



**Intelligent Plans**  
and examinations

# **Report on Blackfordby Neighbourhood Plan 2019 - 2031**

**An Examination undertaken for North West Leicestershire District Council with the support of Ashby de la Zouch Town Council on the July 2021 submission version of the Plan.**

Independent Examiner: Andrew S Freeman BSc (Hons) DipTP DipEM FRTPI

Date of Report: 5 January 2022

Intelligent Plans and Examinations (IPE) Ltd, 3 Princes Street, Bath BA1 1HL  
Registered in England and Wales. Company Reg. No. 10100118. VAT Reg. No. 237 7641 84

## Contents

	Page
<b>Main Findings - Executive Summary</b>	3
<b>1. Introduction and Background</b>	3
• Blackfordby Neighbourhood Plan 2019-2031	3
• The Independent Examiner	4
• The Scope of the Examination	4
• The Basic Conditions	5
<b>2. Approach to the Examination</b>	5
• Planning Policy Context	5
• Submitted Documents	6
• Site Visit	6
• Written Representations with or without Public Hearing	6
• Modifications	7
<b>3. Procedural Compliance and Human Rights</b>	7
• Qualifying Body and Neighbourhood Plan Area	7
• Plan Period	7
• Neighbourhood Plan Preparation and Consultation	7
• Development and Use of Land	8
• Excluded Development	8
• Human Rights	8
<b>4. Compliance with the Basic Conditions</b>	8
• EU Obligations	8
• Main Issues	9
• Issue 1 – General Matters	10
• Issue 2 – Housing	12
• Issue 3 – Natural and Historic Environment	13
• Issue 4 – Community Facilities and Amenities	15
• Issue 5 – Employment	15
• Issue 6 – Transport, Connectivity and Traffic Management	16
• Other Matters	16
• Conclusions on the Main Issues	16
<b>5. Conclusions</b>	17
• Summary	17
• The Referendum and its Area	17
• Overview	17
<b>Appendix: Modifications</b>	18

## **Main Findings** - Executive Summary

From my examination of the Blackfordby Neighbourhood Plan (the Plan) and its supporting documentation, including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – Ashby de la Zouch Town Council;
- the Plan has been prepared for an area properly designated – the Blackfordby Designated Area – Fig.1 on Page 4 of the Plan;
- the Plan specifies the period to which it is to take effect – 2019-2031; and
- the policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### *Blackfordby Neighbourhood Plan 2019-2031*

- 1.1 The Neighbourhood Plan for Blackfordby covers an area within the civil parish of Ashby de la Zouch, that is not included in the neighbourhood plan for the remainder of the parish.<sup>1</sup> The village of Blackfordby is central to the designated area which is, in turn, at the heart of the National Forest. Beyond the boundary to the northwest is Woodville and then Swadlincote. To the southeast is Ashby de la Zouch itself. The northern and northeastern boundary is defined in part by the A50. The boundaries elsewhere are less well defined. The village of Norris Hill lies beyond the designated area to the south.
- 1.2 Following a request from residents, Ashby de la Zouch Town Council agreed in June 2016 to produce a neighbourhood plan for the village. A drop-in launch event in April 2017 generated considerable interest and designation by North West Leicestershire District Council subsequently followed in January 2018. A steering group oversaw plan preparation and several rounds of consultation took place prior to publication of the Pre-Submission Neighbourhood Plan in May 2019.

---

<sup>1</sup> See paragraph 3.4 below.

### *The Independent Examiner*

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Blackfordby Neighbourhood Plan by North West Leicestershire District Council with the agreement of Ashby de la Zouch Town Council.
- 1.4 I am a chartered town planner and former government Planning Inspector with over forty years' experience. I have worked in both the public and the private sectors. I am an independent examiner and do not have an interest in any of the land that may be affected by the draft Plan.

### *The Scope of the Examination*

- 1.5 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"). The examiner must consider:
- Whether the plan meets the Basic Conditions.
  - Whether the plan complies with provisions under Section 38A and Section 38B of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act"). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development'; and
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
  - Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.

- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) (“the 2012 Regulations”).
- 1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### *The Basic Conditions*

- 1.8 The “Basic Conditions” are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contribute to the achievement of sustainable development;
  - be in general conformity with the strategic policies of the development plan for the area;
  - be compatible with and not breach European Union (EU) obligations (under retained EU law);<sup>2</sup> and
  - meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that 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.<sup>3</sup>

## **2. Approach to the Examination**

### *Planning Policy Context*

- 2.1 The Development Plan for this part of North West Leicestershire District Council, not including documents relating to excluded minerals and waste development, is the North West Leicestershire Local Plan 2011-2031 (as amended by the Partial Review), adopted on 16 March 2021.
- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised

---

<sup>2</sup> The existing body of environmental regulation is retained in UK law.

<sup>3</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

NPPF was published in July 2021 and all references in this report are to the July 2021 NPPF and its accompanying PPG.

### *Submitted Documents*

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Blackfordby Neighbourhood Plan 2019-2031, July 2021;
  - a map which identifies the area to which the proposed Neighbourhood Development Plan relates - Fig.1 on Page 4 of the Plan;
  - the Consultation Statement (undated);
  - the Statement of Basic Conditions (undated);
  - all the representations that have been made in accordance with the Regulation 16 consultation;
  - the nine "supporting appendices";
  - the Strategic Environmental Assessment (SEA) & Habitat Regulations Assessment Screening Report (North West Leicestershire District Council, November 2019).
  - the Strategic Environmental Assessment for the Blackfordby Neighbourhood Development Plan, prepared for Ashby de la Zouch Town Council by AECOM, February 2021 (updated March 2021); and
  - the request for additional clarification sought in my letter of 15 November 2021 and the joint responses of 29 November from Ashby de la Zouch Town Council and North West Leicestershire District Council.<sup>4</sup>

### *Site Visit*

- 2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 6 December 2021 to familiarise myself with it and visit relevant sites and areas referenced in the Plan and evidential documents.

### *Written Representations with or without Public Hearing*

- 2.5 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum.

---

<sup>4</sup> View at:

[https://www.nwleics.gov.uk/pages/blackfordby\\_neighbourhood\\_plan\\_designation](https://www.nwleics.gov.uk/pages/blackfordby_neighbourhood_plan_designation)

## *Modifications*

- 2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

## **3. Procedural Compliance and Human Rights**

### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The Blackfordby Neighbourhood Plan has been prepared and submitted for examination by Ashby de la Zouch Town Council, which is a qualifying body for an area that was designated by North West Leicestershire District Council on 22 January 2018.
- 3.2 It is the only Neighbourhood Plan for the Plan area and does not relate to land outside the designated Neighbourhood Plan Area.

### *Plan Period*

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2019–2031.

### *Neighbourhood Plan Preparation and Consultation*

- 3.4 Details of plan preparation and consultation are set out in the Town Council's Consultation Statement. The parish of Ashby de la Zouch excluding Blackfordby was the subject of a neighbourhood plan that was made in November 2018. At the time, Blackfordby was felt to be a distinct area with its own development needs. Agreement to prepare a neighbourhood plan for Blackfordby followed a request from residents in 2016 and this led to formal designation by North West Leicestershire District Council on 22 January 2018.
- 3.5 A steering group oversaw publicity, plan preparation and several rounds of consultation. Work was also progressed through three focus groups. Publicity included a dedicated Neighbourhood Plan page on the Town Council's website and publication of a newsletter distributed to all households and businesses in the Plan area. By May 2019, the Pre-Submission version of the plan was ready for consultation under Regulation 14. This took place between 13 May 2019 and 24 June 2019.
- 3.6 The Consultation Statement records 21 responses made at the Regulation 14 stage. Eight were from statutory consultees, five from local groups, four from developers/landowners and four from individual town councillors or residents. Changes to the Pre-Submission Plan made as a result of the consultation are set out in Section 8 of the Consultation Statement. A

schedule detailing the main issues and concerns was supplied in response to my questions.<sup>5</sup>

3.7 At the Regulation 16 stage (27 August 2021 to 8 October 2021), representations were received from 15 parties including consultants, statutory consultees and other bodies including the District Council itself.

