

Alwoodley Parish Council

Alwoodley Neighbourhood Development Plan

A report to Leeds City Council of the Independent Examination
of the Alwoodley Neighbourhood Development Plan

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Overall Finding

This is the report of the Independent Examination of the Alwoodley Neighbourhood Development Plan. The plan area is the entire civil Parish of Alwoodley within Leeds City. The plan period is 2017-2028. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for development.

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

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”¹
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Alwoodley Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Alwoodley Parish Council (the Parish Council), a qualifying body able to prepare a neighbourhood plan, in respect of the Alwoodley Neighbourhood Area which was formally designated by Leeds City Council (the City Council) on 24 February 2014. The Neighbourhood Plan has been produced by a Neighbourhood Plan Steering Group (the Steering Group), made up of Parish Councillors and local volunteers, on behalf of the Parish Council.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to the City Council. The City Council arranged a six-week period of publication between 16 October and 27 November 2017. The City Council has submitted the Neighbourhood Plan to me for independent examination.

¹ Paragraph 183 National Planning Policy Framework (2012)

Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.² The report makes recommendations to the City Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The City Council will decide what action to take in response to the recommendations in this report.
6. The City Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and the decision taken to put the plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by the City Council. If 'made' the Neighbourhood Plan will come into force as part of the Development Plan for the neighbourhood area, and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area. The Housing and Planning Act requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan. 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 granted³.
8. I have been appointed by the City Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the City 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

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

³ Paragraph 198 National Planning Policy Framework 2012

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

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

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

10. I make my recommendation in this respect and in respect to any extension to the referendum area,⁴ 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.⁵

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁶ The National Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.*”

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

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

⁵ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

⁶ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

Basic Conditions and other statutory requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.⁷ A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.⁸

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁹ All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan policies’.

15. In addition to the Basic Conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.¹⁰ 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.

⁷ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

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

⁹ The Convention rights has the same meaning as in the Human Rights Act 1998

¹⁰ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

16. The Neighbourhood Plan relates to the area that was designated by the City Council as a neighbourhood area on 24 February 2014. A map of the Neighbourhood Plan boundary is included as Map 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Alwoodley parish boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹¹ and no other neighbourhood development plan has been made for the neighbourhood area.¹² 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;¹³ and the Neighbourhood Plan does not include provision about excluded development.¹⁴ 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.¹⁵ The front cover of the Submission Version Plan clearly states the plan period to be 2017-2028.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.¹⁶ 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,

¹¹ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹² Section 38B (2) Planning and Compulsory Purchase Act 2004

¹³ Section 38A (2) Planning and Compulsory Purchase Act 2004

¹⁴ Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

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

¹⁶ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

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

21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.¹⁷

Documents

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

- Alwoodley Parish Neighbourhood Plan 2017-2028 Submission Draft August 2017 (including Appendices 1-5)
- Map of Alwoodley Parish
- Alwoodley Neighbourhood Plan Basic Conditions Statement 24 February 2017
- Alwoodley Neighbourhood Plan Consultation Statement December 2016
- Draft Alwoodley Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report July 2017
- Representations received during the Regulation 16 publicity period
- Leeds Core Strategy adopted 12 November 2014
- Leeds City Council Draft Site Allocations Development Plan Document – Submission Draft Plan submitted to the Secretary of State 5 May 2017
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]

¹⁷ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Permitted development rights for householders' technical guidance DCLG (April 2017) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource DCLG (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016

Consultation

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

25. The plan preparation process began in July 2013 when a group of interested residents met with members of the Parish Council. This meeting led to the establishment of the Steering Group comprising local residents and Parish Councillors which has overseen the work of volunteers preparing the plan. A wide range of mechanisms have been used to enable interested parties to be informed about plan preparation as it has progressed including: use of the Parish Council website and noticeboards; use of local free press; through the annual

Parish Meetings, an open day, and other meetings; and newsletters, leaflets, and a questionnaire delivered to all households, businesses, and organisations within the parish and some interested parties outside the parish.

26. Pre-submission consultation in accordance with Regulation 14 was undertaken in the period between 4 July and 31 August 2016 and included an open day and consultation with statutory organisations. Comments were submitted by 50 individuals and organisations. The observations made are comprehensively presented as Appendix D within the Consultation Statement where responses, and amendments to the Neighbourhood Plan, are set out. The suggestions have been reflected in a number of changes to the Plan that was approved by the Parish Council for submission to the City Council.
27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 16 October and 27 November 2017. Representations from nine different parties were submitted during the publicity period.
28. The Coal Authority has confirmed it has no specific comments on the Neighbourhood Plan. The representations of the National Farmers' Union and of Historic England do not necessitate any modification of the Plan to meet the Basic Conditions. A resident supports the Plan and comments they hope the proposed development near Alwoodley Gates is never built on the basis that traffic generated would cause gridlock. The representation also questions whether that site is needed and states the purpose of the Green Belt was to prevent urban sprawl. The Neighbourhood Plan does not propose development near Alwoodley Gates nor in any other location. Another resident considers the description of bus services in the parish paints too rosy a picture. The representation makes a number of suggestions regarding park and ride facilities and speed limits and welcomes the new Tesco Express development. A further resident expresses concerns regarding a recent decision to approve the demolition of Eden House; racing and speeding cars along Alwoodley Lane; and overdevelopment/extension of homes. In this latter respect the resident states developers should be made aware of a restrictive covenant requiring houses on the north side of Alwoodley Lane to be built for single family occupancy only. These representations of residents do not necessitate any modification of the Neighbourhood Plan in order to meet the Basic Conditions.

