

# Headingley Neighbourhood Development Plan

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

Copy to Headingley Neighbourhood Forum

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26 May 2022

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## Summary of Main Findings

This is the report of the Independent Examination of the Headingley Neighbourhood Development Plan, a plan that has been prepared by the Headingley Neighbourhood Forum. As an adjustment to earlier designations the current plan area was designated as the Headingley Neighbourhood Area on 25 October 2018. The plan area lies within the Leeds City Council area. The plan period runs until 2033. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Neighbourhood Plan should proceed to a local referendum based on the neighbourhood 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. Paragraph 29 of the National Planning Policy Framework (the Framework) states that “neighbourhood planning gives communities the power to develop a shared vision for their area”.
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 Headingley Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by the Headingley Neighbourhood Forum (the Neighbourhood Forum) that was first designated on 22 October 2014 and re-designated on 15 June 2020. The draft plan has been submitted by the Neighbourhood Forum, a qualifying body able to prepare a neighbourhood plan, in respect of the Headingley Neighbourhood Area (the Neighbourhood Area) which was formally designated, as an adjustment to earlier designations, by Leeds City Council (the City Council) on 25 October 2018. The Neighbourhood Plan has been produced by a Neighbourhood Plan Steering Group (the Steering Group) made up of volunteers from the local community.
4. The submission draft of the Neighbourhood Plan and accompanying documents were approved by the Neighbourhood Forum and submitted to the City Council on 17 March 2022. The City Council arranged a period of publication between 28 March 2022 and 9 May 2022 and subsequently submitted the Neighbourhood Plan to me for independent examination which commenced on 10 May 2022.

## **Independent Examination**

5. This report sets out the findings of the independent examination of the Neighbourhood Plan. 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 a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the 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 form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area unless the City Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan. Paragraph 12 of the Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.
8. I have been appointed by the City Council with the consent of the Neighbourhood Forum, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Neighbourhood Forum and the City Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan.
9. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. As a Chartered Town Planner, I have held national positions and have 35 years' experience at Director or Head of Service level in six local planning authorities. I have been a panel member of the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) since its inception, and have undertaken the independent examination of neighbourhood plans in every region of England, and in the full range of types of urban and rural areas.
10. 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.

11. I make my recommendation in this respect and in respect to any extension to the referendum area, 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.
12. Paragraph 9 of Schedule 4B to the TCPA 1990 provides that the general rule is that the examination of a neighbourhood plan is to take the form of the consideration of written representations. The Planning Practice Guidance (the Guidance) states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”
13. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. This requires an exercise of judgement on my part. All parties have had the opportunity to state their case and no party has indicated that they have been disadvantaged by a written procedure. Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. Those representations; the comments of the Neighbourhood Forum; the level of detail contained within the submitted Neighbourhood Plan and supporting documents; and the responses to my request for clarification of matters have provided me with the necessary information required for me to conclude the Independent Examination. As I did not consider a hearing necessary, I proceeded on the basis of examination of the submission and supporting documents; the written representations; and an unaccompanied visit to the neighbourhood area.
14. This report has been produced in an accessible format.

## **Basic Conditions and other Statutory Requirements**

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

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

16. With respect to the penultimate Basic Condition the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for a continuation of primary and subordinate legislation, and other enactments in domestic law. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights, which has the same meaning as in the Human Rights Act 1998. 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'. Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind.

17. 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 (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)). 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 as amended (the Regulations) which are made pursuant to the powers given in those sections.

18. The Neighbourhood Plan relates to the area that was designated by the City Council as an adjustment to earlier designations on 25 October 2018. A map of the Neighbourhood Area is included on page 9 of the Submission Version Plan. The Neighbourhood Plan does not relate to more than one neighbourhood area, and no other neighbourhood development plan has been made for the neighbourhood area. All requirements relating to the plan area have been met.

19. 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; and the Neighbourhood Plan does not include provision about excluded

development (principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment, and nationally significant infrastructure projects). I am able to confirm that I am satisfied that each of these requirements has been met.

