

**Otley Town Council and Mid Wharfedale Parish Council
and Lower Washburn Parish Council**

Otley Neighbourhood Development Plan

A report to Leeds City Council and Harrogate Borough Council
of the Independent Examination of the Otley Neighbourhood
Development Plan

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Overall Finding

This is the report of the Independent Examination of the Otley Neighbourhood Development Plan. The plan area comprises the entire Otley Town Council area within the Leeds City Council area, with the addition of the Throstle Nest Estate (part of the Weston area of Mid Wharfedale Parish in the Harrogate Borough Council area) and the Riverside Estate (part of the Farnley area of Lower Washburn Parish also in the Harrogate Borough Council area). The plan period is 2018-2028. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for housing 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 plan area.

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”¹
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Otley Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Otley Town Council (the Town Council). The draft plan has been submitted by the Town Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Otley Neighbourhood Area the major part of which was formally designated by Leeds City Council (the City Council) on 29 May 2013, and two small parts of which were formally designated by Harrogate Borough Council (the Borough Council) also on 29 May 2013². The Neighbourhood Plan has been produced by the Otley Neighbourhood Plan Steering Group, made up Town Councillors and other volunteers.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Town Council for submission of the plan and accompanying documents to the City Council. The City Council and the Borough Council arranged a period of publication between Friday 9 November 2018 and 5.00pm on Friday 4 January 2019. The City Council has submitted the Neighbourhood Plan to me for independent examination.

¹ Paragraph 183 National Planning Policy Framework (2012) (See paragraph 214 of the NPPF 2019 for an explanation why this Independent Examination is being undertaken in the context of the NPPF 2012)

² The Throstle Nest Estate (part of the Weston area of Mid Wharfedale Parish in the Harrogate Borough Council area) and the Riverside Estate (part of the Farnley area of Lower Washburn Parish also in the Harrogate Borough Council area).

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.³ The report makes recommendations to Leeds City Council and Harrogate Borough Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The City Council and the Borough Council will decide what action to take in response to the recommendations in this report.
6. The City Council and the Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and the decision taken to put the plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application⁴.
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 area⁵ unless Leeds City Council and/or Harrogate Borough Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan⁶. The Framework is very clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted⁷.
8. I have been appointed by the City Council with the consent of the Borough Council, the Town Council, and the Parish Councils to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the

³ Paragraph 10 Schedule 4B Town and Country Planning Act 1990

⁴ Paragraph 216 of the National Planning Policy Framework 2012 explains full weight is not given at this stage

⁵ Section 3 Neighbourhood Planning Act 2017

⁶ Section 156 Housing and Planning Act 2016

⁷ Paragraph 198 National Planning Policy Framework 2012

City Council, Borough Council, Town Council, and Parish Councils. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.

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

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

10. I make my recommendation in this respect and in respect to any extension to the referendum area,⁸ 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.⁹

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.¹⁰ The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.*”

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

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

⁹ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

¹⁰ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

Basic Conditions and other Statutory Requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.¹¹ 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 2017.¹²

14. As the final basic condition, on 28 December 2018, replaced a different basic condition that had previously been in place throughout the period of preparation of the Neighbourhood Plan I asked the City and Town Councils to jointly confirm the Neighbourhood Plan meets the new basic condition. I refer to this matter later in my report when considering Habitats Regulations Assessment.

15. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.¹³ 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’.

16. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with

¹¹ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

¹² This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”

¹³ The Convention Rights has the same meaning as in the Human Rights Act 1998

the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.¹⁴ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the Regulations) which are made pursuant to the powers given in those sections.

17. The Neighbourhood Plan relates to the area that was designated by the City and Borough Councils as a neighbourhood area on 29 May 2013. A map of the Neighbourhood Plan boundary is included as Map 1 of the Submission Version Plan and is identified on the separate Neighbourhood Plan Map. The Neighbourhood Plan designated area includes all of the Otley Town Council area boundary and the Throstle Nest Estate (part of the Weston area of Mid Wharfedale Parish in the Harrogate Borough Council area) and the Riverside Estate (part of the Farnley area of Lower Washburn Parish also in the Harrogate Borough Council area). The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁵ and no other neighbourhood development plan has been made for the neighbourhood area.¹⁶ Whilst page 91 of the Neighbourhood Plan states many of the neighbourhood Plan policies “*have no relevance to those parts of the Neighbourhood Area in Harrogate*” it is the case that all policies apply throughout the entire Neighbourhood Area unless a policy specifically states a geographic area within the Neighbourhood Area that it applies to. In a joint response, dated 28 March 2019, to my request for clarification made on 15 February 2019 Leeds City Council and Otley Town Council, on behalf of Harrogate Borough Council, Mid Wharfedale Parish Council and Lower Washburn Parish Council have confirmed this understanding. All requirements relating to the plan area have been met.

18. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;¹⁷ and the Neighbourhood Plan does not include provision about excluded development.¹⁸ I am able to

¹⁴ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

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

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

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

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

confirm that I am satisfied that each of these requirements has been met.

19. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.¹⁹ The front cover of the Submission Version Plan clearly states the plan period to be 2018-2028.
20. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.²⁰ It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
21. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
22. 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.
23. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.²¹

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

²⁰ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the National Planning Policy Framework 2012

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

Documents

24. 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:

- Otley Neighbourhood Plan 2018-2028 Submission Plan July 2018
- Otley Neighbourhood Plan Map
- Otley Neighbourhood Plan 2018-2028 Basic Conditions Statement June 2018 [*In this report referred to as the Basic Conditions Statement*] including Strategic Environmental Assessment & Habitats Regulations Assessment Screening Report September 2017 [*In this report referred to as the SEA and HRA Screening Report*] and including Otley NDP Sustainability Assessment Report
- Otley Neighbourhood Development Plan Habitats Regulations Assessment Screening Report Update September 2018 [*In this report referred to as the HRA Screening Report Update*] and representations in respect of this document
- Otley Neighbourhood Development Plan Habitats Regulations Assessment Screening Report Update (April 2019), the Otley Basic Conditions Statement Update (April 2019), and representations in respect of these documents
- Otley Neighbourhood Plan Consultation Statement June 2018 including appendices [*In this report referred to as the Consultation Statement*]
- Otley Neighbourhood Plan Evidence Base and other information available on the Otley Town Council website
- Representations received during the Regulation 16 publicity period and the comments of Otley Town Council on those representations
- Correspondence between the Independent Examiner and the City, Borough, Town and Parish Councils published on the City Council website
- Leeds Core Strategy adopted November 2014
- Leeds Core Strategy Selective Review (submitted to the Secretary of State 9 August 2018)
- Leeds City Natural Resources and Waste Local Plan (adopted January 2013)
- Saved Leeds Unitary Development Plan Review (UDP) (2006) Policies
- Leeds City Council Revised Submission Draft Site Allocations Development Plan Document (submitted to the Secretary of State 23 March 2018)
- Heritage Background Paper (February 2017) to the Leeds City Council Site Allocations Plan Submission Version
- Harrogate Local Plan (2001), and selective alterations (2004), and Policies Map
- Harrogate District Core Strategy (2009))

- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance DCLG (June 2017) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2018
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations*].
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016
- The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

Consultation

25. 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.

26. An open process calling for volunteers led to the formation of a neighbourhood plan steering group which first met in July 2013. The neighbourhood plan steering group comprising Town Councillors and other local volunteers has met regularly throughout the plan

preparation process. Minutes have been published on the Town Council website. A Community Engagement Strategy provided a sound basis for consultation throughout the plan preparation process that has included use of websites and social media; use of the community newspaper 'Otley Matters', and other press releases; display of posters; delivery of documents to all addresses in the plan area; and drop-in events.

27. Initial consultation included a survey document delivered to every household in March and April 2014; publicity through 'Otley Matters' and press releases; and events held with groups of older people, primary school age children, and teenagers. Key findings identifying issues and concerns led to the formation of four topic groups exploring community services and facilities; green and built environment; housing, employment, town environment and sites; and transport. As part of the work of these groups, community views were gathered, including at the Otley Show and at the Otley Carnival.
28. In November 2015 a 'Policy Intentions Document' and associated questionnaire were circulated to all households and businesses in the plan area. Responses to the questionnaire informed further evidence gathering and preparation of the first full draft Neighbourhood Plan which included policies and proposals relating to specific sites and buildings. An 'Informal Sites Consultation' undertaken between 28 November and 15 December 2016 included consultation with landowners, and drop-in sessions in each of the five Otley wards.
29. Pre-submission consultation in accordance with Regulation 14, undertaken over a six-week period between 8 September and 30 October 2017, included deposit of the Plan document at convenient locations; publicity through 'Otley Matters'; and holding of five community drop-in sessions. Over 250 representations were submitted. The main consultation comments are summarised at page 17 of the Consultation Statement and comprehensively presented in Appendix 18 of the Consultation Statement where Steering Group responses and changes made to the Neighbourhood Plan, are set out. The suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Town Council and Parish Councils for submission to Leeds City Council.
30. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between Friday 9

November 2018 and 5.00pm on Friday 4 January 2019. Representations from 12 different parties were submitted during the period of publication. I have been provided with copies of each of these representations. In preparing this report I have taken into consideration all of the representations submitted during the Regulation 16 period even though they may not be referred to in whole, or in part.

31. Additional consultation has been undertaken with respect to Habitats Regulations Assessment during April and May 2019 which I refer to later in my report.
32. Harrogate Borough Council has commented on the Policies Map stating *“it is a little difficult to interpret the various layers in the areas of land which fall within Harrogate District at the most north eastern corner of the Neighbourhood Plan area. It would be helpful if this could be made clearer to aid understanding”*. I agree the overlap of policy indicators on the Policies Map in the vicinity of the Riverside Estate area does make interpretation difficult. As it is Harrogate Borough Council that must assess development proposals that fall within its administrative area it is appropriate that an adjustment is made to facilitate this. I have recommended an inset map is added to the Policies Map displaying areas to which policies apply in the vicinity of the Riverside Estate at a larger scale.

Recommended Modification 1:

An inset map should be added to the Policies Map displaying areas to which policies apply in the vicinity of the Riverside Estate at a larger scale

33. Harrogate Borough Council has also stated *“The Neighbourhood Plan map shows the Riverside – Weston Riverside Corridor as covering the area of woodland plantation located within the Neighbourhood Plan boundary along with the areas of land immediately adjacent to the waterfront. Policies TNRH1 Riverside-Weston Local Green Infrastructure Corridor and TNRH2 Riverside Development relate to this area and seek to protect and enhance the wildlife and biodiversity of the riverside corridor. They also seek to enhance access to the waterfront and to enhance pedestrian and cycling linkages within the corridor. There may be potential conflicts between the objectives of improving human access within the corridor and protecting and enhancing wildlife within the corridor. Increasing permeability of the*

woodland area for people may conflict with the objectives of Policies TNRH1 and TNRH2 to protect and enhance wildlife and biodiversity. It is requested that this policy is reviewed to ensure clarity". I am satisfied the policies referred to (and indeed Policies GE2 and GE3 which they repeat) are compatible. The Framework states *"to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system"*. This requires a balancing of considerations. As a separate matter, later in my report I propose a modification of the Neighbourhood Plan to avoid duplication of policies.

34. Substantial detailed representations including much supporting information has been submitted on behalf of All Saints Parish Church, Otley in respect of Policies CF1, BE2, GE2 and GE7. A representation on behalf of the Weston Hall Estate objects to policies TT1, GE3, GE5, and GE6. A representation submitted on behalf of Persimmon Homes West Yorkshire objects to Policy MU1 East of Otley Key Guiding Development Principles and makes reference to various matters including the relationship with strategic policy; elderly persons accommodation; a proposed Local Green Space designation; and travel routes. The Leeds Local Access Forum and one individual have also submitted representations in respect of specific policies of the Neighbourhood Plan. I refer to all of these representations when considering the relevant policies later in my report. The Leeds Local Access Forum has also made valuable comments in respect of maps, the glossary, and other matters. Where points raised do not necessitate modification of the Neighbourhood Plan to meet the Basic Conditions, I have referred to them in the Annex to my report. I have not included suggestions for mapping of routes outside the Neighbourhood Plan Area as the Neighbourhood Plan must only relate to the Neighbourhood Area; nor those relating to network improvements including Definitive Map Modification Order applications which are matters outside the remit of the Neighbourhood Plan.
35. Highways England has confirmed it has no specific comments to make. Historic England has also stated it has no further comments to make. These representations and the representations of Lower Wharfedale Ramblers; of an individual relating to housing matters; and of another individual relating to retail provision, do not necessitate any modification of the Plan to meet the Basic Conditions.

36. I provided the Town Council and Parish Councils with an opportunity to

comment on the Regulation 16 representations of other parties. I placed no obligation on the Town Council and Parish Councils to offer any comments but such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. On 30 January 2019 the City Council forwarded to me comments of the Town Council on the representations of other parties received during the Regulation 16 publicity period. I have taken those comments into consideration in preparing my report.

37. 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.²²

38. The Consultation Statement and Evidence Base include information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care over a period of more than four years 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

39. 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

²² Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the background and supporting documents and copies of the representations and comments 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

40. The Basic Conditions Statement states “*The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act. Considerable emphasis has been placed throughout the consultation process to ensure that no sections of the community have been isolated or excluded*”. I have considered the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).²³ I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. Whilst no analysis has been undertaken to establish the impact the objectives and policies of the Neighbourhood Plan will have on persons with protected characteristics (as identified in the Equality Act 2010) from my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

41. The objective of EU Directive 2001/42²⁴ 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

²³ 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.