29. In preparing this report I have taken into consideration all of the representations submitted during the Regulation 16 period even though they may not be referred to in whole, or in part. Where appropriate I refer to those representations that relate to policies of the Neighbourhood Plan in the later section of my report relating to the Plan policies.
30. 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.¹⁸
31. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

32. 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

¹⁸ Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

this. In considering all of these matters I have referred to the background and supporting documents and copies of the representations provided to me.

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

33. The Basic Conditions Statement states “*the Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act.*” I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).¹⁹ I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention.

34. No analysis has been undertaken to establish the impact the objectives and policies of the Neighbourhood Plan will have on persons with protected characteristics (as identified in the Equality Act 2010). From my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

35. The objective of EU Directive 2001/42²⁰ 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’²¹ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²²

¹⁹ 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.

²⁰ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

²¹ Defined in Article 2(a) of Directive 2001/42

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

36. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council to submit to the City Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required. The City Council issued a Screening Report in July 2017 concluding with the opinion that *“it is considered that it is unlikely that any significant environmental effects will arise as a result of the Alwoodley Neighbourhood Plan”* and that a Strategic Environmental Assessment (SEA) is not required. The Screening Opinion was underpinned by the opinions of the three statutory bodies (the Environment Agency, Natural England, and English Heritage) and *“the three statutory bodies agreed with this opinion”*. I am satisfied that the requirements in respect of Strategic Environmental Assessment have been met.
37. The Screening Report prepared by the City Council in July 2017 stated in respect of the Habitats Directive that *“It is therefore considered that the ANP is not likely to cause a significant effect, alone or in combination, on any European site.”* The Screening Opinion confirms that Natural England have been consulted and agree with this conclusion.
38. I have not seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site. 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.
39. I conclude that the Neighbourhood Plan:
- is compatible with the Convention rights
 - does not breach, and is otherwise compatible with, EU obligations
 - is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects
40. 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 City Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).²³

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

41. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans²⁴ which requires plans to be “*consistent with national policy*”.

42. Lord Goldsmith has provided guidance²⁵ 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.*”

43. The Basic Conditions Statement includes Table 1 which I am satisfied demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.

44. The Neighbourhood Plan includes a positive vision for Alwoodley Parish. This includes the statement “*improving the facilities, safety and health of those living and working here*”. The vision includes an economic component “*enables farming and associated land based activities to continue*”. Reference is also made to social factors through

²³ National Planning Practice Guidance paragraph 080 Reference ID: 41-080-20150209

²⁴ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

²⁵ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord’s Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

reference to leisure opportunities and the statements “*improving the facilities*” and “*enabling residents to live in the parish throughout their lives*”. The vision also includes environmental considerations including the protection of “*the character of the parish*” and refers to remaining “*bounded by countryside to the north and west*” and to “*wildlife and biodiversity*”. These statements are consistent with the underlying principles of the Framework, specifically, the need to jointly and simultaneously seek economic, social and environmental gains through the planning system.

45. The vision is supported by seven objectives of the Neighbourhood Plan which are stated to ‘flow’ from the vision and provide a link to the policies of the plan. These objectives relate to protection and enhancement of the countryside; the scale and nature of development; the meeting of housing needs; the management of traffic and safety of pedestrians and cyclists; provision, safeguarding and improvement of community facilities; maintaining provision of varied shopping and services; and encouragement of healthy lifestyles. The objectives and policies of the Neighbourhood Plan are linked through identification of five key themes namely: countryside and the natural environment; the built environment; community and recreation facilities; economy and business; and housing. A representation states that the vision should include a commitment to protection of the local character and distinctiveness of Alwoodley and that objective 2 is particularly important in this respect. Another representation seeks to emphasise concerns regarding: the raising of ridge heights; the unsatisfactory nature of underground parking provision; and regarding demolition of homes to enable development of flats or houses in multiple occupation. No recommendation of modification of the vision or objectives of the Neighbourhood Plan in these respects is necessary to meet the Basic Conditions.

46. The Neighbourhood Plan includes a “*Priority projects and aspirations*” section. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on matters considered important in the local community. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The Guidance states, “*Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements.*” The

acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning is consistent with this guidance and represents good practice. The Guidance states, *“Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”* I consider the approach adopted in the Neighbourhood Plan of identifying issues raised, and stating how those concerns might be addressed, is wholly appropriate. Having regard for the Guidance I recommend a modification so that Section 4 of the Neighbourhood Plan is retitled as an Appendix to the plan.