20. A neighbourhood plan must also meet the requirement to specify the period to which it has effect. The Foreword of the Neighbourhood Plan states “we have tried to make this a robust and sustainable plan for Headingley up to 2033.” Paragraph 1.2 of the Neighbourhood Plan states “the Neighbourhood Plan will be effective from the time it is ‘made’ by the Council through to 2033”. Paragraph 6.3 of the Neighbourhood Plan explains the plan “will be a relevant planning consideration for use in decision-making in Headingley up to 2033.” That is also the end date for the Leeds Core Strategy.
21. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans. 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.
22. 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 all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
23. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
24. 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. I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

## Documents

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

- Headingley Neighbourhood Plan Submission Draft Plan
- Headingley Neighbourhood Plan (2019-2033) Basic Conditions Statement [In this report referred to as the Basic Conditions Statement]
- Headingley Neighbourhood Plan Consultation Statement [In this report referred to as the Consultation Statement]
- Headingley Neighbourhood Plan Consultation Statement Appendices – including appendices 1 to 17
- Strategic Environmental Assessment and Habitats Regulations Assessment: Screening Report Headingley Neighbourhood Plan Policy Intentions Document July 2019
- Information available on the Headingley Neighbourhood Plan website including the Evidence Base List which is referred to in the List of Appendices of the Submission Draft Neighbourhood Plan
- Information available on the Leeds City Council website
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and Leeds City Council and the Neighbourhood Forum including: the initial letter of the Independent Examiner dated 10 May 2022; the letter of the Independent Examiner seeking clarification of various matters dated 11 May 2022; the comments of the Neighbourhood Forum on Regulation 16 representations dated 23 May 2022; and the response of the Neighbourhood Forum to my requests for clarification of matters, copied to Leeds City Council, dated 23 May 2022
- Leeds Local Plan Core Strategy (as amended by the Core Strategy Selective Review 2019) Adopted 11 September 2019 [In this report referred to as the Core Strategy]
- Leeds Site Allocations Plan – subject to examination of the remitted part of the plan - consultation on Main Modifications closed 25 March 2022 – further hearing on 18 May 2022 [In this report referred to as the emerging Site Allocations Plan]
- National Planning Policy Framework (2021) [In this report referred to as the Framework]
- Permitted development rights for householders’ technical guidance MHCLG (10 September 2019) [In this report referred to as the Permitted Development Guidance]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [In this report referred to as the Guidance]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015

- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- European Union (Withdrawal) Act 2018
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

## Consultation

26. 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.
27. Consultation can be traced back to 2014, when a questionnaire and public meeting were used to surface local views, and the Neighbourhood Forum first met. Intensive consultation followed including: engagement with major institutions impacting on the area; residents' association; large local businesses, shopkeepers and shoppers; leafleting of 5,000 homes; a business lunch and survey of town centre businesses; a drop-in event; and use of social media. Regular forum and topic working group meetings were held.
28. A second intensive period of consultation began in 2017 including a public drop-in style event attended by 50 people, and re-engagement with Headingley Stadium; housing landlords; places of worship; specialist housing providers; and schools and nurseries.
29. In accordance with Regulation 14 the Neighbourhood Forum consulted on the pre-submission version of the draft Neighbourhood Plan. In the context of the Covid 19

pandemic an extended 12-week long consultation period (16 June to 8 September 2020) was adopted. The consultation on the pre-submission draft Plan and supporting documents was publicised through leafletting of all 5,000 houses in the area; direct emailing of statutory consultees, individuals and local community groups; and use of social media. Hard copy documents were made available on request. Appendix 16 of the Consultation Statement presents details of the representations received and sets out a response and any action taken, including modification and correction of the emerging Neighbourhood Plan. Suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was submitted by the Neighbourhood Forum to the City Council.

30. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 28 March 2022 and 9 May 2022. Representations were submitted from a total of seven different parties. I provided the Neighbourhood Forum with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Neighbourhood Forum to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Neighbourhood Forum submitted comments on the representations. I have taken those comments into consideration.
31. Historic England, Natural England and the Coal Authority have confirmed no specific comments on the Neighbourhood Plan. Sport England offer general advice but this does not necessitate any modification of the Neighbourhood Plan to meet the Basic Conditions.
32. A representation on behalf of Headingley Green Party states a City Council survey in 2014 found Headingley Ward was deficient in all categories of green space except children's playgrounds. The representation proposes the fields at the top of Headingley Hill should be taken back into public ownership and laid out as a public park which could include a children's play area with enhanced tree cover with bird and bat boxes and a pond and form part of a green corridor including Dales Way, Meanwood Park, Woodhouse Ridge and Dagmar Wood. The representation states the approach advocated is consistent with the Site Allocations Plan which categorises the fields in question as greenspace, and would benefit people living in houses close by with no garden. The Neighbourhood Forum has commented on this representation as follows "The SG had considerable discussion on a linked topic (minute SG 12<sup>th</sup> Feb 2019.) The land is owned by a developer who has had previous applications turned down. The steering group were discussing the possibility of making the land available for cohousing development rather than a park. It was decided that the time that would be taken to consult on this and to get permissions and to purchase the land from the developer would be to delay the plan

further than it is delayed now so we agreed not to take this forward. Although an additional Headingley Park would be welcome, unless the developer is feeling very generous a park would necessitate purchase (presumably by the council) of the land and no money is currently available. It is possible for the forum post plan to pick this proposal up as a community action.” It is not necessary for the Neighbourhood Plan to include proposals for the fields in question in order to meet the Basic Conditions.

