

Town and Country Planning Act 1990
Neighbourhood Planning (General) Regulations 2012

BEARLEY NEIGHBOURHOOD DEVELOPMENT PLAN 2019-31

INDEPENDENT EXAMINATION

Final Report to Stratford-upon-Avon District Council
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PART 1

INTRODUCTION

1. This Report comprises the findings of my examination ('the Examination') into the draft Bearley Neighbourhood Development Plan ('*the Neighbourhood Plan*'). As required by Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 ('*the 2012 Regulations*'), the Neighbourhood Plan was duly submitted for consultation by Bearley Parish Council ('the Parish Council') to Stratford-upon-Avon District Council ('the District Council'), and the six week consultation period elapsed on 14th March 2019. Subsequently, in accordance with Regulation 16 of the 2012 Regulations the Parish Council formally submitted the Neighbourhood Plan to the District Council. The District Council then held a consultation between 31st October 2019 and 13th December 2019. I was then retained as the Examiner in early February 2020 and the documentation was forwarded to me in order to conduct the Examination.
2. After having studied the documentation I decided that a Site View was necessary in order to clarify a number of points. This was duly arranged with representatives of the Parish Council and the District Council to be held on 28th February 2020. Unfortunately, the Site View was aborted by reason of the fact that the railway network to Stratford-upon-Avon had been disrupted due to signalling failures on the line. Arrangements were then put in hand to organise a further Site View in March 2020. However, owing to 'lockdown' resultant upon the COVID-19 pandemic this then proved impossible and still continued to remain so for several months. Once some relaxation of the 'Lockdown' rules occurred, it became possible to undertake the Site View on Saturday 1st August 2020. The purpose of the Site View is set out in Annex 1 of the Report.
3. The reason for this imperative, was that I had one or two concerns on Policy issues as enumerated in Part 5, Annex 1, to this Report. My particular concerns were directed to Policy H1 - Village Boundary; Policy NNE4 – Local Green Space; Policy NNE5 – Valued Landscapes, Vistas and Skylines; and BNE9 – Replacement Dwellings. During the afternoon of Saturday 1st August 2020 I conducted a Site View in Bearley. I now have the benefit of visual inspections of various sites within the Neighbourhood Area

from different perspectives and various angles. For the reasons stated in the comments to these Policies I am now satisfied that my concerns have now been allayed except for the points that I have raised in the specific Policies, as explained.

4. Accordingly, I am satisfied that the Neighbourhood Plan is compliant with the statutory requirements and should now proceed to a referendum.
5. It will be noted that I have included in Part 5 a schedule which is often referred to as a 'Health Check'. The reason for this is that it provides the reader with an overview of the process upon which the parties were engaged prior to the production of the draft Neighbourhood Plan. As I have indicated in this document, the process was conducted in a satisfactory manner, and has resulted in a focused draft Neighbourhood Plan, albeit that it requires some modifications in accordance with the points raised in this Report. These are, in the main, straightforward, apart from one or two more substantive aspects, to which attention has been directed.
6. One general point which should be made over and above the specific recommendations set out in relation to each Policy, is that each plan referred to in the List of Figures should be enlarged to A4 size for the benefit of the reader. It is apparent that the following plans would benefit from enlargement in addition to the ones that are already of A4 size, namely Figures 7. 8. 11. 12, and 14.
7. I should also state that the assistance provided by the Parish Council and the District Council have been much appreciated. I particularly refer to the detail contained in the comprehensive Response dated 20th July 2020 to the Interim Report from the Parish Council.

My appointment

8. I have been appointed by the District Council to conduct an independent examination into the Neighbourhood Plan. I am independent of the Parish Council and of the District Council. I do not have any interest in any land that may be the subject of the Neighbourhood Plan, and nor do I have any professional conflicts of interest.
9. I am an Associate Member of Radcliffe Chambers, where I act as a Legal Adviser, Mediator and Arbitrator. I was previously the Principal Judge of the Land Registration

Division of the Property Chamber and a Chancery barrister in Lincoln's Inn. I am a specialist property and planning lawyer, with particular expertise in markets and fairs, including street trading; land registration; commons and town and village greens; manorial rights; and mines and minerals. I have wide experience examining neighbourhood plans and conducting public hearings as part of the examination process, when necessary. I was also called to the Bar of Ireland at Trinity Term 2001, and I hold a Practising Certificate in Ireland.

PART 2

THE LEGAL FRAMEWORK

NEIGHBOURHOOD PLANNING

The Background

1. Neighbourhood planning is the process introduced by Parliament as enacted by the Localism Act 2011 (“the 2011 Act”). The intellectual purpose of neighbourhood planning is to seek to enfranchise those persons living and working in a community by providing the basis through which they can play a more active role in the process of deciding the future of their neighbourhood. It has been described as the ability:-

“to give to communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need”

2. Thus, the 2011 Act gave powers to parish councils to involve their communities in the creation of neighbourhood development plans, in order to provide them with a greater say in planning matters. Parish councils are therefore able to play a role in the establishment of general planning policies for the development and use of land in their neighbourhoods. Examples of such involvement are directed to the siting, design and construction of new homes and offices, and the designation of local green space. The neighbourhood plan sets a vision for the future for the area concerned. It can be detailed, or general, depending on the views of local people.
3. In order to ensure that the new process is workable and effective the 2011 Act introduced the requisite amendments to the 1990 Act, and the 2004 Act.¹ These amendments came into force on 6th April 2012 and were supplemented by detailed procedures provided for in the 2012 Regulations.

¹ The 1990 Act, ss. 61E to 61P, Sch 4B (neighbourhood development orders); the 2004 Act, ss. 38A to 38C (neighbourhood plans), as amended by the 2011 Act.

Qualifying Body

4. The Parish Council is the ‘*Qualifying Body*’, as defined. It is therefore entitled to initiate the process whereby it can require the local planning authority to ‘*make*’ the Neighbourhood Plan.
5. The first step towards producing a neighbourhood plan is for a parish council, or other qualifying body, to define a “*neighbourhood area*” for which it considers that a plan should be prepared and presented.² This is part of the process which that body is entitled to initiate for the purpose of requiring the local planning authority in England to make a neighbourhood development plan for the whole or any part of its area specified in the plan.³ “A “*neighbourhood development plan*” is a plan

*“.....which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area”.*⁴

The local planning authority will provide assistance in this process, where appropriate. The draft plan must meet what are referred to in the legislation as the basic conditions (“*the Basic Conditions*”). This means that the draft plan must in general conformity with national and other local planning policies. It must also conform to other provisions.⁵ It must then proceed to a public consultation.

6. An application was made by the Parish Council for the whole Parish to be designated as a Neighbourhood Plan Area for the purpose of the 2004 Act. This was approved and authorised by the District Council.

Public Consultation

7. The consultation requirements for a draft neighbourhood plan are set out in Regulation 14 of the 2012 Regulations. In essence, the Parish Council are required to have publicised the details of the proposed neighbourhood development plan, where and when it may be inspected and how and when to make representations in a manner likely to bring it to the attention of people who live work and carry on business in the

² See s 38A(1).

³ The 1990 Act, s. 61F(1), (2), applied by the 2004 Act, s. 38C(2)(a).

⁴ By virtue of 38A(2).

⁵ The 1990 Act, Sch 4B, para 8, applied by the 2004 Act, s 38A(3). For a detailed examination of the Basic Conditions and other statutory requirements, see Chapter 3, below.

neighbourhood area. In addition, certain bodies must be consulted whose interests may be affected by the proposals in the draft neighbourhood development plan.

8. I am satisfied that the consultation conducted by the Parish Council satisfied the Regulation 14 requirements and the “*Sedley Criteria*” for consultation endorsed by the Supreme Court as a “prescription for fairness” in *R (Moseley) v LB Haringey*.⁶
9. Once a draft plan has been prepared and made available for inspection within the area in question, and members of the community have had the opportunity to comment upon it, an independent Examiner is appointed by the planning authority, with the consent of the qualifying body that produced the draft plan. The examiner must be someone who is independent of the qualifying body and the planning authority, has appropriate qualifications and experience, and has no interest in any land affected by the plan.⁷ The Examiner then produces the Report which contains one of three possible recommendations.⁸ One of these recommendations is that the draft plan should be submitted to a referendum.⁹

Referendum

10. The purpose of the referendum is to decide whether the draft plan should be “*made*”, subject to any changes recommended by the examiner and accepted by the planning authority. If more than 50% of those voting vote in favour of the plan, the local planning authority then under a statutory duty ‘*to make the plan*’.
11. Once it comes into force, the neighbourhood plan forms part of the development plan for the area to which it relates, together with the strategic policies in the adopted local plan, the “*saved*” policies of the relevant local plan, any plans for minerals and waste disposal, and any saved policies of the relevant regional strategy. Thereafter it forms an integral part of the policy framework that guides the planning authority and the planning inspectorate, in making all planning decisions in the area.

⁶ [2014] UKSC 56.

⁷ The 1990 Act, Sch 4B, para 7(6), applied by the 2004 Act, s. 38A(3).

⁸ See paragraph 10 below.

⁹ The 1990 Act, Sch 4B, para 10(2)), applied by the 2004 Act, s 38A(3). For the appointment and role of the examiner, and the possible recommendations see para 33, below.

The statutory framework - the detail

Compliance with provision made by or under sections 38A and 38B of the 2004 Act

Section 38A – Meaning of “neighbourhood developments plan”

12. Section 38A of the 2004 Act provides that any “*qualifying body*” is entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development plan. As noted above, the Parish Council is a “*qualifying body*” by virtue of the provisions of 38A(12), and the District Council is a “*local planning authority*”, for the purpose of the 2004 Act.

13. A ‘*neighbourhood development plan*’ is defined by Section 38A(2) as being

“a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan”.

14. Section 38A(2) requires the neighbourhood development plan to only contain policies relating to the development and use of land lying in the neighbourhood area. The policies are set out in Section 5 of the Neighbourhood Plan. I should state at this stage that I am satisfied that the Policies do relate to the use and development of land within the neighbourhood area, and not to extraneous matters.

15. By section 38(3)(c) of the 2004 Act, a neighbourhood development plan that has been made in relation to an area forms part of the statutory development plan, for the purpose of guiding town and country planning decisions. Under section 38(6) there is a presumption in favour of determining planning applications in accordance with the neighbourhood development plan, unless material considerations indicate otherwise.

Section 38B

16. Section 38B of the 2004 Act provides as follows:

“38B Provision that may be made by neighbourhood development plans

(1) A neighbourhood development plan—

- (a) must specify the period for which it is to have effect,*
- (b) may not include provision about development that is excluded development, and*
- (c) may not relate to more than one neighbourhood area.*

(2) Only one neighbourhood development plan may be made for each neighbourhood area.

(3) If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.

(4) Regulations made by the Secretary of State may make provision—
(a) restricting the provision that may be included in neighbourhood development plans about the use of land,
(b) requiring neighbourhood development plans to include such matters as are prescribed in the regulations, and
(c) prescribing the form of neighbourhood development plans.

(5) A local planning authority must publish each neighbourhood development plan that they make in such manner as may be prescribed by regulations made by the Secretary of State.

(6) Section 61K of the principal Act (meaning of “excluded development”) is to apply for the purposes of subsection (1)(b).”