3.8 I am satisfied that, at both the Regulation 14 and the Regulation 16 stages, the consultation process met the legal requirements and there has been procedural compliance. Regard has been paid to the advice on plan preparation and engagement in the PPG.

#### *Development and Use of Land*

3.9 Subject to **PM16** (Policy BE2),<sup>6</sup> the Plan sets out policies in relation to the development and use of land in accordance with Section 38A of the 2004 Act.

#### *Excluded Development*

3.10 The Plan does not include provisions and policies for “excluded development”.

#### *Human Rights*

3.11 Ashby de la Zouch Town Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998). From my independent assessment, I see no reason to disagree.

### **4. Compliance with the Basic Conditions**

#### *EU Obligations*

4.1 The emerging Neighbourhood Plan was screened for SEA by North West Leicestershire District Council. The District Council also undertook screening for Habitats Regulations Assessment (HRA). Following consultation with Natural England,<sup>7</sup> it was considered that, as the Plan allocated housing over and above that allocated in North West Leicestershire’s Local Plan, it could not be concluded that there would be no likely significant effect upon the River Mease Special Area of Conservation (SAC). Therefore a full SEA would be carried out.

---

<sup>5</sup> Blackfordby Neighbourhood Plan – Regulation 14 responses (redacted).

<sup>6</sup> See paragraph 4.35 below.

<sup>7</sup> Email from Natural England dated 5 July 2019 in Appendix 2 of Strategic Environmental Assessment (SEA) & Habitat Regulations Assessment Screening Report (November 2019).



- 4.2 The full SEA was carried out by consultants acting for the Town Council. Amongst other things, the Environmental Report addresses concerns relating to the proposed allocation of a housing site for up to 14 dwellings. The assessment includes likely environmental effects and alternative approaches. Minor negative effects on biodiversity are recorded as well as uncertain, neutral or minor positive effects in other areas.
- 4.3 The minor negative effect likely for biodiversity is due mainly to the potential for the housing allocation to have adverse effects on important habitats and ecological connectivity and to not be of a scale with the amount of development proposed to achieve environmental net gain.<sup>8</sup>
- 4.4 Having read the SEA Environmental Report, I agree with its conclusions. I have taken them into account in my consideration of the main issues.

### *Main Issues*

- 4.5 Having regard for the Blackfordby Neighbourhood Plan, the consultation responses and other evidence, and the site visit, I consider that there are six main issues relating to the Basic Conditions for this examination. These concern:
- General Matters;
  - Housing;
  - Natural and Historic Environment;
  - Community Facilities and Amenities;
  - Employment; and
  - Transport, Connectivity and Traffic Management.
- 4.6 Before I deal with the main issues, I have a few observations to make with regard to the representations. First, the Blackfordby Neighbourhood Plan should be seen in the context of the wider planning system. This includes the North West Leicestershire Local Plan 2011-2031 (as amended by the Partial Review) as well as the NPPF and PPG. It is not necessary, and it would be inappropriate, to repeat in the Neighbourhood Plan matters that are quite adequately dealt with elsewhere.<sup>9</sup>
- 4.7 Secondly, the Neighbourhood Plan does not have to deal with each and every topic raised through the consultation. In this regard, the content of the Neighbourhood Plan and the scope of the policies is largely at the discretion of the qualifying body, albeit informed by the consultation process and the requirements set by the Basic Conditions.
- 4.8 Thirdly, my central task is to judge whether the Neighbourhood Plan satisfies the Basic Conditions. Many of the representations do not demonstrate or indicate a failure to meet those conditions or other legal requirements. Similarly, many of the suggested additions and

---

<sup>8</sup> Page 6, AECOM report (as referenced in paragraph 2.3 above).

<sup>9</sup> See NPPF, Paragraph 16 f).

improvements are not necessary when judged against the Basic Conditions.