**Recommended modification 1:
Retitle Section 4 of the Neighbourhood Plan as an Appendix**

47. 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.”*

48. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.²⁶ 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*

²⁶ Paragraph 14 National Planning Policy Framework 2012

*evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*²⁷.

49. 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.

50. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Table 3 in Section 5 of the Basic Conditions Statement confirms the nature of the alignment of each of the Neighbourhood Plan policies with the aims of the Framework for each dimension of sustainability. Every policy is judged to be either very positive or positive in respect of at least one dimension of sustainability.

51. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate quality; will enhance social and economic facilities; and will protect important environmental features. In particular, I consider the Neighbourhood Plan seeks to:

- Enhance woodlands and seek additional street trees;
- Enhance countryside character;
- Designate 16 Local Green Spaces and guard against loss of other green spaces;
- Establish design principles for new development;
- Ensure appropriate levels of off-street parking provision, and promote public transport use and active travel;
- Protect and improve community facilities and support new sport and recreation facilities;
- Ensure continuing provision of retail outlets and residential accommodation above shops;

²⁷ National Planning Practice Guidance (Ref ID:41-072-20140306)

- Support new business development including farm diversification;
- Ensure housing developments respond to local need and reflect local character;
- Establish design requirements and conditions to apply should Site HG2-36 be allocated, by the City Council, for development.

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

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

53. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.²⁸ “*Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies*”.²⁹

54. 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.*”³⁰

55. 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 City Council has confirmed that the Development Plan

²⁸ Paragraph 16 National Planning Policy Framework 2012

²⁹ Paragraph 184 National Planning Policy Framework 2012

³⁰ National Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

applying in the Alwoodley neighbourhood area and relevant to the Neighbourhood Plan is the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and the Leeds Policies Map. The City Council considers all of the policies of the Core Strategy are strategic for the purposes of neighbourhood plan preparation.

56. The City Council is preparing a Site Allocations Plan. The Site Allocations Plan Submission Draft is currently subject to examination. This emerging plan document does not currently form part of the Development Plan for the area.

57. 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.*”³¹ 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.

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

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.*”³²

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

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

³² National Planning Practice Guidance (ID ref: 41-074 201 40306)

59. 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

60. The Neighbourhood Plan includes 13 policies. I have here repeated the policy titles as they appear in the Plan contents page. The policies are as follows:

Policy CNE1: Protecting and enhancing woodlands

Policy CNE2: Street Trees

Policy CNE3: Respecting and enhancing countryside character

Policy BE1: Local Green Spaces

Policy BE2: Green spaces within residential areas

Policy BE3: Local character and design

Policy BE4: Reducing on-street congestion

Policy CRF1: Protecting and improving existing community facilities

Policy CRF2: Sport and recreational facilities

Policy EB1: Neighbourhood shopping centres

Policy EB2: Support for small business

Policy H1: Responding to local needs

Policy H2: Design of new housing developments: Site HG2-36

61. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of*

development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.” “Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”³³

62. 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.”³⁴*

63. *“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”.*³⁵

64. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”³⁶*

65. 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.

³³ Paragraphs 184 and 185 National Planning Policy Framework 2012

³⁴ National Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306

³⁵ National Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

³⁶ National Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20140306

Policy CNE1: Protecting and enhancing woodlands

66. This policy seeks the retention, management, and protection of woodland at Adel Woods, Alwoodley Moss, Eccup Whin, and Lineham Farm. The policy also seeks to establish conditional support for development proposals that assist the sustainability of these woodlands or which help to create new areas of publically accessible woodland.
67. Planning policy cannot extend to the control of the management of woodland. The term “*multiple benefits*” is imprecise. A policy should be self-contained. It is unnecessary and confusing for one policy to refer to “*other policies in the Plan*” as the Neighbourhood Plan should be read as a whole. The terms “*that assist in the sustainability of these woodlands*” and “*normal town planning considerations*” are imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
68. The Framework states development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland should be refused unless the need for, and benefits of, the development in that location clearly outweigh the loss. I have recommended a modification so that the policy has regard for national policy.
69. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and provides an additional level of detail or distinct local approach to that set out in Spatial Policy 13, and Strategic Policies G1 and G2. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 2: In Policy CNE1

- delete “, managed”

- delete “multiple” and insert “landscape and recreational amenity”
- after “provide” insert “unless it is clearly demonstrated that the need for and benefits of development in those locations clearly outweigh the loss”
- delete “assist in the sustainability of” and insert “conserve or enhance biodiversity in”
- delete “subject to other policies in the Plan and to normal town planning considerations”

Policy CNE2: Street Trees

70. This policy seeks to establish that development proposals should integrate street trees, and seeks to discourage loss of street trees on Alwoodley Lane, Primley Avenue, Harrogate Road, and Primley Park Road. Like for like replacement is required where loss cannot be avoided.

