies that support a modest level of residential development at a scale, and in locations, which are in conformity with the Blaby District Local Plan Core Strategy and Delivery DPD Proposed Submission Version. The Neighbourhood Plan's two proposed residential allocations have already been identified as potential allocations within the Blaby District Local Plan Delivery DPD (Proposed Submission Version), and been subject to SEA and HRA screenings as part of this process. This assessment concurs within the conclusions of the SEA and HRA Screening Reports on the Blaby District Local Plan Delivery DPD that the proposed allocations are unlikely to have a significant effect on designated sites, nor significantly affect the environment. It is considered that there are a number of alternative areas of open space, which potential new residents may use for recreational purposes, which are in closer proximity than the identified internationally designated sites. It is therefore considered that the Neighbourhood Plan, either alone, or in combination with other plans, is unlikely to have a significant effect on any of the designated sites within*

approximately 40km of the boundary of Blaby District. A full HRA appropriate assessment or SEA of the plan, are therefore not required.” The Basic Conditions Statement states at paragraph 3.6 *“Blaby District Council undertook a Habitat Regulations Assessment (HRA) Screening of the Neighbourhood Plan and concluded that an HRA was not required. The statutory consultees concurred with this conclusion.”* I conclude the making of the Neighbourhood Plan would not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

41. 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. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations.

42. 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. The District 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).²⁸

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

43. 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

²⁸ Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

Local Plans²⁹ which requires plans to be “consistent with national policy”.

44. Lord Goldsmith has provided guidance³⁰ 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.”
45. The most recent National Planning Policy Framework published on 21 July 2021 sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance was most recently updated on 24 June 2021. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance. The Guidance has been updated on 24 May 2021 with respect to First Homes. In response to my request for clarification the District and Parish Councils state “*The Neighbourhood Plan was submitted to the Council on 12 July 2021. As noted from the foreword to the Plan at page 5, the foreword was dated January 2020. Formal submission of the Plan was delayed as a result of the Coronavirus pandemic and the Plan was ready to be submitted in April 2021 but following changes to the Council’s legal obligations around producing electronic documents in a web-accessible format, the Parish spent time on improving the web-accessibility of the documents. It is noted that the Planning Practice Guidance for First Homes states: ‘As set out in the First Homes Written Ministerial Statement of 24 May 2021, local plans and neighbourhood plans that have reached advanced stages of preparation will benefit from transitional arrangements. Local plans and neighbourhood plans submitted for examination* before 28 June 2021, or that have reached publication stage** by 28 June 2021 and subsequently submitted for examination* by 28 December 2021, will not be required to reflect the First Homes policy requirement.’ Publication stage is defined as Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 in the Planning Practice Guidance. Regulation 14 consultation on*

²⁹ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

³⁰ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords 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)

the LFE Neighbourhood Plan took place between October and November 2018 and therefore the LFE Neighbourhood Plan is subject to the transitional arrangements set out in the Planning Practice Guidance. No change is required to reflect the Written ministerial Statement on First Homes.” I am satisfied transitional arrangements apply in the case of the Neighbourhood Plan.

46. I am satisfied Section 2 of the Basic Conditions Statement including the Table presented on pages 6 to 9 of the Basic Conditions Statement demonstrates the Neighbourhood Plan has regard to relevant identified components of the Framework and Guidance.
47. The Neighbourhood Plan includes, at page 17, a positive vision statement based on local consultation and eight key policy issues identified by the community as being of special importance to them. The vision statement refers to economic factors (prosperous community, businesses, supporting appropriate development); social factors (thriving community, high quality of life, desirable place to live, meeting local needs); and environmental factors (links to the city and country, sustainable, protecting our limited natural environment). The vision and key policy issues have provided a framework within which the policies of the Neighbourhood Plan have been shaped. The sections of the Neighbourhood Plan that follow set out policies arranged by topic.
48. The Neighbourhood Plan includes 10 “*Community Actions*”. The plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. 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 acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, “*Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan*”.³¹ The Foreword to the Neighbourhood Plan states the Community Actions support the Neighbourhood Plan policies and “*these community actions will not be*

³¹ Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

subject to Examination but help the Parish Council to deliver its broader objectives.” I am satisfied the approach adopted has sufficient regard for the Guidance.

49. 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.*”

50. At the heart of the Framework is a presumption in favour of sustainable development³² which should be applied in both plan-making and decision-taking³³. 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*”³⁴.

51. 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.

³² Paragraph 10 National Planning Policy Framework 2021

³³ Paragraph 11 National Planning Policy Framework 2021

³⁴ Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

52. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes a Table presented on pages 6 to 9 that sets out an explanation of how the Neighbourhood Plan supports relevant sections of the Framework³⁵. The Table refers to specific policies of the Neighbourhood Plan and draws on their content to demonstrate how the Plan seeks sustainability benefits in the economic, social, and environmental dimensions and contributes to the achievement of sustainable development. The Table does not highlight any negative impacts on sustainability objectives. The Basic Conditions Statement also includes, in paragraphs 3.7 to 3.9, a statement that demonstrates how the Neighbourhood Plan contributes to the achievement of sustainable development.

53. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, when modified as I have recommended, will, contribute to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes will protect local distinctiveness; will serve economic needs; will protect and enhance social facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan policies seek to:

- Facilitate housing development that will meet local needs and be appropriately designed;
- Designate a Local Green Space;
- Identify and conserve local heritage assets;
- Protect and enhance biodiversity;
- Retain community facilities and support new or improved facilities;
- Protect and expand employment opportunities, including working from home;
- Enhance broadband infrastructure; and
- Support sustainable transport.

54. 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, will, when modified as I have recommended, contribute to the achievement of sustainable development.

³⁵ The sections of the Framework relating to supporting high quality communications; protecting Green Belt land; and facilitating the sustainable use of minerals are stated to be not applicable.

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)

55. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.³⁶ Plans should make explicit which policies are strategic policies.³⁷ “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”³⁸. *Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.³⁹

56. 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 District Council has confirmed the Development Plan applying in the Leicester Forest East Parish Neighbourhood Area and relevant to the Neighbourhood Plan is the Blaby District Local Plan (Core Strategy) Development Plan Document 2013 [*In this report referred to as the Core Strategy*] and the Blaby District Local Plan (Delivery) Development Plan Document 2019 and accompanying Policies Map 2019 [*In this report referred to as the Local Plan Delivery DPD*].

57. 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.*”⁴⁰ The District Council has confirmed the strategic policies in its Regulation 16 representation. I have proceeded with my independent examination of the Neighbourhood Plan on the basis that the Development Plan strategic policies are the Core Strategy Policies and the updated strategic Open Space Policy included in the Local Plan Delivery DPD.

³⁶ Paragraph 13 National Planning Policy Framework 2021

³⁷ Paragraph 21 National Planning Policy Framework 2021

³⁸ Footnote 18 National Planning Policy Framework 2021

³⁹ Paragraph 29 National Planning Policy Framework 2021

⁴⁰ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

58. The District Council has commenced the preparation of the new Local Plan which it is anticipated will be adopted in 2023. The District Council published a New Local Plan Options document for consultation between 28 January 2021 and 12 March 2021. The Neighbourhood Plan can proceed ahead of preparation of the new Local Plan. The Guidance states: *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

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

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

*minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.*⁴¹

59. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the new Local Plan when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan; however, the Guidance is clear in that potential conflicts should be minimised.
60. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging new Local Plan is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*⁴². In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.
61. 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.”*⁴³ 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.
62. 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;*

⁴¹ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009- 20190509 Revision 09 05 2019

⁴² Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

⁴³ *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

- *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.*⁴⁴

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance. I have taken into consideration the Table presented on pages 6 to 9 of the Basic Conditions Statement that demonstrates how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies.