- 4.9 The following sections of my report set out the modifications that are necessary in order to meet the Basic Conditions. Some of the proposed modifications are factual corrections.<sup>10</sup> Others are necessary in order to have closer regard to national policies and advice. In particular, plans should contain policies that are clearly written and unambiguous.<sup>11</sup> In addition, the policies should be supported by appropriate evidence.<sup>12</sup>

#### *Issue 1 – General Matters*

- 4.10 The first two policies in the Plan deal with general matters. They are Policy G1: Limits to Development; and Policy G2: Design.
- 4.11 Subject to other Neighbourhood Plan policies, positive design and amenity standards, Policy G1 usefully supports development within the defined limits of the village. Sustainable development elsewhere is not precluded but would be subject to local and national strategic policies governing the countryside. Accordingly, it meets the Basic Conditions.
- 4.12 Policy G2 on design raises a number of matters that need to be the subject of recommended modifications:
- Criterion a) calls for development to enhance the character of the area in which it is situated. Reference is made to the area around the Conservation Area; but the evidence indicates that the importance of the National Forest should also be mentioned.<sup>13</sup>
  - Criterion a) also references taking care to ensure development does not adversely affect “any wider landscape views”. The qualifying views are not mentioned. However, these are intended to be<sup>14</sup> the views identified in Policy ENV 7. Clarity needs to be added to the policy.
  - Criterion b) refers to a need to provide electric charging points (in the plural) per dwelling. However, this appears to be an error.<sup>15</sup> A single charging point would be sufficient.
  - Amongst other things, Criterion c) calls for “elevations” to be preserved wherever possible to promote biodiversity. The intention is not immediately clear. Apparently, the desire is to retain existing

---

<sup>10</sup> Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

<sup>11</sup> NPPF, Paragraphs 15 and 16.

<sup>12</sup> PPG Reference: 41-041-20140306.

<sup>13</sup> See Regulation 16 representations of the National Forest Company.

<sup>14</sup> See the Town Council’s answers to my questions, 29 November 2021.

<sup>15</sup> See the Town Council’s answers to my questions, 29 November 2021.

topography (natural features of the area).<sup>16</sup> However, this needs to be made clear.

- Criterion e) requires consideration of the River Mease SAC. For clarity, a link needs to be added so that an applicant can source the relevant information.
- Criterion e) also states “Development will be phased in line with the provision of capacity to treat wastewater to a sustainable level”. However, it is not clear how phasing would be brought about. In response to my questions,<sup>17</sup> a revision of the criterion has been offered by the Town Council and is adopted in my proposed modifications.
- Criterion f) refers to sustainable drainage systems and implies that the provisions should apply to *all* developments. This was not the intention<sup>18</sup> and should refer to development “where appropriate”. Similarly, “ecosystem service” should just read “ecosystem”.
- As evidenced by Natural England,<sup>19</sup> avoidance of impact on the integrity of the River Mease SAC is an important consideration. Criterion f) should be strengthened accordingly.
- As written, Criterion h) would require all new housing to be built in accordance with Part M2 (sic) of the Building Regulations with 10% to M3 (sic) standard. This provision would be in conflict with the Local Plan; also to a Parliamentary Written Statement relating to local technical standards.<sup>20</sup> The provision should be expressed as aspirational.
- Criterion i) has the aim of protecting and enhancing biodiversity in the design and construction of new development. In this regard, and for clarity, reference to “best practice” should be supported by links to appropriate sources. In addition, the practicality of some of the provisions in the policy is unsupported. Reliance should be placed on guidance not on development plan requirements.
- To accord with national guidance, it should be mentioned that regard is also to be had to the National Design Guide and the National Model Design Code.

4.13 Proposed modifications to the policy are set out under **PM1**. With these modifications in place, there would be appropriate clarity, accuracy and regard for the evidence thus meeting the Basic Conditions.

---

<sup>16</sup> See the Town Council’s answers to my questions, 29 November 2021.

<sup>17</sup> See the Town Council’s answers to my questions, 29 November 2021.

<sup>18</sup> See the Town Council’s answers to my questions, 29 November 2021.

<sup>19</sup> Regulation 16 representations of Natural England, 8 October 2021.

<sup>20</sup> Written statement to Parliament by the Secretary of State for Communities and Local Government on 25 March 2015.