17. Section 61K provides, so far as is material, as follows:-

“61K Meaning of “excluded development”

The following development is excluded development for the purposes of section 61J—

- (a) development that consists of a county matter within paragraph 1(1)(a) to (h) of Schedule 1,*
- (b) development that consists of the carrying out of any operation, or class of operation, prescribed under paragraph 1(j) of that Schedule (waste development) but that does not consist of development of a prescribed description,*
- (c) development that falls within Annex 1 to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (as amended from time to time),¹⁰*
- (d) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008).”*

¹⁰ This must now be taken to refer to codifying Directive 2011/92/EU, which repealed and re-enacted Directive 85/337/EEC and its amending instruments and states at Article 14 that references to the repealed directive are to be construed as references to the new directive, as a matter of consistent interpretation and under the principle of construction codified in relation to domestic law by s.17(2)(a) of the Interpretation Act 1978.

18. The 2012 Regulations were made under section 38B of the 2004 Act. These prescribe some detailed requirements for neighbourhood development plan proposals and how they are to be consulted upon, publicised and submitted.
19. Further, the 2012 Regulations, at Regulation 32, and Schedule 2 thereof, prescribe a condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act. Paragraph 1 of Schedule 2 to the 2012 Regulations stipulates that:

“[the] making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).”
20. The procedure for examining draft neighbourhood development plans is provided for in Schedule 4B of the 1990 Act, which is applied by section 38A(3) of the 2004 Act. This provides at paragraph 7 for the local planning authority to submit the draft plan for independent examination by a person who is independent of the qualifying body and of the authority, does not have an interest in any land that may be affected by the draft plan, and has appropriate qualifications and experience.
21. The Examiner must make a report on the draft plan pursuant to paragraph 10 of Schedule 4B, which must recommend either that the draft plan is submitted to a referendum; or that modifications be made to correct errors or secure compliance with legal requirements, and the draft plan as modified be put to a referendum; or that the proposal for the plan be refused. The examiner’s report must contain a summary of its main findings and give reasons for each of its recommendations.
22. The local planning authority is then required to publish the examiner’s report, and to consider the recommendations made. If the local planning authority considers that the statutory requirements are complied with, the draft plan must then be put to a referendum and, if approved by the referendum, adopted as part of the neighbourhood development plan.

What must the Examiner examine?

23. Paragraph 8 of Schedule 4B to the 1990 Act, as modified by section 38C(5) of the 2004 Act, requires the examiner to consider the following:

- whether the draft plan ‘*meets the basic conditions*’ (‘*the Basic Conditions*’). These are defined at sub-paragraph (2);
- whether it complies with the provision made by or under sections 38A and 38B of the 2004 Act; and
- whether the area for any referendum should extend beyond the neighbourhood area to which the draft plan relates; and
- whether the draft plan is compatible with ‘*the Convention rights*’, as defined by the Human Rights Act 1998¹¹.

24. Paragraph 8(2) of Schedule 4B, as modified by section 38C(5)(d) of the 2004 Act provides that:

- ‘(2) A draft [plan] meets the basic conditions if—
- (a) *having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the [plan],*
 - (b).....
 - (c).....
 - (d) *the making of the [plan] contributes to the achievement of sustainable development,*
 - (e) *the making of the [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),*
 - (f) *the making of the [plan] does not breach, and is otherwise compatible with, EU obligations, and*
 - (g) *prescribed conditions are met in relation to the [plan] and prescribed matters have been complied with in connection with the proposal for the [plan]’.*

Basic conditions (b) and (c), relating to the built heritage, apply to the examination of proposed neighbourhood development orders, but not to that of neighbourhood plans.

¹¹ Section 1 of the 1998 Act defines these as the rights and fundamental freedoms set out in Articles 2 to 12 and 14 of the European Convention on Human Rights, Articles 1 to 3 of the First Protocol to the Convention, and Article 1 of the Thirteenth Protocol, as read with Articles 16 to 18 of the Convention.

25. Regulations 32 and paragraph 1 of Schedule 2 of the General Regulations, has prescribed a further condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act, as follows

‘[the] making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).’”

26. Since 28th December 2018, the General Regulations, Schedule 2 paragraph 1, has prescribed a further Basic Condition, namely:

‘In relation to the examination of neighbourhood development plans the following Basic Condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act— 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.’

It is to be noted that a proposed neighbourhood plan must meet all of the Basic Conditions specified in paragraph 8(2), if it is to be submitted to a referendum, not just some of them.

27. It is important to note that the examination process is not intended to put the Examiner into the shoes of the “*qualifying body*” so as to usurp its function and re-make its decisions. The statutory remit of the Examiner is limited.
28. Thus, the examination process is less intrusive than that required in respect of a local development plan document. For instance:

“the remit of an examiner dealing with a neighbourhood plan does not include the requirement to consider whether that plan is ‘sound’ (as in section 20(5)(b) of the 2004 Act), so the requirements of ‘soundness’ contained in paragraph 182 of the NPPF¹² do not apply to a neighbourhood plan. The Examiner of a neighbourhood plan does not consider whether that plan is ‘justified’ in the sense used in paragraph 182 of the NPPF. In other words, the Examiner does not

¹² The National Planning Policy Framework (‘NPPF’), current edition February 2019.

have to consider whether a draft policy is the ‘most appropriate strategy’ compared against alternatives, nor is it for him to judge whether it is supported by a ‘proportionate evidence base’.

- *Whereas under paragraph 182 of the NPPF a local plan needs to be “consistent with national policy” an examiner of a neighbourhood plan has a discretion to determine whether it is appropriate that the plan should proceed having regard to national policy.*
- *The basic condition only requires the examiner to consider whether the draft neighbourhood plan as a whole is in general conformity with the strategic policies in the adopted Development Plan taken together. I am not charged with determining in respect of each particular policy or element whether there is a tension between the local and neighbourhood plans, and if there is such tension in places, that may not be determinative of the overall question of general conformity.”¹³*

29. The concept of ‘soundness’, referred to by Holgate J in this case refers to the text in the former edition of the NPPF. This text has now been superseded in the new edition of the NPPF published in February 2019. This retains a section now referred to as ‘Examining plans’ and refers to the same four requirements for ‘soundness’. However, paragraph 37 of the new edition of the NPPF contains a separate reference to the examination process for the first time, notably that neighbourhood plans must meet the ‘Basic Conditions’ and other legal requirements before they can come into force which ‘... are tested through an independent examination before the neighbourhood plan may proceed to referendum.’

30. Thus, although the Examiner has a general discretion whether to recommend modification to bring the neighbourhood plan into line with national policy if he finds points of departure, it is necessary to bear in mind that it would normally be expected that appeal decisions would follow current national policy where it conflicts with a local or neighbourhood development plan. A neighbourhood plan that is at odds with national policy is in danger of becoming otiose. Unless the Examiner considers that

¹³ See *R(Maynard) v Chiltern District Council* [2015] EWHC 3817 (Admin) at [13] per Holgate J. The concept of ‘soundness’, referred to by Holgate J refers to the text in the former edition of the NPPF. This text has now been superseded in the new edition of the NPPF published in February 2019. This retains a section now referred to as ‘Examining plans’, and refers to the same four requirements, but paragraph 37 contains a separate reference to the examination process, notably that neighbourhood plans must the ‘Basic Conditions’.

there is evidence demonstrating good reason to depart from national policy in the neighbourhood, he would be expected to recommend that it be followed.

31. In essence, therefore, the role of the Examiner is to assess whether the draft plan is compliant with the Basic Conditions and other legal requirements. If in the event that the draft plan does not comply with the various statutory requirements, the Examiner then is obliged to consider whether it can be modified so that it does so comply. Other legal requirements include consideration of the NPPF and the National Planning Policy Guidelines ('the NPPG'). As Part 3 of this Report draws extensively on the provisions contained in both the NPPF and the NPPG, no further reference will be made to either document at this stage.

The Report

32. The Examiner then produces a report, which contains one of three possible recommendations, namely, whether:

- “(a) the draft plan is to be submitted to a referendum;*
- (b) the modifications specified in the report are to be made to the draft plan, and that the draft plan as modified is submitted to a referendum; or*
- (c) the proposal for a plan is to be refused.”¹⁴*

33. The recommended modifications can only be those that the Examiner feels are necessary to ensure that the draft plan complies with the Basic Conditions and the other relevant statutory requirements or are needed for the purpose of correcting errors. If the changes are substantial, then they may have to be the subject of a further round of consultation.

34. The further requirements of the Examiner, as defined in the 2012 Regulations, include considering whether the draft plan complies with the definition of a neighbourhood development plan, and the provisions that can be made by a neighbourhood development plan; and whether the draft plan is compatible with the European Convention on Human Rights. The Examiner may also make recommendations on

¹⁴ 1990 Act, Sch 4B, para 10(2), applied by the 2004 Act, s 38A(3).

whether the neighbourhood plan area for referendum should extend beyond the neighbourhood plan boundaries.

35. In this Report, I shall first consider the Basic Conditions, and then formal compliance with the provisions contained within sections 38A and 38B of the 2004 Act. I shall then address the European dimension and the question of human rights. Finally, I shall make recommendations as to the modification or amendment of the draft Policies. The modifications or amendments do not include updates to the Contents and where necessary, Policy, paragraph, and page numbering. It is recommended that this is undertaken by the District Council, where necessary.

European Law obligations

Strategic environmental assessment

Requirements of the Directive and regulations

36. I am still required to check that the making of the order does not breach EU obligations. This means that I must consider whether the SEA Directive and SEA Regulations have been complied with.
37. Directive 2001/42/EC - known as the Strategic Environmental Assessment Directive - on the assessment of the effects of certain plans and programmes on the environment ('the SEA') provides by article 3(2) that an environmental assessment is to be carried out for plans prepared for town and country planning or land use, which set a framework for development consent of certain projects, or which in view of the likely effect on protected sites, have been determined to require assessment under the Habitats Directive. Where a plan determines the use of small areas at local level and makes minor modifications to other town and country planning or land use plans, they require such assessment only where Member States determine that they are likely to have significant environmental effects (by virtue of article 3(3)).
38. It is currently unclear whether English neighbourhood plans always require strategic environmental assessment. In case C-444/15, *Associazione Italia Nostra Onlus v Comune di Venezia*, the Court of Justice of the EU considered the meaning in the context of legislation that precluded consideration whether the commune (city

council)'s plan for 68 dwellings within the Venetian lagoon required strategic assessment. It ruled as follows:

'Article 3(3) of Directive 2001/42, read in conjunction with recital 10 of that directive, must be interpreted to the effect that the term 'small areas at local level' in paragraph 3 must be defined with reference to the size of the area concerned where the following conditions are fulfilled:

- *the plan or programme is prepared and/or adopted by a local authority, as opposed to a regional or national authority, and*
- *that area inside the territorial jurisdiction of the local authority is small in size relative to that territorial jurisdiction'.*

The use of 'and/or' is ambiguous. It was unnecessary to decide this point in the *Venezia* case, as the plan was prepared and adopted by the same authority. However, English neighbourhood plans are prepared by a parish and adopted by a district. The neighbourhood area in the present case the Neighbourhood Plan embraces the whole area of the Parish Council and so is not 'small in size relative to that territorial jurisdiction'. On the other hand, it may reasonably be said to be small in relation to the District.