²⁴ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

'plans and programmes'²⁵ as the Local Planning Authority is obliged to 'make' the plan following a positive referendum result.²⁶

42. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Town Council, as the Qualifying Body, to submit to the Local Planning Authority 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.

43. The Neighbourhood Plan has been subjected to a screening by Leeds City Council in consultation with the statutory bodies to determine whether a Strategic Environmental Assessment (SEA) is required. The Screening Report dated September 2017 concludes: *"as a result of the assessment carried out in Table 2 above and the more detailed consideration of the draft policies, it is considered that it is unlikely that any significant environmental effects will arise as a result of the Otley Neighbourhood Plan. Consequently, the assessment within Table 1 concludes (subject to HRA screening outcome), that an SEA is not required when judged against the application of the SEA Directive criteria. The draft neighbourhood plan does not propose any specific allocations however it contains site specific policies encouraging certain types of development on clearly identified sites. Such development will inevitably result in negative environmental impacts however these are unlikely to be significant due to the scale of development and the underlying sustainable intentions set out in the policies. The environmental impact of specific schemes will be assessed through the planning application process. The plan aims to minimise any effects on sensitive natural or heritage assets. The neighbourhood plan's policies seek to guide development within the Neighbourhood Area and are required to be in general conformity with those within the Local Plan. It is unlikely that there will be any significant additional environmental effects that have not already been considered and dealt with through SEA's/SA's of the Local Plan documents. Finally, none of the environmental consultation bodies raised any concerns regarding any likely significant environmental effects."*

44. The Draft Screening Report has been sent to Natural England, the Environment Agency and Historic England for their opinions. The

²⁵ Defined in Article 2(a) of Directive 2001/42

²⁶ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

responses are included in the Screening Report. Natural England has also during the Regulation 16 publicity period confirmed it has no further comments to make on the SEA screening report. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

45. The SEA and HRA Screening Report dated September 2016 in respect of the HRA Screening conclusion states *“It is considered that none of the policies in the ONP are likely to have a significant effect on the South Pennine Moors Phase 2 SPA/SAC whether alone or in combination with other projects and programs. The policies within the plan are required to be in general conformity with those of the Local Plan (including Biodiversity policies) which has been subject to HRA assessment. South Pennine Moors Phase 2 SPA/SAC is protected due to their moorland habitats which support breeding birds. None of the Otley Neighbourhood Area lies within 500m of the site. Furthermore, Natural England have stated within their consultation response that ‘We have checked our records and based on the information provided, we can confirm that in our view the allocations contained within the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect.’ It is therefore considered that the ONP is not likely to cause a significant effect on South Pennine Moors SPA/SAC or on any other European site. Consequently, the draft plan is not considered to require further assessment under Article 6 or 7 of the Habitats Directive (Art. 3.2(b)).”*
46. The Basic Conditions Statement states *“A screening opinion was issued by Leeds City Council in September 2017 (attached as Appendix 2) and states in its conclusion; ‘A SEA and HRA screening exercise has been undertaken for the emerging ONP. The assessments have concluded that the Otley Neighbourhood Plan is unlikely to give rise to any significant environmental effects or have significant effects on a European site. These conclusions are supported by comments from the environmental consultation bodies. Accordingly, it is considered that an SEA, or further HRA assessment is not required for the draft neighbourhood plan”.*
47. The Strategic Environmental Assessment & Habitats Regulations Assessment: Screening Report of November 2016 was prepared prior to the EU Court of Justice ruling in *People Over Wind and Sweetman v Coillte Teoranta*²⁷ and the Court of Justice (Second Chamber)

²⁷ Judgement of the Court Seventh Chamber 12 April 2018

judgement of 25 July 2018 Grace, Sweetman, and National Planning Appeals Board Ireland (ECLI:EU:C2018:593). The Basic Conditions Statement states *“Leeds City Council subsequently reviewed the HRA element in light of the judgement in the ‘People over Wind’, the updated September 2018 HRA assessment is attached as Appendix 3. The conclusion states; ‘It is considered that none of the policies in the Otley NP are likely to have a significant positive or negative effect on the South Pennine Moors SPA/SAC, and therefore the NP does not give rise to, or include, any mitigation measures. In light of the above, it is considered that given that no likely significant positive or negative effects on the South Pennine Moors SPA/SAC are identified for the Otley NP either alone or in combination with other plans or projects, this HRA Screening Update therefore concludes that the Screening is legally-compliant in respect of the Judgement and therefore does not require further appropriate assessment.’”*

48. In a Regulation 16 representation Natural England states *“We note the Strategic Environmental Assessment and Habitats Regulations Assessment screening report (including the HRA Screening Report Update September 2019) concludes that there will be no significant environmental effects or likely significant effects on European designated sites either alone or in combination with other plans or projects. These conclusions take into account the Leeds site allocations plan, Harrogate District Local Plan Submission Draft - Habitat Regulations Assessment and the Bradford Core Strategy. On the basis that the Otley neighbourhood plan does not allocate any development sites outside of the Leeds site allocation plan (which itself is not predicted to have a likely significant effect on any European designated sites), and the in-combination assessment findings, we agree with the screening conclusions.”*

49. I have earlier in my report referred to the replacement on 28 December 2018 of the basic condition relating to Habitats that had previously been in place throughout the period of preparation of the Neighbourhood Plan. In response to a request for clarification I made on 15 February 2019 Leeds City Council and Otley Town Council, on behalf of Harrogate Borough Council, Mid Wharfedale Parish Council and Lower Washburn Parish Council stated *“In light of the revised basic condition resulting from the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 coming into force on 28 December 2018, Leeds City Council is currently amending the HRA Screening Report and the*

Basic Conditions Statement to reflect these changes. Harrogate Borough Council has made comments on both documents. Once these documents are finalised, they will be publicised for 6 weeks and comments will be sought. Relevant bodies and the public will be fully consulted through the publication exercise which will be organised and managed by Leeds City Council. Both Councils will seek and have regard to each (others) views in the outcome of the HRA.”

50. Leeds City Council and Otley Town Council subsequently published the Otley Neighbourhood Development Plan Habitats Regulations Assessment Screening Report Update (April 2019), the Otley Basic Conditions Statement Update (April 2019), and an explanatory note between Friday 12th April and Friday 24th May 2019 (closing at 5pm). Comments were sought and details of how to make comments were set out. This consultation resulted in four responses, from Highways England; Historic England; National Farmers Union; and Natural England. Natural England has specifically stated agreement with the HRA Screening update that has concluded that no appropriate assessment is required. These additional representations do not necessitate any adjustment of the Habitats Regulations Assessment Screening Report Update (April 2019) or the Otley Basic Conditions Statement Update (April 2019). I conclude the Neighbourhood Plan meets the requirements of the EU Habitats Regulations.
51. 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.
52. I conclude that the Neighbourhood Plan:
- is compatible with the Convention Rights;
 - 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.
53. 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. Leeds City Council as local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations:

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).²⁸

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

54. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans²⁹ which requires plans to be “*consistent with national policy*”.

55. Lord Goldsmith has provided guidance³⁰ that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

56. The Basic Conditions Statement includes Section 3.1 providing a description how the Neighbourhood Plan has regard to the National Planning Policy Framework”. Table 1 sets out how the Neighbourhood Plan meets each of the Core Planning Principles of the Framework. Table 2 presents a commentary how each of the Neighbourhood Plan policies have regard to identified sections and paragraphs of the Framework. I am satisfied this assessment demonstrates how the

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

²⁹ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the National Planning Policy Framework 2012

³⁰ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

Neighbourhood Plan has regard to relevant identified components of the Framework.

57. The National Planning Policy Framework sets out the government's planning policies for England and how these are expected to be applied. The most recent Framework was published on 19 February 2019 replacing the earlier revision of 24 July 2018 which replaced the initial Framework of March 2012. Paragraph 214 of the latest Framework states *"The policies in the Framework published in March 2012 will apply for the purpose of examining plans, where those plans were submitted³¹ on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned."* I have undertaken this Independent Examination of the Neighbourhood Plan in the context of the Framework published in March 2012.

58. The Neighbourhood Plan includes a positive vision for Otley Town. The vision includes economic dimensions with reference to *"greater employment opportunities"*; *"jobs in the creative, cultural and tourism industries"*; *"music and pubs underpinning the town's cultural economy"*; and much improved retail facilities *"with a distinctive, independent shopping centre rooted in local traders and businesses"*. There is also reference to social components concerned with *"providing the right sort of homes for local people"*; *"much improved local facilities"*; and *"a better deal for teenagers and young people"*. The vision also refers to environmental considerations including reference to the Chevin and River Wharfe *"as high quality recreational, wildlife and landscape corridors"* and *"an attractive town set in outstanding countryside"*. These statements are consistent with the underlying principles of the Framework, specifically, the need to jointly and simultaneously seek economic, social and environmental gains through the planning system.

59. The vision is supported by eight objectives of the Neighbourhood Plan concerned with: homes meeting the needs of local people; new employment opportunities; support and regeneration of the local economy; retention and provision of better community, cultural and leisure facilities; improvement of transport infrastructure; protection

³¹ Footnote 69 of the Revised Framework states that *"for neighbourhood plans, 'submission' in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012."*

and enhancement of built heritage; high quality design of buildings and places; and protection and enhancement of green space, landscape, wildlife and features of nature conservation interest. These objectives provide a link between the vision and the policies of the plan. These objectives are consistent with the Framework.

60. The Neighbourhood Plan preparation process is a convenient mechanism to survey and test local opinion on matters considered important in the local community. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The Guidance states, *“Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements.”* The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning is consistent with this guidance and represents good practice. The Guidance states, *“Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”* I am satisfied the approach adopted in the Neighbourhood Plan presenting the projects and aspirations in separate sections under topic themes and by bringing these together in the Project Delivery Plan presented in Chapter 6 of the Neighbourhood Plan, adequately differentiates the community actions from the policies of the Plan and has sufficient regard for the Guidance.

61. 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.”*

62. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.³² 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”*³³.
63. 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.
64. The Framework states there are three dimensions to sustainable development: economic; social; and environmental. A Sustainability Assessment of the Neighbourhood Plan has been undertaken and a report prepared dated 10 July 2018. The Basic Conditions Statement confirms the Neighbourhood Plan has taken account of the need to contribute to the achievement of sustainable development and states *“The sustainability assessment assesses each of the plan’s sixty-two policies against twelve benchmark criteria derived from the plan’s aims.”* Tables 4 to 11 included in the Basic Conditions Statement present *“a summarised assessment of each policy of the plan and how it impacts on each of the three strands of sustainability: economic, social and environmental.”* The assessment shows every one of the policies makes a positive contribution on sustainability/benchmark criteria as a whole. When analysed by topic area each group of policies is found to make either a positive impact or no impact. No

³² Paragraph 14 National Planning Policy Framework 2012

³³ Planning Practice Guidance (Ref ID:41-072-20140306)

individual policy, and no group of policies, is found to have negative impact.

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

- Protect and improve green infrastructure;
- Protect and enhance the significance of heritage assets;
- Support mixed use development;
- Ensure housing development meets local needs;
- Achieve economic development including a growth of tourism;
- Protect and enhance community facilities;
- Support improvement of transport infrastructure; and
- Shape and direct development in the Throstle Nest and Riverside areas.

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)

66. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.³⁴ “*Neighbourhood plans must be in general conformity with the*

³⁴ Paragraph 16 National Planning Policy Framework 2012

*strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies”.*³⁵

67. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”³⁶

68. 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).

69. Harrogate Borough Council has informed me that the Development Plan applying in the Throstle Nest and Riverside parts of the neighbourhood area are: the Harrogate District Local Plan (2001) and Selective Alteration (2004) and its Policies Map (saved policies where these accord with the National Planning Policy Framework (NPPF)); the Harrogate District Core Strategy (2009) where it accords with the NPPF. The Borough Council has identified the following key strategic policies that the Neighbourhood Plan needs to be in general conformity with:

Harrogate District Local Plan (2001) and Selective Alteration (2004)

E2: retention of industrial/business land and premises.

HD3: Control of Development in conservation areas,

HD20: Design of new development and redevelopment

C2: Landscape Character

Harrogate District Core Strategy (HDCS) 2009

TRA1: Accessibility

EQ1: Reducing Risks to the Environment

EQ2: The Natural and Built Environment and Green Belt

C1: Inclusive communities

³⁵ Paragraph 184 National Planning Policy Framework 2012

³⁶ Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20140306

70. Leeds City Council has informed me that the Development Plan applying in the part of the neighbourhood area within its administrative area and relevant to the Neighbourhood Plan comprises the Leeds Core Strategy (adopted November 2014) and the Saved UDP Review (2006) Policies. The Natural Resources and Waste Local Plan (adopted January 2013) also forms part of the Development Plan for Leeds City but much of that document relates to excluded development for the purposes of neighbourhood planning.