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

The Neighbourhood Plan Policies

64. The Neighbourhood Plan includes 16 policies as follows:

- Policy H1: Residential Site Allocations
- Policy H2: Limits to Development
- Policy H3: Housing Mix
- Policy H4: Affordable Housing
- Policy H6: Housing Design
- Policy ENV1: Local Green Spaces
- Policy ENV2: Local Heritage Assets of Historical and Architectural Interest
- Policy ENV3: Biodiversity and Wildlife Corridor
- Policy ENV4: Sites of High Environmental Significance
- Policy CF1: The Retention of Community Facilities and Amenities

⁴⁴ Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

Policy CF2: New or Improved Community Facilities
Policy BE1: Support for Existing Employment Opportunities
Policy BE2: Support for New Employment Opportunities
Policy BE3: Working from Home
Policy BE4: Broadband Infrastructure
Policy T1: Transport Requirements for New Developments

65. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*. Footnote 18 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*
66. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*
67. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”*
68. 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.”⁴⁵

69. *“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”.*⁴⁶

70. A neighbourhood plan should contain policies for the development and use of land. *“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. 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).”*⁴⁷

71. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.”*⁴⁸ *“A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”*⁴⁹

72. 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.

⁴⁵ Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

⁴⁶ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

⁴⁷ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

⁴⁸ Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

⁴⁹ Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

Policy H1: Residential Site Allocations

73. This policy seeks to establish that land is allocated, subject to specified criteria, for two residential development sites identified in Figure 2.
74. In a representation the District Council state *“This policy duplicates the two housing allocations within the Local Plan Delivery DPD. No evidence has been submitted alongside the Neighbourhood Plan to demonstrate a site assessment process has taken place to support the Neighbourhood Plan allocations. In addition, the Council has significant concerns over Policy H4: Affordable Housing which has implications for Policy H1: Residential Site Allocations. As the policy duplicates a Local Plan policy, it is recommended that this policy is deleted because it conflicts with paragraph 16(f) of the National Planning Policy Framework (2021).”*
75. Site Allocations Policy SA2 Smaller Housing Sites in the Principal Urban Area of the Local Plan Delivery DPD includes *“Land will be allocated for housing at the following sites as set out on the Policies Map. The sites will be required to be developed in conformity with other policies contained within the Blaby Local Plan Core Strategy and Delivery Development Plan Documents. Specific requirements for each of the sites, in addition to these policies, are contained below:*
- *SA2.a Land at Grange Farm, Leicester Forest East Land will be allocated for 55 dwellings. The development should: a) Be accessed from Warden’s Walk; b) Provide affordable units in accordance with Core Strategy policy CS7; c) Retain the important trees and hedgerows along the northern boundary and fronting Baines Lane; and d) Provide design solutions and mitigation measures to protect important areas of biodiversity.*
 - *SA2.b Land at Webb Close, Leicester Forest East Land will be allocated for 21 dwellings. The development should: a) Be accessed from Webb Close; b) Provide affordable units in accordance with Core Strategy policy CS7; and c) Retain and enhance hedgerows to connect to southern boundary.”*
76. Text supporting Policy SA2 includes:

“Grange Farm, Leicester Forest East - The site could accommodate some 55 houses. The site has two potential access points off Warden’s Walk and Hinckley Road. The Local Highway Authority has indicated a preference for access to be gained from Warden’s Walk.

The site could deliver some 13 affordable houses and would be required to make contributions towards open space, education provision, library services and residential travel packs to encourage the use of sustainable transport. Blaby District Local Plan Delivery DPD – Adopted February 2019. The trees and hedges fronting Baines Lane are species rich and should be retained in the interests of ecology and character of the urban form.

Webb Close, Leicester Forest East - The site could accommodate some 21 houses. The site has a potential access off Webb Close. The site could deliver 5 affordable houses and would be required to make contributions towards open space, education provision and library services”

77. Policy H1 clearly duplicates Site Allocations Policy SA2 in seeking to allocate land for residential development at Grange Farm and at Webb Close but varies from the strategic policy in terms of specified criteria to be met. Whilst Policy SA2 requires affordable units to be provided in accordance with Core Strategy Policy CS7, Policy H1 requires approximately 19 units to be affordable on the Grange Farm site and approximately 7 units to be affordable at the land off Webb Close site. This requirement which is in general alignment with Policy H4 is in excess of the 25% requirement specified in Core Strategy Policy CS7. When I consider Policy H4 later in my report I find the greater affordable housing requirement of the Neighbourhood Plan compared to the requirement of strategic policy has not been sufficiently justified. The placing of additional burden on the delivery of sites previously allocated for development has not been sufficiently justified.
78. Policy H1 seeks to allocate land at Grange Farm and off Webb Close without repeating criteria included within Strategic Policy SA2. This element of variation has not been sufficiently justified. Policy H1 seeks to introduce criteria that were not specified in Strategic Policy SA2. These additional criteria are not adequately justified. The Guidance states *“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”*.⁵⁰ *Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*⁵¹.

⁵⁰ Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

⁵¹ Footnote 18 National Planning Policy Framework 2021

79. I find Policy H1 does not meet the Basic Conditions as it does not serve a clear purpose and represents unnecessary duplication of policies contrary to paragraph 16 f) of the Framework. I also find Policy H1 has not been sufficiently justified. I have recommended Policy H1 is deleted. On this basis the requests made by Severn Trent in relation to sustainable drainage systems (SuDS) and surface water discharge become unnecessary.

**Recommended modification 1:
Delete Policy H1**

Policy H2: Limits to Development

80. This policy seeks to establish conditional support for development proposals on site within the Limits to Development boundary. The policy also seeks to establish that land outside the defined Limits to Development will be treated as open countryside where development will be carefully controlled in line with local and national strategic planning policies.

81. In a representation the District Council state *“It is not clear where the justification is for the inclusion of this policy given that the Neighbourhood Plan acknowledges that the Local Plan Delivery DPD will update the settlement boundary for the parish up to the end of the Local Plan and Neighbourhood Plan period (2029). The supporting text on page 22 says that: ‘following discussions it is proposed that the Limits to Development is not revised through the Neighbourhood Plan. Instead, it is considered more effective and efficient that this is undertaken as part of the District-wide review of Limits to Development which is being undertaken as part of the emerging Blaby Local Plan Delivery DPD’. The wording of the policy is contained within policies CS2 Design of New Development and CS18 Countryside of the Local Plan Core Strategy. Therefore, the policy duplicates the Local Plan policies by including an identical settlement boundary to that set out on the Local Plan Policies Map (2019). This adds another layer of planning policy and is superfluous. The policy should be deleted in its entirety as the Local Plan for the District already defines the same settlement boundary for the parish.”*

82. Paragraph 4.4 of the Local Plan Delivery DPD states *“There will be some opportunities for re-use and redevelopment of land within the defined Settlement Boundaries of the District’s existing settlements. The Council wants to support such development in principle subject to*

the development not affecting local amenity or prejudicing the comprehensive development of a wider area. Development proposals will also be subject to other relevant policies in the Local Plan.” Development Management Policy 1 states *“Within the Settlement Boundaries, as set out on the Policies Map, development proposals consistent with other policies of the Local Plan will be supported where the following criteria are met. The development proposal will: a) Provide a satisfactory relationship with nearby uses that would not be significantly detrimental to the amenities enjoyed by the existing or new occupiers, including but not limited to, consideration of: i. privacy, light, noise, disturbance and overbearing effect; ii. vibration, emissions, hours of working, vehicular activity. b) Be in keeping with the character and appearance of the area; c) Not result in the overdevelopment of the site due to factors including footprint, scale and massing; d) Have a satisfactory layout, design and external appearance; and, e) Not prejudice the comprehensive development of a wider area.”* The Limits to Development identified in Figure 3 of the Neighbourhood Plan duplicate the Settlement Boundary defined on the Local Plan Policies Map and wording of the policy is contained within strategic Policies CS2 and CS18 of the Local Plan Core Strategy. This represents an unnecessary duplication of policies contrary to paragraph 16 f) of the Framework.