33. The representation of an individual states an understanding that a Supplementary Planning Document on Hot Food Takeaways exists; suggests the Neighbourhood Plan might support Residents Parking Zones; and suggests in relation to paragraph 10.6 of the Neighbourhood Plan that the impact of permitted development rights on Headingley Town Centre might be alleviated by the introduction of an ‘Article 4 Direction’. These comments do not necessitate any modification of the Neighbourhood Plan to meet the basic conditions. The representation also refers to a link relating to ginnels but the link specified does not appear in the part of the Neighbourhood Plan identified. The representation suggests a property should be removed from the plan area. My role does not extend to consideration of the suitability of the boundaries of the plan area. The representation also states paragraph 8.9 of the Neighbourhood Plan requires correction. I refer to this element of the representation in the Annex to my report. I have taken into consideration the comments of the Neighbourhood Forum on this representation.
34. The representation of another individual requests their property should be included in the Headingley Hill area rather than the Woodhouse Cliff area. This aspect of the representation does not necessitate any modification of the Neighbourhood Plan to meet the Basic Conditions. This representation also states information in the Neighbourhood Plan relating to an absence of public access to Dagmar Wood is incorrect. I refer to this matter when considering Policy GE1 later in my report. The representation also states “on behalf of the North Hyde Park Neighbourhood Association committee, we welcome the Neighbourhood Plan and look forward to further assistance from the Council to actively manage Dagmar Wood as a green space for the benefit of all”. This latter comment does not require any modification of the Neighbourhood Plan.
35. I have been sent each of the Regulation 16 representations. In preparing this report I have taken into consideration all of the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole in my report. Some representations, or parts of representations, are not relevant to my role which is to decide whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. Where the representations suggest additional policy matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have

identified. Having regard to *Bewley Homes Plc v Waverley District Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6) where representations raise concerns or state comments or objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations.

36. 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.

37. 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. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan 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**

38. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

**Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017**

39. Paragraph 8.7 of the Basic Conditions Statement states the Neighbourhood Plan has had regard to the fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act. I have considered the European Convention on Human Rights and in particular Article 6 (fair hearing); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property). 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. Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Neighbourhood Forums under the Public Sector Equality Duty (PSED) in the Equality Act 2010. An Equality Screening Assessment has concluded that overall, the Neighbourhood Plan is likely to either have neutral benefit, or a general positive benefit for all residents. From my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.
40. The objective of EU Directive 2001/42 (transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004) 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’ (Defined in Article 2(a) of Directive 2001/42) as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result (Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012).
41. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Neighbourhood Forum, as the Qualifying Body, to submit to Leeds 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.

42. The Strategic Environmental Assessment and Habitats Regulations Assessment: Screening Report prepared by the City Council concluded it is unlikely that significant effects will arise as a result of the Neighbourhood Plan and that an SEA is not required when judged against the application of the SEA Directive Criteria. The Basic Conditions Statement confirms Natural England, the Environment Agency, and Historic England were consulted and had agreed with the screening conclusions. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
43. The Screening Report also concluded that none of the policies in the draft Neighbourhood Plan are likely to give rise to significant effect on the South Pennine Moors and North Pennine Moors SPAs/SACs and therefore the Neighbourhood Plan did not include any mitigation measures. Furthermore, no potential in combination effects were identified. Therefore, the draft Neighbourhood Plan can be considered to be screened out. This satisfies the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. The Basic Conditions Statement confirms Natural England was consulted and agreed the Screening conclusions. I am satisfied that the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.
44. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
45. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
46. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The City Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU environmental law obligations (directives and regulations) incorporated into UK domestic law by the European Withdrawal Act 2018 (EUWA):
- 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).