71. Harrogate Borough Council is preparing a new Harrogate District Local Plan. Consultation was undertaken on a Publication Draft Local Plan in the period January to March 2018. Harrogate Borough Council submitted the Harrogate District Local Plan to the Secretary of State for Housing Communities and Local Government on 31 August 2018 and the Plan is now being examined by an independent Planning Inspector. The Borough Council has identified the following policies of the Publication Draft as key strategic policies:

GS1: Providing New Homes and Jobs

GS2: Growth Strategy to 2035

GS3: Development Limits

GS4: Green Belt

GS5: Supporting the District's Economy

GS6: Sustainable Development

GS7: Health and wellbeing

HP2: Heritage Assets

HP3: Local Distinctiveness

HP4: Protecting Amenity

HP5: Public Rights of Way

HP8: Protection and Enhancement of Community Facilities

NE5: Green Infrastructure

72. Leeds City Council is preparing a Site Allocations Plan which at the time of this Independent Examination of the Neighbourhood Plan has reached the stage of consultation on the schedule of Proposed Main Modifications together with the associated changes to the Addendum to the SAP Sustainability Appraisal. That consultation concluded on 4 March 2019 and the Inspectors Report is due to be published imminently. The City Council is also preparing a Core Strategy Selective Review. The Leeds Core Strategy Selective Review was submitted to the Secretary of State on 9 August 2018. The Leeds Core Strategy Selective Review has also reached the stage of consultation on the schedule of proposed Main Modifications together with the

associated changes to the Addendum to the CSSR Sustainability Appraisal. The consultation runs between Friday 27 May and Friday 28 June 2019.

73. The Neighbourhood Plan can proceed ahead of preparation of the new Harrogate District Local Plan, Leeds City Site Allocations Plan, and the Leeds City Core Strategy Selective Review. 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.*³⁷

74. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the emerging new Local Plan, Site Allocations Plan, and the emerging Core Strategy Selective Review when they are adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan, however the Guidance is clear in that potential conflicts should be minimised.

75. 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 Plans are not part of the Development Plan and this requirement does not apply in respect of them. 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”*. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

76. 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.”*³⁸ 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.

77. 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:*

³⁷ Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20160211

³⁸ *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P & CR 31

- *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.”³⁹*

My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance. I have noted Table 3 of the Basic Conditions Statement sets out a commentary on the “conformity” of each Neighbourhood Plan policy to relevant Local Plan policy.

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

The Neighbourhood Plan Policies

79. The Neighbourhood Plan includes 62 policies as follows:

GE1: Otley Chevin Special Landscape Area

GE2: Local Green Infrastructure

GE3: Riverside Development

GE4: The Former Bridge End Cattle Market Site

GE5: Protection and Improvement of the Biodiversity of the Extended Leeds Habitat Network within Otley

³⁹ Planning Practice Guidance (ID ref: 41-074 201 40306)

GE6: Protection of Local Green Space

GE7: Local Green Space Enhancement

GE8: Provision of New Green Space

GE9: Midgley Farm Wetlands

GE10: Development and Replacement Trees

GE11: Surface Level Sustainable Urban Drainage Systems

BE1: Otley Local Heritage Areas

BE2: Albion Street Local Heritage Area

BE3: Weston Lane Local Heritage Area

BE4: Westbourne Local Heritage Area

BE5: Birdcage Walk (West) Local Heritage Area

BE6: Otley Riverside Local Heritage Area

BE7: Station Top Local Heritage Area

BE8: Protection and Enhancement of Non-Designated Heritage Assets

BE9: Otley Conservation Area – Design and Development

BE10: The Oval Estate Design and Development Considerations

BE11: Duncan Estate Design and Development Considerations

BE12: Pegholme Estate Design and Development Considerations

MU1: East of Otley Key Guiding Development Principles

MU2: Westgate-Ashfield Works Development Requirements and Aspirations

MU3: Westgate Development Requirements and Aspirations

MU4: Former Board Buildings, North Parade

H1: Housing Development on Non-Allocated Sites

H2: Housing Mix

H3: Housing for Independent Living with Poor Access to Facilities

H4: Affordable Housing

E1: Protection of Existing Employment Sites

E2: Land Off Ilkley Road

E3: Land Off Ilkley Road (Adjacent Armitage Monobond)

E4: New Employment Development

E5: Employment Development on Non-Allocated Sites

E6: Live/Work Accommodation

E7: Otley Cemetery Chapels

E8: Hotel Development

CF1: Protection and Enhancement of Community Facilities

CF2: New Sports and Recreation Facilities

CF3: Entertainment Venues

CF4: Improvement of Health Facilities

CF5: New Educational Provision

TT1: Improved Cycling, Walking and Bridleway Provision

TT2: Otley Bridge Improvements

TT3: White Bridge Improvements and Associated Works

TT4: Improved Public Transport

TT5: Otley Bus Station

TT6: Otley Rail Link Reinstatement

TT7: Town Centre Public Parking

TT8: Former Gas Works Site

TNRH1: Riverside-Weston Local Green Infrastructure Corridor

TNRH2: Riverside Development

TNRH3: Protection and Improvement of the Biodiversity of the Extended Leeds Habitat Network within Otley

TNRH4: Protection of Otley Plantation (Part) Local Green Space

TNRH5: Otley Riverside Local Heritage Area

TNRH6: Otley Conservation Area – Riverside Estate Design and Development

TNRH7: Weston Conservation Area – Throstle Nest Design and Development

TNRH8: Live/Work Accommodation

TNRH9: Protection and Enhancement of Prince Henry’s Sports Changing Rooms and Car Park

TNRH10: Improved Cycling and Walking Provision

80. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.”* *“Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*⁴⁰

81. 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.”*⁴¹

82. *“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”.*⁴²

⁴⁰ Paragraphs 184 and 185 National Planning Policy Framework 2012

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

⁴² Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211

83. “A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”⁴³

84. 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.

GE1: Otley Chevin Special Landscape Area

85. This policy seeks to establish that development must not seriously harm the character and appearance of the Otley Chevin Special Landscape Area and identifies aspects of landscape restoration or enhancement that should particularly be addressed.

86. The policy clearly identifies the area in which it is to apply. The policy includes the term “*will be acceptable*”. It is not appropriate for a policy to indicate that proposals will be permitted or not permitted as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁴⁴ The term “*should have regard to*” does not provide a basis for the determination of planning applications. The term “*attractive*” is imprecise. I am satisfied the “*fine views*” are adequately identified in Appendix 5 including on the Key Views Location Map in particular relating to direction. Sufficient detail is provided to guide the preparation and determination of development schemes. I am satisfied the selection of fine views has been adequately explained and their local significance has been tested through extensive consultation. Planning policy must operate in the public interest. It should be made

⁴³ Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20140306

⁴⁴ Paragraph 196 National Planning Policy Framework 2012

clear viewpoints from which views are to be seen are in locations to which the general public have free and unrestricted access. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

87. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended Modification 2:

In Policy GE1

- **delete “acceptable” and insert “supported”**
- **delete “should have” and insert “must demonstrate”**
- **delete “(see Appendix 5)” and insert “seen from locations that are freely accessible to members of the general public identified in Appendix 5”**
- **replace part v. with “Groups of buildings that make a positive contribution to local distinctive character;”**

GE2: Local Green Infrastructure

89. This policy seeks to establish that four areas of local green infrastructure will be maintained, and that development should have regard to named attributes, and where possible include measures to enhance or extend the green area.

90. A substantial representation on behalf of All Saints Parish Church Otley includes *“This policy, page 20, is applied to the land owned by the Parish Church and requires land so designated to be protected from development which would sever it or harm its operation as part of a multifunctional wildlife amenity and recreational network. Document 4 sets out the history of the land and importantly its lease to Otley Urban District Council and subsequently Leeds City Council in 1935. Paragraph 4 of document makes clear that as a successor Leeds City Council were unable to resource the use of the land in the manner for which it had been leased to them. Consequently, the City Council surrendered the lease. It is clear that if the City Council with all its resources could not layout or maintain this piece of land, it is totally unrealistic to expect the Parish Church with very limited resources and significant responsibilities for a Grade 1 Listed building, to achieve something that eluded Leeds City Council. If confirmed the policies on the neighbourhood plan would not only fetter the All Saints Parish Church Otley in its attempt to relinquish its ongoing liabilities for this property, but in addition to secure a capital receipt.”*
91. The Town Council has commented *“Policy GE2 in fact states that land designated as Local Green Infrastructure ‘will be maintained’ consistent with the policy wording (Core Strategy Spatial Policy 13) applying to higher level ‘Strategic Green Infrastructure’ as designated by LCC. The policy wording/requirement quoted is taken from an earlier draft of the NP. The policy does not require any owner to maintain the land in the sense of land management, neither does it unduly fetter owners, being permissive of development which respects the designation as set out in the policy. This is similarly consistent with Core Strategy policy.”*
92. Policy GE2 relates to *“Local Green Infrastructure”* identified on the Neighbourhood Plan Map. The representation refers to land that has been included in the Riverside-Weston Corridor. The policy requires development to have regard to the operation of the corridor as a multifunctional wildlife, amenity and recreation network and requires any development within or adjacent to the corridor to include measures to enhance or extend it as appropriate. The policy does not rule out development within the corridor.
93. In response to a request for clarification I made in a letter dated 15 February 2019 Leeds City Council and Otley Town Council, on behalf of Harrogate Borough Council, Mid Wharfedale Parish Council and Lower Washburn Parish Council stated ***“The Newhall Church Hall***

site (including land to rear) on Newall Carr Road - The site is currently designated as green space in the Leeds Unitary Development Plan Review (2006) and identified as green space in the Leeds Open Space Sports and Recreation Assessment (July 2011) and the Submission Draft Site Allocations Plan (May 2017)(please refer to the last page of the Outer North West Chapter) as site G771. As such, it was assessed as a candidate Local Green Space but rejected (please refer to the Local Green Space Assessment Document in the evidence base). In addition, the land to the west of the hall, fronting Newall Carr Road, falls within the 'Extended Leeds Habitat Network in Otley' as shown on The Neighbourhood Plan Map and Map 5: Leeds Habitat Network and Extensions within Otley (please refer to the Submission Draft Otley Neighbourhood Plan, page 29). **The Yew Tree Inn etc.** - The Newall Carr Road frontage falls within the 'Extended Leeds Habitat Network in Otley' as shown on The Neighbourhood Plan Map and Map 5: Leeds Habitat Network and Extensions within Otley (please refer to the Submission Draft Otley Neighbourhood Plan, page 29). There is no other specific evidence that supports the inclusion of the rest of the site in the Local Green Infrastructure corridor. The largely open site in question is included in order to provide greater infrastructure continuity where the connection is narrow. This is based on the City Council's approach regarding Strategic Green Infrastructure where built-up areas are similarly included, e.g. within Otley (please refer to the Submission Draft Otley Neighbourhood Plan, Map 3, page 22). **The area occupied by residential properties and gardens on the north side of Croft House Drive** - There is no specific evidence that supports the inclusion of this site in the Leeds Green Infrastructure corridor. The partly open site (i.e. gardens) in question is included in order to provide greater infrastructure continuity where the connection is narrow. This is based on the LCC approach regarding Strategic Green Infrastructure where built-up areas are similarly included, e.g. within Otley (please refer to the Submission Draft Otley Neighbourhood Plan, Map 3, p22)." I accept that if local green infrastructure is to fulfil a wildlife corridor role it must be continuous in nature and of appropriate width. I am satisfied inclusion of the areas referred to in the Riverside-Weston Corridor has been sufficiently justified.

94. The policy includes the imprecise term "as appropriate". The term "should" does not provide a basis for the determination of planning applications. It is unclear which Local Green Infrastructure the final sentence of the policy applies to. I have recommended a modification

in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

95. Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
96. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
97. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities, and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 3:
In Policy GE2**

- **replace the text before the list of locations with “To be supported development proposals must not harm the function of the following Local Green Infrastructure areas, identified on the Neighbourhood Plan Map, as part of a multifunctional wildlife, amenity, and recreational network:**
- **delete the second paragraph**
- **in the third paragraph delete “should” and insert “must, subject to viability considerations,” and delete “as appropriate”**

GE3: Riverside Development

98. This policy seeks to establish criteria for the support of development proposals in the Otley Riverside Corridor identified on the Neighbourhood Plan Map.
99. A representation submitted by the Leeds Local Access Forum states the wording of bullet points seems vague and asks whether they can be made more specific. The Town Council has commented *“The comment relates to Pre-Submission wording. The wording is amended in the Submission Plan and is considered to be more specific/less vague.”*
100. A representation on behalf of Weston Hall Estate objects to this policy on the grounds it is unnecessary and excessive. The representation includes *“it is considered that our client’s land should not fall under neighbourhood planning policies GE3, 5, and 6 for the following reasons: firstly, development on that land is already substantially restricted by the environmental constraints imposed by the risk of flooding, especially by the river; secondly, our client’s land is already sufficiently protected from inappropriate development under adopted and emerging local planning policies, including those relating to the Green Belt, in accordance with national planning policy; thirdly, further limitations on development under the proposed neighbourhood planning policies would either duplicate the effect of existing protection under the adopted and emerging local planning policies, adding further unnecessary layers to an already complex regime, or exceed it, introducing unduly onerous restrictions on development, contrary to national planning policy.”*
101. The Town Council has commented *“Policy GE3 neither duplicates nor exceeds existing policies. It performs a different function to both flood risk and Green Belt policies, focussing, within the context of Green Belt policy, on the types of development which would be acceptable within the sensitive River Wharfe corridor and seeking to protect its biodiversity and landscape assets, thereby refining existing policies. It is a response to community concerns as expressed in consultation and a development of the 2004 ‘vision’ document. It is considered that the policy has appropriate regard to national policy as required by basic conditions.”*
102. The policy clearly identifies the area in which it is to apply. The policy includes the term *“only be permitted”*. It is not appropriate for a policy to indicate that proposals will be permitted or not permitted as all

planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁴⁵ The term “*should*” does not provide a basis for the determination of planning applications. The term “*where appropriate*” introduces uncertainty. The terms “*most appropriate forms*” and “*maximises and balances*” are imprecise. I am satisfied the “*views*” are adequately identified in Appendix 5 including on the Key Views Location Map in particular relating to direction. Sufficient detail is provided to guide the preparation and determination of development schemes. I am satisfied the selection of views has been adequately explained and their local significance has been tested through extensive consultation. Planning policy must operate in the public interest. It should be made clear viewpoints from which views are to be seen are in locations to which the general public have free and unrestricted access. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

103. Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
104. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
105. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities; conserving and enhancing the natural environment; and conserving and enhancing the historic environment.