71. The term “*discouraged*” does not provide a basis for decision making on planning proposals. I have recommended use of the term “not be supported”. The terms “*seek to*” and “*wherever practicable*” are imprecise policy components. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

72. The Framework states development resulting in the loss of aged or veteran trees found outside ancient woodland should be refused unless the need for, and benefits of, the development in that location clearly outweigh the loss. I have recommended a modification so that the policy has regard for national policy.

73. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and provides an additional level of detail or distinct local approach to that set out in Spatial Policy 13, and Strategic Policies G1 and G2. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the

Framework concerned with requiring good design, and conserving and enhancing the natural environment. Subject to the proposed modification this policy meets the Basic Conditions.

**Recommended modification 3:
In Policy CNE2**

- **replace a) with “Development proposals should include street trees and other green infrastructure within and adjacent to highways, or demonstrate this would not be practicable.”**
- **delete “results” and insert “result”**
- **in b) delete all text after “Primley Park Road will” and insert “not be supported unless it is clearly demonstrated that the need for and benefits of the development in that location clearly outweigh the loss, and that replacement of felled trees will be made on a like for like basis with the same species or similar.”**

Policy CNE3: Respecting and enhancing countryside character

74. This policy seeks to establish that development proposals should respect and enhance the characteristics of countryside in the Green Belt north of the built-up area and sets out four ways this could be achieved.

75. The terms “*acceptable*” and “*respecting*” and “*not interrupting*” are imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

76. The policy seeks to reinforce local distinctiveness whilst avoiding unnecessary prescription referred to in paragraphs 60 and 59 of the Framework. Protected views must be from publically accessible locations as planning policy must relate to the public interest.

77. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and provides an additional level of detail or distinct local approach to that set out in Strategic Policies P10 and P12. The policy seeks to shape and direct sustainable development to ensure that

local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design, and conserving and enhancing the natural environment. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy CNE3

- **in a) delete “acceptable substitutes” and insert “alternatives with a similar appearance”**
- **in b) delete “Respecting” and insert “Reflecting the defining characteristics of”**
- **replace c) with “Utilising Yorkshire gritstone walls or other boundary treatments commonly found in the plan area;”**
- **in d) delete “interrupting” and insert “significantly adversely affecting”, and after “landscape” insert “when viewed from locations that are freely accessible to members of the general public”**

Policy BE1: Local Green Spaces

78. This policy seeks to designate 16 Local Green Spaces. A representation states that Sandmoor Golf course should be added to the list. It is not within my remit to recommend modification of the Plan to include the designation of an additional Local Green Space.

79. At the fact checking stage of the preparation of my report the Parish Council, through the City Council, has advised that Policy BE1 should have included an additional Local Green Space proposal in respect of “Adel Woods (part) – LCC ref G18”. Regulation 16 publicity has been undertaken in respect of the Submission Neighbourhood Plan in which Policy BE1 does not include Adel Woods (part). Appendix 2 does list Adel Woods (part), however, the purpose of Appendix 2 is to provide evidence to support Policy BE1. Appendix 2 is subservient to Policy BE1. 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.³⁷ Whilst I am able to recommend modification of the Neighbourhood Plan in order to correct errors³⁸ I consider a modification to designate an additional area of

³⁷ Section 38B (3) The Planning and Compulsory Purchase Act 2004 as amended by Schedule 9 of the Localism Act 2011

³⁸ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

land as Local Green Space represents a significant change to the Submission Plan, that has not been subject to Regulation 16 publicity, and would be beyond my role to determine whether or not the Neighbourhood Plan meets the basic conditions and other requirements I have identified. If I had decided to recommend Adel Woods (part) should be included in the list of areas of land to be designated as Local Green Space in Policy BE1 then I would have had to assess Adel Woods (part) against the criteria for designation set out in the Framework, and in particular whether a proposed designation of 48.28 hectares of land is “*not an extensive tract of land*”.³⁹ In recommending Adel Woods (Part) site reference G18 should be deleted from Appendix 2 - Local Green Space assessment I am mindful of the fact Adel Woods is subject to Policy CNE1 of the Neighbourhood Plan; is located within Green Belt; and is identified for protection in the emerging Leeds City Council Draft Site Allocations Development Plan Document – Submission Draft Plan submitted to the Secretary of State 5 May 2017.

80. The wording of the policy does not reflect the terms of the designation of Local Green Spaces set out in paragraph 76 of the Framework where it is stated communities will be able to rule out development other than in very special circumstances. It is not appropriate for the Policy to seek to establish an alternative description of the designation. I have recommended a modification in this respect.

81. The Framework states “*Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.*”

82. 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

³⁹ Paragraph 77 of the National Planning Policy Framework 2012

achieved. The proposed Local Green Spaces are presented on Map 4 in the Neighbourhood Plan at a scale that is insufficient to identify the precise boundaries of each Local Green Space proposed for designation. Normally this would be a fatal flaw such that the designations should not proceed at this time as consultation has been undertaken on an imprecise basis. However, both Map 4 and Appendix 2 include Leeds City Council site reference numbers. Using these reference numbers, it is possible to access maps identifying the sites in the emerging Site Allocations Plan Green Spaces Background Paper Publication Draft September 2015. As these maps are available in digital form on the City Council website it is possible to enlarge them sufficiently so that individual properties are identifiable. On this basis I consider the areas of land concerned have been adequately identified. I recommend a modification so that maps of the areas of land designated as Local Green Space are included in the Neighbourhood Plan at a scale sufficient to identify precise boundaries.