83. Core Strategy Policy CS2 sets out a detailed basis for the assessment of the design of new development and Neighbourhood Plan Policy H6 provides an additional level of detail or distinct local approach to that set out in the strategic policies with respect to housing design. The reference to design policy in Policy H2 does not provide an additional level of detail or distinct local approach to that set out in the strategic policy and represents an unnecessary duplication of policies contrary to paragraph 16 f) of the Framework.
84. Core Strategy Policy CS17 establishes general locations for Areas of Separation to prevent coalescence of settlements. The Local Plan Policies Map identifies the area in the south eastern part of the Neighbourhood Area outside the Limits to Development boundary as being subject to Core Strategy Policy CS17. The other part of the Neighbourhood Area outside, and to the west of, the Limits to Development boundary is subject to Core Strategy Policy 18 which establishes a clear approach to development proposals in countryside locations, and is subject to Development Management Policy 2 which sets out criteria for support of development proposals in the countryside where proposals are consistent with Policy CS18. Policy

H2 does not provide an additional level of detail or distinct local approach to that set out in the strategic Core Strategy Policy 18 and represents an unnecessary duplication contrary to paragraph 16 f) of the Framework.

85. It is confusing and unnecessary for a policy to state “*within the neighbourhood plan area*” as all the policies of the Neighbourhood Plan apply within the Neighbourhood Plan area and to no other area. It is confusing and unnecessary for a policy to refer to “*the policies of this Neighbourhood Plan*” as all the policies of the Neighbourhood Plan apply throughout the Neighbourhood Area unless a smaller area is specified. It is confusing and unnecessary for a policy to refer to the Blaby District Local Plan as the Development Plan applies throughout the Neighbourhood Area without the need for this to be stated in any Neighbourhood Plan policy. The term “*subject to meeting design policy and amenity considerations*” is imprecise and does not provide a basis for the determination of development proposals. These elements of the policy do not have sufficient regard for the requirement of national policy to be “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as stated in paragraph 16d) of the Framework.

86. Policy H2 does not meet the Basic Conditions. I have recommended the policy is deleted.

Recommended modification 2:

Delete Policy H2

87. I have considered the implication of deletion of Policies H1 and H2 in terms of meeting the Basic Conditions. The Guidance states “*Neighbourhood plans are not obliged to contain policies addressing all types of development*”⁵² and “*The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not*

⁵² Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

required to plan for housing. However, there is an expectation that housing requirement figures will be set in strategic policies, or an indicative figure provided on request. Where the figure is set in strategic policies, this figure will not need retesting at examination of the neighbourhood plan. Where it is set as an indicative figure, it will need to be tested at examination.”⁵³

88. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance.

89. Policies H1 and H2 of the Neighbourhood Plan, are relevant to housing supply. I have considered the implications of deletion of those policies with respect to the Neighbourhood Plan meeting the Basic Conditions. As recommended to be modified the Neighbourhood Plan does not seek to constrain development within the settlement boundary that is supported by strategic policies nor does it seek to constrain development of sites allocated in a non-strategic policy of the Local Plan Delivery DPD. As recommended to be modified the Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the settlement boundary nor beyond that boundary where the proposal is accepted in terms of Development Plan policies and national planning policy. In this policy context it is reasonable to assume there will be some windfall supply of homes during the Plan period up to 2029, in addition to allocations and extant permissions, which will boost the supply of homes in the Neighbourhood Plan area. I am satisfied the approach adopted to address housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for Leicester Forest East parish. As recommended to be modified the Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. I have concluded the deletion of Policies H1 and H2 would not prevent the Neighbourhood Plan meeting the Basic Conditions.

Policy H3: Housing Mix

90. This policy seeks to establish that new housing development should provide a housing mix to meet local needs. The policy states proposals should concentrate on providing dwellings of 1,2 and 3 bedrooms and homes suitable for older people including 2- and 3-bedroom bungalows and dwellings suitable for people with restricted mobility.
91. In a representation the District Council state *“It is not certain whether this policy is to apply to all residential developments, regardless of the size of the development, i.e., from a single dwelling up to developments of over 10 dwellings as this is where the Local Plan Core Strategy policy CS8 Mix of Housing is triggered. Further clarification is required because it is considered that, in its current form, the policy is ambiguous and therefore is in conflict with paragraph 16(d) of the NPPF (2021).”*
92. Strategy Policy CS8 relates to major development and requires proposals to meet the needs of existing and future households in Blaby District, taking into account the latest Strategic Housing Market Assessment and other evidence of local need. Paragraph 7.8.9 of the Core Strategy states *“The above policy seeks to provide a range of house types and tenures to reflect current and future requirements, modified, where appropriate, for local circumstances.”* It is evident the Core Strategy makes provision for response to local needs. I am satisfied it is appropriate for Policy H3 to relate to all new housing development. Section 5.1.5 of the Neighbourhood Plan includes sufficient justification for the approach adopted in Policy H3. The term *“mixture”* is inappropriately presumptive. The term *“should concentrate on”* is imprecise and does not provide a basis for the determination of development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework. As a point of clarification, I invited comment on my then proposed modification from the District and Parish Councils. I have adopted the suggestion made in response that a comma is added after the word *“supported”* in my recommended modification in order to improve clarity.
93. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

94. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 3:

Replace Policy H3 with “To be supported, proposals for new housing must demonstrate how they provide dwellings with 1, 2 or 3 bedrooms; or homes suitable for older people, including 2- or 3-bedroom bungalows; or dwellings suitable for people with restricted mobility, unless the latest assessment of local housing needs indicates otherwise.”

Policy H4: Affordable Housing

95. This policy seeks to establish that where possible 35% of all homes on developments comprising 11 or more dwellings shall be affordable subject to viability considerations. The policy also seeks to establish requirements regarding the mix of affordable housing; being indistinguishable from market dwellings; and circumstances for payment in lieu of on-site provision of affordable homes. The policy seeks to establish support for affordable homes suited to the needs of older people and those with disabilities, and seeks to establish a priority for people with a local connection amongst those with similar levels of need.