⁴⁵ Paragraph 196 National Planning Policy Framework 2012

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

Recommended Modification 4:

In Policy GE3

- delete “should only be permitted” and insert “will only be supported”
- replace part i with “Includes limited development that improves riverside leisure, recreation and hospitality activity;”
- replace part ii with “Protects, and subject to viability enhances: wildlife and biodiversity; the high-quality landscape setting; views seen from locations that are freely accessible to members of the general public identified in Appendix 5; and overall character of the river and riverbanks; and”
- in part iii delete “and where appropriate” and insert “, and subject to viability,”
- delete the final sentence

GE4: The Former Bridge End Cattle Market Site

106. This policy seeks to establish conditional support for use of the former Bridge End Cattle Market for leisure and community uses.

107. The policy includes the imprecise term “*local amenity*”. The terms “*should have regard to*” and “*presents an opportunity for*” and “*the desirability of*” do not provide a basis for the determination of planning applications. I am satisfied the “views” are adequately identified in Appendix 5 including on the Key Views Location Map in particular relating to direction. Sufficient detail is provided to guide the preparation and determination of development schemes. I am satisfied the selection of views has been adequately explained and their local significance has been tested through extensive consultation. Planning policy must operate in the public interest. It should be made clear viewpoints from which views are to be seen are in locations to which the general public have free and unrestricted access. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

108. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

109. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; meeting the challenge of climate change and flooding; conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 5:
In Policy GE4**

- **replace the text before the colon with “Development proposals for leisure and community uses, including outdoor pursuits facilities, as well as food and drink (where ancillary to the primary uses) at the former Bridge End Cattle Market, identified on the Neighbourhood Plan Map, will be supported subject to the following criteria”**
- **replace i with “No additional on-road parking;”**
- **in part ii delete “(see Appendix 5)” and insert “and seen from locations that are freely accessible to members of the general public identified in Appendix 5 will not be significantly adversely affected”**
- **in part iii delete “Opportunities for”**
- **commence part iv with “Demonstration of”**
- **in part v delete “The desirability of”**
- **in part vi after “of” insert a comma**
- **replace part vii with “No significant adverse effect on residential and visual amenity.”**

GE5: Protection and Improvement of the Biodiversity of the Extended Leeds Habitat Network within Otley

110. This policy seeks to establish criteria for development within the Extended Leeds Habitat Network and seeks to support measures that extend or fill gaps in the network.
111. A representation on behalf of Weston Hall Estate objects to this policy on the grounds it is unnecessary and excessive. The representation includes *“it is considered that our client’s land should not fall under neighbourhood planning policies GE3, 5, and 6 for the following reasons: firstly, development on that land is already substantially restricted by the environmental constraints imposed by the risk of flooding, especially by the river; secondly, our client’s land is already sufficiently protected from inappropriate development under adopted and emerging local planning policies, including those relating to the Green Belt, in accordance with national planning policy; thirdly, further limitations on development under the proposed neighbourhood planning policies would either duplicate the effect of existing protection under the adopted and emerging local planning policies, adding further unnecessary layers to an already complex regime, or exceed it, introducing unduly onerous restrictions on development, contrary to national planning policy.”*
112. The Town Council has commented *“Policy GE5 neither duplicates nor exceeds existing policies. It performs a different function to both flood risk and Green Belt policies, focussing on protecting and improving the biodiversity of the extended Leeds Habitat Network within Otley – a network identified jointly by LCC and West Yorkshire Ecology Service. The Otley network extensions have been agreed by LCC. The policy wording is consistent with Core Strategy Policy G9 (Biodiversity Improvements) applying its provisions to Otley’s extended network. It is considered that the policy has appropriate regard to national policy as required by basic conditions.”*
113. The policy includes the imprecise term *“commensurate with the scale of the development”* and *“acceptable in principle”*. The terms *“will be required to demonstrate”* and *“will be encouraged”* do not provide a basis for the determination of planning applications. It is unnecessary and confusing for one policy to state *“within Otley”* as all of the Neighbourhood Plan policies apply throughout the Neighbourhood Plan Area unless a lesser area of application is defined. I have recommended a modification in these respects so that the policy

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

114. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies, in particular with respect to support for measures that extend or fill gaps in the Extended Leeds Habitat Network.

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

Recommended Modification 6: In Policy GE5

- **commence the policy with “To be supported”**
- **delete “within Otley” on both the first and last lines**
- **delete “will be required to” and insert “must”**
- **delete “commensurate with the scale of the development,”**
- **delete “acceptable in principle” and delete “and encouraged”**

GE6: Protection of Local Green Space

116. This policy seeks to designate 57 Local Green Spaces.

117. In a letter dated 15 January 2019 Leeds City Council stated *“May I take this opportunity to draw your attention to an error on the submitted Policies Map. The consultant assisting Otley Town Council has confirmed that the area to the north west of Local Green Space G1089 (Cambridge Drive POS), which is covered by the green Local Green Space notation, is NOT proposed for Local Green Space*

designation. The notation should therefore be removed.” In a further letter dated 28 March 2019 the City Council stated “Otley Town Council has informed the City Council that whilst White Bridge Allotments (G1512) and Burras House Allotments (G814) appear on The Neighbourhood Plan Map and in Appendix 3: Local Green Space Assessments Summary and have been fully assessed in the Local Green Space Assessments Document (please refer to the evidence base), they have been omitted from Policy GE6 in error. The Town Council therefore requests that this error is corrected and White Bridge Allotments and Burras House Allotments are included on the list of sites designated as Local Green Spaces under Policy GE6”. I am able to recommend modification of the Neighbourhood Plan in order to correct errors⁴⁶ and have therefore included the relevant corrections as part of my recommended modification of this policy.

118. A representation on behalf of Weston Hall Estate objects to this policy on the grounds it is unnecessary and excessive. The representation includes *“it is considered that our client’s land should not fall under neighbourhood planning policies GE3, 5, and 6 for the following reasons: firstly, development on that land is already substantially restricted by the environmental constraints imposed by the risk of flooding, especially by the river; secondly, our client’s land is already sufficiently protected from inappropriate development under adopted and emerging local planning policies, including those relating to the Green Belt, in accordance with national planning policy; thirdly, further limitations on development under the proposed neighbourhood planning policies would either duplicate the effect of existing protection under the adopted and emerging local planning policies, adding further unnecessary layers to an already complex regime, or exceed it, introducing unduly onerous restrictions on development, contrary to national planning policy.”*

119. A representation submitted on behalf of Persimmon Homes West Yorkshire states it is important that the Neighbourhood Plan fully reflects the allocation in the Development Plan in terms of extent and detail/requirements. The representation also states the proposed Local Green Space designation within the East of Otley mixed use allocation, north west of the former Ings Tip is unjustified and is not supported by evidence. The Town Council has commented this is a drafting error which the Town Council accepts needs to be corrected stating *“There is no LGS in this location, as evidenced by the lack of a*

⁴⁶ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

site reference, a site entry in the on-map sites list, a policy listing, an Appendix 3 listing, and an evidence base document assessment". I have recommended this error is corrected. I have considered other issues raised in the representation when dealing with Policy MU1 later in my report.

120. Representations on behalf of All Saints Church include details of a case why land adjacent to Newall Church Hall should not be designated as "Green Space". Policy GE6 of the submission version Neighbourhood Plan does not seek to designate that site as a Local Green Space. In response to a request for clarification I made in a letter dated 15 February 2019 Leeds City Council and Otley Town Council, on behalf of Harrogate Borough Council, Mid Wharfedale Parish Council and Lower Washburn Parish Council have confirmed my understanding.
121. The Town Council has commented "*Policy GE6 neither duplicates nor exceeds existing policies. It performs a different function to both flood risk and Green Belt policies, focussing on the protection of land considered to be of particular value to the local community, as evidenced in the LGS site assessment document which forms part of the evidence base (ref Otley Sand and Gravel Pits). This includes evidence as to its demonstrable specialness justifying LGS designation of Green Belt land. It is considered that the policy has appropriate regard to national policy as required by basic conditions.*"
122. The Guidance states if the land is already protected by Green Belt policy then consideration should be given to whether any additional local benefit would be gained by the designation as Local Green Space. The Framework states "*the Local Green Space designation will not be appropriate for most green areas or open space*". Designating a green area as Local Green Space would give it protection consistent with that in respect of Green Belt. Decision makers must rely on paragraph 78 of the Framework that states "*local policy for managing development within a Local Green Space will be consistent with policy for Green Belts*" and the part of the Framework that relates to 'Protecting Green Belt land', in particular paragraphs 87 to 91 inclusive. Where the Neighbourhood Plan seeks to designate Local Green Space in areas of Green Belt it is necessary to consider whether any additional local benefit would be gained by that designation.

123. Paragraph 79 of the Framework states *“the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”*. Planning Practice Guidance states *“If land is already protected by Green Belt policy, or in London, policy on Metropolitan Open Land, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space. One potential benefit in areas where protection from development is the norm (eg villages included in the green belt) but where there could be exceptions is that the Local Green Space designation could help to identify areas that are of particular importance to the local community.”*⁴⁷

124. In response to a request for clarification I made in a letter dated 15 February 2019 Leeds City Council and Otley Town Council, on behalf of Harrogate Borough Council, Mid Wharfedale Parish Council and Lower Washburn Parish Council have confirmed *“The following sites constitute all of the proposed Local Green Spaces located within Green Belt:*

- *Gallows Hill Nature Reserve (G851, Policy GE6:ix)*
- *Otley Sand & Gravel Pits (Otley North) (G1782, Policy GE6:x)*
- *Ashfield Primary School (G1602, Policy GE6:xxi)*
- *Birdcage Walk Allotments East (G1105, Policy GE6:xxiii)*
- *Birdcage Walk Allotments West (G424, Policy GE6:xxiv)*
- *White Bridge Allotments (G1512, omitted from Policy GE6 in error)*
- *Grove Hill Former Cricket Ground (G777, Policy GE6:xxx)*
- *Old Railway Off Otley Road (G1028, Policy GE6:xxxi)*
- *Old Railway Line Off Bradford Road (G1027, Policy GE6:xxxii)*
- *Otley Town Football Club (G1091, Policy GE6:xxxiii)*
- *Old Otlensians RUFC (G1092, Policy GE6:xxxiv)*
- *Ilkley Road Verge (G849, Policy GE6:xlvi) – western extent only*
- *Wharfedale Meadows (G109, Policy GE6:xi)– eastern extent only*
- *Otley Sand and Gravel Pits #2 (ONP3, Policy GE6:x)*
- *Old Railway Line (East) (ONP10, Policy GE6:xlvi)*
- *Wharfeside: Gallows Hill to Knotford Nook (ONP18, Policy GE6:liii)*

It is considered that the assessments for each of these sites, as contained within the Local Green Space Assessments Document

⁴⁷ Planning Practice Guidance Paragraph: 010 Reference ID:37-010-20140306

(please refer to the evidence base) includes evidence confirming that consideration has been given to whether there is any additional local benefit which could be gained by Local Green Space designation. Please refer to the ‘Summary Assessment/Basis of Recommendation’ section of each assessment.” I recognise the non-inclusion of locally significant green spaces would call into question the comprehensiveness, and to a degree the credibility, of the Neighbourhood Plan when referred to by members of the local community. I am satisfied designation is appropriate under these circumstances.

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

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

127. 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 the Neighbourhood Plan Map at a scale that is insufficient to identify the precise boundaries of each Local Green Space proposed for designation. Normally this would be a fatal flaw such that the designations should not proceed at this time as consultation has been undertaken on an imprecise basis. However, both the Neighbourhood Plan Map and Appendix 3 include Leeds City Council site reference numbers. Using these reference numbers, it is possible to access maps identifying the sites in the emerging Site Allocations Plan Green

Spaces Background Paper Publication Draft September 2015. As these maps are available in digital form on the City Council website it is possible to enlarge them sufficiently so that individual properties are identifiable. On this basis I consider the areas of land concerned have been adequately identified. I recommend a modification so that maps of the areas of land designated as Local Green Space are included in the Neighbourhood Plan at a scale sufficient to identify precise boundaries so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

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

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

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.”⁴⁸*

I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, and is local in character.

130. I have given consideration to the question whether or not the areas proposed for designation are an extensive tract of land. The Otley Sand and Gravel Pits (Otley North), reference G1782, and the adjacent Otley Sand and Gravel Pits #2, reference ONP3, together

⁴⁸ Paragraph 77 National Planning Policy Framework 2012

include an area of 59.97 hectares. I consider this to be an extensive tract of land and have recommended these areas are not designated as Local Green Space.