83. In respect of the areas intended for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.

84. The Framework states that: *“Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.”*⁴⁰

I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity

⁴⁰ Paragraph 77 National Planning Policy Framework 2012

to the community it serves, is local in character, and is not an extensive tract of land.

85. I now consider whether there is sufficient evidence for me to conclude that the 16 areas proposed for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance. The Neighbourhood Plan sets out in Appendix 2 a justification for the designations. Whilst the justification is extremely brief, in the context of the Neighbourhood Plan as a whole, and the Character Assessment included as Appendix 4, I conclude each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

86. I find all the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 76 and 77 of the Framework concerned with the identification and designation of Local Green Space. The policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and provides an additional level of detail or distinct local approach to that set out in Spatial Policy 13, and Strategic Policies P12 and G6. I consider that subject to the modification recommended this policy meets the basic conditions.

Recommended modification 5:

In Policy BE1

- **after “Spaces” insert “where new development is ruled out other than in very special circumstances:”**
- **delete “Development will not be permitted which may harm these areas:”**

Maps of the areas of land designated as Local Green Space should be included in the Neighbourhood Plan at a scale sufficient to identify precise boundaries.

Adel Woods (Part) site reference G18 should be deleted from Appendix 2 - Local Green Space assessment.

Policy BE2: Green spaces within residential areas

87. This policy seeks to establish that development proposals should not result in the loss of 15 named green spaces within residential areas.

88. Map 5 includes 15 star-shaped symbols on a background street map presented at such a scale that individual properties cannot be identified. This does not constitute adequate identification of the green spaces to which the policy should apply. On my visit to the Plan area I could not in all cases identify, with certainty, the precise areas of land that it is intended the policy should apply to. This is an impediment to the policy becoming part of the Development Plan for the area.
89. The layout of parts of Alwoodley, as originally developed, included a considerable number of open areas, some grassed, and others with trees or other planting. The Plan documents and supporting evidence do not explain why some areas have been included in the policy and others not. Those areas that appear to have been included in the policy vary in nature. Some appear to function as extended highway verges and others function as more substantial open areas that could be used for informal relaxation or as play areas. These communal areas, not included within the curtilage of adjacent properties, and which appear to consistently be well maintained, are an essential part of the attractive character of the parish. It is understandable that local people value these open spaces and wish to see them retained. Policy BE2 is, however, seeking to establish a regime that is more restrictive in respect of development than Local Green Space, without even establishing that the criteria for designation as Local Green Space are met. The Framework has introduced the ability to designate Local Green Space and sets out clear guidance when such designation would be appropriate. It is not within the remit of a Neighbourhood Plan to introduce a new category of Local Green Space. Indeed, to do so would not have sufficient regard for national policy.
90. Core Strategy Policy G6 states “*Green space (including open space in the City Centre) will be protected from development unless one of the following criteria is met: (i) There is an adequate supply of accessible green space/open space within the analysis area and the development site offers no potential for use as an alternative deficient open space type, as illustrated in the Leeds Open Space, Sport and Recreation Assessment; or (ii) The green space/open space is replaced by an area of at least equal size, accessibility and quality in the same locality; or (iii) Where supported by evidence and in the delivery of wider planning benefits, redevelopment proposals demonstrate a clear relationship to improvements of existing green space quality in the same locality.*” Policy BE2 is not in general conformity with Core

Strategy Policy G6 in that it does not reflect the balanced criteria based approach of the strategic policy.

91. Paragraph 74 of the Framework states *“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: • an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or • the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or • the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”* Policy BE2 does not have sufficient regard for the balanced criteria based approach of national policy.

92. The policy is not in general conformity with Core Strategy Policy G6 and does not have sufficient regard to the components of the Framework concerned with promoting healthy communities. This policy does not meet the Basic Conditions. I recommend Policy BE2 is deleted. In making this recommendation I consider Core Strategy Policy G6 and paragraph 74 of the Framework provide a robust basis for protection against inappropriate loss of the identified, and other, existing green spaces within residential areas of the parish. Notwithstanding the difficulty of imprecise identification, modification of Policy BE2 to duplicate Core Strategy and national policy, would not be consistent with the achievement of a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

**Recommended modification 6:
Delete Policy BE2**

Policy BE3: Local character and design

93. This policy seeks to establish that development proposals should demonstrate how they reflect local character in the relevant character area identified in the Alwoodley Character Appraisal. The policy also seeks to establish key principles that development proposals should follow.

94. A representation states support for the reference to replacement of any demolished building being of comparable height and any new

development being no more than two storeys high. I note Policy BE3 proposes that all new development should be no more than three storeys high. The representation makes reference to a proposed “huge” replacement of a property at 165 Alwoodley Lane as being “ludicrous”. The representation also states provision should be made for an onsite parking survey to deal with overflow issues. Another representation refers to a recent approval of demolition of Eden House in order to build flats and states more weight should be given to Parish Council recommendations.