Habitats Regulations Assessment

39. Article 6(3) of the Habitats Directive¹⁵ requires that any plan which is not directly connected with or necessary to the management of a protected site, but is likely to have a significant effect thereon (meaning that such an effect cannot be excluded beyond reasonable scientific doubt on the basis of objective information) must not be agreed to unless it has been subject to an '*appropriate assessment of the implications for the site*', and it has been ascertained that it will '*not adversely affect the integrity of the site concerned*'. If a plan is assessed and found to cause harm to the integrity of a protected site, article 6(4) enumerates some conditions under which a plan may exceptionally be approved where the plan must nevertheless be carried out for imperative reasons of overriding public interest.

¹⁵ Council Directive 92/43/EEC of 21 May 1992.

40. Those obligations have been transposed into national law by regulations 102, 102A and 103 of the Conservation of Habitats and Species Regulations 2010 ('the *Habitats Regulations*'). Regulation 102 states:

- (1) *Where a land use plan—*
- (a) *is 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), and*
 - (b) *is not directly connected with or necessary to the management of the site,*
- the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives.'*
- (4) *In the light of the conclusions of the assessment, and subject to regulation 103 (considerations of overriding public interest), the plan-making authority... must give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site...'*

Regulation 102A states:

'A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.'

41. Regulation 107(1) of the Habitats Regulations then sets out definitions. '*Land-use plan*' is defined to include a neighbourhood development plan. '*Plan-making authority*' is defined to mean '*the local planning authority when exercising powers under Schedule 4B to the TCPA 1990 (as applied by section 38A(3) of the 2004 Planning Act)*'. The term '*competent authority*' is not defined by regulation 107, but by regulation 7 it includes (but not be limited to) a '*public body of any description or person holding a public office*'. It includes local authorities and parish councils.

42. Case law establishes that plans cannot be approved in reliance upon the duty to assess the planned projects as and when they come forward, and only approve them at that stage if found not to harm any protected site.¹⁶ Consequently, for instance, the fact that there may be '*boiler plate*' language in the statutory development plan stating that projects cannot be approved if they would harm a protected site, cannot itself be

¹⁶ Case C-6/04, *Commission v UK* [2006] Env. L.R. 29 at [51]-[56].

sufficient to enable the plan to be approved without assessment, where it allocates or encourages particular development that is liable to harm a protected site.

43. There is no requirement for any formal decision to be made under the Habitats Regulations whether or not an '*appropriate assessment*' has been required. However, the Parish Council will be in breach of Regulation 102 of the Habitats Regulations if in fact the plan is likely to have a significant effect on a European site and has not been assessed.
44. Having regard to these requirements, there would appear to be no reason to question any failure in compliance with European Law obligations.

PART 3

THE EXAMINATION

SECTIONS 1 TO 3

INTRODUCTION

BEARLEY VILLAGE AND NEIGHBOURHOOD AREA BEARLEY CHARACTER AND APPRAISAL

1. In general, unless otherwise noted elsewhere, the information provided in Sections 1 to 3 is satisfactory for the purposes of this Examination.

Recommended modifications:

I shall make recommendations as to the modification or amendment of the draft Policies. Appropriate amendments should be made to the content of each Policy, and where necessary, the Policy itself, together with the updating of paragraph numbering and pagination of the draft Neighbourhood Plan.

SECTION 4

VISION AND STRATEGIC OBJECTIVES

1. Section 4 of the Neighbourhood Plan sets out the community's vision. The vision provides an aspiration for the village of Bearley to be a distinctive neighbourhood. It seeks to ensure that development should reflect the following - the views of the community; the exceptional rural character of the village setting; the protection of its assets and the provision of an outstanding quality of life for its residents.
1. The strategic objectives set out how the Neighbourhood Plan will deliver the vision and provide the basis for the Policies.
2. The progression from Issues to Vision and Objectives to Policies is an important part of the provision of the requisite evidence in support of the Neighbourhood Plan as required in the National Planning Policy Guidelines ('the NPPG').
3. On neighbourhood planning the Neighbourhood Plan states that it

“provides the opportunity for communities to set out a positive vision for how they want their community to develop over the next 10, 15, 20 years in ways that meet identified local need and make sense for local people.”
4. The plan evidences a character appraisal and consultations over four years in order to identify key issues that create the basis for the vision, objectives and policies set out in **Section 5**.
5. Having regard to the information provided, although I do not wish to diminish the aspirations of the Parish Council as to the concepts of community spirit and community governance, my role as the Examiner is to monitor and review of the contents of the Neighbourhood Plan, and that it conforms with the legal framework as to neighbourhood planning. In particular, I need to ensure that it complies with the Basic Conditions.
6. I am satisfied that the Vision Statement and Strategic Objectives reflect the aspiration of the community. Its objectives seek to address the local needs of the community whilst

at the same time safeguarding the rural character of the parish and the qualities of its environment, given its location within a Green Belt.

7. The Vision and Strategic Objectives also generally reflect the Vision and Objectives set out in the Adopted Stratford-upon-Avon Core Strategy (*'the Core Strategy'*). I am therefore satisfied that the vision and strategic objectives of the Neighbourhood Plan would contribute to the achievement of sustainable development.

SECTION 5¹⁷

HOUSING

Policy H1 – Village Boundary

1. **Policy H1** defines a Village Boundary around the built-up area of the settlement, identified in Figure 7. This includes the main settlement together with two separate areas of land to the west of the main settlement: one area at the junction of Snitterfield Road and Birmingham Road (A3400); one area west of Birmingham Road (A3400) north of the railway line and south of Salters Lane. Within this boundary new dwellings will be supported in principle subject to other policies in the Neighbourhood Plan.
2. The Policy also seeks to strictly control new housing outside the Village Boundary, classed as open countryside, to specified types by reference to Criterion CS10 (i) of the Core Strategy and paragraph 79(e) of NPPF which supports dwellings of exceptional design and merit in the countryside.
3. A Village Boundary, or ‘development envelope’, is commonly used in Neighbourhood Plans to define where plan policies are to apply, and in this instance where new housing development proposals will normally be supported having regard to Policy **H1**.
4. The Neighbourhood Plan states that the Built-up Area Boundary (‘the BUAB’) is based on the Landscape Sensitivity Study 2012. However, this seems to be at variance with the position of the District Council which refers to the draft settlement boundary drawn up by the District Council for the Site Allocations Plan Consultation. This includes two further ‘islands’ comprising the site of Countrywide Stores, and residential properties at Bearley Cross.
5. The Landscape Sensitivity Study states that the project offers an important opportunity to protect the most sensitive landscapes whilst identifying where development may be acceptable around settlements. The purpose is not to define the BUABs or village boundaries. The methodology states that the definition of Land Cover Parcels

¹⁷ In this Report I have decided as a matter of policy to exclude the representations made by the person referred to as ‘Anonymous’.

(LCPs)/zones are based on dividing up Land Description Units using Historic Landscape Character Assessments and other data in areas of perceived development pressure.

6. Land Cover Parcels ('LCPs') have been defined for the areas around settlements. They are derived from landscape criteria, landcover and landform. In some cases, the LCPs can be limited in size due to the characteristics of the areas, but in other cases they can extend for some distance from the settlement edge. This can lead to an apparently uneven area included within it, but it is considered that the areas studied are those likely to be potentially subject to development.
7. LCPs can normally be defined as discrete areas of land bounded by roads, railways, water courses and parish boundaries, where similar patterns of land use, field pattern and tree cover are evident. They are derived through the subdivision of LDUs, based primarily on differences in land cover and historic pattern.
8. The Landscape Sensitivity Analysis is helpful in identifying landscape zones, but its purpose is not purposeful in identifying the BUAB.
9. The Core Document - '*Defining the confines of a settlement*' – states that the District Council has identified BUABs for selective settlements in successive Development Plans over the past twenty years. To provide the basis for doing this on a consistent basis, a set of guidelines was provided in the District Local Plan Review adopted in July 2006, and these are reproduced in the advice document published by the District Council. In 2017 an informal consultation organised by the District Council took place on a revised BUAB Methodology. This was in advance of a public consultation for the Revised Scoping and Initial Options Site Allocations Plan in February 2018. The 2018 draft BUAB methodology and the associated draft BUAB for Bearley is contained within the 2018 draft Site Allocation Plan.
10. I would therefore endorse the view of the District Council that the commentary and evidence on the BUAB should commence with the Site Allocations Plan Consultation.
11. In paragraph 2 of the Introduction, and in Annex 1, I have explained the purpose of conducting the Site View in order to clarify a number of points before the Report was

made final. Substantive objections have been raised as to the definition of the Village Boundary in the Neighbourhood Plan, together with the contents and direction of the Policy. Outside the BUAB new housing will be constrained.

12. I do not propose to set out the detail of the objections made. Suffice it to say that in particular, the District Council questions whether one of the identified sites, being an island site of residential properties north of the railway line at Bearley Cross, should be included as lying within the Village Boundary.
13. I therefore concluded that once the Site View had taken place and further clarification provided, I intended to add further information on the definition of the Village Boundary and the settlement boundary in the context of the Site Allocation Plan.
14. As stated on page 4, paragraph 2, I have now had the opportunity of making a visual inspection of the various sites, and I have come to the conclusion that the site identified north of the railway line cannot justifiably be included as part of the BUAB. As confirmed in the Landscape Sensitivity Assessment the **Areas Be09 and Be10** of the BUAB are both described as being in open countryside as well as separated from the settlement. The area is characterised by a loose pattern of individual properties with notable gaps in the building line. Additionally, the area is physically detached and distant from the main built up area of Bearley, in part due to its separation created by the A3400 and railway line.
15. Accordingly, for the following reasons I recommend that this site i.e. the island site lying to the north of the railway line should **not** be included as part of the Village Boundary as it does not form part of the main settlement of Bearley.
16. Bearley is a settlement that falls within the Green Belt where development is normally inappropriate. The Policy should be fully aligned with NPPF and para 145 which sets out exceptions to inappropriate development in Green Belt.
17. **Policy H1** refers to paragraph 79 of the NPPF where planning policies and decisions should avoid the development of isolated homes in the countryside unless a series of circumstances apply. **Policy H1** specifically refers to dwellings of exceptional design and merit. Such development is not included within the list of development in the

Green Belt (see paragraph 145 the NPPF) to which exceptions apply. I consider that references to dwellings of exceptional design and merit should be therefore be deleted from the Policy.

18. In the first sentence of the Policy it is unnecessary to repeat that the proposed development should be in accordance with other policies in the development plan - the Neighbourhood Plan is to be read as a whole.
19. In the second part of the Policy it is stated that new dwellings outside the development boundary will be strictly controlled and limited to those circumstances set out in the policy.
20. As the District Council emphasises, **Core Strategy Policy AS.10** sets out the policy approach to help to maintain the vitality of rural communities and a strong rural economy, by provision for a wide range of activities and development in rural parts of the District. The Policy confirms that of the proposals relating to sites within the Green Belt or the Cotswolds Area of Outstanding Natural Beauty, the specific provisions of **Policy CS.10** and **Policy CS.11**, respectively, will be taken fully into account.
21. **Core Strategy Policy CS.10** states that small-scale development which meets a housing, employment or other need identified by a local community, in accordance with **Policy AS.10 - Countryside and Villages**, subject to it not being harmful to the openness of the Green Belt, is not inappropriate in principle in the Green Belt. Additionally, **Policy CS.10** states limited infilling in Local Service Villages identified in accordance with **Policy CS.16** is not inappropriate in principle in the Green Belt.
22. It is expedient that **Policy H1** refers to **Core Strategy Policy CS.10, AS.10** and Green Belt Policy. However, it is not necessary to refer to the criteria within each policy.
23. Bearley is identified as a Category 4 Local Service Village in the Core Strategy and **Policy CS.16** states that development in Category 4 settlements approximately 400 homes will be provided in total, of which no more than around 8% should be provided in any individual settlement. 8% equates to no more than 32 dwellings.