96. In a representation the District Council state *“Whilst we support the aspiration of the policy to provide more affordable housing in the parish, the policy is not in conformity with the Local Plan’s strategic policy for affordable housing (Policy CS7 Affordable Housing of the Local Plan Core Strategy), is not supported by viability evidence, and is not in accordance with advice set out in the NPPF and Planning Practice Guidance relating to avoiding the unnecessary duplication of policies and viability. There are two housing allocations in the Local Plan Delivery DPD that are located within the parish of Leicester Forest East; both allocations are repeated within the Neighbourhood Plan at policy H1 Residential Site Allocations, but with a higher*

percentage affordable housing requirement. Part a) of policy H4 Affordable Housing seeks the provision of 35% affordable homes on developments of 11 or more dwellings, subject to viability considerations. The supportive text to policy H4 cites parish surveys and community consultation for support for more smaller housing and affordable housing. A Housing Needs Report was also produced in 2016 to support the development of the housing policies in the Neighbourhood Plan. The Housing Needs Report acknowledges that data on affordable housing sales will be missing from the statistics that feed into the report and therefore it is questionable whether sufficient evidence has been collated to support such an increase in affordable housing as set out in policy H4. In addition, the conclusions in the Housing Needs Report set out underneath “Summary of Future Housing Need” are inconclusive on the amount of affordable housing that is required in the Parish. The Local Plan Core Strategy policy CS7 Affordable Housing requires a minimum of 25% of the total number of dwellings to be provided as affordable housing on all developments of 15 or more dwellings. This requirement was supported by an Economic Viability Assessment (2011) and was most recently re-considered when testing the viability of proposed housing allocations in the Local Plan Delivery DPD that was adopted in 2019 (see the Local Plan Viability Study 2017 produced by Cushman Wakefield). Policy H4: Affordable Housing in the Neighbourhood Plan requests that 35% of all homes on developments comprising 11 or more dwellings should be affordable dwellings, subject to viability considerations, but does not provide any viability evidence to support this policy. Paragraph 31 of the NPPF (2021) states that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence, but no viability evidence has been provided to support the proposed policy. The risk is that setting a lower site size threshold at which the policy applies and a higher affordable housing percentage requirement without any supporting viability evidence could undermine the deliverability of sites, specifically the two sites in the parish that are identified as housing allocations in the Local Plan Delivery DPD that are required to meet the minimum housing requirements for the District. This is in conflict with paragraph 34 of the NPPF (2021) that states that: “Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.” Both sites proposed as residential site allocations at Policy

H1 of the Neighbourhood Plan (Grange Farm and Webb Close) were viability tested against the requirements of the Local Plan when the Local Plan Delivery DPD (2019) was being produced. The Local Plan Viability Study (2017) concluded that: “Each of the three residential sites [land at Ratby Lane / Desford Road, Kirby Muxloe; Webb Close, Leicester Forest East; and Grange Farm, Leicester Forest East] are shown to be deliverable, assuming affordable housing contributions of up to 25%. At this level of affordable housing, and after making appropriate allowance for other S106 contributions, and other site specific costs (as far as they can be reasonably estimated), and making an allowance for a sufficient profit (20% on open market housing, 6% on affordable housing), the residual land value is shown to be sufficient for a “willing landowner”, consistent with Paragraph 015 reference ID 10-015- 2201140306 of the NPPG Guidance on Viability states that viability should consider “competitive returns to a willing landowner and willing developer to enable development to be deliverable”.” Setting a higher affordable housing requirement in the Neighbourhood Plan than that set out in the Local Plan Core Strategy could discourage developers from seeking planning consent on the sites and undermining the deliverability of the two allocated housing sites in Leicester Forest East. Parts b), c), d) and e) of the policy duplicate Local Plan Core Strategy policies CS7 Affordable Housing and CS8 Mix of Housing and therefore conflicts with paragraph 16(f) of the NPPF (2021) that states that plans should avoid the unnecessary duplication of policies. Part f) of the policy seeks to prioritise the allocation of affordable housing to people with a local connection to the parish above similar levels of need. This applies to all sites whereas Policy CS7 Affordable Housing of the Local Plan Core Strategy sets out at part d) that affordable housing with a “local connection” is supported on Rural Exception Sites and not any site, given that affordable housing need is a District-wide issue and not limited to a single parish. In practical terms, the prioritisation of affordable housing for those with a “local connection” over those with similar levels of need contradicts the District Council’s Choice Based Lettings Allocations Policy (2020) (‘Allocations Policy’) which sets out the Council’s approach to allocating affordable housing to those with the highest priority of need and then where there is a local connection to the District (N.B. not a specific parish). As background, Councils are required by law to have policies and procedures in place for the lettings of properties. The Council’s Allocations Policy has been produced in accordance with the legal requirements of the Housing Act 1996 (Part VI), the Homelessness Act (2002), the Localism Act (2011) and the Homelessness Reduction Act (2018) (and other legislation) to

provide a framework for assessing housing need, priority and determining who will be nominated to Registered Providers for housing. The approach in the Allocations Policy recognises that there is a continuing need for affordable housing at the District level that the Council must respond to. Similarly, the Council's Local Plan policy for affordable housing is set at a District level to meet a district-wide need and only introduces a "local connection" for Rural Exception Schemes. These are proposals for 100% affordable housing on sites in rural settlements (below 3,000 population – this does not apply to Leicester Forest East) where there is a demonstrable local need that is unlikely to be met by larger schemes providing 25% affordable housing on-site. For the reasons set out above, it is considered that policy H4 Affordable Housing should be deleted in its entirety given the issues identified with the proposed policy."

97. Section 5.1.6 of the Neighbourhood Plan seeks to set out a reasoned justification for Policy H4 including reference to a housing needs survey undertaken in 2016. It is stated the proportion of social rented housing in the Neighbourhood Area is only 0.9% compared to 7.7% for Blaby District and that community consultation showed a strong demand for smaller and affordable housing, particularly starter homes. It is stated the approach adopted is in general alignment with the Supplementary Planning Document. Policy H4 seeks to establish a threshold for affordable housing requirements to commence at a scale of 11 houses rather than the 15 used in the Local Plan. This variation of threshold has not been sufficiently justified. Similarly, the 35% affordable housing requirement in part a) of Policy H4 as an uplift to the 25% requirement of Policy CS7 has not been adequately justified, in particular in terms of viability assessment.
98. Allocation of affordable housing is an administrative process that normally falls outside land use planning. The supporting text to Core Strategy Policy CS7 does refer to local connection, but this is in the context of rural exception schemes. With respect to part f) of Policy H4, Core Strategy Policy CS7 does not provide any strategic context for consideration of 'local connection' in neighbourhood plans with respect to sites that are not rural exception sites. The variation of parts c) and d) of Policy H4 from parts c) and b) of Policy CS7 has not been sufficiently justified and otherwise represents duplication. Part b) of Policy H4 duplicates part a) of Policy CS7. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *"is clearly written and unambiguous, so it is*

evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

99. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan 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. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of housing the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

Replace Policy H4 with “Development proposals that contribute to the provision of affordable homes that are suited to the needs of older people and those with disabilities will be supported.”

Policy H6: Housing Design

101. This policy seeks to establish design principles for defined residential development.
102. A representation by Severn Trent states *“Severn Trent understand the design standards need to be flexible enough to enable innovative design, whilst being strict enough to give clear direction and minimum standards for development to be built too. As detailed in our response to Policy H1, there are 3 design criteria that Severn Trent as a Water and Sewerage undertaker would like to see applied to all new development. To this effect we would recommend that Policy H6 highlights the need for development to incorporate: 1) Sustainable Drainage systems (SuDS) 2) Implement the principles of the Drainage Hierarchy 3) Incorporate water efficient design and technology. Drainage Hierarchy -The drainage hierarchy outlined the principles of where surface water should be discharged, the hierarchy is outlined within Planning Practice Guidance paragraph 80 (Reference ID: 7-080-20150323). Severn Trent request evidence that the drainage hierarchy has been followed by developers in our conversations, however by*