95. The terms “*In general*”, “*should follow the following*”, “*should be avoided*” and “*adequate provision*” are imprecise. There will be instances where the location or design are such that a side extension to a property will be acceptable and not create a terracing effect. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
96. Part c) of the Policy seeks to identify streets where domestic properties should remain single storey in order “*to preserve the existing character on the Primleys and Buckstone Estate*”. Householder permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the Order”) as amended. Part 1 of Schedule 2 to the Order sets out the permitted development rules concerning what enlargements, improvements, alterations and other additions a householder may make to their house and the area around it without the need for an application for planning permission. An Article 4 Direction is a mechanism whereby a Local Planning Authority can exceptionally modify permitted development rights however no such Direction is in place in the plan area. Policy BE3 would only apply to development proposals that are not permitted development.
97. The Policy seeks to provide an additional level of detail or distinct local approach to that set out in Strategic Policy P10. The Framework states “*local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally*”

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

98. The parts of the Buckstones and Primley Park areas identified in the policy have not been designated by the City Council as Conservation Areas where it is desirable to preserve or enhance the special architectural or historic interest of an area nor do they include Listed Buildings. Appendix 4 of the Neighbourhood Plan sets out a character assessment in respect of five predominantly built areas and the rural area within the plan area. The Buckstones area is described as including single storey and dormer bungalows as well as semi-detached houses. It is stated “*the bungalows are all on Buckstone Avenue, Buckstone Close and Buckstone View*”. The Primley Park area is described as including dormer bungalows in one paragraph and as including bungalows in another paragraph. I consider insufficient evidence has been provided to justify the degree of prescription implicit in “*protection from conversion or replacement by multi-storey houses*” which would not have sufficient regard for paragraph 59 of the Framework. I do however consider sufficient case has been produced to require demonstration that proposals retain local distinctiveness. Whilst there is a degree of overlap between parts c) and d) of the Policy this is not sufficient to prevent the policy from meeting the Basic Conditions.

99. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and in particular Strategic Policy P10. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes, and requiring good design. Subject to the proposed modification this policy meets the Basic Conditions.

**Recommended modification 7:
In Policy BE3**

- replace “In general, development proposals should follow” with “To be supported, development proposals must demonstrate how they incorporate”
- replace part c) with “Proposals for conversion or replacement of single storey homes on Buckstone Avenue, Buckstone Close, Buckstone View, Primley Park Avenue, Primley Park Grove, and Primley Park Lane must demonstrate how they retain the significance of single storey buildings in the streetscape”
- replace part e) with “Proposed development must be no more than three storeys high, and demonstrate on-site car parking provision is adequate to avoid on-street car parking in normal usage”
- replace f) with “Side extensions of properties must not create a terracing effect.”

Policy BE4: Reducing on-street congestion

100. This policy seeks to establish standards for car parking provision in residential development proposals and opposes a reduction of off road parking space. The policy also seeks provision of on road parking bays and promotes active travel and use of public transport.

101. A representation states provision should be made for an on-site parking survey to deal with overflow issues. Another representation states that underground parking is often difficult to access and therefore is not used, leading to further on-street parking. There is no evidence that all underground parking spaces will be unused. Reference in the policy to the “*average family size car*” could result in spaces being provided that cannot accommodate larger cars. Rather than attempt to include unnecessary prescription or detail in the policy, which would in any case not have sufficient regard for paragraph 59 of the Framework, I have recommended a modification requiring applicants to demonstrate proposals will not result in additional on-street parking.

102. The Framework states “*If setting local parking standards for residential and non-residential development, local planning authorities should take into account: • the accessibility of the development; • the type, mix and use of development; • the availability of and opportunities for public transport; • local car ownership levels; and • an overall need to reduce the use of high-emission vehicles*”. The

introduction of specific requirements for on-site parking provision is not adequately evidenced in these terms.

103. The terms “*where necessary*”, “*overwhelming the street scene*” and “*promote*” are imprecise. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. The provision of on-road parking bays within a proposed road layout for an area of land would be subject to the agreement of the relevant Highway Authority. Provision would not be within an applicants control and therefore not have sufficient regard for paragraph 173 of the Framework which requires Plans to be deliverable.

104. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and in particular Strategic Policy T2. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport and requiring good design. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 8:

Replace Policy BE4 with

- **“Development proposals that demonstrate they will result in increased walking, cycling, or use of public transport will be supported. To be supported development proposals must also demonstrate they will not result in additional on-street parking.”**

Policy CRF1: Protecting and improving existing community facilities

105. This policy seeks to establish support for measures that protect and/or improve named community facilities and services.

106. A representation supports the policy especially protection of current facilities and enhanced provision for children, teenagers, and the elderly. The representation suggests measures to achieve

increased use of existing facilities although it is beyond my remit to recommend modification of the Plan to include such measures.