**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**

47. I refer initially to the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan”. The requirement to determine whether it is appropriate that the plan is made includes the words “having regard to”. This is not the same as compliance, nor is it the same as part of the tests of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy”.
48. Lord Goldsmith has provided guidance (Column GC272 of Lords Hansard, 6 February 2006) that ‘have regard to’ means “such matters should be considered.” The Guidance assists in understanding “appropriate”. In answer to the question “What does having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”
49. The most recent National Planning Policy Framework published on 21 July 2021 sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance was most recently updated on 24 June 2021. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance.
50. Paragraphs 4.1 to 4.5 and Table 1 of the Basic Conditions Statement set out an explanation how the Neighbourhood Plan has regard to the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.
51. The Neighbourhood Plan includes in paragraph 5.1.3 a positive vision for Headingley with seven wide ranging dimensions and in paragraph 5.2.2 eight objectives that help support its delivery. The objectives, which provide a framework for the policies that have been developed, include economic dimensions (vibrant town centre), and social components (best possible use of the housing stock that meets local needs), whilst also referring to environmental considerations (maintain green spaces and provide more biodiversity, improve heritage and built environment).

52. The Neighbourhood Plan includes in Section 13 a number of community actions that in the future may be developed into “fully-fledged projects”. These community actions are presented under topic headings – housing; heritage; greenspace and environment; town centre; getting around; and community and social cohesion. Paragraph 1.2 of the Neighbourhood Plan explains the community actions are clearly priorities for local people as evidenced through consultation, however, many of these are outside the scope of neighbourhood planning, or are actions that support some of the policies in the plan. The plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, “Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan”. The actions are presented in plain text. I am satisfied the community actions are adequately distinguished from the policies of the Neighbourhood Plan. I am also satisfied that paragraph 1.2 of the Neighbourhood Plan makes it clear the community actions are not planning policies and do not form part of the Neighbourhood Development Plan. I can confirm the community actions have not been subject to Independent Examination.
53. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”
54. At the heart of the Framework is a presumption in favour of sustainable development which should be applied in both plan-making and decision-taking. The Guidance states, “This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that

consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”.

55. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

56. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Paragraphs 5.1 to 5.16 of the Basic Conditions Statement including the table presented at paragraph 5.14 demonstrate ways in which the Neighbourhood Plan supports the economic, social and environmental aspects of sustainable development. The statement does not highlight any negative impacts of the Neighbourhood Plan or its policies.

57. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality to contribute to economic and social well-being; whilst also protecting important environmental features of the Neighbourhood Area. In particular, I consider the Neighbourhood Plan as recommended to be modified seeks to:

- Ensure new housing development meets the needs of the community;
- Establish support for minimising environmental impact of existing and new housing;
- Establish support for lifelong housing for disabled people and older people;
- Establish design principles to ensure new development complements local character;
- Avoid harm to non-designated heritage assets;
- Establish support for proposals for restoration of heritage at risk;
- Protect and enhance historic streetscapes;
- Establish design guidance for the Cardigan Triangle character area;
- Designate six Local Green Spaces and establish support for the enhancement of all green spaces;
- Retain and protect garden space;

- Protect important trees and verges;
- Establish support for planting and landscaping that enhances biodiversity and slows water run-off;
- Ensure a sustainable mix of uses in the town centre;
- Establish support for measures to improve accessibility in the town centre;
- Ensure shop front proposals are of an appropriate design;
- Establish support for proposals to alleviate traffic management stresses;
- Protect and upgrade active travel routes;
- Ensure the footpath and ginnel network is maintained and enhanced; and
- Support provision of electric vehicle infrastructure.

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

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

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

60. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.” The City Council has informed me that the Development Plan applying in the Headingley Neighbourhood Area and relevant to the Neighbourhood Plan is the Leeds Local Plan Core Strategy (as amended by the Core Strategy Selective Review 2019) Adopted 11 September 2019; the Site Allocations Plan (2019); and the Saved Policies of the Leeds Unitary Development Plan Review (2006).

61. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The City Council has advised me that all of the policies of the Core Strategy and the Saved Policies of the Unitary Development Plan Review are regarded by the Local Planning Authority as strategic policies applying in the Neighbourhood Area.

62. A Local Plan Update is currently being prepared by the City Council. An early consultation stage, which closed in September 2021, sought views on which parts of the existing Local Plan should be updated and what they should contain. The Neighbourhood Plan can proceed ahead of adoption of the Local Plan Update. The Guidance states: "Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

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

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

Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan."

63. The approach of the City Council and the Neighbourhood Forum has been consistent with that stated in the Guidance “It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies.” I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the Local Plan Update when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan unless the later plan states otherwise.
64. In order to satisfy the Basic Conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Local Plan Update is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states “Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”.
65. 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” (Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 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.
66. 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.”