## Issue 2 – Housing

4.14 Policy H1 allocates land at the rear of 31 Main Street for up to 14 units of residential accommodation. However, the policy contains a number of uncertain or questionable expressions:

- to “environmental net gain in accordance with the aspirations of the NPPF” – but without any clear indication of the environmental objective to which this provision would apply;
- to “important landscape features” – which, other than for two identified in the policy, are not defined;
- to avoiding “substantial harm to landscape character” in circumstances where less than substantial harm could be unacceptable;
- to “the identified important view (figure 12)”, that is no longer identified; and
- to “net landscape gain” - where the meaning is unclear.

4.15 In addition to the above, I saw on my site visit that the site is crossed by the National Forest Way. This is an important long-distance footpath. Whilst the stopping-up or diversion of the footpath would be subject to separate legislation, it will be important that, for planning purposes, the footpath continues on an alignment that is commodious for walkers.

4.16 For clarity, the policy needs to be modified as in proposed modification **PM2**.

4.17 Policy H2 concerns housing mix and includes a need for development proposals to be subject to a viability assessment. As clarified in the response to my questions,<sup>21</sup> the purpose of such an assessment would be to promote the inclusion of bungalows if financially viable. The focus on bungalows should be made clear through a modification of the policy (**PM3**).

4.18 Policy H3 addresses the matter of windfall sites. The policy seeks to avoid an adverse impact on the character of the area or the amenity of neighbours through a reduction in garden space. However, it does not apply to the amenities of the occupiers of the host property.<sup>22</sup> Such a safeguard would be added through proposed modification **PM4**.

4.19 Policy H4 (Affordable Housing Provision) seeks to allocate affordable housing to eligible households with a connection to the Plan area. Although a laudable objective, such a policy would need the cooperation

---

<sup>21</sup> See the Town Council’s answers to my questions, 29 November 2021.

<sup>22</sup> See the Town Council’s answers to my questions, 29 November 2021.

of the District Council and its housing team. It is clear from the representations of North West Leicestershire District Council<sup>23</sup> that such cooperation would not be forthcoming and that there is objection to the policy. In the circumstances, the provisions are not workable and should be deleted (proposed modification **PM5**).

- 4.20 Amendment to meet proposed modifications PM2 to 5 would ensure clarity and accordance with relevant evidence, and meet the Basic Conditions.

### *Issue 3 – Natural and Historic Environment*

- 4.21 Policy ENV 1 seeks to protect the Local Green Spaces shown on Figure 4 of the Plan and listed in the policy. Having seen each Local Green Space and read the Appendix 6 Local Green Space Assessments, I agree with their designation. However, the policy states that loss or an adverse effect will not be permitted “other than in exceptional circumstances”. In this regard, the NPPF states, at Para 103, that policies for managing development within a Local Green Space should be consistent for those for Green Belts. This means that, although a very special circumstances test would apply, allowance should also be made for development that is “not inappropriate” (such as appropriate facilities for outdoor sport). An adjustment of the policy (proposed modification **PM6**) is necessary in order to have regard to national policy.
- 4.22 As with Policy H1, Policy ENV 2 uses the term “environmental net gain”. To my mind, this is a rather nebulous term that an applicant and a decision maker would struggle to interpret. For clarity, the term should be deleted and the related paragraph amended accordingly (proposed modification **PM7**).
- 4.23 Policy ENV 3 identifies and protects important open spaces. Although described in the policy, the geographic extent of the spaces needs to be linked to the policy for clarity in development management. Reference to Figure 7 would be secured through proposed modification **PM8**.
- 4.24 Policy ENV 4 concerns the protection of non-designated heritage assets. The policy refers to buildings and structures that are identified in the Blackfordby Conservation Area Appraisal and Study, April 2001. However, the evidence indicates<sup>24</sup> that amendments are needed to bring the policy up to date. As such, the Outbuildings to The Old House should be deleted (Grade II listed building) as should the Blue Bell Public House (where permission has been granted for demolition). Nos 7 and 12 Main Street need to be added to the policy. Proposed modification **PM9** refers.
- 4.25 Policy ENV 5 seeks to give protection to the ridges and furrows that survive within the areas mapped on Figure 10.3. To pay appropriate regard to the NPPF, the features should be termed non-designated

---

<sup>23</sup> Regulation 16 representations of North West Leicestershire District Council.