107. The term “*protect*” is imprecise. The Framework states planning policies should “*guard against unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs*” and “*ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.*” I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
108. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and in particular Strategic Policy P9. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 9:

In Policy CRF1 delete “protect and/or” and after the list of facilities insert “Proposals that would result in the loss, or partial loss, of these facilities will only be supported where it can be clearly demonstrated that the facility to be lost is no longer required and that the premises have been marketed without success for a period of no less than six months, or that the proposals will result in equivalent or improved facilities in no less convenient a location for users.”

Policy CRF2: Sport and recreational facilities

109. This policy seeks to establish support for provision of new sport and recreational facilities, and establish that new residential developments will be encouraged to contribute to such provision.

110. The Framework states “*Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities*” and that planning policies should be based on robust and up-to-date assessment of needs. The Framework also states “*Planning policies should protect and enhance public rights of way and access.*” The term “*will be encouraged*” is used in both parts a) and b) of the policy. Encouragement does not provide a basis for decision making on development proposals. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

111. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and in particular Strategic Policies P9, G3, and G4. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the proposed modification this policy meets the Basic Conditions.

**Recommended modification 10:
In Policy CRF2**

- in a) delete “encouraged and”
- in b) delete “will be encouraged to contribute to the provision of such” and insert “must contribute to such provision in order to meet the up-to-date assessment of need.”

Policy EB1: Neighbourhood shopping centres

112. This policy seeks to establish that retail units in two specified locations (at the junction of Kings Lane and The Avenue, and on The Avenue adjacent to The Drive) should not be converted into residential accommodation, unless extensive marketing has demonstrated it is impossible to let in its current use class. The policy also encourages retention of residential accommodation above the existing shops.

113. The term “*extensive marketing*” is imprecise and encouragement does not provide a basis for decision making on development proposals. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

114. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and in particular Strategic Policy P1, P3 and P4. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes and promoting healthy communities. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 11:

In Policy EB1

- in a) after “marketing” insert “for a period of no less than six months”
- in b) delete “The retention” and insert “Proposals that will result in the loss” and
- in b) delete “be encouraged” and insert “not be supported”

Policy EB2: Support for small business

115. This policy seeks to establish conditional support for new business development including farm diversification.

116. The term “*appropriate to the location*” is imprecise. I have recommended a modification so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

117. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and in particular Spatial Policy 8 and Strategic Policy EC2, EC3 and P3. The policy seeks to shape and

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

Recommended modification 12:

In Policy EB2

- **after “scale” delete “appropriate to the location” and insert “that is in keeping with its surroundings, whether located within the residential suburban built-up area or the adjacent rural area;”**
- **delete the sub-headings a) and b), and the text of b)**

Policy H1: Responding to local needs

118. This policy seeks to establish five development principles to apply to all new housing development.

119. The Neighbourhood Planning Act establishes a duty for Government to produce guidance on how local development documents should meet the needs of older and disabled people. This guidance is currently being drafted but not yet published. Paragraph 50 of the Framework refers to the need to plan for a mix of housing based on current and future demographic trends, market trends, and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes). I recommend use of the term ‘homes’ rather than ‘*housing*’ so that the policy relates to the full range of dwelling types suitable for the elderly. The development principles stated may not be appropriate for all housing developments. Provision of housing for the elderly, including sheltered accommodation, would, for example, not be appropriate in respect of a proposal for one or two dwellings. The term “*where appropriate*” is however imprecise. I have recommended a modification in this respect and in respect of a second imprecise term “*where possible*” so that the policy provides a practical framework within which decisions on planning applications can be made with a

high degree of predictability and efficiency as required by paragraph 17 of the Framework.

120. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and in particular Strategic Policies H4, P10, G3 and G4. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes; requiring good design; promoting healthy communities; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the proposed modification this policy meets the Basic Conditions.

Recommended modification 13:

In Policy H1

- **delete “where appropriate” and insert “meet the following development principles unless it is clearly demonstrated that they are not appropriate”**
- **in e) delete “where possible” and insert “unless it is clearly demonstrated that this is not possible”**
- **in the policy title insert “housing” after “local”**

Policy H2: Design of new housing developments: Site HG2-36

121. This policy does not seek to allocate the land that has been identified as Site HG2-36, but seeks to establish ten design principles that are to apply in the event Site HG2-36 is allocated for development by Leeds City Council.

122. A representation that appears to refer to site HG2-36 expresses concern regarding traffic congestion and states road improvement requirements “*will be no easy task*”. The representation also states it is essential that any section 106 agreement contains provision of facilities such as schools and medical services.