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

67. 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. I have taken into consideration Table 2 presented under paragraph 6.6 of the Basic Conditions Statement that demonstrates how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies. 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**

68. The Neighbourhood Plan includes 19 policies as follows:

Policy HOU1 Housing Mix in Headingley

Policy HOU2 Support for Minimising Environmental Impact of Existing and New Housing

Policy HOU3 Support for Lifelong Housing for Disabled People and Older People

Policy HD1 Design Guidance and Character Areas

Policy HD2 Non-Designated Heritage Assets

Policy HD3 Heritage at Risk

Policy HD4 Historic Streetscapes

Policy HD5 Cardigan Triangle Character Area

Policy GE1 Green Spaces

Policy GE2 Garden Space and Support for Nature

Policy GE3 Protection of Trees and Verges

Policy GE4 Planting, Landscaping and Water Management

Policy TC1 Mix in the Town Centre

Policy TC2 Supporting a Pedestrian Friendly Headingley

Policy TC3 Design of the Town Centre

Policy GA1 Traffic Management

Policy GA2 Pedestrian and Cycle Routes

Policy GA3 Footpaths and Ginnels

Policy GA4 Electric Vehicles

69. Paragraph 29 of the Framework states “Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not

promote less development than set out in the strategic policies for the area, or undermine those strategic policies”. Footnote 16 of the Framework states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”

70. Paragraph 15 of the Framework states “The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”
71. Paragraph 16 of the Framework states “Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”
72. The Guidance states “A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”
73. “While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.
74. A neighbourhood plan should contain policies for the development and use of land. “This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations

indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”

75. “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need”. “A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”
76. 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. I have considered the issue of meeting housing needs initially as this issue is relevant to more than one policy of the Neighbourhood Plan.

### **Policy HOU1 Housing Mix in Headingley**

77. This policy seeks to ensure new housing development meets the needs of the community.
78. The policy has regard for paragraphs 61 and 62 of the Framework with respect to meeting identified local housing needs. I am satisfied the policy is not seeking to introduce additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings which would be contrary to the Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 but is instead seeking compliance with standards where they exist.
79. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policy H4. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
80. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. This policy meets the Basic Conditions.

## **Policy HOU2 Support for Minimising Environmental Impact of Existing and New Housing**

81. This policy seeks to establish support for minimising environmental impact of existing and new housing.
82. I am satisfied the policy is not seeking to introduce additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings which would be contrary to the Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 but is instead seeking to establish support for positive environmental measures including compliance with standards where they exist. The policy has regard for paragraph 130 of the Framework which states planning policies should ensure developments are sympathetic to local character and history. Paragraph 106 of the Framework makes specific reference to provision of secure cycle parking facilities.
83. Strategic Policies EN1 and EN2 relate to developments of 10 or more dwellings. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
84. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies EN1 and EN2. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
85. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

### **Recommended modification 1:**

**In Policy HOU2 in the second paragraph after “Strategy” insert “which relate to major developments”**

## **Policy HOU3 Support for Lifelong Housing for Disabled People and Older People**

86. This policy seeks to establish support for lifelong housing for disabled people and older people.

87. The policy has regard for paragraphs 61 and 62 of the Framework with respect to meeting identified local housing needs, in particular older people and people with disabilities. The policy also has regard for paragraph 130 of the Framework which states planning policies should ensure developments are sympathetic to local character and history.
88. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policy H10. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
89. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy HD1 Design Guidance and Character Areas**

90. This policy seeks to establish design principles to ensure new development complements local character.
91. To be read alongside the Guidance, Government published the National Design Guide on 1 October 2019 to set out the characteristics of well-designed places and demonstrate what good design means in practice. The National Design Guide was updated on 30 January 2021 to align with the National Model Design Code and Guidance Notes for Design Codes published separately (as forming part of the Guidance) on 20 July 2021, and have been last updated on 14 October 2021. Although the Neighbourhood Design Statement that covers the Neighbourhood Area was published well in advance of the National Design Guide and associated guidance, it anticipated the approach and principles recommended in subsequent national policy and remains appropriate in providing relevant evidence supporting the design principles set out in Policy HD1.
92. Paragraph 127 of the Framework states "neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development". The policy has regard for paragraph 130 of the Framework which sets out design principles of development that planning policies should ensure. The policy is not overly prescriptive and will not prevent or discourage appropriate innovation or change. The policy has regard for national policy which requires great weight is given to the conservation of designated heritage assets whilst recognising not all elements of a Conservation Area will necessarily contribute to its significance as set out in paragraphs 199 and 207 of the Framework respectively.

93. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies P10 and P11. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
94. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy HD2 Non-Designated Heritage Assets**

95. This policy seeks to avoid harm to the significance of non-designated heritage assets.
96. The policy has regard for Paragraph 203 of the Framework which sets out the approach to considering potential impacts of development proposals affecting the significance of non-designated heritage assets.
97. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policy P11. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
98. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy HD3 Heritage at Risk**

99. This policy seeks to establish conditional support for proposals for restoration or enhancement of heritage assets at risk.
100. The policy has regard for paragraph 189 of the Framework which states heritage assets should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations, and paragraph 190 which states plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats.
101. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular

strategic Policy P11. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

102. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy HD4 Historic Streetscapes**

103. This policy seeks to protect and enhance historic streetscapes.

104. The term "historic streetscapes within the neighbourhood area" is ambiguous and could be read as suggesting these are defined areas. The term "coherent design" does not provide a basis for the determination of development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and "is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.

105. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policy P10. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

106. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 2:**

##### **In Policy HD4**

- after "account of" insert "elements of"
- replace "coherent design" with "design appropriate to their setting"

### **Policy HD5 Cardigan Triangle Character Area**

107. This policy seeks to establish design guidance for the Cardigan Triangle Character Area.

108. Whilst the referenced Headingley and Hyde Park Neighbourhood Design Statement SPD adopted September 2010 includes in Map 4 a spatial definition of the Cardigan Triangle the Neighbourhood Plan does not define the area. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework. I have also recommended the term “success” is corrected to “succession” in paragraph 8.12 of the Neighbourhood Plan.
109. The statement presented under the policy title that the policy is trying to achieve an extension of the Headingley Conservation Area to include the Cardigan Triangle is inappropriate. The making of a Neighbourhood Plan is not the appropriate mechanism to extend a Conservation Area. I have recommended a modification in this respect so that the Neighbourhood Plan has regard for national policy. It is acceptable for Section 12.7 of the Neighbourhood Plan relating to community actions to continue to make reference to this matter.
110. The policy has regard for paragraph 130 of the Framework which sets out design principles of development that planning policies should ensure. The policy is not overly prescriptive and will not prevent or discourage appropriate innovation or change. The policy has regard for the desirability of maintaining an area’s prevailing character and setting in achieving appropriate densities as set out in paragraph 124 of the Framework.
111. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies P10 and P11. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
112. 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 modification I have recommended having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the modification I have recommended this policy meets the Basic Conditions.

**Recommended modification 3:**

**With respect to Policy HD5:**

- **in the text presented immediately under the policy title delete “extend the Headingley conservation area to include part of the Cardigan Triangle and”.**
- **insert a Map in the Neighbourhood Plan to define the spatial extent of the Cardigan Triangle Character Area**
- **in paragraph 8.12 replace “success” with “succession”**

## Policy GE1 Green Spaces

113. This policy seeks to designate 6 Local Green Spaces and support measures to enhance green spaces or improve their biodiversity.
114. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on individual maps within the Greenspace Evidence Report. I am satisfied the areas of land proposed for designation as Local Green Spaces have been adequately identified, however it should not be necessary for plan users to refer to a separate document to confirm the boundaries of the designations. I have recommended a modification in this respect so that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
115. Paragraph 103 of the Framework states “Policies for managing development within a Local Green Space should be consistent with those for Green Belts”. Paragraphs 147 to 151 of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. The policy does not seek to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not. (R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number C1/2020/0812).
116. Paragraph 101 of the Framework states “The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.” In respect of each of the areas proposed for designation as Local Green Space I find these requirements are met.
117. Paragraph 102 of the Framework states “The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.” I find that in respect of each of the proposed Local Green Spaces the designation relates to green space