131. I now consider whether there is sufficient evidence for me to conclude that the remaining 54 areas proposed for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance. The Neighbourhood Plan sets out in Appendix 3 an “*LCC typology*” for the designations which acts as a summary of the reason for designation. The Neighbourhood Plan evidence base contains a more extensive assessment of all sites. I conclude each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

132. I find, with the exception of Otley Sand and Gravel Pits (Otley North), reference G1782, and the adjacent Otley Sand and Gravel Pits #2, reference ONP3, all the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 76 and 77 of the Framework concerned with the identification and designation of Local Green Space. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in Leeds Core Strategy Spatial Policy 13, and Strategic Policies P12 and G6. I consider that subject to the modification recommended this policy meets the basic conditions.

Recommended modification 7:

In Policy GE6

- **continue the first sentence with “where new development is ruled out other than in very special circumstances:”**
- **delete the second sentence**
- **delete “x. Otley Sand and Gravel Pits”**
- **add White Bridge Allotments (G1512) and Burras House Allotments (G814) to the list of areas designated**

On the Neighbourhood Plan Map remove the Local Green Space notation and delete from the Map Key the following:

- **the area adjoining, and north west of, Local Green Space G1089 (Cambridge Drive POS);**
- **Otley Sand and Gravel Pits (Otley North), reference G1782; and**
- **Otley Sand and Gravel Pits #2, reference ONP3.**

Correct the drafting error on the Neighbourhood Plan Map to make it clear there is no Local Green Space designation within the East of Otley mixed use allocation, north west of the former Ings Tip.

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

GE7: Local Green Space Enhancement

133. This policy seeks to establish that development that enhances Local Green Spaces, particularly at 14 named locations, will be supported.

134. A substantial representation on behalf of All Saints Parish Church Otley in respect of land adjoining Newall Church Hall includes: *“a copy of the feedback form which references the two sites in their respective categories” and “This is an area of land extending to around 0.6h and is situated to the east of the Hall. There is no public access, and save for a small number of trees, it is characterised by unkempt grass and weeds. There is a public open space to the south. This is mainly mown grass, with one area in particular characterised by a considerable amount strewn litter. Even public bodies have found it increasingly difficult in recent years to maintain the open spaces that they control, and this situation is likely to deteriorate even further in the coming years as funds become more and more constrained. This land, other than being open, contains no known natural assets. Even the most basic inspection can only lead to the understanding that the Church has not been able to invest any funds year by year for basic maintenance, let alone put in any capital for sympathetic enhancements. This policy, if applied to the land will leave the Church with a liability, and its current unkempt appearance will only continue*

into the future. The Church's Proposals - That the draft designations applied to the Hall and the land are removed and the whole site be shown on the Neighbourhood Plan allocated for housing. It cannot be over emphasised that in terms of built assets, the overriding need for the Church is to concentrate its resources into the Parish Church, which is Grade 1 listed. There will be awareness that the Church's responsible custodianship of the listed building has involved recent expenditure in well excess of £0.5 m. This must represent a tremendous achievement for a Church that is situated in a relatively small community. The Church considers that all possible steps need to be taken to future proof the upkeep of the Grade 1 listed building. One way to is this is to realise best value for these assets. It should be understood that all disposals of the Church's assets will have to demonstrate to the Charity Commissioners that "best value" has been achieved. The Church, therefore, wishes to have the backing of the Neighbourhood Plan to be able to sell this asset for low cost housing. The emphasis will be on low cost housing because the Church wants to ensure that people with limited income can have the opportunity to become home owners. The benefits of this proposed change to the Draft Designations are that: • the Church can free itself from future maintenance liabilities for a building and that it cannot sustain; • and through its sale, generate funds that will help future proof the continued upkeep of the Grade 1 Listed Parish Church; • and facilitate access onto the housing ladder by persons who would otherwise find it difficult to achieve".

135. I have earlier in my report explained that my role is to assess whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. It is not within my role to propose a modification of the Neighbourhood Plan so that the Newell Church Hall site and adjoining land are allocated for residential development.

136. The policy includes the imprecise terms "*acceptable in principle*"; "*the enhancement of*"; "*in need of such enhancement*"; and "*particularly*" such that the policy does not provide a basis for the determination of planning applications. All of the locations specifically identified in the policy are proposed to be designated as Local Green Space in Policy GE6. Whilst "*enhancements*" are not defined in Policy GE7 it is likely some proposals for enhancement will not require planning permission. Where enhancements are proposed that do require planning permission those proposals must be considered in the

context of Policy GE6 which makes provision for very special circumstances. Policy GE7 does not meet the Basic Conditions. I recommend the policy and supporting text are deleted.

137. So that the community aspirations identified in the policy are not lost sight of I recommend the Project Delivery Plan is adjusted to include the list of Local Green Spaces where proposals to enhance the facility, including use of planning contributions arising from development nearby, will be supported.

**Recommended Modification 8:
Delete Policy GE7 and supporting text.**

Adjust the Project Delivery Plan to include the list of Local Green Spaces where proposals for enhancement on the basis of designation as Local Green Space will be supported.

GE8: Provision of New Green Space

138. This policy seeks to establish support for provision of new green space, including equipped play areas, and allotments.
139. The policy includes the imprecise terms “*acceptable in principle*”; “*particularly*”. The terms “*will be positively encouraged*” and “*will only be permissible with good reason*” do not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
140. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
141. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities, and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 9:
In Policy GE8**

- delete “acceptable in principle”
- delete “, particularly in” and insert “will be supported. The area of”
- delete “will be supported.” and insert “has been identified as an area in need of new green space.”
- delete “positively encouraged” and insert “supported”
- delete “permissible with good reason.” and insert “supported if it is demonstrated on-site provision is not practical or viable, or if it is demonstrated greater benefit will result for local users.”

GE9: Midgley Farm Wetlands

142. This policy seeks to establish that following completion of sand and gravel extraction and restoration activities on land at Midgley Farm, the site presents an opportunity for flood alleviation and water-based biodiversity/nature conservation with associated, sensitively designed, public access, as a significant element of an overall end use of the site.

143. The policy relates to a future time period when sand and gravel extraction and restoration activities on the site, which are County Matters and not able to be dealt with in a Neighbourhood Plan, are completed. The term “*presents an opportunity for*” does not provide a basis for the determination of planning applications. The policy text is a statement and not a policy. The policy does not meet the Basic Conditions. I have recommended the policy and supporting text is deleted. I have also recommended text is included within the Project Delivery Plan outlining the proposed intentions regarding the land in question.

**Recommended Modification 10:
Delete Policy GE9 and supporting text.**

Include a statement of community aspiration in the Project Delivery Plan regarding the proposed intentions for the land at Midgley Farm

GE10: Development and Replacement Trees

144. This policy seeks to establish that where three-for-one replacement of any tree to be lost cannot be achieved on a development application site then off-site tree planting will be sought elsewhere in the Neighbourhood Area. The policy also seeks to establish an approach to off-site planting following a financial contribution.
145. The policy is internally inconsistent as it fails to make it clear that financial contributions will be held until a later opportunity arises for off-site planting. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
146. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. This policy meets the Basic Conditions.

Recommended Modification 11:

In Policy GE10 after “required for tree planting” insert “at a later date”

GE11: Surface Level Sustainable Urban Drainage Systems

147. This policy seeks to establish that development should wherever feasible incorporate open surface level sustainable drainage systems.
148. The policy includes the imprecise term “*wherever feasible*”. The policy is without consequence and does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
149. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
150. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with meeting the challenge of climate change and flooding. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 12:

In Policy GE11

- **delete “should, wherever feasible, incorporate” and insert “that incorporates”**
- **after “systems” insert “will be supported”**

BE1: Otley Local Heritage Areas

151. This policy seeks to define six identified areas as Local Heritage Areas where sympathetic enhancement will be supported and encouraged.

152. The policy includes the imprecise term “*sympathetic enhancement*”. The term “*encouraged*” does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
153. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
154. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 13:

In Policy BE1 replace the final sentence with “Development proposals that enhance the heritage features of these areas will be supported.”

Policies BE2 to BE7 inclusive

BE2: Albion Street Local Heritage Area

BE3: Weston Lane Local Heritage Area

BE4: Westbourne Local Heritage Area

BE5: Birdcage Walk (West) Local Heritage Area

BE6: Otley Riverside Local Heritage Area

BE7: Station Top Local Heritage Area

155. These policies seek to establish principles for development within, or within the setting of, each of the six Local Heritage Areas established by Policy BE1.
156. Whilst the policy headings refer to specific areas the policy text itself does not. I recommend insertion of the Local Heritage Area name into the text of each policy. The terms “*should seek to*” and “*seek also to*” do not provide a basis for the determination of planning applications. I am satisfied the “*views*” are adequately identified in Appendix 5 including on the Key Views Location Map in particular relating to direction. Sufficient detail is provided to guide the preparation and determination of development schemes. I am satisfied the selection of views has been adequately explained and their local significance has been tested through extensive consultation. Planning policy must operate in the public interest. It should be made clear viewpoints from which views are to be seen are in locations to which the general public have free and unrestricted access. I have recommended a modification in these respects so that each policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
157. The policies are in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provide an additional level of detail or distinct local approach to that set out in the strategic policies.
158. The policies seek to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policies have regard to the components of the Framework concerned with requiring good design, and conserving and enhancing the historic environment. Subject to the recommended modification these policies meet the Basic Conditions.

**Recommended Modification 14:
In Policies BE2 to BE7 inclusive**

- after “defined” insert the name of the Local Heritage Area

- after “Area” insert “to be supported”
- on every occasion delete “should seek to” and insert “must”
- on every occasion delete “seek also to” and insert “must also”
- in Policy BE4 iv after “key views” insert “, where seen from locations that are freely accessible to members of the general public,”
- in Policy BE5 iii, and Policy BE7 iii after “Appendix 5)” insert “, where seen from locations that are freely accessible to members of the general public,”

BE8: Protection and Enhancement of Non-Designated Heritage Assets

159. This policy seeks to establish that the particular significance of non-designated local heritage assets, including their setting, will be taken into account when considering the impact of any development proposal on that asset. The policy lists non-designated heritage assets to which the policy is to apply.

160. A substantial representation on behalf of All Saints Parish Church Otley in respect of Newall Church Hall includes “a copy of the feedback form which references the two sites in their respective categories” and “It is understood that the Hall was built around 1930. It is currently only used by a Church group once per month. Other community groups do use the Hall and the income generated just about covers day to day running costs. However, it is insufficient to fund any major repairs, which, given that the building is approaching 90 years old, are in the offing. For example, a replacement roof would involve expenditure that would be totally without the Church’s capacity to fund. If the building became unavailable for current uses, then Town Council will be aware of proposals for development the old cattle market site on Bridge Street which will result in a new community building with a far greater capacity than the Hall, at 150m², can offer. The Church is in discussions with the promoter of that scheme. The draft policy, if applied, would fetter the Church’s ability in the future to divest itself of a building which increasingly will become an unsustainable drain on its financial resources.”

161. The Guidance states “Where it is relevant, neighbourhood plans need to include enough information about local heritage to guide

decisions and put broader strategic heritage policies from the Local Plan into action at a neighbourhood scale.”⁴⁹ The Guidance also states “Local Planning Authorities may identify non-designated heritage assets”⁵⁰ and “Local lists incorporated into Local Plans can be a positive way for the local planning authority to identify non-designated heritage assets against consistent criteria so as to improve the predictability of the potential for sustainable development.”⁵¹ The Leeds Core Strategy at Policy P11 states that the City Council will conserve and enhance locally significant undesignated assets and their settings, particularly those which help to give Leeds its distinct identity. The Heritage Background Paper (February 2017) to the Leeds City Council Site Allocations Plan Submission Version states “Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes that are not designated but have a degree of significance meriting consideration in planning decisions, because of their heritage interest. Non-designated heritage assets are identified by the local planning authority.”

162. It is appropriate for a community to use the neighbourhood plan preparation process to identify buildings and structures of local interest and to include policies to require particular consideration of assets that have been formally recognised by the City Council in the determination of planning applications. It is not appropriate to imply locally identified assets will be recognised by the City Council as heritage assets. I have recommended a modification such that the status of the locally identified non-designated heritage assets should be clarified and the process to achieving their formal recognition should be explained.

163. Paragraphs 131 to 136 of the Framework establish a policy regime for the determination of proposals that affect designated and non-designated heritage assets. The balancing of considerations is a part of the judgement necessary in the determination of proposals. In the case of harm to non-designated heritage assets the Framework states it is necessary to balance the scale of any harm or loss and the significance of the asset. Paragraph 135 of the Framework states “*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required*

⁴⁹ Planning Practice Guidance Reference ID: 18a-007-20140306

⁵⁰ Planning Practice Guidance Reference ID: 18a-039-20140306

⁵¹ Planning Practice Guidance Reference ID: 18a-041-20140306

having regard to the scale of any harm or loss and the significance of the heritage asset.” Whilst Policy BE8 provides an additional level of detail or local approach to guide the determination of planning applications it does not reflect the balanced judgement required by national policy. I have recommended a modification in this respect.

164. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

**Recommended Modification 15:
In Policy BE8**

- **replace the policy with “Development proposals that directly or indirectly affect the significance of non-designated heritage assets, including their setting, will be assessed having regard to the scale of any harm or loss and the significance of the heritage asset including their importance to local distinctiveness, character and sense of place. Sympathetic enhancement will be supported”**
- **the list of properties should be transferred to the project delivery plan stating “The following buildings and features of the built environment are nominated for assessment by Leeds City Council as potential Non-Designated Heritage Assets”. The supporting text will require adjustment and the process for formal recognition by the City Council should be explained.**

BE9: Otley Conservation Area – Design and Development

166. This policy seeks to establish design and development principles that development within, or within the setting of, the Otley Conservation Area should respond to.
167. The policy has regard for paragraphs 60 and 59 of the Framework in that it promotes local distinctiveness whilst avoiding unnecessary prescription. The policy has regard for paragraph 137 of the Framework in that opportunities to enhance or better reveal the significance of the Conservation Area are sought. I am satisfied the “key views” are adequately identified in Appendix 5 including on the Key Views Location Map in particular relating to direction. Sufficient detail is provided to guide the preparation and determination of development schemes. I am satisfied the selection of views has been adequately explained and their local significance has been tested through extensive consultation. Planning policy must operate in the public interest. It should be made clear viewpoints from which views are to be seen are in locations to which the general public have free and unrestricted access. The term “*must respond positively*” is without consequence. The term “*should seek to*” does not provide a basis for the determination of planning proposals. The term “*building methods*” is imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
168. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
169. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design, and conserving and enhancing the historic environment.

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

**Recommended Modification 16:
In Policy BE9**

- in part i. replace the text before a. with “To be supported development within, or within the setting of, Otley Conservation Area, as defined on The Neighbourhood Plan Map, must demonstrate a positive response to its setting in terms of scale, form, materials and the nature of construction; and demonstrate regard for the following design principles:”
- in part v. after “Appendix 5)” insert “, where seen from locations that are freely accessible to members of the general public,”
- in part vi. delete “should seek to” and insert “must”

Later in my report when recommending deletion of Policy TRNH6 I have recommended that text in that policy which is additional to Policy BE9 should be incorporated in Policy BE9.

Policies BE10 to BE12 inclusive

BE10: The Oval Estate Design and Development Considerations

BE11: Duncan Estate Design and Development Considerations

BE12: Pegholme Estate Design and Development Considerations

170. These policies seek to establish that development within a defined area should seek to take account of named existing features.

171. The term “*should seek to take account of*” does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. Paragraph 60 of the Framework states it is proper for planning policies to reinforce local distinctiveness. I have recommended a modification in this respect so that the policy has greater regard for national policy.

172. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

173. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with requiring good design, and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 17:
In Policies BE10, BE11, and BE12**

- **commence the policy with “To be supported”**
- **delete “should seek to take account of the following existing features” and insert “must demonstrate it reinforces the following locally distinctive features”**

MU1: East of Otley Key Guiding Development Principles

174. This policy seeks to establish development principles in respect of development at East of Otley as identified on The Neighbourhood Plan Map.

175. A representation submitted on behalf of Persimmon Homes West Yorkshire states the proposed Local Green Space designation within the East of Otley mixed use allocation, north west of the former Ings Tip is unjustified and is not supported by evidence. I reached a conclusion regarding the issue of Local Green Space designation when considering Policy GE6 earlier in my report. The representation also states it is important that the Neighbourhood Plan fully reflects the allocation in the Development Plan in terms of extent and detail/requirements and quotes, as an example, reference to the Local Plan allocation requiring the inclusion of accommodation for the elderly. The representation states “*The East of Otley Key Guiding*

Development Principles are, overall, a set of general guidelines that PHWY agrees could be worked within as development is master planned and comes forward for development. In the main, these are admirable aspirations for a quality development that PHWY shares. However, many of these 'guidelines' are far too detailed and either predicate a design solution or limit good master planning. For example, placing limits on building heights fails to acknowledge that a responsive master plan, framing key views and respecting existing development in Otley, may justify some variation in height beyond such limitation. PHWY has similar concerns about over-prescriptive route designations for cycle and footway provision, which while supported as a general principle, will need to be incorporated into the master planning process."

176. The representation on behalf of Persimmon Home West Yorkshire included a copy of a letter sent at Regulation 14 stage which had set out intentions regarding the area of land to be covered by their emerging proposals and with respect to their intended public consultation. This earlier letter dated 17 October 2017 referred to the absence of provision for elderly persons accommodation in the East of Otley area in the Neighbourhood Plan, and an objection to an outline brief for a Transport Study. The earlier letter also referred to design concepts of Policy MU1 going beyond the scope of what a neighbourhood plan should seek to control and being too restricting. Reference was also made to vague and ambiguous terms. It was also stated proposed cycling and walking routes should be interpreted as indicating a general route rather than a specific route.

177. The Town Council has commented *"The NP will be examined against the adopted Local Plan – it is unlikely that the Site Allocations Plan will be adopted by this time and so will not be part of the Local Plan for examination purposes. The town council's response to PHWY's representations on this matter at Pre-Submission stage are included in the submitted Consultation Statement, Appendix 18, P147. The town council stands by this previous response"* and *"General - The policy's key guiding development principles have been carefully developed in co-operation with and agreed with LCC. It should be noted that LCC have not objected to the policy. It is acknowledged that they are detailed, but it is considered that they are not unreasonably detailed, relative, for e.g., to the development requirements for other allocated sites as set out in LCC's submitted Site Allocations Plan. Building Heights – clause ix of the policy, in relation to building heights,*

is reflective of existing low-level building heights across the town, including in the adjacent conservation area, themselves reflective of Otley's overall built character. This is particularly important given Otley's valley location, where tall structures would be jarring/out of character in views into the town from both valley sides – ref NP Appendix 5. Cycle/footway routes/provision – clauses xix to xxiii of the policy reflect Otley's important status as both a 'cycling' and 'walking' town as well-evidenced in the supporting text to Policy TT1 (P79). Most of the clauses relate to PROW, i.e. definitive footpaths, and non-definitive footpaths as identified by LCC, which any development would be fully expected to respect. The policy clauses amplify how they should be incorporated into any development in order to best protect the network. There are in addition a small number of 'desired/other paths', agreed with LCC. Clause xxiii requires compliance with Policy TT1 which in turn expects (rather than requires) that development be compatible with and contribute to new desired provision in the network shown on the NP Map.”

178. Whilst it is normally unnecessary and confusing to refer to other policies of the Neighbourhood Plan in that the Plan should be read as a whole, I recognise reference to Policy TT1 in part xxi of the policy serves the purpose of convenience in presenting a comprehensive statement of relevant requirements. I have, later in my report, recommended modification of policy TT1, including deletion of indicative proposals. I consider the design principles set out in the policy seek to promote local distinctiveness and avoid unnecessary prescription. The Building Design Code principles relating to building heights include flexibility *“where justified by detailed design analysis.”* There is no requirement for the policy to include provision relating to elderly persons accommodation or other matters included in policies contained within any other Development Plan document.

179. The policy includes the imprecise term *“standard of provision either recommended or required”*. The term *“will be undertaken”* does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

180. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core

Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

**Recommended Modification 18:
In Policy MU1**

- **commence the policy with “To be supported”**
- **after “Map,” delete “will” and insert “must”**
- **in part vi delete “of” and after “site” insert “seen from locations that are freely accessible to members of the general public”**
- **in part vii delete “Encouragement of”**
- **in part xxvi replace the text after “spaces” with “in accordance with the latest assessment of local need”**

MU2: Westgate-Ashfield Works Development Requirements and Aspirations

182. This policy seeks to establish development requirements in respect of proposals for the Ashfield-Westgate Works.

183. A representation submitted by the Otley Community Land Trust states *“The provision of housing on this site would contribute to Otley’s housing allocation under the SAP (there is mention of 50 homes in the SAP). It would also take the pressure off the development off greenfield sites”*. The Town Council has commented *“No response -*

this comment does not relate to the provisions of Policy MU2 or any other NP policy.”

184. The term “*positive buildings*” is imprecise. The Framework requires the preservation of non-designated heritage assets to be subject to a balanced judgement. The terms “*will be undertaken*” and “*consideration should also be given*” do not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
185. Whilst it is normally unnecessary and confusing to refer to other policies of the Neighbourhood Plan in that the Plan should be read as a whole, I recognise reference to Policies GE3 and BE9 is a convenient method of avoiding repeat of requirements, and reference to Policy MU3 is appropriate given the close inter-relationship between Policies MU2 and MU3.
186. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
187. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; ensuring the vitality of town centres; promoting sustainable transport; requiring good design; promoting healthy communities; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 19:

In Policy MU2

- **commence the policy with “To be supported”**
- **after “Map,” delete “will” and insert “must”**
- **delete “‘positive buildings’ on site” and insert “buildings on site that make a significant positive contribution to the distinctiveness and character of the area, which in respect of non-listed buildings must be assessed in accordance with a balanced judgement having regard to the scale of harm and the significance of the building”**
- **delete “Consideration should also be given to” and insert “Proposals must also demonstrate that consideration has been given to the viability of”**

MU3: Westgate Development Requirements and Aspirations

188. This policy seeks to establish requirements in respect of development at Westgate.

189. The term “*positive buildings*” is imprecise. The terms “*will be undertaken*” and “*consideration should also be given*” do not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. I have recommended a modification in this respect so that the policy has sufficient regard for national policy. Whilst it is normally unnecessary and confusing to refer to other policies of the Neighbourhood Plan in that the Plan should be read as a whole, I recognise reference to Policy BE9 is a convenient method of avoiding repeat of requirements, and reference to Policy MU2 is appropriate given the close inter-relationship between Policies MU3 and MU2.

190. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its

Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended Modification 20:

In Policy MU3

- **commence the policy with “To be supported”**
- **after “Map,” delete “will” and insert “must”**
- **delete “‘positive buildings’ on site,” and insert “buildings on site that make a significant positive contribution to the distinctiveness and character of the area,”**
- **after “Works” insert “which in respect of non-listed buildings must be assessed in accordance with a balanced judgement having regard to the scale of harm and the significance of the building”**
- **delete “Consideration should also be given to” and insert “Proposals must also demonstrate consideration has been given to the viability of”**

MU4: Former Board Buildings, North Parade

192. This policy seeks to establish principles for development of the former Board Buildings at North Parade.

193. The term “*positive buildings*” is imprecise. The term “*present an opportunity*” and part iv of the policy do not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. Whilst it is normally unnecessary and confusing to refer to other policies of the Neighbourhood Plan in that

the Plan should be read as a whole, I recognise reference to Policy BE9 is a convenient method of avoiding repeat of requirements.

194. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

195. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; ensuring the vitality of town centres; delivering a wide choice of high-quality homes; requiring good design; promoting healthy communities; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 21:
In Policy MU4**

- **replace the text before part i with “Development proposals for the former Board Buildings, as shown on the Neighbourhood Plan Map, that include housing; and/or offices; and/or the re-housing of the Otley Museum, together with associated parking, will be supported subject to:”**
- **delete “‘positive buildings’ on site” and insert “buildings on site, and adjacent buildings, that make a significant positive contribution to the distinctiveness and character of the area, which in respect of non-listed buildings must be assessed in accordance with a balanced judgement having regard to the scale of harm and the significance of the building”**
- **delete “Plans for the possible” and insert “Proposals must also demonstrate consideration has been given to future”**

H1: Housing Development on Non-Allocated Sites

196. This policy seeks to establish conditional support for new housing on non-allocated sites.
197. The policy includes the imprecise terms “*the local school estate*” and “*adopted standards of accessibility to local services*”. The term “*will be acceptable in principle*” does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. The Framework states “*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*” Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. I have recommended a modification in these respects so that the policy has sufficient regard for national policy.
198. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
199. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport; delivering a wide choice of high-quality homes; and promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 22:

In Policy H1

- delete “acceptable in principle” and insert “supported”
- after “network” insert “so that residual cumulative impacts are not severe”
- delete “school estate” and insert “area”

- delete “be avoided” and insert “not be proposed unless it is demonstrated that alternatives are not practical or viable”
- delete part v

H2: Housing Mix

200. This policy seeks to establish guidance for development schemes regarding housing mix.
201. The policy includes the imprecise term “*reasonable proportion*”. The terms “*will be encouraged*” and “*particularly supported*” do not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
202. Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
203. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
204. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; ensuring the vitality of town centres; supporting a prosperous rural economy; promoting sustainable transport; delivering a wide choice of high quality homes; requiring good design; promoting healthy communities; protecting Green Belt land; meeting the challenge of climate change and flooding; conserving and enhancing the natural environment; and conserving

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

Recommended Modification 23:

In Policy H2

- delete “encouraged” and insert “supported”
- delete “a reasonable” and insert “Subject to viability considerations a”
- after “renting” insert “that reflects the latest assessment of local need”
- delete “particularly”

H3: Housing for Independent Living with Poor Access to Facilities

205. This policy seeks to establish that sheltered and similar housing schemes should include measures to address any poor accessibility to centres or facilities.

206. In a representation the Leeds Local Access Forum supports the improvement of access to facilities.

207. The policy includes the imprecise terms “*aimed at*” and “*measures*”. The term “*should be put in place*” does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

208. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

209. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting

sustainable transport; delivering a wide choice of high-quality homes; and promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 24:

Replace Policy H3 with “Development proposals for sheltered or other housing for elderly and disabled people will be supported where there is good accessibility to town or local centres or a range of local community facilities.”