24. Paragraph 5.1.11 of the Core Strategy states “The scope for individual villages to accommodate development, and the assessment of specific sites for their suitability for development, will take into account the presence of environmental designations, such as the Cotswolds AONB, Special Landscape Areas and Conservation Areas.
25. The focus of the District Council Site Allocations Plan is now on the identification of reserve sites (to equate to 20% of overall housing – around 2,920 homes) in accordance with **Policy CS.16** in the Core Strategy. Such sites will only be released selectively if one or more of the circumstances identified in Part D of that Policy apply.
26. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the Village Boundary comply with policy CS.10. Additionally, Policy H2 supports affordable housing provision outside the Village Boundary.
27. **Policy H1** will not lead to the Neighbourhood Plan promoting less development than set out in the Core Strategy (see paragraph 29 of the NPPF) or conflict with strategic policies in the Core Strategy (**CS.16** and **CS.10**).

Recommended modifications:

28. Amend **Policy H1** as follows:

~~‘Policy H1 – Village Boundary Development Strategy~~

~~Proposals for new dwellings~~ **Limited infilling and small-scale development** within the Built-up Area Boundary (BUAB), as defined in Figure 7 will be supported in principle, subject to proposals being in accordance with ~~other policies in this NDP~~ **Core Strategy Policy and Green Belt Policy.**

All areas outside the Built-Up Area Boundary are classed as open countryside. New dwellings within the open countryside will be strictly controlled and limited to ~~–(rural exception sites~~ **Rural Exception and Local Needs Schemes (Policy H2),** ~~replacement dwellings, dwellings for rural workers, the conversion of existing buildings,~~ **or in accordance with circumstances set out in Green Belt Policy** and policies AS.10 and CS.10 ~~–(i)–~~ **and dwellings of** criterion (i) of the Core Strategy,

~~exceptional design and merit in accordance with paragraph 79e) of the revised NPPF February 2019.~~

29. Amend first sentence of paragraph 5.1.2.

The BUAB is based on the draft settlement boundary drawn up by the District Council for the Site Allocations Plan (SAP) consultation together with a further ‘island’ made up of the site of Countrywide Stores. It limits ...

30. Delete paragraph 5.1.3 and renumber the paragraphs accordingly
31. Remove the Built-up area boundary from the area north of the railway line and west of A3400.
32. For the avoidance of doubt Figure 7 should be enlarged to A4 size as detailed in Part 1, paragraph 6 of my Report.

Policy H2 - Affordable Housing

33. This Policy refers to support for small scale affordable housing on rural exception sites, that are outside, but adjacent to, the village boundary. This is subject to three conditions. The Policy therefore supports an element of open market housing to facilitate the development of an affordable housing scheme. In such cases, the promoters will be required to submit additional supporting evidence.

Representations:

- | | |
|-------------------------------|--|
| (a) <i>District Council -</i> | Criterion (b) - Details of how this criterion will be assessed need to be included in the Policy. |
| (b) <i>Charles Musson –</i> | In support. Affordable housing is a must and should be fully supported. However, a village without a shop or school is not necessarily suitable for residents of |

affordable housing. Transport links are at best average.

(c) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

34. Paragraph 77 of the Framework states as follows:

“In rural areas, planning policies should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.”

35. Bearley is a settlement that lies in the Green Belt where development is normally inappropriate. To meet this constraint, the Policy therefore should be fully aligned with the Framework. Paragraph 145 of the Framework sets out exceptions to inappropriate development in the Green Belt. Sub-paragraph (f) supports rural exception sites limited to affordable housing for local community needs under policies set out in the Development Plan (including policies for rural exception sites).

36. The Core Strategy **Green Belt Policy CS.10** states that development is not inappropriate if a small-scale development that meets a housing, employment or other need has been identified by a local community in accordance with **Policy AS.10 Countryside and Villages**. This is subject to the overriding consideration that it is not harmful to the openness of the Green Belt.

37. The Core Strategy includes a definition of Rural Exception Sites as follows - small sites used solely for affordable housing on land lying within, or adjoining, existing small rural communities which would not otherwise be released for general market housing by reason of the fact that it is subject to policies of restraint. Such sites seek to address the needs of the local community by accommodating households who are either current residents, or who have an existing family or employment connection. Small numbers of market homes may be allowed at the Local Authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding. The affordable

housing provided on such sites should meet local needs in perpetuity and count towards the overall level of housing provision.

38. The intention underlying the Core Strategy is that rural exception sites are to meet the needs of the local community as criteria **H2a**. The Policy should therefore identify the basis upon which decision makers should react to development proposals, as required by paragraph 16 of the Framework.
39. I therefore recommend that an amendment be made to the Policy title to read '*Rural Exception and Local Needs Schemes*' so as to reflect the Policy content appropriately and to ensure that it corresponds to the general framework for rural housing provided by NPPF, whilst recognising the greater flexibility provided by **Core Strategy Policy CS.15G**. A modification is also made for reasons of clarity that the housing need is identified in an up-to-date Housing Needs Study.
40. The requirement that "*no other suitable and available sites exist within the Village Boundary*" is not in general conformity with the Framework or **CS.10. Policy CS.18 Affordable Housing**, similarly, does not include a test for other suitable sites.
41. It is also apparent in **Policy H3** that a site at '*Old Play Area and unused Garages*' provides an opportunity for affordable housing. Indeed, there is a current planning application for seven units pending on this site. Therefore, it is proposed that **criterion (b)** is deleted to align with the Framework and the Core Strategy, so as to ensure clarity and to remove an ambiguity identified in the representations by the District Council.
42. **Criterion (c)** seeks to secure appropriate affordable housing tenures. **Policy CS.18** sets out a requirement for homes to remain at an affordable cost for future eligible households. To clarify how decision makers should react to a proposal, the **Policy** should include requirements of the Housing Needs Survey in terms of type, size and tenure.
43. Additionally, it is not necessary for promoters to be required to submit evidence. It is necessary for the application simply to be accompanied by appropriate supporting evidence containing an assessment of the proposal.

Recommended modifications:

44. **‘Policy H2 – Affordable Housing *Rural Exception and Local Needs Schemes***

Small scale affordable housing development will be supported on rural exception sites that are outside, but adjacent to, the village boundary, as long as the following conditions are met:

- (a) There is a proven, unmet local need, identified through an **up to date** Housing Needs Survey.
- (b) ~~No other suitable and available sites exist within the development boundary of the settlement.~~ **the content of the scheme, in terms of the type, size and tenure of homes proposed reasonably reflect the identified local need.**
- (c) ~~Appropriate affordable housing tenures~~ **future eligible households** ~~will be secured in perpetuity through A Section 106 legal agreement to meet the continuing needs of local people~~ will secure delivery of the homes in accordance with their intended purpose. It will also ensure that in perpetuity the homes are first offered to people with a local connection to the parish of Bearley.

Where viability for 100 per cent affordable housing provision cannot be achieved, an element of market housing may be included within a rural exception scheme to facilitate the delivery of affordable homes. In such cases, ~~promoters~~ **the application** will be required to ~~provide~~ **be accompanied by** additional supporting evidence in the form of an open book development appraisal for the proposal, containing inputs assessed and verified by a chartered surveyor.’

Policy H3 - Use of Brownfield Land

45. This Policy provides support for the re-use of previously developed land subject to safeguarding criteria including Green Belt Policy.

Representations:

- (a) *District Council -* The Framework definition of “*Previously Developed Land*” includes gardens outside of Built-up Area Boundaries. Will this policy allow for housing outside of BUABs? To ensure clarity as to how decision makers should react to development proposals as

required by paragraph 16 of the Framework I recommend that the first sentence be re-worded as follows - *‘The redevelopment of previously developed (brownfield) land will be supported subject to **meeting** all of the following criteria:...*’

The Explanatory text associated with **Policy H3** refers to two specific sites: *‘the old garage site’* off Oaktree Close and the *‘Countrywide/Bearley Mill site’* on the outskirts of the village. It is somewhat surprising that the Neighbourhood Plan does not include specific, individual policies for allocating these two sites for appropriate reuse/redevelopment. The Neighbourhood Plan would be the ideal vehicle for outlining the community’s aspirations and requirements for the two sites and ensuring the community has an influence on any future development of the sites.

(b) *Severn Trent -* Supports the Policy and seeks inclusion of wording to ensure that redevelopment of brownfield land is used as an opportunity to provide betterment to the existing sewerage network by reducing surface water flows into the combined sewer network.

(c) *Parish Council -* Supports the proposition and suggest adding an additional criterion.

‘A satisfactory surface water outfall assessment to determine if there are any viable alternatives to the existing connection to the combined sewer network.’

(d) *Warwickshire County Council –* Suggests an amendment to the vision as to infrastructure to include new developments needing to consider their flood risk and sustainable drainage systems when building on greenfield and brownfield sites.

- (e) *Graham Musson* - supports the use of brownfield sites if the alternatives of housing versus employment have been examined and an objective view of the effect of either has been part of the consultation with residents. However, there is no evidence in the Neighbourhood Plan that this has taken place. Bearley Mill has been purchased for business use (so it is understood) which (if correct) is commendable as providing employment opportunities for residents of Bearley. The Countrywide store is an excellent retail site and is unlikely to be suitable for housing. It is presumed that the Parish Council prefers housing to encourage the Community Infrastructure Levy and numbers. If housing development is allowed on these two sites they will be satellites outside of the main village. They can only become realistic options if some of Land B between the village part of the Built-Up Boundary and the Village Hall has development on it.
- (f) *Richard Woodman* – In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

46. Bearley is a settlement that that lies within the Green Belt where development is normally inappropriate. The Policy should be fully aligned with the Framework. Paragraph 145 of the Framework (Proposals affecting the Green Belt) sets out exceptions to inappropriate development.
47. This supports limited infilling or the partial or complete redevelopment of previously developed land in villages, whether redundant or in continuing use (excluding temporary buildings), which would:
- not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting

an identified affordable housing need within the area of the local planning authority.

Paragraphs 84, 117 and 118 of the Framework seek to make the effective use of previously developed land.