<sup>24</sup> Regulation 16 representations of North West Leicestershire District Council.

heritage assets (not non-designated *local* heritage assets). In addition, the policy should not go beyond the terms of the NPPF by referring directly to avoiding any loss or damage. These points are addressed in proposed modification **PM10**.

- 4.26 The next two policies in the natural and historic environment section of the Plan which are both numbered Policy ENV 7. However, the first of these (River Mease SAC) is essentially a statement in support of Policy En3 of the Local Plan. It would not have a bearing on applications considered against the Neighbourhood Plan and should be deleted (proposed modification **PM11**).
- 4.27 The second Policy ENV 7 concerns the protection of three views deemed to be of local importance. I inspected these views on my site visit. I support the Town Council in its endeavours to protect the views. In so far as they would be impacted by proposed development, I would expect an applicant to demonstrate mitigation and/or protection such as to avoid significant harm. This is as provided for in the policy.
- 4.28 Under Policy ENV 8 (Renewable Energy Generation Infrastructure), all development proposals would need to be supported with a Landscape and Visual Impact Assessment. Whilst this provision would be appropriate in the case of wind turbines, it would be disproportionate in other cases and would not serve a clear purpose. The provision needs qualification as in proposed modification **PM12**.
- 4.29 Turning to Policy ENV 9: Area of Separation, this partly overlaps with Local Plan Policies S3 (Countryside) and En5 (Areas of Separation). However, there are important differences. For example, the Local Plan areas of separation policy does not apply to the countryside; and the countryside policy does not seek enhancement of separation. In addition, the Blackfordby Area of Separation is not addressed in the Local Plan.
- 4.30 Be that as it may, I see the importance of the Neighbourhood Plan policy. On my site visit, I saw the area as an important gap between the Spires View housing estate and frontage housing at 104 to 200 Butt Lane. In its undeveloped state, it prevents the coalescence of the two built-up areas. The preservation and reinforcement of the gap, where possible, is clearly desirable. Notwithstanding the fact that countryside policies would apply, the policy serves to reinforce the function of this local space.
- 4.31 To distinguish the policy from the provisions of the Local Plan, I am recommending that the designation should be that of a *local* area of separation (proposed modification **PM13**). In all other respects, I find the policy to be soundly based and the provisions entirely appropriate.
- 4.32 In summary of the above, several of the natural and historic environment policies are in need of modification. The modifications would ensure that appropriate regard has been paid to national policy as well as general

conformity with strategic policies in the Local Plan, thus meeting the Basic Conditions.

#### *Issue 4 – Community Facilities and Amenities*

4.33 Policy CFA1 seek to safeguard “existing community facilities”. However, it should be made clear that the community facilities in question are those described in Part D of the Plan. This clarification would be addressed under proposed modification **PM14**.

#### *Issue 5 – Employment*

4.34 Policy BE1 concerns support for existing businesses and employment opportunities. In this regard, and for clarity and consistency with the strategic Local Plan, two amendments are needed (proposed modification **PM15**):

- the policy needs to make clear that “employment opportunities” refers to opportunities in office, industry and storage / distribution; and
- the period without occupation needs to be reduced to six months.

4.35 Amongst other things, Policy BE2 (Support for New Businesses and Employment) requires new development to “be well integrated into and complement existing businesses”. However, the reasoning and justification for this provision in land-use terms is unclear. A decision maker would have difficulty in deciding what was expected. The criterion should be deleted. Proposed modification **PM16** refers.

4.36 Policy BE4 relates to tourism. One of the provisions is that facilities to enhance and manage tourism will be supported where the development does not have a detrimental effect on the distinctive rural character of the Plan area. In this regard, the Town Council accepts that the policy could be expressed in positive terms.<sup>25</sup> This would be in line with representations<sup>26</sup> and have due regard to the tenor of the NPPF. A positive form of wording is set out in proposed modification **PM17**.