H4: Affordable Housing

210. This policy seeks to establish that on-site affordable housing should be maximised and that any off-site commuted sum should be retained for expenditure within the Neighbourhood Area.
211. In the first sentence of the policy it is unnecessary and confusing to state “*within the Otley Neighbourhood Area*” as the Neighbourhood Plan only relates to sites within the Neighbourhood Area and therefore on-site provision must necessarily be in the Neighbourhood Area. The policy includes the imprecise term “*maximise*”. The term “*should*” does not provide a basis for the determination of planning applications. The relationship between the two parts of the policy is unclear without explanation. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
212. Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
213. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

214. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with delivering a wide choice of high-quality homes. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 25:

Replace Policy H4 with “To be supported proposals required to include affordable housing must make provision on-site. Off-site commuted sum payments made in respect of proposals of less than 10 dwellings must be retained for expenditure on affordable housing within the Neighbourhood Area.”

E1: Protection of Existing Employment Sites

215. This policy identifies 13 sites where business (including office), general industrial, and storage and distribution uses will be safeguarded, and alternative uses will normally not be permitted. The policy states proposals which would result in the loss of other sites in such uses will also normally be resisted.

216. The term “*normally*” as used in both parts of the policy does not provide a basis for the determination of planning applications. The policy includes the terms “*permitted*” and “*resisted*”. It is not appropriate for a policy to indicate that proposals will be permitted or not permitted as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁵² I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

217. The Framework states “*Planning policies should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative*

⁵² Paragraph 196 National Planning Policy Framework 2012

need for different land uses to support sustainable local communities”.
I have recommended a modification in this respect.

218. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

219. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 26:

In Policy E1

- **delete “normally not be permitted” and insert “not be supported unless it can be demonstrated there is no reasonable prospect of a site being used for employment purposes”**
- **delete “normally be resisted” and insert “not be supported unless it can be demonstrated that there is no reasonable prospect of a site being used for employment purposes”**

Policies E2 and E3

E2: Land Off Ilkley Road

E3: Land Off Ilkley Road (Adjacent Armitage Monobond)

220. These policies seek to establish requirements to apply in relation to proposals for two identified sites. The policy also seeks to establish support for the sites to be developed jointly.

221. The term “*will be undertaken*” does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy provides a practical

framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. Whilst it is normally unnecessary and confusing to refer to other policies of the Neighbourhood Plan in that the Plan should be read as a whole, I recognise reference to other policies in part iii of both policies serves the purpose of convenience in presenting a comprehensive statement of relevant requirements.

222. The policies are in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

223. The policies seek to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policies have regard to the components of the Framework concerned with building a strong, competitive economy; requiring good design; and conserving and enhancing the natural environment. Subject to the recommended modification the policies meets the Basic Conditions.

Recommended Modification 27:

In Policies E2 and E3

- **commence the policies with “To be supported”**
- **delete “will be undertaken in accordance with” and insert “must meet”**

E4: New Employment Development

224. This policy seeks to establish that development on employment sites, particularly serviced office/incubator space will be encouraged.

225. The terms “*particularly*” and “*will be encouraged*” do not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications

can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

226. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

227. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 28:

In Policy E4

- **delete “particularly” and insert “including”**
- **delete “encouraged” and insert “supported”**

E5: Employment Development on Non-Allocated Sites

228. This policy seeks to establish that employment development on non-allocated sites within the built-up area will be allowed subject to stated criteria.

229. The policy includes the term “*will be allowed*”. It is not appropriate for a policy to indicate that proposals will be allowed as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁵³ Whilst the built-up area is not precisely defined, I am satisfied that with modification the meaning will be sufficiently clear to guide decision makers. It is unnecessary and confusing for a policy to state “*of Otley*” and to refer in an imprecise way to other policies of the Neighbourhood Plan as the Plan should be read as a whole. The Framework states “*development should only be prevented or refused*”

⁵³ Paragraph 196 National Planning Policy Framework 2012

on transport grounds where the residual cumulative impacts of development are severe.” I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

230. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

231. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; promoting sustainable transport; requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 29:
In Policy E5**

- **delete “allowed” and insert “supported on infill sites”**
- **delete “of Otley”**
- **delete part i**
- **in part ii before “adverse” insert “severe” and delete “, traffic congestion”**

E6: Live/Work Accommodation

232. This policy seeks to establish that development proposals for employment generating uses with ancillary living are encouraged subject to stated criteria.

233. The policy includes the imprecise term “*appropriate*”. The terms “*encouraged*” and “*genuine*” do not provide a basis for the determination of planning applications. Independent use of the employment space would not constitute live/work accommodation. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

234. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

235. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; delivering a wide choice of high-quality homes; and requiring good design. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 30:
In Policy E6**

- **delete “are encouraged” and insert “will be supported”**
- **delete “Of a scale and type appropriate to the locality and”**
- **delete part vi**
- **delete “genuine”**

E7: Otley Cemetery Chapels

236. This policy seeks to establish that Otley Cemetery Chapels present an opportunity for development as live/work accommodation.

237. The term “*present an opportunity for*” does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy provides a practical

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

238. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

239. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; and delivering a wide choice of high-quality homes. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 31:

Replace Policy E7 with “Proposals for the development of Otley Cemetery Chapels as live/work accommodation will be supported.”

E8: Hotel Development

240. This policy seeks to establish that there is an opportunity for hotel development in the town centre or edge of town centre subject to a sequential test and stated criteria.

241. The term “*is an opportunity for*” does not provide a basis for the determination of planning applications. The term “*sequential test*” is imprecise. Paragraphs 24 to 27 of the Framework set out a sequential test that should apply to proposals for main town centre uses. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

242. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood

Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

243. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with building a strong, competitive economy; and ensuring the vitality of town centres. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 32:
In Policy E8**

- **delete “There is an opportunity for”**
- **after “edge of town centre” insert “will be supported”**
- **after “test” insert “for main town centre uses”**

CF1: Protection and Enhancement of Community Facilities

244. This policy seeks to establish that development resulting in loss of community facilities, identified on the Neighbourhood Plan Map and detailed in Appendix 9, should include alternative equivalent provision where there is continuing community need. In the case of proposed loss of commercially provided facilities, viability considerations will apply. The policy also seeks to encourage additions to, or improvement of, the identified community facilities.

245. A substantial representation on behalf of All Saints Parish Church Otley includes *“Policy CF1, page 68, protection and enhancement of community facilities includes Newall Church Hall. This policy requires equivalent facilities to be provided should any listed building be affected by development. Newall Church Hall is included in the Appendix 9 list on page 134 of the Plan. Usage of the Church Hall is very limited amounting to no more than 15.5 hours a week. At an hourly charge rate of £15 per hour. Reference to document 3 demonstrates that in the period between 2008 and 2017 the building suffered an accumulative loss of £10,556. Reference to document 9*

the Hayfield Robinson Condition Report indicates that significant capital expenditure will be needed in order to ensure that the building continues to be fit for purpose. Document 8 amplifies some of the issues that will need to be addressed” and “In a meeting to discuss the second pre-application submission to Leeds City Council regarding this site, note was taken of the feedback given. An initial response was made and the Parochial Church Council have subsequently confirmed their willingness to alter the plans as follows. Instead of the Church retaining the pair of two-bedroom houses fronting onto Newall Carr Road, they would instead erect a detached property clad in stonework from the present Hall inclining the Foundation Stone. This would consist of a community room on the ground floor and a flat for church staff accommodation on the first floor.” The representation includes submissions with much background and supporting information. The representation also included an offer that I could inspect the interior of the building. I am grateful for this kind offer but I did not consider entry to the building necessary to fulfil my role as described.

246. The Town Council has commented *“It is considered that 15.5 hours/ week of community use is nonetheless community use which evidences its value to the local community as a community facility worthy of protection. Further, it is considered that the owner’s willingness, as expressed in pre-application negotiations with LCC, to provide a community room as part of a proposed development of the site, confirms acknowledgement of this value and of the owner’s willingness/ability to comply with the policy’s provisions. As such, it is considered that the policy does not/would not fetter the owner’s attempts to relinquish its liability/secure a capital receipt.”*

247. I have explained earlier in my report that the role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.⁵⁴ I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements. Policy CF1 provides for assessment of continuing community need; viability; and alternative provision. In these respects, the policy has sufficient regard for national policy for it to meet the Basic Conditions. If the Neighbourhood Plan ultimately becomes part of the Development Plan for the Otley area much of the information submitted in the

⁵⁴ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the National Planning Policy Framework 2012

representation on behalf of All Saints Parish Church would be central to the detailed assessment of a planning application in the context of Policy CF1.

248. It is unnecessary and confusing for the policy to state “*requiring planning permission*” as all Neighbourhood Plan policies only apply to development requiring planning permission. Alternative provision “*elsewhere within the Neighbourhood Plan area*” potentially distant from users has not been sufficiently justified. The terms “*should involve*” and “*will be encouraged*” do not provide a basis for the determination of planning applications. The terms “*for the benefit of the Otley community*” and “*acceptable in principle*” are imprecise. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. The limitation of viability testing to commercially provided facilities only has not been sufficiently justified. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

249. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

250. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 33:
In Policy CF1**

- **delete “requiring planning permission”**

- delete “should involve the provision of” and insert “must provide”
- delete “elsewhere within the Neighbourhood Area” and insert “that are equally accessible to existing users”
- delete “Commercially provided facilities will constitute an exception to the above” and delete “in terms of market attractiveness”
- after “year” insert “loss of community facilities will be supported”
- delete “acceptable in principle” and delete “for the benefit of Otley community”
- delete “encouraged” and insert “supported”

CF2: New Sports and Recreation Facilities

251. This policy seeks to establish support for proposals for new or improved sports and recreation facilities both on combined multiple sport and recreation sites or on separate sites.

252. The policy includes the imprecise term “*acceptable in principle*”. The terms “*will be encouraged*” and “*particularly*” do not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

253. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

254. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting

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

**Recommended Modification 34:
In Policy CF2**

- delete “acceptable in principle”
- delete “encouraged and”
- delete “particularly”

CF3: Entertainment Venues

255. This policy seeks to establish that development of new entertainment venues will be encouraged.

256. The term “*encouraged*” does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

257. Paragraph 173 of the Framework requires careful attention to viability, and deliverability of plans. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

258. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

259. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 35:
In Policy CF3 delete “encouraged” and insert “supported”**

CF4: Improvement of Health Facilities

260. This policy seeks to establish that development of health facilities will be encouraged. North of the River Wharfe and the Bradford Road neighbourhood are identified as areas of particular need.

261. The policy includes the imprecise term “*acceptable in principle*”. The terms “*encouraged*” and “*particularly*” do not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

262. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

263. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended Modification 36:
In Policy CF4**

- **delete “acceptable in principle”**
- **delete “encouraged” and insert “supported.”**
- **delete “, particularly”**
- **after “neighbourhood” continue “have been identified as areas of particular need”**

CF5: New Educational Provision

264. This policy seeks to establish that extensions to schools or provision of new schools will be encouraged.
265. The policy includes the imprecise term “*acceptable in principle*”. The term “*encouraged*” does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
266. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
267. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 37: In Policy CF5

- **delete “acceptable in principle”**
- **delete “encouraged” and insert “supported”**

TT1: Improved Cycling, Walking and Bridleway Provision

268. This policy seeks to establish principles for improved cycling, walking and bridleway provision.

269. A representation submitted by the Leeds Local Access Forum states the term “*be expected to*” should be deleted from both the first and second paragraphs and suggests another paragraph should be added to the effect that development which increases traffic will be resisted. The Town Council has commented “*Deletion as proposed would render both of clauses i and ii unduly onerous and excessive in light of both national planning policy and adopted Local Plan policy. Such a clause would be unduly onerous and excessive in light of both national planning policy and adopted Local Plan policy*”. I have not proposed a modification in this latter respect as it is not within my role to recommend modifications that introduce additional policy matters and the Framework states development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

270. A representation on behalf of Weston Hall Estate objects to this policy on the grounds it is unnecessary, excessive, and will have serious adverse impacts on the estate, its owners and approved users. The representation raises objection to an existing private path being proposed on the Otley Cycleway and Footpath Networks Inset Map, in the Plan Map, as a ‘Desired/Other Path (currently private land)’. The stated reasons for the objection are: unnecessarily duplicate or exceed adopted Core Strategy Policy T2, and serious adverse impact on the estate, its owners and approved users. In the latter respect the representation refers to: adverse impact on fishing rights; adverse impact on estate livestock; adverse impact on designated areas of nature conservation; health and safety risks for the public; adverse impact on the security of Weston Lodge and Otley Sailing club; potential adverse impact on landscape; misleading to the public who may think the private path is a public right of way; and would lead to any public access along the path being challenged as trespass to land. The representation also states the indicative proposal is undeliverable, neither practical nor appropriate. It is requested the indicative proposal is deleted and that an alternative approach of discussions between the relevant authorities and landowners should be pursued.