48. **CS.10** supports the reuse and maximising efficient use of brownfields sites subject to safeguarding criteria. Thus, it supports limited infilling or the partial or complete redevelopment of a previously developed ‘brownfield’ site, whether redundant or in continuing use (excluding temporary buildings). This is subject to it not having a materially greater impact on the openness of the Green Belt, and the purpose of including land within it, than the existing development.
49. In response to the District Council’s representations, **Policy H3** is clear at paragraph (e) in that it is subject to Green Belt considerations which would include Core Strategy Policy **CS.10**. This Policy supports, as an exception, small-scale development which meets a housing, employment or other need identified by a local community, in accordance with **Policy AS.10**.
50. However, the final sentence of **Policy H3** seeks to restrict development within the footprint of the existing buildings. Given that the supporting text seeks to promote development of the old playing fields, this would seem incompatible. Additionally, it does not accord with tests in paragraph 145(g) of the Framework which supports the partial or complete redevelopment of previously developed land subject to safeguarding criteria.
51. A modification should therefore be made to **criteria (e)** and the last sentence of the Policy, as recommended. This will render it clear and unambiguous so that it is evident how a decision maker should react to development proposals in accordance with paragraph 16 of the Framework, and in order to align with the Framework and Core Strategy.
52. It is to be noted that the representations include proposals to add additional commentary on additional allocated sites, flood risk, surface water and drainage issues. However,

the suggested amendments are not required to meet the Basic Conditions test. Further, it is beyond my role as the Examiner to recommend modifications so as to include additional issues in the Policy.

Recommended modifications:

53. **‘Policy H3 – Use of Brownfield Land**

The redevelopment of previously developed (brownfield) land will be supported subject to **meeting** all the following criteria:

- (a) The new use would be compatible with the uses in the surrounding area.
- (b) Any remedial works to remove contaminants are satisfactorily dealt with.
- (c) The proposal would lead to an enhancement in the character and appearance of the site and would not result in the loss of any land of high environmental value.
- (d) Safe and suitable access and parking arrangements would be provided to serve the new use.
- (e) The proposal would not conflict with national Green Belt policy **and would not have a materially greater impact on the openness of the Green Belt than the existing development.**

~~The redevelopment of brownfield land will be restricted to the area occupied by permanent buildings, structures and previously used land only and not its wider undeveloped curtilage.~~

Further minor amendments:

References - Add (paragraph) 117 to Framework and delete AS.11 from Core Strategy Policies.

54. For the avoidance of doubt Figure 8 should be enlarged to A4 size as detailed in Part 1, paragraph 6 of my Report.

Policy H4 – Use of Garden Land

55. The Policy sets out criteria where development on Garden Land will only be supported where it demonstrates that it complies with a series of criteria. However, the criteria do not distinguish between land within or out with the village boundary.

Representations:

- (a) *District Council* – The question is raised as to whether the Policy includes Garden Land outside of the BUAB? (see comment on **Policy H3**).
- (b) *Warwickshire County Council* - Suggests additional criteria to include sustainable drainage systems to ensure that surface water flood risk is minimised.
- (c) *Graham Musson* – In support. The Neighbourhood Plan appears to consider that there are a number of large gardens suitable for development. It is understood that the Planning Department of the District Council historically believes that garden development is infill and therefore only one deep. The principle of which gardens and how many houses has not been delineated and therefore makes the presumption that they can only be considered ‘windfall’. Again, to the knowledge of the writer few if any residents with large gardens have been consulted. There is no evidence-based data.
- (d) *Richard Woodman* – In support. He notes that ‘significantly and demonstrably’ is a high hurdle.

Compliance with framework, Core Strategy and Basic Conditions:

56. The policy supports development both within the settlement as defined by the village boundary and within the open countryside. Development outside the settlement boundary, on garden land, would be supported by this Policy.

57. Bearley is a settlement that falls within the Green Belt where development is normally inappropriate. The policy should be fully aligned with the Framework. Paragraph 145 sets out exceptions to inappropriate development. Relevant here are the following sub-paragraphs:
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) limited infilling in villages;
58. Paragraphs 117 and 118 of the Framework seek to make efficient use of land.
59. **Policy CS.9** of the Core Strategy - Design and Distinctiveness, sets out criteria-based policy which seeks to ensure local distinctiveness and ensure high quality design and design innovation.
60. Paragraph 3.8.5 expresses concern about high density development and loss of gardens.
61. To ensure that the **Policy** is clear as to how decision makers should react to development proposals as required by paragraph 16 of the Framework, and to ensure the policy provides positive phraseology, it is recommended that a modification is made that changes the first sentence to - *“Development on garden land will be supported provided that it can be demonstrated that proposals will:”*
62. The suggested amendment by Warwickshire County Council is not required to meet the Basic Conditions test and therefore it is beyond my remit to recommend modifications so that the vision or policy includes additional issues.
63. The Framework states that policies in the Neighbourhood Plan should be concise, precise and supported by appropriate evidence, plan positively and flexibly. For these reasons I make recommendations for modification.

Recommended modifications:

64. **‘H4 - Use of Garden Land**
 Development on garden land will ~~only~~ be supported ~~if~~ **where** it can be demonstrated that proposals will:

- a) Preserve and/or enhance the character of the area.
- b) Not introduce an inappropriate form of development that is in conflict with the existing settlement pattern.
- c) Not significantly and demonstrably harm the amenity of ~~the host dwelling and~~ neighbouring properties.
- d) ~~Provide satisfactory arrangements for access and off road parking.~~ **Provide sufficient parking to avoid unacceptable impact on the amenity of the local area or highway safety**
- e) **Be consistent with Green Belt policy and** preserve the openness of the Green Belt.’

Policy H5 - Market Housing Mix

65. **Policy H5** seeks to ensure housing developments of five or more units should seek to meet the housing requirements as identified in housing market assessments or Housing Needs Survey. The policy also supports specialist accommodation for the elderly and infirm.

Representations:

- (a) *District Council-* The Policy asks that housing developments of 5 or more units should meet the housing requirements identified by the SHMA or Housing Needs Survey. Where is the justification for this figure? How does this policy comply with the provisions of Core Strategy **Policy CS.19** [Housing Mix and Type]? Is it possible for these smaller sites to achieve the requirements of this policy?
- (b) *Graham Musson -* In support - there are a number of family houses within the Orbit estate where older residents are living on their own. The provision of suitable specialist accommodation for the elderly and infirm could possibly, if the residents agree, free up the houses for families.
- (c) *Richard Woodman -* In support.

Compliance with Framework, Core Strategy and Basic Conditions:

66. Bearley is a settlement situated in the Green Belt where development is normally inappropriate. The Policy should be fully aligned with Framework. Relevant extracts from paragraph 145 set out exceptions to inappropriate development, as follows:

A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are the following:

- (e) limited infilling in villages;
- (f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Compliance with the Framework, Core Strategy and Basic Conditions:

67. The first part of the Policy seeks to ensure that new housing development of five or more units meets the housing requirements identified in up to date housing studies. The BNDP does not present evidence to demonstrate why a figure of five or more units should seek to meet housing requirements and as such it would be contrary to **Core Strategy Policy CS.19** which applies to all new homes.
68. The **Policy** title suggests that it applies to market housing mix. The **Policy** text and supporting statement does not demonstrate a different policy approach between market and affordable housing. The title should be therefore be amended to **Housing Mix**.
69. In the last sentence of the **Policy** it is not necessary to repeat that the development should be in accordance with the Neighbourhood Plan - this is read as a whole. However, it is appropriate to ensure that the **Policy** aligns with Framework Green Belt policy and a modification is recommended which references Green Belt policy.

Recommended modifications:

70. **'Policy H5 – ~~Market Housing Mix~~**

Housing developments ~~of five or more units~~ should seek to meet the housing requirements identified by current up-to date evidence, such as the Strategic Housing Market Assessment or the Housing Needs Survey providing evidence for this Plan.

Specialist accommodation for the elderly and infirm will be supported, subject to ~~compliance with other policies in this Plan~~ the establishment of need **and Green Belt Policy.'**

ECONOMY

Policy ECON1 – Protecting and Supporting Existing Employment Sites

Policy ECON1 seeks to resist change of use/redevelopment of land used or identified for employment unless a series of criteria are satisfied.

1. Limited extensions to existing commercial buildings will be supported subject to compliance with other development plan policies.

Representations:

- (a) *District Council* - The Policy requires clarification that all proposals within the remit of this policy must meet the requirements of Criterion (e), in addition to at least one of Criteria (a) to (d).
This criterion may benefit from elaboration on what would be a ‘better use of the site’.
- (b) *Graham Musson* - In support.
- (c) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

2. Bearley is a settlement that falls within the Green Belt where development is normally inappropriate. The Policy should be fully aligned with the Framework. Paragraph 145 of the Framework sets out exceptions to inappropriate development. They include:
 - (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to

meeting an identified affordable housing need within the area of the local planning authority.

3. **Policy ECON1** refers to **Core Strategy Policy CS.22, CS.23 and CS.24**. **Core Strategy Policy CS.22** states that an existing employment site should not be redeveloped or converted to non-employment uses unless it is no longer viable or appropriate for a business purpose. The same principle applies to a site with planning permission for employment uses that has not been implemented. A rigorous assessment of each proposal of this nature will be undertaken. **Policy CS.23** sets out the district wide policy for retail development. **Policy CS.24** sets out the support for tourism and leisure subject to safeguarding criteria. Bearley is identified as a ‘*Category 4*’ Local Service Village in the Core Strategy
4. In planning terms, the Policy needs to be clear and unambiguous. In order to provide a clear framework for decision makers the Policy must clarify that it is seeking to address sites in employment use rather than sites that currently provide employment. The Policy should also be unambiguous as to how it addresses change of use between employment use categories. The Policy as currently drafted would seem to preclude a planning permission for alternative employment uses, contrary to the Framework and Core Strategy policies. Modifications to the Policy are therefore suggested for the purposes of clarity.
5. The safeguarding criteria are compatible with, and support, the Core Strategy policies identified above subject to the following comments:
 - Part (c) – the criterion is ambiguous and unclear as ‘better use of the site’ is not defined and no provision is made in the supporting text. Given the current ambiguity it is recommended that criteria (c) be deleted.
 - Part (e) seeks to interpret the Framework. As suggested by the District Council there must be compliance with the Framework to meet the Green Belt policies. Modification of the Policy should be made to ensure alignment with the Framework.
6. It is not appropriate to detail all other development plan documents as the plan is read and a whole and duplication is to be avoided. Delete references to other development plan documents.

Recommended Modifications:

7. **‘Policy ECON1 – Protecting and Supporting Existing Employment Sites**

~~Proposals for the change of use/redevelopment of land or premises currently providing Existing or identified employment land and sites to a non-employment use, will not be supported~~ **will be retained in employment use** unless:

- (a) The applicant can demonstrate that the site/premises **are** no longer capable of meeting employment needs or where there is no reasonable prospect of the site being used for employment uses, or
- (b) Development of the site for other appropriate uses will facilitate the relocation of an existing business to a more suitable site, or
- ~~e) The proposed new use of the site will regenerate and provide better use of the site, or~~
- (c) Unacceptable environmental problems are associated with the current use of the site and the proposal will remove them.

Additionally, replacement buildings ~~will~~ **should** not be materially larger than ~~the one it~~ **those they** replace, and ~~will~~ **should** not harm the openness of the Green Belt.

Limited extensions to existing commercial buildings in the Neighbourhood Area will be supported subject to **Green Belt Policy and Policies in the** ~~providing there is no conflict with other policies in this Plan~~ Stratford-on-Avon District Core Strategy ~~and the National Planning Policy Framework.~~

Policy ECON2 – Promoting New Employment Opportunities

8. **Policy ECON2** seeks to support new employment sites subject to consistency with other policies in the BNDP, Core Strategy and Framework and subject to consideration of residential amenity, green infrastructure and traffic.