123. The term “*retention of stone gateway sign*” is merely a statement and the term “*existing landscape features are retained*” is imprecise. I have recommended a modification so that the policy provides a

practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

124. The policy includes requirements relating to green technology and surface water run-off. 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”*. Whilst the Ministerial Statement only applies to new dwellings these are likely to be the most common form of development proposal occurring with respect to Site HG2-36 during the Plan period. The terms *“green technology”* and *“sustainable drainage techniques”*, are in any case imprecise. I have recommended a modification in these respects.
125. The Submission Neighbourhood Plan includes “Appendix 1: Site Brief for Policy H2: Location of new homes - Alwoodley Lane”. Policy H2 does not include any reference to this Appendix however the supporting evidence at 3.6.2 does state *“The Parish Council recognises the need for new homes and welcomes the opportunity to have an input into the nature and design of this development. The site brief at Appendix 1 provides an outline of how site HG2-36 should be developed.”* There is a degree of overlap between Policy H2 and Appendix 1. Recommendations 1,2,3,4,6, and 7 of Appendix 1 reflect parts f, c, g, b, h and i of Policy H2 although terminology is not precisely the same in all cases. This loose overlap does not provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I recommend the concluding part of the text of Appendix 1 commencing *“If development is to take place”* is deleted and point 5 is transferred to be included in Policy H2.
126. I have noted the emerging Site Allocation Plan includes within the Submission Draft, Site HG2-36 as a housing allocation in accordance with Core Strategy Policy SP7 to be released in accordance with Core Strategy Policy H1 as a Phase 2 site. The emerging Site Allocations Plan Submission Draft sets out the following site requirements:

- Highway Access to Site: Suitable access should be achieved on Alwoodley Lane, a footway should be provided on the northern side of Alwoodley Lane between Sovereign Court and the existing footway termination point to the east of the site, and a suitable arrangement for pedestrians to cross Alwoodley Lane.
- Local Highway Network: The development will have a significant impact on the operation of the Alwoodley Lane/A61 junction. There will also be a direct impact on the junction of the Outer Ring Road and A61. Mitigation measures will therefore be required at these locations. For the A6120/A61 junction this may take the form of a contribution towards the WYPTF scheme. There will also be a cumulative impact on the A61/Street Lane junction and contributions will be required towards a mitigating scheme.
- Ecology: An Ecological Assessment of the site is required and where appropriate, mitigation measures will need to be provided to ensure consideration of Eccup Reservoir SSSI to the north of the site to minimise recreational impacts, including substantial on-site greenspace (formal and informal), signage to the existing public rights of way and provide a biodiversity buffer (not private garden space) adjacent to the northern boundary with woodland and fencing. An off-site contribution to be provided and agreed for the positive management of Eccup Reservoir Hills SSSI. Consultation with Natural England required.
- Education Provision: Part of the site should be retained for provision of a school

127. The Site Allocations Plan Submission Draft is currently subject to examination the outcome of which will not be known for some time. The Guidance states, Neighbourhood Plans can be developed before or at the same time as the local planning authority is producing its Local Plan. I take this to apply to production of part of the Local Plan. Although a draft neighbourhood plan is not tested against the policies in an emerging part of the Local Plan the reasoning and evidence informing the Site Allocations Plan preparation process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.

128. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan, the Leeds Core Strategy including Unitary Development Plan Saved UDP Review 2006 Policies, and in particular Strategic Policy P10. At the time the Site Allocations Plan becomes part of the Development Plan, and if Site HG2-36 is allocated by that Plan, Policy H2 of the Neighbourhood Plan would become operative. I have not identified any fundamental unresolvable conflict between the emerging Site Allocations Plan and Policy H2, and find the draft neighbourhood plan policy is seeking to provide an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy. In any case, if at the time the later of the two Plans becomes part of the Development Plan, there is a conflict between a policy of the Site Allocations Plan and the Neighbourhood Plan then the conflict is resolved in favour of the Plan that last became part of the Development Plan.

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

**Recommended modification 14:
In Policy H2**

- **replace provision d with “An assessment of landscape features should be undertaken and any feature found to make a significant positive landscape contribution shall be retained”**
- **in provision f delete “. Retention of” and insert “and retain the”**
- **replace provision i with “Proposals should include dedicated active travel routes within the development and which link to other parts of Alwoodley”**
- **Delete provision j**

In Appendix 1 replace the heading “Recommendations” with “Conclusions” and delete the concluding section commencing “If development is to take place”

Summary and Referendum

130. I have recommended 14 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

131. I am satisfied that the Neighbourhood Plan⁴¹:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990 and meets the Basic Conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.⁴²

I recommend to Leeds City Council that the Alwoodley Neighbourhood Development Plan for the plan period up to 2028

⁴¹ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

⁴² Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

should, subject to the modifications I have put forward, be submitted to referendum.

132. 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.⁴³ I have seen nothing to suggest the referendum area should 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 the City Council as a Neighbourhood Area on 24 February 2014.

Annex: Minor Corrections to the Neighbourhood Plan

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

134. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁴⁴ I recommend the following minor change only in so far as it is to correct an error or where it is necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework: Under Priority Projects and Aspirations, the reference to protection of the Village Green from development should be modified to avoid confusion as that matter is dealt with in Policy BE1.

**Recommended modification 15:
Modification of general text will be necessary to achieve consistency with the modified policies, and to correct identified errors including those arising from updates**

⁴³ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁴⁴ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

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REPORT ENDS