raising the expectation at the Neighbourhood Plan stage consideration can be incorporated into the initial site designs resulting in better continuity of surface water through development. To aid in the interpretation of this request we would recommend that the following wording is incorporated into Policy H6: All applications for new development shall demonstrate that all surface water discharges have been carried out in accordance with the principles laid out within the drainage hierarchy, in such that a discharge to the public sewerage systems are avoided, where possible. SuDS (Sustainable Drainage Systems) - Severn Trent note that Planning Policy already requires major development to incorporate SuDS through the written Ministerial Statement for Sustainable Drainage (HCWS 161) and NPPF. However current policy is very flexible on how SuDS can be incorporated into development, by incorporating appropriate references to SuDS in Policy H6, the need for developers to deliver high quality SuDS can be secured. Current Industry Best Practice for SuDS (The SuDS Manual CIRIA C753) highlights the need to consider SuDS from the outset of the design process and not to fit SuDS to the development site post layout. To aid in the delivery of this recommendation we would recommend wording to the effect of: All major developments shall ensure that Sustainable Drainage Systems (SuDS) for the management of surface water run-off are put in place unless demonstrated not to be reasonably practicable. All schemes for the inclusions of SuDS should demonstrate they have considered all four aspects of good SuDS design, Quantity, Quality, Amenity and Biodiversity, and the SuDS and development will fit into the existing landscape. The completed SuDS schemes should be accompanied by a maintenance schedule detailing maintenance boundaries, responsible parties and arrangements to ensure that the SuDS are maintained in perpetuity. Where possible, all non-major development should look to incorporate these same SuDS principles into their designs. The supporting text for the policy should also include: Sustainable Drainage Systems (SuDS) should be designed in accordance with current industry best practice, The SuDS Manual, CIRIA (C753), to ensure that the systems deliver both the surface water quantity and the wider benefits, without significantly increasing costs. Good SuDS design can be key for creating a strong sense of place and pride in the community for where they live, work and visit, making the surface water management features as much a part of the development as the buildings and roads. We would also note that as the Lead Local Flood Authority (LLFA) are the statutory consultee for the planning process in relation to surface water management that they should also be consulted on any wording regarding SuDS.”

“Water Efficiency - Water efficient design and technology is important for ensuring the sustainability of the water supply system for the future, both supporting existing customers and future development. NPPF supports the delivery of sustainable development and the Humber River Basin Management Plan promotes the use of the tighter Water Efficiency Target within Building Regulations Part G. We would recommend that this detailed with Policy H6 so that developers are aware of what is expected of them from the outset of the design process. 4 To aid with the implementation for the recommendation we have provided some example wording below: All development should demonstrate that they are water efficiency, where possible incorporating innovative water efficiency and water re-use measures, demonstrating that the estimated consumption of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator, should not exceed 110 litres/person/day.”

103. The Guidance makes it clear all new homes already have to meet the mandatory national standards for water efficiency set out in the Building Regulations. Where there is a clear need Local Planning Authorities can set out Local Plan policies requiring tighter requirements.⁵⁴ The Guidance does not include similar provision in respect of Neighbourhood Plans. Paragraph 169 of the Framework states major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Paragraph 169 sets out four requirements of sustainable drainage systems. Paragraph 16 f) of the Framework states plans should *“serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this framework, where relevant).”* 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”.* Although including the term *“where possible”*, which itself introduces uncertainty, the suggestions of Severn Trent are seeking to establish requirements. If modified as Severn Trent suggest the policy would not meet the basic conditions.

⁵⁴ Planning Practice Guidance Paragraph: 014 reference ID: 56-014-20150327 revision date 27 03 2015

104. The term *“will be expected, where possible and appropriate”* does not provide a basis for the determination of development proposals. The terms *“to provide space”*; *pleasant street scenes*; *“inclusive road linking with pedestrian shortcuts”*; *“adequate”*; and *“suitable”* are imprecise. *The terms “where possible”*; *“for example incorporating where appropriate, but not limited to”*; and *“where appropriate”* introduce uncertainty. Paragraphs 126 to 136 of the Framework establish the means to achieving well-designed places, and Paragraph 130 in particular sets out six criteria that developments should ensure. Paragraphs 124 and 125 of the Framework set out a clear approach to be adopted with respect to density of development. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

105. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

106. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 5:

Replace Policy H6 with “To be supported, housing development (including extension of existing dwellings) must:

- a) Be of a size, scale, and massing that is sympathetic to the character of surrounding development;**
- b) Be of a design and materials that enhance the character of the local area;**
- c) Not necessitate on-road parking; and**
- d) Include landscaping proposals that ensure the development integrates with its surroundings.**

Policy ENV1: Local Green Spaces

107. This policy seeks to designate the Leicester Forest East Spinney as a Local Green Space.
108. A representation by Severn Trent recommends inclusion of a statement that development of flood resilience schemes within local green spaces will be supported provided the schemes do not adversely impact the primary function of the green space. Such reference is not necessary to meet the Basic Conditions.
109. In a representation the District Council state the policy wording and policy title should reflect the fact only one LGS is proposed for designation. The District Council also consider the location map is of inadequate scale and should include a key.
110. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Space is presented on a location map on page 31 of the Neighbourhood Plan. Whilst the map can be expanded in electronic format, I am not satisfied the boundaries of the proposed Local Green Space can be satisfactorily identified in a hard copy of the Plan, and have recommended a modification in this respect so that the policy is “*unambiguous*” as required by paragraph 16d) of the Framework.
111. Decision makers must rely on paragraph 103 of the Framework that states “*Policies for managing development within a Local Green Space should be consistent with those for Green Belts*” and the part of the Framework that relates to ‘*Protecting Green Belt land*’, in particular paragraphs 147 to 151. That part of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. Policy ENV1 could be interpreted as seeking to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not.⁵⁵ I have recommended a modification so that the policy has sufficient regard for national policy.
112. Paragraph 101 of the Framework states “*The designation of land as Local Green Space through local and neighbourhood plans*

⁵⁵ *R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number: C1/2020/0812*

allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.”

113. In respect of the area proposed for designation as Local Green Space I find the Local Green Space designation is being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designation is not capable of enduring beyond the end of the plan period. The intended Local Green Space designation has regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.
114. Paragraph 102 of the Framework states *“The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.”*
115. I find that in respect of the proposed Local Green Space the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.
116. The Guidance states the Qualifying Body (Parish Council) *“should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.”*⁵⁶ The area proposed for designation as Local Green Space has been subject to extensive consultation with the local community. I have noted earlier in my report that owners of areas proposed for Local Green Space designation were contacted by the Neighbourhood Plan Advisory Committee individually by letter.
117. Part 5.2.3 of the Neighbourhood Plan explains potential Local Green spaces were identified through desk study, fieldwork, and

⁵⁶ Planning Practice Guidance Paragraph: 019 Reference ID:37-019-20140306 Revision date 06 03 2014

analysis of community consultation and questionnaire responses. Table 1 sets out the scoring system used. Table 2 presents a statement that seeks to justify the proposed designation of the Leicester Forest East Spinney as Local Green Space with reference to character, biodiversity, historic value, and use for informal recreation. Table 2 also includes a scoring of the area proposed for designation as Local Green Space in respect of nine eligibility criteria. The scoring results in a total of 25 points out of a maximum possible score of 32 with a score of at least one point against every criterion. Table 2 provides sufficient evidence for me to conclude that the area proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

118. The Leicester Forest East Spinney is also identified in Policy ENV4 as a site of high environmental significance. In a representation relating to that policy the District Council recommend the spinney is removed from Policy ENV4 on the basis it *“also identified in Policy ENV 1 as a Local Green Space for, amongst other things, its environmental importance, and is included within the biodiversity and wildlife corridor identified in Policy ENV 3.”* I have considered whether the designation as Local Green Space will result in additional local benefit if the spinney is also identified as a site of high environmental significance. The Guidance is clear that different types of designations are intended to achieve different purposes. Designation as a site of high environmental significance will ensure habitat and biodiversity issues are appropriately addressed. Designation as local green space would result in additional local benefit not least in terms of identifying a green space that is of particular importance to the local community where development proposals should be assessed in line with Green Belt policy.
119. I find that the area proposed as Local Green Space is suitable for designation and has regard for paragraphs 101 to 103 of the Framework concerned with the identification and designation of Local Green Space.
120. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
121. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable

development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities and conserving and enhancing the natural environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 6:

Replace Policy ENV1 with “The Leicester Forest East Spinney (identified on the above Location Map) is designated as a Local Green Space.”