Representations

- (a) *District Council* - Given that the whole of the Neighbourhood Plan area is in the Green Belt, it would seem appropriate to clarify that a scheme involving new buildings on greenfield land would not be consistent with Green

Belt policy in the Framework and **Policy CS.10** in the Core Strategy.

(b) *Warwickshire County Council -* Refers to a specific point about new developments needing to consider their flood risk and sustainable drainage systems when building on greenfield and brownfield sites. It also mentions the benefits of open space as flood risk management to retain water. Above ground SuDS could be utilised in open spaces. It also encourages new developments to open up any existing culverts on a site providing more open space/green infrastructure for greater amenity and biodiversity; and the creation of new culverts should be kept to a minimum. New culverts will need consent from the LLFA and should be kept to the minimum length.

(c) *Graham Musson -* In support.

Compliance with Framework, Core Strategy and Basic Conditions:

9. Similar considerations apply as set out in paragraph 4, above.
10. **Policy ECON2** refers to **Core Strategy Policy CS.22**. Development that provides for a wide range of business and commercial activity will be promoted in sustainable locations in order to support and foster the growth and competitiveness of the District's economy, provide more jobs and improve the vitality of the local business environment. Additionally, opportunities for business development will be provided in the countryside, including farm-based activities, in accordance with Policy AS.10 Countryside and Villages.
11. As previously mentioned, Bearley is identified as a '*Category 4*' Local Service Village in the **Core Strategy**.
12. It is unnecessary and confusing to state '*consistent with other policies in this Plan*' as all of the policies of the Neighbourhood Plan apply. The **Policy** must be clear and unambiguous so that it is evident how a decision maker should react to development

proposals in accordance with paragraph 16 of the Framework. Therefore, it is appropriate to refer to Green Belt Policy.

13. Additionally, the Framework states '*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*' A modification therefore should be made to criteria 3 in order to bring it into alignment and consistency with the Framework.
14. Although supported by the Parish Council the suggested amendment by Warwickshire County Council is not required to meet the Basic Conditions test. Again, I therefore consider that it is beyond my role as the Examiner to recommend modifications so that the vision or policy includes additional issues.

Recommended modifications:

15. **'Policy ECON2 – Promoting New Employment Opportunities**

Proposals for ~~sites providing~~ new employment opportunities that are consistent with **Green Belt policy and do not conflict with the purposes of including land within the Green Belt** ~~other policies in this Plan, the Core Strategy and the FRAMEWORK~~ and which encourage the growth of local employment will be supported; ~~The development of new local employment opportunities will be supported within the Neighbourhood Area~~ providing that they:

- (a) Do not have a detrimental impact on residential amenity.
- (b) Do not lead to the loss of green infrastructure.
- (c) Do not have an ~~unacceptable~~ **a severe traffic** impact ~~due to increased traffic.~~'

BUILT NEIGHBOURHOOD ENVIRONMENT

Policy BNE1 – Responding to Local Rural Character

1. Policy BNE1 seeks to promote local character in design setting out a series of principles which must be taken into account during the evolution of the design.

Representations:

- (a) *District Council* - This policy uses the word ‘demonstrate’ several times, but it is not clear what this means – will proposals need an additional accompanying statement to accord with this Policy?
- Criterion (f) - Should this criterion also reference the Valued Landscapes, Vistas and Skylines identified in **Policy NNE5** of the Neighbourhood Plan?
- Criterion (i) - This may not be applicable in every case. It is therefore recommended that, so it is suggested to insert the following wording: “where appropriate” to the beginning of the sentence.
- References should include policies **CS.4, CS.5, CS.6, CS.8 and CS.9** as the Policy refers to heritage, flood risk and landscape.
- (b) *Severn Trent* - In support of the Policy, particularly criterion (h). It is stated that they were pleased to note that their comments on the earlier draft of the Neighbourhood Plan were addressed. Therefore, our positive comments on the Regulation 14 Plan remain entirely relevant.
- (c) *Historic England* - In supports both the content of the document and the vision and objectives set out in it. The representation states that the evidence-based Neighbourhood Plan is well informed by reference to the Warwickshire Historic Environment Record and includes extensive analysis of the historic landscape of the Parish. Very commendably this includes a bespoke Character

Appraisal of the settlement defining individual character zones in order to better define local distinctiveness. All of this provides a context and a sound evidence base for well thought out Plan policies.

The emphasis in the Plan policies on the conservation of rural character and local distinctiveness through good design and the protection of heritage assets, archaeology, local green space and important views, along with landscape character 'is to be applauded'.

- (d) *Graham Musson* - Whilst in support it should not be restrictive.
- (e) *Richard Woodman*- In support.
- (f) *David Hotten* - Objects - In section (a) the words 'Be compatible with' should be replaced with 'Not be detrimental to'. The word 'compatible' is generally interpreted as meaning that new buildings should be designed in similar styles and materials to the existing buildings. This would lead to monotony and prevents any new design thinking and innovation. There is a climate crisis which desperately needs to be addressed, with new buildings that are built using sustainable materials, using sustainable construction methods.
The designs should enable the occupants to live as carbon neutral lives as possible. Basing the design of new building on the existing ones will not achieve these aims.

Compliance with the Framework, Core Strategy and Basic Conditions:

2. Chapter 12 of the Framework states the creation of high-quality buildings and places is fundamental to the goals of the planning and development process. The Framework at Paragraph 125 states that the plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities, so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood plans can play

an important role in identifying the special qualities of each area and explaining how this should be reflected in development.

3. **Policy CS.4** - All development proposals will take into account, dependent on their scale, use and location, the predicted impact of climate change on the District Council's water environment. Measures will include sustainable use of water resources, minimising water consumption, protecting and improving water quality, and minimising flood risk from all sources, as set out in the most up-to-date Strategic Flood Risk Assessment (SFRA).
4. **Policy CS.5** - The landscape character and quality of the District will be maintained by ensuring that development takes place in a manner that minimises and mitigates its impact and, where possible, incorporates measures to enhance the landscape.
5. **Policy CS.6** - Development will be expected to contribute towards a resilient ecological network throughout the District that supports ecosystems and provides ecological security for wildlife, people, the economy and tourism. Developments that are likely to have an adverse effect either directly, indirectly or cumulatively upon a site designated through the EC Habitats Directive or Birds Directive will not be permitted.
6. **Policy CS.8** - the District's historic environment will be protected and enhanced for its inherent value and for the enjoyment of present and future residents and visitors. Through a partnership approach, the Council will seek opportunities to promote the historic environment as a catalyst for enhancing the vitality of the District.
7. **Policy CS.9** - sets of the policy on design and distinctiveness. This includes Part C – Design Innovation where it reflects and complements the immediate local environment and have a beneficial purpose.
8. The District Council is concerned that 'must demonstrate' does not provide a basis for determining planning applications as it creates ambiguity and uncertainty and makes certain suggestions to ensure the Policy provides an appropriate Framework for determining planning applications and is positively planned, the deletion of the text in sentence after **BNE4**.

9. Having regard to these various representations, I am satisfied that **criterion (f)** is distinct and separate to **Policy NNE3** in that this Policy seeks to ensure key features of views, skylines and sweeping views can continue to be enjoyed. **Policy NNE5** seeks to ensure that valued landscapes (Prominent views of the landscape, important vistas and skylines) are maintained and safeguarded. I consider that no modifications are required to satisfy the Basic Conditions. I also consider that:

- archaeological surveys will not be required in each case and therefore an appropriate qualification is necessary.
- After archaeological survey – to add ‘where necessary’
- The word ‘Compatible’ would suggest that things work well together or can exist together successfully, and provides the flexibility required by the Framework. I consider that it is not necessary to satisfy the Basic Conditions that the principle is amended to ‘not detrimental to’.

Recommended modifications:

10. **‘Policy BNE1 –Responding to Local Rural Character**

~~All~~ ~~Development proposals must demonstrate how~~ **will be supported where** local character **detailed in Sections 2 and 3 of the Plan** has been taken into account during the conception and evolution of a design in accordance with the following principles:

- a) Be compatible with the distinctive rural character of the area, respecting the local settlement pattern, building styles and materials.
- b) Be of a density that is in keeping with the character of the surrounding development and landscape.
- c) Preserve, enhance and protect heritage assets, including listed buildings and the designated conservation area.
- d) Protect or enhance landscape and biodiversity by incorporating high-quality native landscaping.
- e) Be consistent with Warwickshire Landscape Guidelines, defining special characteristics of the county’s different landscapes.
- f) Ensure that key features of views to and from higher slopes, skylines and sweeping views across the landscape can continue to be enjoyed.
- g) Have regard to the impact on tranquillity, including dark skies.
- h) Do not increase the risk of flooding, including that from surface water, within the village or exacerbate foul drainage capacity problems.

- i) Be preceded by an appropriate archaeological survey, **where necessary**, to ascertain the implications of development on below-ground heritage assets. ~~All development proposals must take full account of local character as described in sections 2 and 3 of the Plan and the Neighbourhood Planning Design Guidelines set out in Policy BNE 4 and must demonstrate how these have been taken into account.~~ Proposals that do not positively contribute to local character will not be supported.'

Further minor amendments:

References should include **Policies CS.4, CS.5, CS.6, CS.8 and CS.9** as the Policy refers to heritage, flood risk and landscape.

Also add reference in supporting text to Neighbourhood Design Guidelines set out in **Policy BNE4**

Policy BNE2 – Preservation of Heritage Assets

11. **Policy BNE2** seeks to preserve important physical fabric and settings of listed buildings.

Representations:

- (a) *District Council* - Comments that the third bullet point – ‘proposals that may cause substantial harm’” is vague. It is suggested that this should be substituted for ‘proposals that will cause substantial harm’. Further, it is stated that the Policy does not make reference to archaeology, it is considered that this should be included.
- (b) *Graham Musson* - In support.
- (c) *Richard Woodman*- In support.

Compliance with Framework, Core Strategy and Basic Conditions:

12. The Framework at paragraph 185 states that plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats.
13. Paragraph 195 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
14. Paragraph 196 states: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
15. **Policy CS.8** sets out the District Wide approach to safeguarding and protecting heritage assets. It states:
- “A. Protection and Enhancement
The District’s historic environment will be protected and enhanced for its inherent value and for the enjoyment of present and future residents and visitors. Through a partnership approach, the Council will seek opportunities to promote the historic environment as a catalyst for enhancing the vitality of the District.
Priority will be given to protecting and enhancing the wide range of historic and cultural assets that contribute to the character and identity of the District, including:*
1. *designated heritage assets such as Listed Buildings, Conservation Areas, Registered Gardens, the Battle of Edgehill Historic Battlefield, Scheduled Monuments, and sites of archaeological importance, and their settings;*
 2. *non-designated heritage assets and their settings;”*
16. The tests in **Policy BNE2** exceed the requirements of the Framework and therefore is not positively planned. The tests are modified to align with the Framework.

It should be noted that the first sentence uses the term ‘must’ which does not provide the flexibility required by the Framework.