4.37 Under Policy BE5 (Broadband Infrastructure), and to gain policy support, proposals would have to supply superfast broadband to *all* businesses and households in Blackfordby. The same would apply to improvements to the mobile telecommunications network. However, such an outcome would be outside an applicant’s control. What matters is support for provision and improvements wherever they occur. This drafting error would be corrected under proposed modification **PM18**.

---

<sup>25</sup> See the Town Council’s answers to my questions, 29 November 2021.

<sup>26</sup> Regulation 16 representations of the National Forest Company.



## *Issue 6 - Transport, Connectivity and Traffic Management*

- 4.38 One of the considerations under Policy TR1: Traffic Management is footpath and cycleway connections to “key village facilities”. These are not identified in the policy. However, the intended reference is to the existing community facilities to which Policy CFA1 applies.<sup>27</sup> This would be made clear through proposed modification **PM19**.
- 4.39 Policy TR3 requires the provision of 7kW cabling to homes so as to facilitate fast electric vehicle charging. However, there is no evidence to suggest that this would be the best solution over time and in all instances. “Future proofing” would be assisted through modified wording (proposed modification **PM20**).

### *Other Matters*

- 4.40 There are three policies that have not been the subject of commentary in the above. These are Policy ENV 6: Biodiversity and Habitat Connectivity; Policy BE3: Home working; and Policy TR2: Footpaths. To a greater or lesser extent, these topics are covered in NPPF Section 15 (Conserving and enhancing the natural environment), Section 6 (Building a strong, competitive economy) and Section 9 (Promoting sustainable transport). I find that there has been regard for national policy and that the Basic Conditions have been met.

### *Conclusions on the Main Issues*

- 4.41 In the above report, I have dealt with all the topics covered by the Neighbourhood Plan. Several modifications are needed in order to pay appropriate regard to national policies and advice (including on clarity, avoiding ambiguity and appropriate evidence), factual matters and to general conformity with the strategic Local Plan policies. With the proposed modifications in place, the Basic Conditions would be met.
- 4.42 Other non-material amendments, including consequential amendments and suggestions and corrections set out in the representations and correspondence, can be incorporated into the final version of the Plan.<sup>28</sup> Similarly any factual updates to reference the 2021 NPPF can be made. None of these alterations would affect the ability of the Plan to meet the Basic Conditions.

---

<sup>27</sup> See the Town Council’s answers to my questions, 29 November 2021.

<sup>28</sup> PPG Reference ID: 41-106-20190509.



## 5. Conclusions

### *Summary*

- 5.1 The Blackfordby Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### *The Referendum and its Area*

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Blackfordby Neighbourhood Plan as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

### *Overview*

- 5.4 It is evident that a considerable amount of time and effort has been devoted to the development and production of this Plan and I congratulate those who have been involved. The Plan should prove to be a useful tool for future planning and change in Blackfordby over the coming years.

*Andrew S Freeman*

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Pages 19 and 20	<p>In Policy G2:</p> <p>Change the first sentence of Criterion a) so that it reads: "Development shall be carried out sensitively and reflect the character of the area within which it is situated, particularly that of the National Forest and the area around the Conservation Area."</p> <p>At the end of Criterion a), replace "any wider landscape views" with "any of the wider landscape views identified in Policy ENV 7".</p> <p>At the end of Criterion b), substitute "point" for "points".</p> <p>In Criterion c), substitute "topography" for "elevations".</p> <p>In Criterion e) (as proposed to be modified – see below), add a link to a plan showing the area covered by the River Mease SAC.</p> <p>Replace Criterion e) with the following: "The phasing of the development must take into account, where appropriate, the need to provide water quality improvements through developer contributions to ensure that there will be no adverse impact, directly or indirectly, on the integrity of the River Mease Special Area of Conservation. Development will not be allowed to take place until whichever is the sooner of the following:</p> <ul style="list-style-type: none"> <li>• Additional capacity being available through a further Developer Contribution Scheme or;</li> <li>• Pumping out of catchment having taken place."</li> </ul> <p>Change the opening of Criterion f) such that it reads "Where appropriate,</p>