Modify the scale of the Location Map so that it is possible to identify the precise boundaries of the LGS designation.

Modify the Policy title to “POLICY ENV 1: LOCAL GREEN SPACE”

Policy ENV2: Local Heritage Assets of Historical and Architectural Interest

122. This policy seeks to identify two buildings and structures of local historic or architectural interest and establish that development proposals affecting them or their setting will be expected to conserve their historic or architectural interest. The policy also seeks to establish a balanced approach to determination of proposals.
123. Section 5.2.5 of the Neighbourhood Plan provides information how locally valued heritage assets have been identified. The Guidance refers to advice on local lists published on Historic England's website.⁵⁷ *Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018) states “Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their suitability for addition to the local*

⁵⁷ Planning Practice Guidance Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019

planning authority's heritage list assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them." It is appropriate for a local community to use the Neighbourhood Plan preparation process to identify heritage assets that are locally valued. I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy. I have recommended the policy title and the policy text are amended to reflect the actual status of the heritage assets referred to in the policy. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.

124. As an administrative process separate from Neighbourhood Plan preparation the Parish Council may nominate locally valued heritage assets for assessment by the District Council as potential Non-Designated Heritage Assets to be included in a Locally Important Heritage Asset List. Any assets judged by the District Council to meet its published criteria may be added to that local list of Non-Designated Heritage Assets compiled and curated by the District Council. A clear statement of reasons for nomination of each heritage asset will be a critical success factor.
125. The policy refers to *"any benefits arising from a development proposal"*. Whilst Development Management Policy 12 refers to benefits in the context of non-designated heritage assets this is not a strategic policy. Core Strategy Policy CS20 states *"Proposed development should avoid harm to the significance of historic sites, buildings or areas, including their setting."* Consideration of public benefits is only referred to in the Framework with respect to proposals affecting designated heritage assets. I consider the approach most applicable to locally valued assets is that relating to non-designated heritage assets as set out in paragraph 203 of the Framework. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
126. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

127. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

Replace Policy ENV2 with “The effect of a development proposal on the significance of the locally valued heritage assets listed below should be taken into account in determining an application. In weighing applications that directly or indirectly affect a locally valued heritage asset a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- Kingstand Farmhouse
- Leicester Forest East Motorway Services”

Retitle the policy “POLICY ENV2: LOCALLY VALUED HERITAGE ASSETS”

Policy ENV3: Biodiversity and Wildlife Corridor

128. This policy seeks to establish that development proposals will be expected to safeguard locally significant habitats and species, especially those protected by relevant English and European legislation, and, where possible, to create new habitats for wildlife. The policy also seeks to establish development proposals should not damage or adversely affect the wildlife corridor identified on Figure 7.

129. The terms “*English legislation*” and “*locally significant habitats and species*” are imprecise. The terms “*will be expected to*” and “*especially*” do not provide a basis for the determination of development proposals. The approach of the policy to habitats and biodiversity does not have sufficient regard for paragraphs 179 to 182 of the Framework. Paragraph 16f) of the Framework states plans should “*serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular are (including policies in the Framework, where relevant).*” I have recommended a modification in

these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

130. In a representation the District Council state “*The policy conflicts with what has planning permission on the land and policies CS10 Transport Infrastructure and CS19 Bio-diversity and Geo-diversity of the Local Plan Core Strategy. A 4,250 home Sustainable Urban Extension (SUE) is under construction to the south of Leicester Forest East Parish called Lubbesthorpe (or marketed as New Lubbesthorpe). As part of the outline planning consent, a bus priority route is proposed through the area of land identified as a Biodiversity and Wildlife Corridor within the Neighbourhood Plan. It is not certain how development proposals should not damage or adversely affect the wildlife corridor when a bus priority corridor has planning permission through this section? Policy CS10 Transport Infrastructure of the Local Plan Core Strategy states that: “In order to maximise modal shift, safe, sustainable and accessible transport modes (including walking, cycling and public transport) will be promoted. This will be achieved by providing new routes for pedestrians, cyclists and public transport (as part of new development proposals) and enhancing existing facilities. This will be particularly important in the design and development of the proposed SUE west of Leicester.” (i.e., the Lubbesthorpe SUE) and: “Transport infrastructure requirements include, but are not restricted to the following: ... a ‘public transport’ walking and cycling link from the development site to the A47 (along Baines Lane)”. The proposed policy would effectively sterilise development in this area, even though it has outline planning permission for a bus priority corridor which is required to provide a new public transport route for the development in accordance with policy CS10 Transport Infrastructure of the Local Plan Core Strategy. 6 The policy is not worded in conformity with the Local Plan Core Strategy policy for biodiversity. Policy CS19 Bio-diversity and geo-diversity states that: “The Council will seek to maintain / extend networks of natural habitats to link sites of biodiversity importance by avoiding or repairing the fragmentation and isolation of natural habitats. These networks should be protected from development. Where development in these areas cannot be avoided, the networks of natural habitats should be strengthened by or integrated within the development.”. It is important to recognise that there is flexibility in the final sentence where it is acknowledged that, in some instances, development may be unavoidable and so the network or natural habitats should be strengthened or integrated within the*

development. The Neighbourhood Plan policy, as written, infers that development should not take place if it damages or adversely affects the wildlife corridor. It is considered that the policy could be modified to be in conformity with the strategic transport and biodiversity policies of the Local Plan by referring to the Local Plan policy: “Development proposals affecting the wildlife corridor identified on Figure 7 – Proposed Wildlife Corridor should be considered in accordance with policy CS19 Bio-diversity and Geo-diversity of the Blaby District Council Local Plan (Core Strategy) Development Plan Document (2013).” I have recommended a modification in these respects so that the policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies. Policy ENV3 will be considered when development proposals are being determined and is not relevant to development already approved.

131. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 8:

Replace Policy ENV3 with “Development proposals affecting the wildlife corridor identified on Figure 7 – Proposed Wildlife Corridor should be considered in accordance with Policy CS19 Bio-diversity and Geo-diversity of the Blaby District Council Local Plan (Core Strategy) Development Plan Document (2013).”

Policy ENV4: Sites of High Environmental Significance

132. This policy seeks to establish that development proposals should take note of, and be expected to protect, identified features of two sites of high environmental significance.
133. In a representation the District Council state “*the policy proposes the protection of two green spaces: the Leicester Forest East*

Spinney and a flood relief basin located off Forest House Lane. The Leicester Forest East Spinney green space is also identified in Policy ENV 1 as a Local Green Space for, amongst other things, its environmental importance, and is included within the biodiversity and wildlife corridor identified in Policy ENV 3. Therefore, a second policy covering the same site is superfluous. It is recommended that the Leicester Forest East Spinney site is removed from Policy ENV 4 and for the flood relief basin to be retained in the Policy. This would have no material impact on the proposed protection for the Leicester Forest East Spinney site given that it is also proposed to be designated as a Local Green Space and identified as being within a wider biodiversity and wildlife corridor.” The Leicester Forest East Spinney is also proposed for designation as a Local Green Space in Policy ENV1 as a site of high environmental significance. I have, earlier in my report, considered whether the designation as Local Green Space will result in additional local benefit if the spinney is also identified as a site of high environmental significance. The Guidance is clear that different types of designations are intended to achieve different purposes. I have concluded designation as local green space would result in local benefit not least in terms of identifying a green space that is of particular importance to the local community where development proposals should be assessed in line with Green Belt policy. Designation as a site of high environmental significance will ensure habitat and biodiversity issues are appropriately addressed. I am satisfied the two designations serve different purposes and are compatible.