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

118. The Greenspace Evidence Report includes in Appendix 1 a Table for each of the 6 proposed Local Green Spaces which seeks to justify the proposed designations as Local Green Space. Relevant reasons for designation are indicated as applying in respect of the proposed Local Green Spaces including matters referred to in the Framework. I have visited each of the areas of land concerned and as a matter of planning judgement consider the attributes identified to be relevant and reasonable. Appendix 1 of the Greenspace Evidence Report provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance. I have noted paragraph 9.23 of the Neighbourhood Plan states the old Beckett Park School playing fields are currently fenced and not accessible to the public. The Regulation 16 representation of an individual states Dagmar Wood is under the stewardship of the North Hyde Park Neighbourhood association (NHPNA) in association with the City Council Parks and Countryside service and that the open space is open to members of the public. This representation does not necessitate any modification of the policy as the Guidance is clear that lack of public access does not prevent a Local Green Space designation. I have noted the Neighbourhood Forum has commented “Dagmar wood is included in the green space areas at the request of Hyde Park neighbourhood association and it will benefit from the extra protection given as a designated green space area.”
119. I find that the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 101 to 103 of the Framework concerned with the identification and designation of Local Green Space.
120. In response to my request for clarification the Neighbourhood Forum has confirmed that parts b), c), and d) of the policy relate to all green spaces. I have recommended a modification of part d) of the policy to improve clarity in this respect.
121. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies G6, G8 and G9. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
122. 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 modification I have recommended having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the modification I have recommended this policy meets the Basic Conditions.

**Recommended modification 4:**

**In Policy GE1 part d) after “woodland” insert “or other green spaces”.  
Include a map or maps of the Local Green Space designations in the  
Neighbourhood Plan.**

**Policy GE2 Garden Space and Support for Nature**

123. This policy seeks to retain and protect garden space.
124. The terms “bat tubes” and “hedgehog highways” are ambiguous. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
125. I am satisfied part f) of the policy avoids being overly prescriptive by inclusion of the term “where appropriate” twice. The first sentence of part e) of the policy suggests development management has a wider remit than it has. The third sentence of part e) of the policy appears to incorrectly assume all site boundaries and frontages are green barriers/hedges. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
126. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies G8 and G9. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
127. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:**

**In Policy GE2**

**In part c) after “bat tubes” insert “or boxes to provide artificial roosts” and  
replace “hedgehog highways” with “accessways through boundary walls and  
fences for hedgehogs”**

**In part e) replace the first sentence with “Development proposals that minimise the paving of gardens for parking or ease of maintenance will be supported.”**

**In part e) replace the final sentence with “Development proposals that avoid the loss of green barrier/hedges will be supported.”**

### **Policy GE3 Protection of Trees and Verges**

128. This policy seeks to protect important trees and verges and seeks additional new tree planting.

129. Paragraph 131 of the Framework states planning policies should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible. Paragraph 180 of the Framework states development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland or veteran trees should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. I am satisfied verges contribute greatly to the visual attractiveness and local character and history of the Neighbourhood Area.

130. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policy G6. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

131. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. This policy meets the Basic Conditions.

### **Policy GE4 Planting, Landscaping and Water Management**

132. This policy seeks to establish support for planting and landscaping that enhances biodiversity and slows water run-off.

133. The policy has regard for paragraph 179 of the Framework which states plans should secure measurable net gains for biodiversity and paragraph 167 of the Framework which states developments should not increase flood risk elsewhere. Part a) of the policy relating to the introduction of a strategic planting scheme including arrangements for reduced mowing regimes on areas of public greenspace and roadside verges is a community aspiration not capable of implementation through the determination of development proposals. I have recommended a

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

134. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies G2, G9 and EN5. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

135. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 6:**

**In Policy GE4 delete part a) and transfer the text to the green space and environment community actions in part 12.7 of the Neighbourhood Plan**

**Policy TC1 Mix in the Town Centre**

136. This policy seeks to ensure a sustainable mix of uses in the town centre.

137. The policy has regard for paragraph 86 of the Framework which states planning policies should support the role that town centres play at the heart of local communities. Paragraph 86 of the Framework also states planning policies should define the extent of town centres and primary shopping areas. The policy refers to map 20 within support documents where the spatial extent of Headingley Town Centre is defined. I consider this map should be included in the Neighbourhood Plan in order to assist users. The final paragraph requires correction with respect to the word “However” and the approach adopted is not evidenced. The policy title is ambiguous. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

138. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies P1 and P3. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

139. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 7:**

**In Policy TC1 in the final paragraph replace the text after "Centre" with "or elsewhere in the Neighbourhood Area, will only be supported in accordance with the extant cumulative impact licensing policy."**

**In the Policy title insert "of uses" after "mix"**

**Include a map of the spatial extent of Headingley Town Centre in the Neighbourhood Plan**

**Policy TC2 Supporting a Pedestrian Friendly Headingley**

140. This policy seeks to establish support for measures to improve accessibility in the town centre.

141. The policy has regard for paragraph 92 of the Framework states planning policies should promote social interaction and aim to achieve safe and accessible places, and paragraphs 104,110 and 112 of the Framework relating to sustainable transport.

142. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies P3, P10 and T2. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

143. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

**Policy TC3 Design of the Town Centre**

144. This policy seeks to ensure shop front proposals are of an appropriate design.

145. The policy has regard for paragraph 130 of the Framework which requires planning policies to ensure developments are sympathetic to local character and history and that places are attractive and welcoming.

146. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies P10 and P11. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
147. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy GA1 Traffic Management**

148. This policy seeks to establish support for proposals to alleviate traffic management stresses.
149. The policy has regard for paragraph 106 of the Framework which states planning policies should identify and protect where there is robust evidence routes which could be critical in developing infrastructure to widen transport choice, and that planning policies should provide for attractive and well-designed walking and cycling networks. The policy also has regard for paragraph 92 of the Framework relating to the achievement of safe and accessible places with clear and legible pedestrian and cycle routes, and paragraph 113 of the Framework relating to requirements for travel plans for developments that will generate significant amounts of movement.
150. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies P10, T1 and T2. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
151. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy GA2 Pedestrian and Cycle Routes**

152. This policy seeks to protect and upgrade active travel routes and supporting infrastructure.
153. Paragraph 106 of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks with supporting facilities

such as secure cycle parking. Paragraph 112 of the Framework states applications for development should create places that are safe, secure and attractive.

154. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies T1 and T2. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
155. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy GA3 Footpaths and Ginnels**

156. This policy seeks to ensure the footpath and ginnel network is maintained and enhanced.
157. The policy has regard for Paragraph 106 of the Framework which states planning policies should provide for attractive and well-designed walking and cycling networks with supporting facilities such as secure cycle parking, and Paragraph 112 of the Framework which states applications for development should create places that are safe, secure and attractive.
158. Part a) of the policy provides a link to maps to support the plan. The reference should be more precise so that a user is directed to the public rights of way map and the ginnels map. Part d) of the policy refers to map 22. The link takes a plan user to maps to support the plan. None of these is labelled map 22. One of the maps is titled connectivity improvements and identifies several routes. Part g) includes the imprecise term "Stadium". I have recommended a modification in these respects so that the policy "is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.
159. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and "is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.
160. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policies T1, T2, P10, P11, G1 and G9. The policy serves

a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

161. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 8:**

**In Policy GA3**

- **in Part a) of the policy the link to maps should be more precise so that a user is directed to the public rights of way map and the ginnels map**
- **in Part d) of the policy adjust the link to take a plan user to the connectivity improvements map. This map should be adjusted to reflect the policy wording**
- **in Part g) insert "Headingley" before "Stadium"**

**Policy GA4 Electric Vehicles**

162. This policy seeks to establish support for provision of electric vehicle infrastructure.

163. Paragraph 112 of the Framework states applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

164. The policy is in general conformity with the strategic policies of the Development Plan that are relevant to the Neighbourhood Plan, in particular strategic Policy T2. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

165. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

## Conclusion and Referendum

166. I have recommended eight modifications to the Submission Version Plan. I recommend an additional modification in the Annex to my report. The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them. I am satisfied that the Neighbourhood Plan is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990, and meets the Basic Conditions:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

**I recommend to Leeds City Council that the Headingley Neighbourhood Development Plan for the plan period up to 2033 should, subject to the modifications I have put forward, be submitted to referendum.**

167. 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. I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Leeds City Council as a Neighbourhood Area on 25 October 2018.**

## Annex: Minor Corrections to the Neighbourhood Plan

168. I have only recommended modifications and corrections 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. 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. Supporting text must be adjusted to achieve consistency with the modified policies.

169. The representation of an individual states paragraph 8.9 of the Neighbourhood Plan requires correction. The Neighbourhood Forum has commented “There is some confusion here. The Rose Court which is 'at risk' is the building at 29 Headingley Lane, which is currently under development as apartments. The 'Rose Court' which is to be used as a SEND school is what was originally named Buckingham Villas on Buckingham Road (it was renamed Ford House by Leeds Girls High School, and later Rose Court; it is now returning to its original name). The Neighbourhood Forum suggest the second sentence of paragraph 8.9 is replaced with “The name Rose Court has been used for two adjacent buildings, one is now a school and the other is being redeveloped as apartments.” I recommend this modification is made in the interests of clarity for users of the Neighbourhood Plan.

**Recommended modification 9:  
Modify policy explanation sections, general text, figures and images, and supporting documents to achieve consistency with the modified policies, and to achieve updates and necessary clarity, and correct identified errors.**

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26 May 2022

REPORT END