		<p>development shall...". Delete "service" after "ecosystem".</p> <p>In Criterion f), insert the following at the end of the second sentence: "All SuDS must be designed to treat surface water quality sufficiently to ensure that there is no adverse impact on the integrity of the River Mease SAC."</p> <p>Replace Criterion h) with the following: "Housing that complies with Part M4(2) of the Building Regulations with 10% of housing built in accordance with Part M4(3) will be supported."</p> <p>In Criterion i) first bullet point, add a link to the RIBA publication on Designing for Biodiversity. Replace the third bullet point with the following: "Lighting that has appropriate regard to the guidance note Bats and Lighting, Leicestershire and Rutland Environmental Records Centre, November 2014."</p> <p>Add the following to the end of Policy G2: "Regard should also be had to the National Design Guide and the National Model Design Code."</p>
PM2	Pages 22 and 23	<p>In Policy H1:</p> <p>Delete the fifth paragraph.</p> <p>Substitute the following for the sixth paragraph: "Proposals will be required to safeguard and where possible enhance the natural corridor along the Shell Brook and secure natural boundary screening along the southern boundary and undeveloped parts of the boundary along Drift Side."</p> <p>In the seventh paragraph, substitute "significant harm" for "substantial harm". Delete "and the identified important view (figure 12)". Substitute "achieves net gains in biodiversity" for "where possible results in a net landscape gain".</p> <p>At the end of the policy, add a new paragraph: "The National Forest Way</p>

		where it crosses the site shall follow an alignment that is commodious for walkers."
PM3	Page 24	In Policy H2, delete "and subject to a viability assessment". Insert "and viable" before "bungalows for older people".
PM4	Page 25	At the end of Policy H3 d) add "or the occupiers of the host property".
PM5	Pages 26 and 27	In Policy H4, delete the fourth paragraph and all subsequent parts of the policy.
PM6	Page 32	In Policy ENV 1, substitute "unless the development is consistent with Green Belt policy as set out in the NPPF" for "other than in exceptional circumstances".
PM7	Page 33	For the final paragraph of Policy ENV 2, substitute the following: "Development proposals shall demonstrate that the significance and value of the species, habitats or historical features present has been balanced against the local benefits of any development that would affect or destroy them."
PM8	Page 34	In the opening of Policy ENV 3, insert "(as defined in Figure 7)" after "The following sites".
PM9	Page 37	Carry out the following modifications to Policy ENV 4 and Figure 9: Delete "Outbuildings to the Old House, Main Street" and "Blue Bell public house". Add "7 Main Street" and "12 Main Street (Spring Cottage)".
PM10	Page 39	In the first sentence of Policy ENV 5, delete "local" before "heritage assets". Substitute the following for the second paragraph of the policy: "In weighing applications that directly or indirectly affect these assets, the provisions of the National Planning Policy Framework, July 2021, at Paragraph 203 shall apply."
PM11	Page 41	Delete Policy ENV 7: River Mease Special Area of Conservation and related text.

PM12	Page 41	In Policy ENV 8, at the beginning of the third paragraph, replace "Development proposals should" with "Proposals for wind turbines shall".
PM13	Page 44	In Policy ENV 9 and Figure 13, insert "Local" before "Area of Separation".
PM14	Page 48	In the opening sentence of Policy CFA1, after "existing community facilities", insert "(as described in Section D above)".
PM15	Page 49	In the second sentence of Policy BE1, substitute "in offices, industry or storage/distribution" for "opportunities".  In Criterion a), substitute "six" for "12".  In Criterion b), after "employment generating uses" insert "(offices, industry or storage/distribution)".
PM16	Page 50	In Policy BE2, delete criterion g).
PM17	Page 51	In Policy BE4, replace criterion a) with the following: "Is of good quality design and contributes to the distinctive rural character of the Plan Area."
PM18	Page 52	In the first and second paragraphs of Policy BE5, delete "all" before "businesses".
PM19	Page 55	In Policy TR1 Criterion e), substitute "existing community facilities (Policy CFA1)" for "key village facilities".
PM20	Page 56	In Policy TR3, after "7kW cabling", insert "(or such other means of facilitating fast charging)". Replace "the home" with "all new homes".