271. The Town Council has commented “*Policy TT1 neither duplicates nor exceeds existing policies. It performs a complementary function to Core Strategy Policy T2, by ‘putting local flesh on its bones’ and linking policy to locally identified cycle, pedestrian and bridleway routes. It is considered that the policy has appropriate regard to national policy as required by basic conditions. The policy does not*

state and in no way implies or intends that this or any private path shown on the NP Map is being considered for PROW adoption” and “The ‘indicative proposal’ as shown on the Inset Map of the NP Map (and on Map 11 in the Travel & Transport section of the NP, P83), and as listed under community actions (P88), relates to a ‘desired/other path’ (acknowledged to be on private land) and listed as ‘possible’. (NB inclusion of path on map agreed by LCC who prepared map & supported by Leeds Local Access Forum – ref elsewhere in this response grid). In other words, it is an aspiration to be explored as a non-planning action (NB not subject to examination) or to be considered (under the terms of Policy TT1) should any development relevant to the ‘desired/other path’ be proposed. The comment sets out a response to each of the objections raised in the representation regarding serious adverse impacts resulting from the non-private use of the path. The conclusion to the Town Council comment includes “It is considered that the aspiration is desirable, feasible and practically achievable with minimum conflicts of use likely. It is however fully recognised that the deliverability of the aspiration is entirely dependent on the co-operation of the private landowner. The TC considers that amendments: a) removing the ‘desired/other path’ from the Neighbourhood Plan Map Inset Map, and b) adding text encompassing suggested approach to sit alongside listing of the path under community actions to be acceptable”.

272. Provision I of Policy TT1 states “Development directly affecting the Otley cycleway, footpath and bridleway network, as shown on the Neighbourhood Plan Map, will be expected to be compatible with it and contribute to it.” The Inset Map referred to includes “existing routes” and “indicative proposals”. The route referred to in the representation made on behalf of Weston Hall Estate is identified as an indicative proposal and in the ‘Map Key’ referred to as a “Desired/Other Paths (currently private land).” A requirement for proposals to be compatible with an indicative proposal is imprecise. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. It is appropriate for a Neighbourhood Plan to identify community aspirations. I have earlier in my report stated I am satisfied the approach adopted in the Neighbourhood Plan presenting the projects and aspirations in separate sections under topic themes and by bringing these together in the Project Delivery Plan presented in

Chapter 6 of the Neighbourhood Plan, adequately differentiates the community actions and aspirations from the policies of the Plan and has sufficient regard for the Guidance. I have recommended the indicative proposals relating to the cycleway and footpath network should be transferred to the Project Delivery Plan.

273. The policy includes the imprecise term “*acceptable in principle*” and “*existing new*”. The term “*will be expected to*”, “*should be*”, and “*encouraged*” do not provide a basis for the determination of planning applications. It is not appropriate for a policy to indicate that proposals will be permissible as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁵⁵ I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

274. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies, in particular Policy T2 of the Core Strategy.

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

**Recommended Modification 38:
In Policy TT1**

- in parts i and ii delete “will be expected to” and insert “must”

⁵⁵ Paragraph 196 National Planning Policy Framework 2012

- in part iii delete “acceptable in principle”, and delete “encouraged” and insert “supported”
- in part iv delete “permissible” and insert “supported”
- in part v delete “new”
- in part vi delete “should” and insert “must”

Transfer the Indicative Proposals on the Otley Cycleway and Footpath Networks Inset Map to the Neighbourhood Plan Project Delivery Plan.

TT2: Otley Bridge Improvements

276. This policy seeks to establish that widening of Otley Bridge will be encouraged.
277. A representation refers to reductions in bus services on the X84 route however this does not necessitate any modification to the policy.
278. The policy includes the imprecise term “*acceptable in principle*”. The term “*encouraged*” does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
279. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
280. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 39:

In Policy TT2 delete “acceptable in principle”, and replace “encouraged” with “supported”

TT3: White Bridge Improvements and Associated Works

281. This policy seeks to establish that improvements to The White Bridge will be encouraged.
282. A representation refers to traffic speed and volume on Leeds Road and difficulties for pedestrians crossing the road. This representation does not necessitate a modification of the policy.
283. The policy includes the imprecise term “*acceptable in principle*”. The term “*encouraged*” does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
284. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
285. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 40:

In Policy TT3 delete “acceptable in principle”, and replace “encouraged” with “supported”

TT4: Improved Public Transport

286. This policy seeks to establish that developments likely to increase public transport patronage should contribute to facilitating access to those services.
287. The term “*should*” does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
288. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
289. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended Modification 41: In Policy TT4 delete “should” and insert “must”

TT5: Otley Bus Station

290. This policy seeks to establish that development acceptable in principle which would bring about operational and capacity improvements at the existing bus station, or development of a new, expanded bus station at a suitable location within the town centre will be encouraged.
291. The policy includes the imprecise term “*acceptable in principle*”. The term “*encouraged*” does not provide a basis for the determination

of planning applications. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

292. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

Recommended Modification 42:

In Policy TT5 delete “acceptable in principle”, and replace “encouraged” with “supported”

TT6: Otley Rail Link Reinstatement

294. This policy seeks to establish that development that would prevent a rail or tram link along the former railway will be resisted.

295. It is not appropriate for a policy to indicate that proposals will be resisted as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁵⁶ I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

⁵⁶ Paragraph 196 National Planning Policy Framework 2012

296. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

**Recommended Modification 43:
In Policy TT6 delete “be resisted” and insert “not be supported”**

TT7: Town Centre Public Parking

298. This policy seeks to establish that development of public car parking areas which will result in loss of capacity will be resisted.

299. The policy includes the imprecise term “*acceptable in principle*”. The terms “*resisted*”, “*encouraged*”, and “*will be expected*” do not provide a basis for the determination of planning applications. It is not appropriate for a policy to indicate that proposals will be resisted as all planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.⁵⁷ I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

300. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies

⁵⁷ Paragraph 196 National Planning Policy Framework 2012

[2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

**Recommended Modification 44:
In Policy TT7**

- delete “be resisted” and insert “not be supported”
- delete “will be expected” and insert “must be provided”
- delete “acceptable in principle”
- delete “encouraged” and insert “supported”

TT8: Former Gas Works Site

302. This policy seeks to establish that the former gas works site presents an opportunity for development of public car parking.

303. The term “*presents an opportunity for*” does not provide a basis for the determination of planning applications. I have recommended a modification in this respect so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

304. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

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

**Recommended Modification 45:
In Policy TT8**

- commence the policy with “Proposals for the development of public car parking at”
- delete the text after “Map” and insert “will be supported”

Throstle Nest and Riverside (Harrogate)

306. Section 5.8 of the Neighbourhood Plan relates specifically to the Throstle Nest and Riverside areas. It is stated “Sections 5.1 to 5.7 of this plan contain a wide range of planning policies designed to cover the Neighbourhood Area. They have been written within the context of the strategic planning position within the City of Leeds administrative area. Many of them have no relevance to those parts of the Neighbourhood Area within Harrogate. The following sets out those policy areas and policies from these sections which do have relevance and will specifically apply within Throstle Nest and/or Riverside, set briefly within the strategic planning context pertaining in Harrogate Borough. The full background to these policies can be found in Sections 5.1 to 5.7.” In response to a request for clarification I made in a letter dated 15 February 2019 Leeds City Council and Otley Town Council, on behalf of Harrogate Borough Council, Mid Wharfedale Parish Council and Lower Washburn Parish Council have confirmed “The intention is that all policies apply throughout the entire Neighbourhood Area unless a policy specifically states a geographic area within the Neighbourhood Area that it applies to.” I have recommended the text of Section 5.8 should be modified to reflect this.

307. A number of the policies within Section 5.8 of the Neighbourhood Plan include precisely the same text as policies within Sections 5.1 to 5.7 of the Neighbourhood Plan as follows:

TNRH1: Riverside-Weston Local Green Infrastructure Corridor –
duplicates text of Policy GE2 (Policy GE2 deals with other areas also)

TNRH2: Riverside Development – duplicates text of Policy GE3

TNRH3: Protection and Improvement of the Biodiversity of the Extended Leeds Habitat Network within Otley – duplicates text of Policy GE5

TNRH4: Protection of Otley Plantation (Part) Local Green Space – duplicates text of Policy GE6 (Policy GE6 deals with other areas also)

TNRH5: Otley Riverside Local Heritage Area – duplicates text of Policy BE6

TNRH8: Live/Work Accommodation – duplicates text of Policy E6

TNRH9: Protection and Enhancement of Prince Henry's Sports Changing Rooms and Car Park – duplicates text of Policy CF1 (Policy CF1 deals with community facilities Plan area wide and includes provision relating to viability.)

TNRH10: Improved Cycling and Walking Provision – duplicates text of Policy TT1

It is confusing and unnecessary for these policies to repeat the text contained within other policies of the Neighbourhood Plan. I have recommended a modification in these respects so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I recommend these policies are deleted. The text of the duplicated policies can be referred to in Section 5.8 of the Neighbourhood Plan so as to maintain the intention of presenting a comprehensive statement of policies most relevant to Throstle Nest and Riverside. In response to a request for clarification I made in a letter dated 15 February 2019 Leeds City Council and Otley Town Council, on behalf of Harrogate Borough Council, Mid Wharfedale Parish Council and Lower Washburn Parish Council have confirmed the recommended modification would be consistent with the intentions of the Neighbourhood Plan.

Recommended Modification 46:

- **delete Policies TRNH1, TRNH2, TRNH3, TRNH4, TRNH5, TRNH8, TRNH9, and TRNH10**
- **include reference to the text of Policies GE2, GE3, GE5, GE6, BE6, E6, CF1, and TT1 in Section 5.8 of the Neighbourhood Plan**

- **adjust the general text of Section 5.8 to state all policies apply throughout the entire Neighbourhood Area unless a policy specifically states a geographic area within the Neighbourhood Area that it applies to.**

Policy TNRH6: Otley Conservation Area – Riverside Estate Design and Development

308. This policy includes much text that duplicates Policy BE9. It is confusing and unnecessary for this policy to repeat the text contained within other policies of the Neighbourhood Plan. I have recommended a modification in this respect so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. In response to a request for clarification I made in a letter dated 15 February 2019 Leeds City Council and Otley Town Council, on behalf of Harrogate Borough Council, Mid Wharfedale Parish Council and Lower Washburn Parish Council have confirmed the recommended modification would be consistent with the intentions of the Neighbourhood Plan.

Recommended Modification 47:

- **delete Policy TRNH6**
- **incorporate the text of parts i and ii of Policy TRNH6 within the text of Policy BE9**
- **include reference to the text of Policy BE9, as recommended to be modified, in Section 5.8 of the Neighbourhood Plan**

TNRH7: Weston Conservation Area – Throstle Nest Design and Development

309. This policy seeks to establish that development within the setting of the Weston Conservation Area must respond positively to its setting in specified respects.

310. In a letter dated 28 March 2019 Leeds City Council has confirmed Harrogate Borough Council is satisfied with the reference made to the Conservation Area Appraisal for the Weston Conservation Area prepared by that Council.

311. The policy is without consequence. The term “*building methods*” is imprecise. I am satisfied the “views” are adequately identified in the policy and sufficient detail is provided to guide the preparation and determination of development schemes. I am satisfied the selection of views has been adequately explained and their local significance has been tested through extensive consultation. Planning policy must operate in the public interest. It should be made clear viewpoints from which views are to be seen are in locations to which the general public have free and unrestricted access. I have recommended a modification in these respects so that the policy provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.
312. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Otley Neighbourhood Area and relevant to the Neighbourhood Plan (namely the Leeds Core Strategy [2014]; the Saved Unitary Development Plan Review Policies [2006]; the Natural Resources and Waste Local Plan [2013]; the Harrogate Local Plan [2001] and selective alterations [2004] and its Policies Map; and the Harrogate District Core Strategy [2009]), and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
313. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the policy has regard to the components of the Framework concerned with conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 48:

In Policy TNRH7

- **before i. replace the text with “To be supported development at Throstle Nest within, or within the setting of, Weston Conservation Area, as defined on The Neighbourhood Plan Map, must demonstrate a positive response in terms of the following design principles:”**
- **delete “building methods” and insert “nature of construction are appropriate”**
- **after “views” insert “, where seen from locations that are freely accessible to members of the general public,”**

Summary and Referendum

314. I have recommended 48 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

315. I am satisfied that the Neighbourhood Plan⁵⁸:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the Basic Conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
 - 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 2017.⁵⁹

I recommend to Leeds City Council and Harrogate Borough Council that the Otley Neighbourhood Development Plan for the

⁵⁸ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

⁵⁹ This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”.

plan period up to 2028 should, subject to the modifications I have put forward, be submitted to referendum.

316. 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.⁶⁰ I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”⁶¹. 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 as a Neighbourhood Area by Leeds City Council and by Harrogate Borough Council on 29 May 2013.

Annex: Minor Corrections to the Neighbourhood Plan

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

318. I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁶² I recommend the following minor changes only in so far as they are to correct an error or where it is necessary so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework:

- On Maps 9 and 10 identify the definitive Rights of Way by their numbers as recorded on the LCC Definitive Map and in an appendix list these routes with information from the Definitive Statement.
- Add Otley Byway 58 (Miller Lane) and Otley Bridleways 7 and 38 to Maps 9 and 10.

⁶⁰ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁶¹ Planning Practice Guidance Reference ID: 41-059-20140306

⁶² Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

- In the Glossary under Public Right of Way (PROW) after “pass” add “and repass”; replace “and Carriageway” with “Restricted Byway and Byway”

Recommended modification 49:

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

In a representation Otley Community Land Trust has suggested additionally references to the Project Delivery Plan in respect of community led housing, employment, community facilities and services. It is also stated Otley CLT should be added to the key on page 110. Whilst I have no objection to these changes being made, I have not recommended modifications as the changes are not necessary for the Neighbourhood Plan to meet the Basic Conditions, nor necessary to correct errors.

Chris Collison
Planning and Management Ltd
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10 June 2019
REPORT ENDS