Recommended modifications:

17. **‘BNE2 – Preservation of Heritage Assets**

- Proposals ~~must preserve the important~~ **that make a positive contribution to the physical fabric and settings of listed buildings will be supported.**
- Proposals, including changes of use, which enable the appropriate and sensitive restoration of listed buildings, will be supported.
- Proposals that may cause substantial harm to the special architectural or historical interest of listed buildings and their settings will not be supported **unless it can be demonstrated that the public benefit outweighs the harm.**
- Proposals that cause less than substantial harm will need to demonstrate public **benefits of the proposal** to outweigh the harm.
- Development within and adjacent to all heritage assets will be strictly controlled. Development which fails to preserve or enhance the character or appearance of the conservation area will not be supported.’

Policy BNE3 – Efficient and effective use of land

18. **Policy BNE3** supports the efficient and effective use of land subject to safeguarding criteria.

Representations:

- (a) *District Council* - If proposals have to meet all of the criteria listed to be supported, this seems like an onerous number of criteria for proposals to meet. It is suggested that the proposal should be reworded to: ‘Proposals which achieve the effective and efficient use of land; are of an appropriate density; reuse previously developed land **and/or** bring properties back into use will be supported in principle.’
- (b) *Graham Musson* - In support - it could be suggested that this Policy relating previously developed land and properties should be considered a prime opportunity. As there is no data provided in the NP the explanation is somewhat light in nature.
- (c) *Richard Woodman* - In support.

Compliance with Framework, Core Strategy and Basic Conditions:

19. The Framework supports the efficient and effective use of land. Paragraph 122(d) refers to the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change. The interpretation of this is set out in the Neighbourhood Plan, at paragraph 5.3.3 and supporting text, which requires all new development to reflect low density character of the village.
20. The changes suggested by the District Council provide a positive planning policy for decision makers.

Recommended Modifications:

21. **‘Policy BNE3 – Efficient and effective use of land**
Proposals which achieve the effective and efficient use of land; are of an appropriate density; reuse previously developed land and /or bring properties back into use will be supported in principle.’

Policy BNE4 – Neighbourhood Design Guidelines

22. **Policy BNE4** seeks to set out design principles that all development proposals should adequately address. The policy sets out 11 principles.
23. Additionally, the design principles should be considered where appropriate (the first part of the Policy uses the phrase ‘adequately addressed’) but equally exceptional modernistic designs for future architectural projects should be encouraged.

Representations

- (a) District Council - Poses the question - does ‘adequately addressed’ mean that all of the Design Principles need to be met in new proposals? This needs to be clarified.
It is considered that the local justification for the 30% volume limit as set out within criterion (f) should be clarified. This volumetric ‘cap’ is not in conformity with the Core Strategy or Framework. This refers to a

development being appropriate if extensions do not result in ‘disproportionate additions’ over and above the original dwelling, thereby resulting in a less restrictive and more flexible interpretation to the Policy in the Neighbourhood Plan.

The requirement for ‘sensitive siting of PV and solar panels where they are not seen from the road. Particular importance should be given to the proximity to listed buildings or the effect on views in and out of the conservation area’ is more restrictive than Permitted Development requirements in areas outside of the Conservation Area. Therefore, this criterion as it stands is too onerous to apply to every property in the Neighbourhood Area.

It is suggested that ‘modernistic designs’ should be changed to ‘contemporary designs’, and ‘future architectural projects’ be changed to ‘development proposals’. ‘Modern’ refers to a specific time period (early to mid-20th century).

Since this policy relates to extensions in the Green Belt, Core Strategy Policy **CS.10** should be added to the list.

This text refers to ‘disproportionate additions’ as set out in the Framework. How does this then tie in with criterion (f) of the policy referring to 30% volumetric ‘cap’ on extensions? There seems to be disconnection between the policy stance and the justification for its inclusion in terms of calculating ‘appropriate development’ in this regard.

(b) *Severn Trent* -

Encourages the inclusion of the following policy wording to encourage new developments to design water efficient buildings. ‘Development proposals should demonstrate that they are water efficient, where possible incorporating innovative water efficiency and water reuse measures. They should demonstrate that the estimated consumption

of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator and should not exceed 110 litres/person/day'. Severn Trent is supportive of the use of water efficient fittings and appliances within new properties and encourage the optional high-water efficiency target of 110 litres per person per day within Part G of Building Regulations. Delivering in the context of the proposed higher target, or above, provides wider benefits to the water cycle and environment as a whole.

(c) *Graham Musson* - Makes reference to the fact that the last paragraph above is key to his support of the Policy. As with **Policy BNE1** this Policy should not be considered restrictive. He however suggests that any new or extended properties have a charging point for an electric car.

(d) *Richard Woodman* In support.

(e) *David Hotten* - Objects - There is a climate crisis and new buildings should be designed as sustainably as possible, in the materials used and in the construction methods. The aim should be for all new buildings to be carbon neutral in their construction and in their operation throughout their lifespan, with a plan to recycle the materials, at the end of their useful life. This should be given a higher priority in a design guide that trying to be designed to match the existing buildings.

In Principles (c) and (d) the use of brick and tiles should not be encouraged as these have a very high carbon footprint, both being required to be fired in ovens in their manufacture. Slate is not a local material; it is not quarried in this area.

In Principles (h), (i) & (j) new buildings should not reflect traditional methods of construction, which generally are not sustainable.

The requirement in Principle (i) for new buildings to have working brick chimneys, should absolutely be removed from this document. We do not live in the Victorian era. We should not be burning fossil fuels to heat buildings and if we did, they should not be burnt in inefficient open fires. The District Council website states that the Council has declared a 'Climate Emergency' with councillors pledging to take local action to contribute to national carbon neutral targets. The policies here do not comply with this commitment.

Compliance with Framework, Core Strategy and Basic Conditions:

24. At paragraph 28 of the Framework there is support for the use of design principles as detailed policies for neighbourhoods.
25. Paragraph 125 states that plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so that they reflect local aspirations and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.
26. Paragraph 145 of the Framework states that development in Green Belts that may not be inappropriate include: (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Further -
 - **Policy AS.10** of the Core Strategy supports a wide range of activities and development in rural parts of the district assessed against the principles of sustainable development and as series of safeguarding criteria.
 - **Policy CS.9** sets of the policy on design and distinctiveness. This includes Part C – Design Innovation where it reflects and complements the immediate local environment and have a beneficial purpose.

27. The design of new developments, and how that development assimilates into the village by ensuring that it reinforces its distinctive character, is an important and key feature of the community aspirations and responses to the consultation process. The Bearley Character Appraisal in section 3 of the Neighbourhood Plan describes in detail the historic characteristics of the village and the need to maintain and enhance its rural character. It identifies four main periods of development.

28. The Core Strategy in the supporting text states:

'4.1.9 The Council previously applied a 30% maximum threshold relating to the scale of a house extension and replacement dwelling. However, it is considered that a specific maximum figure is in many senses arbitrary and a more appropriate means of maintaining openness is to consider proposals on a case-by-case basis, from the starting point that maintaining openness and preventing urban sprawl is of utmost importance. Such an approach would also conflict less and be more consistent with changes to the General Permitted Development Order (GPDO) regarding the ability of homeowners to extend their homes without necessarily requiring planning consent.'

29. The Examiner in the Snitterfield Report comments as follows:

'4.13.1 Criterion a) has been based I understand on Policy PR2 in the Stratford-upon-Avon District Local Plan Review, a policy and document that has been superseded by the Core Strategy during 19 the preparation of this neighbourhood plan. There is support locally for maintaining the requirement, and the LPA are not objecting to its continuation, but they point out that the explanation should offer a justification for this restriction. I agree with this assessment: while the policy is compatible with policy in the Framework (paragraph 89) and does not conflict with policy CS10 in the Core Strategy, an evidence trail needs to be indicated in the Snitterfield NDP in order that the Basic Conditions regarding evidence are met.'

30. It is apparent from the response from the Parish Council in the Consultation Statement (Appendix 2) that it considers that 30% is a guide not a limit. It is stated that it is -

'...intended to ensure that disproportionate extensions are avoided as there have been examples of this in the past within the village. The policy is sufficiently worded ('...not normally...') to allow flexibility but at the same time act as a guide for applicants and decision makers. The 30% rule is not new and was used successfully for many years in the Stratford Local Plan Review which predated the Core Strategy.'

However, unlike the Snitterfield example, it does appear that the District Council are now objecting asserting that a 30% cap is non-compliant with the Core Strategy. There is clearly a desire through the consultation process for design guidance, but the circumstances reveal that the Parish Council merely appears to be bringing forward a policy from a previous plan. Accordingly, I do not consider that there should be any substantive modification of the **Policy** to take account of this apparent issue.

31. I consider that the requirement of **criterion (i)** that buildings have a working brick chimney is not proportionate. It is recommended that it is amended to provide an effective framework for decision making.
32. The requirement not to support PV and solar panels seen from the road is not considered to represent positive planning. Modifications are required to ensure that there is clarity in the Policy as to how decision-makers should react to development proposals as required by paragraph 16 of the Framework and to address the concerns expressed by the District Council in order to address duplication within the Policy.
33. It is unnecessary and confusing for one policy to specify “across the whole Neighbourhood Area’ as all policies of the Neighbourhood Plan apply throughout the Neighbourhood Area, unless a smaller area is specified.
34. The Written Ministerial Statement dated 2015 makes clear that technical standards relating to the construction, internal layout or performance can only be progressed through a Local Plan based on evidence of need and viability. It is specifically stated that these standards should not be progressed Neighbourhood Plans.
35. The Framework at paragraph 149 states that plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.

36. The Framework further states at paragraph 153 states that landform, layout, building orientation, massing and landscaping to minimise energy consumption should be taken into account. Design principles should include recognition of climate change and the need to reduce energy consumption.
37. Although supported by the Parish Council the suggested amendment by Severn Trent is not required to meet the Basic Conditions test. It is accordingly beyond my remit to recommend modifications to enable the Policy to include additional issues.

Recommended modifications:

38. **‘Policy BNE4 – Neighbourhood Design Guidelines**

Where appropriate, development proposals should preserve and enhance Bearley by ~~The reference to the following important~~ design principles that should: ~~be adequately addressed by all development proposals across the whole Neighbourhood Area:~~

- a) Reflect the density, orientation and layout of surrounding properties.
- b) Arrangement of buildings so as to follow established building lines and road hierarchy **and to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.**
- c) Use of local materials, such as brick, plain tiles and slate.
- d) Incorporate traditional brick detailing to eaves, verges, window and door surrounds.
- e) ~~Provision~~ of adequate space between buildings or groups of buildings to preserve public views of open land beyond.
- f) **Ensure that** extensions to buildings will not normally exceed 30% of the volume of the building as it existed at the time when the Green Belt was established in 1975, or when built (if later). Where the host property is a replacement building which has already benefitted from an increase in volume of 30% or more, further extensions will not normally be supported.
- g) **Ensure that** extensions will not ~~be supported if they result in encroachment~~ within eight metres of a watercourse, or closer to the watercourse if already within eight metres. Extensions that could displace flood water elsewhere will not be supported unless they include appropriate mitigation measures.