134. A representation by Severn Trent states *“Severn Trent would only support the allocation of a Flood Relief Basin within the classification of High Environmental Significance provided the allocation will not adversely impact the performance of the Flood Relief Basin for flood relief i.e., the relevant body can carry out maintenance without additional adverse restrictions.”* I am satisfied the policy as recommended to be modified will not necessitate an adverse impact on the performance of the Flood Relief Basin for flood relief.

135. Paragraph 180a) of the Framework states *“if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.”* The second sentence of the policy is a statement that provides no guidance to parties preparing development schemes nor to decision makers in determining development

proposals. The terms “*should take note of*” and “*will be expected to*” do not provide a basis for the determination of proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

136. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

137. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 9:

Replace Policy ENV4 with “To be supported, development proposals affecting the Leicester Forest East Spinney and the Flood Relief Basin, identified on Figure 8, must demonstrate any significant harm to biodiversity that cannot be avoided (through locating to an alternative site with less harmful impacts) is adequately mitigated, or as a last resort, compensated for.”

Policy CF1: The Retention of Community Facilities and Amenities

138. This policy seeks to establish criteria for support of development leading to the loss of identified community facilities and amenities.

139. In a representation the District Council state “*Parts of the policy duplicates two strategic Local Plan policies and requires refinement and clarification. Firstly, sub-section b) of the policy states that development proposals must demonstrate that existing community facilities are no longer economically viable. However, the District Council has concerns how economic viability is to be demonstrated by the developers without the policy explicitly requesting an independent*

viability assessment and setting the parameters for such an assessment. 7 Secondly, there are two strategic policies contained in the Local Plan that protect community facilities and open spaces. Policy CS13 Retailing and other town centre uses of the Local Plan Core Strategy states that: “This Council will seek to protect important local community facilities, such as pubs and community halls, from being lost through redevelopment. Where a proposal for the redevelopment of a local community facility is submitted, the Council will expect supporting evidence to justify its loss.” The policy is not ‘closed’; the planning officer could identify a building that is not a pub or community hall as an important local community facility and so request supporting information to justify its loss as part of determining an application. The Council’s strategic open space policy was updated in the Local Plan Delivery DPD in 2019 and is called Updated Core Strategy Policy CS15 Open Space, Sport and Recreation. The policy was updated to incorporate new accessibility standards for open space, sport and recreation facilities. The second half of the policy informs the decision-maker on how to protect existing open space, sport and recreation facilities and when their loss, in total or in part, could be warranted. The full policy is available to view on the Council’s website in the Local Plan Delivery DPD, but the relevant section relating to the protection of assets is copied below for reference: “Existing open space, sport and recreation facilities will be protected, and where possible enhanced. Where development is proposed on existing open space, sport and recreation facilities, land should not be released, either in total or in part unless it can be demonstrated that: (i) It is surplus to requirements for its current play and open space function; and, (ii) It is not needed for another type of open space, sport and recreation facility; or, (iii) Alternative provision of equivalent quality, quantity and accessibility, or better, can be provided in the local area. The Neighbourhood Plan policy proposes the protection of at least 18 assets. One of the assets is vague: “chemists next to medical centres” and requires clarification. Eight of the assets are already protected by strategic policies within the Local Plan and therefore duplicate the Local Plan. It is recommended that these are removed from the policy to avoid confusion with the Local Plan policies. Below is a table to show the assets identified in policy CF1 that are identified for protection under similar terms in the Local Plan.” The Table referred to listed 8 community facilities or amenities and indicated the relevant Local Plan policy as follows:

- St Andrews Church CS13
- Beacon Life Church CS13

- *Kingdom Hall of Jehovah’s Witness Assembly CS13*
- *Community Library CS13*
- *Children’s play area Kings Drive UCS15*
- *Parish Hall CS13 UCS15*
- *Forest Park Inn Pub CS13*
- *Forest East Park UCS15*

140. I agree with the District Council that Policy CF1 requires modification in terms of its relationship with *Updated Core Strategy Policy CS15 Open Space, Sport and Recreation* in order to remove duplication and remove variation from strategic policy where this has not been sufficiently justified. Core Strategy Policy CS13 includes *“This Council will seek to protect important local community facilities, such as pubs and community halls, from being lost through redevelopment. Where a proposal for the redevelopment of a local community facility is submitted, the Council will expect supporting evidence to justify its loss.”* I am satisfied Policy CF1 provides an additional level of detail to the strategic policy by identifying important local community facilities and by setting out criteria for support of loss of a community facility. I agree with the District Council that the term *“chemists next to medical centres”* is imprecise. In response to my request for clarification the Parish and District Councils confirmed that the Policy should refer to the Boots shop next to Forest Medical Centre on Braunstone Lane, and Lloyds Pharmacy on Warren Lane. I have recommended this detail is included in the Policy. I also agree with the District Council that part b) of the policy is insufficiently developed to be operative so I have recommended reference to a viability assessment, or marketing evidence over a minimum six-month period. I consider a period of six months in this respect reasonably balances the interests of the community with those of property owners. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

141. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

142. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 10:

In Policy CF1

- **in part b) after “viable” insert “through submission of a viability assessment, or submission of marketing evidence relating to a period of no less than six months”**
- **delete**
 - **Children’s play area Kings Drive**
 - **Forest East Park**
- **replace “Chemists next to medical centres” with “Boots next to Forest Medical Centre on Braunstone Lane, and Lloyds Pharmacy on Warren Lane”**
- **continue the policy with “Loss of all, or part of, the children’s play area Kings Drive; Forest East Park; or the outdoor recreation facilities at the Parish Hall site will only be supported when proposals are in accordance with Updated Core Strategy Policy CS15 Open Space, Sport and Recreation of the Blaby District Council Local Plan (Delivery) Development Plan Document (2019)”**

Policy CF2: New or Improved Community Facilities

143. This policy seeks to establish conditional support for proposals that improve the quality and/or range of community facilities.
144. Paragraph 93 of the Framework states planning policies should plan positively for the provision of community facilities.
145. The terms “*unacceptable traffic movements*” and “*cannot be adequately catered for*” do not provide a basis for the determination of development proposals. The comma after “*facilities*” is confusing and unnecessary. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should*”

react to development proposals” as required by paragraph 16d) of the Framework.

146. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

147. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 11:

In Policy CF2

- **delete the comma after “facilities”**
- **delete “unacceptable traffic movements or other”**
- **replace “a need for parking that cannot be adequately catered for” with “additional on-road parking”**

Policy BE1: Support for Existing Employment Opportunities

148. This policy seeks to establish criteria for support of changes of use that result in loss of employment opportunities.

149. In a representation the District Council state *“Further clarification is requested for what is an “employment opportunity”. The Local Plan policy for protecting employment land is CS6 Employment which has the following strategic objective: “To provide the appropriate quantity, quality and mix of employment opportunities to meet the needs of the District’s current and future populations, and to meet strategic employment, education and training needs.” The strategic policy and its explanatory text refers to Use Class B employment uses. The policy seeks to protect key employment sites from non-employment uses unless three criteria are complied with. There are no “key” employment sites within the parish (as identified in the Council’s Local Plan evidence base: Blaby District: Assessment of Key Employment Sites study, 2016, produced by PACEC, Lambert Smith Hampton and*

Warwick Business Management Ltd) and therefore the neighbourhood plan policy does not seem to be adequately justified and may result in the protection of employment units that are not suitable to be retained in a predominantly residential area. Should the Parish wish to protect commercial business premises (covering a wider range of uses than conventional B-class uses) then it is requested that this is clarified within the policy by specific reference to the use class system or types of building, e.g., offices, industrial units, retail units, etc. Without this additional information, the policy is not clearly written and unambiguous and so is in conflict with paragraph 16(d) of the NPPF (2021).

150. Paragraph 81 of the Framework states planning policies should help create the conditions in which businesses can invest, expand and adapt. Paragraph 122 of the Framework states planning policies need to reflect changes in the demand for land and specifies circumstances for reallocation of land for a more deliverable use. The first sentence of the policy is a statement rather than an operative policy. The term “*employment opportunities*” is imprecise and does not provide a basis for the determination of development proposals. The strength of a presumption cannot be reflected in determination of a development proposal. As a point of clarification, I invited comment from the Parish and District Councils on my proposed modification which was agreed. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
151. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
152. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy and making effective use of land the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 12:

In Policy BE1 replace the words before criteria a) and b) with “Development proposals that will result in the loss of buildings or sites used for industrial processes; storage and distribution; offices; or for research and development of products or processes will only be supported if it is demonstrated:”

Policy BE2: Support for New Employment Opportunities

153. This policy seeks to establish criteria for support of new development resulting in new employment opportunities. The policy also identifies two types of employment development that will be supported.
154. In a representation the District Council state *“This policy is also ambiguous in not clearly defining what is an “employment opportunity” (see comments made against Policy BE1).”*
155. The terms *“employment opportunities” “unacceptably disturb”; “light pollution”; “unacceptable levels of traffic movements”; “positively contribute to the character”; “well integrated into”; “complement existing businesses”; and “small-scale”* are imprecise and do not provide a basis for the determination of development proposals. Paragraph 84 of the Framework states planning policies should enable the sustainable growth and expansion of all types of business in rural areas. Paragraph 85 of the Framework states the use of previously developed land should be encouraged where suitable opportunities exist. It is unnecessary and confusing to state *“across the Parish”* and *“within the neighbourhood plan area”* as all of the policies apply throughout the plan area unless a smaller area is specified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
156. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
157. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 13:

Replace Policy BE2 with “Development proposals for new or extended business premises will be supported if:

- a) Previously developed land is used where suitable opportunities exist; and**
- b) Residential amenity will not be significantly adversely affected by light spillage, or noise or other nuisance or disturbance including from traffic movements.”**

Policy BE3: Working from Home

158. This policy seeks to establish criteria for support of proposals for working from home.

159. Paragraph 82 of the Framework states plans should be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation). The terms “*small-scale*”; “*unacceptable*”; and “*appropriate*”; “*light pollution*”; and “*of any such extension, outbuilding etc is to remain*” are imprecise and do not provide a basis for the determination of development proposals. The inclusion of the term “reasonably incidental to” will assist interpretation of part d) of the policy.⁵⁸ The duplication of reference to being subservient is confusing. It is unnecessary and confusing to refer to one other policy of the Neighbourhood Plan as all of the policies apply throughout the plan area unless a smaller area is specified. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

⁵⁸ R on the Application of Sage v Secretary of State for Housing, Communities and Local Government. Case Number: CO/998/2021 judgement 28 October 2021

160. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

161. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 14:

In Policy BE3

- **delete “where the development is small-scale (subservient to the residential dwelling) and”**
- **replace part a) with “It will not result in additional on-road parking; and”**
- **in part b) replace “pollution” with “spillage, traffic movements,”**
- **replace part c) with “Any new extension or outbuilding must complement the character and materials of, and be subservient in height and scale to, the existing dwelling; and”**
- **in part d) replace “of any such extension, outbuilding etc is to” with “must”, and after “ancillary to” insert “, or reasonably incidental to,”**

Policy BE4: Broadband Infrastructure

162. This policy seeks to establish support for proposals to provide improved access to super-fast broadband and improved mobile telecommunications networks. The policy supports new structures linked to mobile telecommunication improvements provided they are sympathetic to the local environment.

163. Paragraph 114 of the Framework states planning policies should support the expansion of electronic communication networks. The reference to serving “*businesses and other properties within the*

Parish” is inappropriate and does not provide a basis for the determination of proposals. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

164. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

165. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with supporting high quality communications the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 15:

In Policy BE4 delete “that will serve businesses and other properties within the Parish”

Policy T1: Transport Requirements for New Developments

166. This policy seeks to establish transport requirements for new development.

167. In a representation the District Council state *“This policy repeats Policy CS10 Transport Infrastructure of the Local Plan Core Strategy and the NPPF 2021. Part a paraphrases paragraph 111 of the NPPF 2021 and so duplicates national guidance. Parts b, c, e, and f are contained in Policy CS10. Part d (rights of way) is a Highways matter and there are legal requirements in the Town and Country Planning Act 1990 to consider public rights of way when constructing a development. This policy should be deleted.”*

168. I agree with the District Council comments that Policy T1 duplicates national and strategic policy and that statutory provisions apply in the case of development affecting public rights of way.

Paragraph 16 f) of the Framework states plans should “*serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this /framework, where relevant).*”

I have recommended Policy T1 is deleted.

Recommended modification 16:

Delete Policy T1

Conclusion and Referendum

169. I have recommended 16 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

170. I am satisfied that the Neighbourhood Plan⁵⁹:

- 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 compatible with EU obligations if modified in accordance with my recommendations; and

⁵⁹ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.⁶⁰

I recommend to Blaby District Council that the Leicester Forest East Parish Neighbourhood Development Plan for the plan period up to 2029 should, subject to the modifications I have recommended, be submitted to referendum.

In so far as the modifications I have recommended have implications for the Strategic Environmental Assessment of the Neighbourhood Plan the District 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.

171. 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.⁶¹ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁶². 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 Blaby District Council as a Neighbourhood Area on 27 May 2016.

Annex: Minor Corrections to the Neighbourhood Plan

172. A number of consequential modifications to the general text, and in particular the reasoned justification and other general text of policies sections, of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies. Reasoned justification and other supporting text must not introduce any element of policy that is not contained within the Neighbourhood Plan policies.

⁶⁰ This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

⁶¹ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁶² Planning Practice Guidance Reference ID: 41-059-20140306

173. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁶³ I recommend minor change only in so far as it is necessary to correct an error, or where it is necessary so that the Neighbourhood Plan provides a practical framework which makes it evident how a decision maker should react to development proposals as required by paragraph 16 of the Framework. The following corrections are necessary:

- In section 1.2 replace “Accountable” with “Qualifying”
- The renumbering of Policies should also correct the error that Policy H5 does not exist

Recommended modification 17:

Modify general text, figures or images to achieve consistency with the modified policies, to correct identified errors, and so it is evident how a decision maker should react to development proposals

174. The District Council state “*The structure could be improved through the addition of:*

- *A parish-wide Policies Map and a key to the map*
- *The inclusion of the Neighbourhood Plan policies in the Contents list*
- *Paragraph numbers”*

Whilst I would have no objection to these changes, I am unable to recommend modifications in these respects as they are not necessary to meet the Basic Conditions and other requirements that I have identified.

175. The District Council also states the figures / inset maps provided in the document are small and illegible. In my recommended modification in respect of Policy ENV1 I have stated the scale of the Location Map should be modified so that it is possible to identify the precise boundaries of the LGS designation. Whilst some of the figures and inset maps are small in scale, I regard them as being adequate for purpose.

Chris Collison
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12 November 2021
REPORT ENDS

⁶³ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990