- ~~h) Reflect traditional building form and style.~~
- i) Provide for sion of working chimneys of traditional brick construction.
- ~~j) Use of traditional metal or timber windows and doors recessed into the brickwork, with a preference to blue brick or plain tile sills.~~
- k) **Ensure the** sensitive siting of PV and solar panels, ~~where they are not seen from the road. and in particular importance should be given to the~~ **where they are to be sited in** proximity to listed buildings, or ~~the~~ **have an** effect on views within and out**with** of the Conservation Area.

39. The above guidelines should be considered where appropriate, ~~and but equal enthusiasm for exceptional modernistie~~ **contemporary** designs for ~~future architectural projects~~ **development proposals using sustainable construction methods** should be encouraged and developed within the village environment.’

Further minor amendments:

40. The Core Strategy references should include **CS.10**.

Policy BNE5 – Designing out Crime

41. **Policy BNE5** sets out a requirement for development to demonstrate how the design has been influenced by the need positively to reduce crime and the fear of crime.

Representations:

- (a) *Graham Musson* - In support.
- (b) *Richard Woodman* - In support.

Compliance with Framework, Core Strategy and Basic Conditions:

42. This Policy is supported by the Framework (see paragraph 127)(f) so as to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

43. **Policy CS.9** of the Core Strategy on Design and Distinctiveness is relevant. The Policy as currently worded is to apply to all planning applications, including small householder applications and change of use applications ‘where necessary’.

Recommended Modifications:

None

Policy BNE6 – Lighting

44. **Policy BNE6** sets out a requirement for development to keep lighting to a minimum, subject to highway safety to preserve the rural character of the village. The Policy also sets out design criteria.

Representations

- (a) *Graham Musson* - In support.
- (b) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

45. Policy **BNE6** is supported by the Framework (see paragraph 180) and Core Strategy **CS.9 (7)** – This provides that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation

Recommended Modifications:

None

Policy BNE7 – Parking and Access

46. **Policy BNE7** seeks to secure adequate provision for off-road parking setting a minimum number of car parking spaces. Non-residential development should be in accordance with the District Council's adopted parking standards. Developments where bed or floorspace is increased must demonstrate off-road parking and new development must demonstrate how pedestrian and cycle routes to local amenities have been considered.

Representations

- (a) *District Council* - The Neighbourhood Plan should specifically refer to District Council's document setting out the 'adopted standards' for ease of reference.
- The District Council's parking standards contained in Part O of the Development Requirements require 4 plus bed units to have at least three off-road parking spaces – the Neighbourhood Plan only requires two such spaces. This requires local evidence to justify the deviation from the District Council's adopted parking standards.
- The Neighbourhood Plan should also include Core Strategy **Policy CS.26** (Transport and Communications).
- (b) *Graham Musson* - In principle in support. However, it should not be considered restrictive so as to eliminate a suitable site from development.
- (c) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

47. The Policy refers to the District Council's adopted parking standards, the detail of which should be clarified.
48. Parking and cycling standards are presented in Part O of the Development Requirements contained in the Supplementary Planning Documents dated July 2019. These also states most new retail (class A) and community facilities (class D1 and D2 such as museums, libraries, cinemas and leisure centres) tend to be located within existing town and local centres existing on-street and off-street parking may be available in the vicinity. The nature and extent of existing provision will be assessed for each individual scheme to determine whether this is sufficient and would not cause harm to the amenity of the area or to highway safety. Accordingly, I have made modifications to the Policy to align with the Supplementary Planning Documents.

49. The Framework states that transport issues should be considered - including parking and other transport considerations (see paragraph 102(e)). Paragraph 104 states planning policies should provide for high quality walking and cycling. Paragraph 105 sets out those issues that need to be taken into account if setting local parking standards. Paragraph 106 states that maximum parking standards should only be set where there is compelling justification. The Core Strategy **Policy CS26** refers to the need to avoid excessive on-site parking provision, and states that guidance on parking standards will be forth coming.
50. The parking guidelines in **Policy BNE7** are broadly in line with the previous guidelines of the highway authority and the local planning authority, and the Policy is in general conformity with the development plan as it currently exists.
51. However, the reference to the District Council's 'adopted standards' needs to be clarified and the Policy aligned with the guidance. Modifications are required to ensure the Policy is clear how decision-makers should react to development proposals as required by paragraph 16 of the Framework.

Recommended Modifications:

'Policy BNE7 – Parking and Access

52. All new development should demonstrate that there is adequate provision for off-road parking. ~~Dwellings comprising two or more bedrooms must provide at least two off road car parking spaces~~ **and cycling parking in accordance with Part O of the Development Requirements Supplementary Planning Documents dated July 2019.**
53. ~~Additionally, dwellings should provide secure storage space for cycles. Non residential developments must provide adequate parking in accordance with the SDC adopted standards.~~ **Proposals for new dwellings, and commercial or community developments where bed and floor space will be assessed to determine whether the provision of car parking is sufficient and would not cause harm to the amenity of the area or to highway safety.**

54. **Proposals will be supported where ~~the new development must demonstrate how~~ pedestrian and cycle routes to local amenities have been ~~taken into consideration and, where possible,~~ created, improved or maximised.'**

Policy BNE8 – Agricultural Land

55. **Policy BNE8** seeks to protect the best and most versatile agricultural land

Representations:

- (a) *Graham Musson* - Objects - Bearley lies within the Green Belt. To achieve up to 32 new homes, then some agricultural land may have to be considered. However as mentioned elsewhere (See his comments in Policies H1 and IN2), flooding it could have substantial benefit.
- (b) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

56. Paragraph 170(b) of the Framework states that planning policies should contribute and enhance the natural and local environment by ...'including the economic and other benefits of the best and most versatile agricultural land...'
57. **Policy AS.10** of the Core Strategy states that proposals will be assessed against the need to seek to avoid the loss of large areas of higher quality agricultural land. The Core Strategy defines '..best and most versatile agricultural land ..'as land in grades 1, 2 and 3a of the Agricultural Land Classification.
58. The representations seek to identify land for development. However, Policies elsewhere in the plan have dealt appropriately (subject to proposed modifications). This Policy meets the Basic Conditions.

Recommended Modifications:

None

Policy BNE9 – Replacement Dwellings

59. **Policy BNE9** supports replacement dwellings, subject to a series of safeguarding criteria.

Representations:

- (a) *District Council* - Note the comment in relation to **Policy BNE4 Criterion (f)**. Paragraph 4.1.9 of the Core Strategy states that ‘a specific maximum figure is in many cases arbitrary...’ What evidence exists to support and justify this percentage?
The requirements of this seems excessive as it seems to suggest all replacement dwellings must have garages. There is no requirement for new dwellings to provide garaging under **BNE7, BNE4** or **BNE1**. What happens if the existing dwelling does not have garaging?
Together with Explanatory Text (paragraph 5.3.14) concern is raised that the Neighbourhood Plan is attempting to have undue influence over people’s ‘freedom of choice’ to do what they wish with their property, subject to all necessary approvals.
- (b) *Graham Musson* - In support - Again could be considered restrictive and the last paragraph of BNE4 should apply.
- (c) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

60. Paragraph 145 of the Framework is quite specific - replacement dwellings are not inappropriate development in the Green Belt. A local planning authority should regard the construction of new buildings as ‘inappropriate in the Green Belt’. Exceptions to this include:
‘(d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.’
61. Paragraph 4.1.9 of the Core Strategy states that the District Council previously applied a 30% maximum threshold relating to the scale of a house extension and replacement

dwelling. However, it is now considered that a specific maximum figure is arbitrary and a more appropriate means of maintaining openness is to consider proposals on a case-by-case basis. This is from the starting point that the maintenance of openness and the prevention of urban sprawl is of the utmost importance. Such an approach would also conflict less, and be more consistent with, changes to the General Permitted Development Order regarding the ability of homeowners to extend their homes without necessarily requiring planning consent. This matter is dealt with in relation to Neighbourhood Design Guidelines.

62. The Core Strategy at **Policy CS.20** - Existing Housing Stock and Buildings states as follows:

“Where the existing dwelling is not considered suitable for retention, the replacement dwelling will be well sited in relation to the existing site and buildings, not visually intrusive, and not significantly larger than the dwelling it replaces.

Where a replacement dwelling is considered appropriate, the existing dwelling will have a lawful planning use as a dwelling and not have been demolished prior to the determination of the associated planning application and/or have been abandoned. Replacement dwellings should be sited within the lawful curtilage of the existing dwelling, unless significant environmental benefits would result.”

- (d) Replacement Dwellings is noted as an exception in **Policy H1** of the Neighbourhood Plan.

63. **Policy AS.10** of the Core Strategy states that replacement dwellings are appropriate in the countryside, where:

- ‘(f) A replacement dwelling subject to its scale and design not causing inappropriate harm to the character of the area or to neighbouring properties.’

The first sentence is a duplication of **Policy BNE1** and need not be duplicated here.

Para 5.3.14 should be amended to reflect **Core Strategy CS.20** and the second sentence of that paragraph should be deleted.

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64. **Policy BNE9** should be concise, precise and supported by appropriate evidence. It should be distinct so as to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared. I am therefore not satisfied that evidence has been submitted which demonstrates the need for criterion (b). It should include suitable facilities for garaging, garden maintenance, and domestic storage is not justified or effective.
65. Further, it seemed that an appropriate assessment of the various design elements could be made at a Site View, namely, to see whether there are examples of developments where the previous adopted 30% policy in the earlier development plan resulted in a more sensitive form of development.¹⁸

Recommended modifications:

66. **‘BNE9 – Replacement Dwellings**

~~Proposals for replacement dwellings must respect the character and appearance of the locality.~~

~~Particular importance is placed on sensitive sites such as those within the conservation area or affecting the setting of listed buildings.~~

~~All~~ Proposals for replacement dwellings ~~must~~ **will be supported where the following criteria are met:**

- a) Be no more than 30% larger, in volume, than the existing dwelling. Where the host property has been extended by more than 30% or more of the volume of the original dwelling as it existed at the time the Green Belt was established in 1975, or when built (if later) the replacement dwelling should not exceed the current volume unless very special circumstances can be demonstrated;
- ~~b) Include suitable facilities for garaging, garden maintenance and domestic storage;~~
- c) Be on a similar footprint as the existing dwelling unless for site planning reasons an alternative footprint is necessary or beneficial;
- d) Be of an appropriate scale so as not to be too dominant or adversely affect the amenity of neighbouring uses;
- e) Demonstrate how a replacement is more sustainable in the longer term than refurbishment, alteration or extension to the existing building; and

¹⁸ As to the need for a Site view, see the Introduction, paragraph 2, and Part 5, Annex 1.

- f) Demonstrate that protected species will not be harmed as a result of the proposals.
 - g) Particular importance is placed on sensitive sites such as those within the conservation area or affecting the setting of listed buildings.
67. This policy will only apply to lawful dwellings and does not apply to caravans or mobile homes.’

Further minor amendments:

68. Paragraph 5.3.14 should be amended to reflect this approach, and the second sentence of that paragraph should be deleted. The text suggested by the Parish Council that should be inserted (with which I am in agreement) is as follows: ‘This Policy is for renewal and/or replacement of the existing housing stock, facilitating enhancement of design towards creating a more sustainable living environment. However, it is also important to ensure that good quality habitable dwellings are not simply demolished without fully addressing the need to balance sustainability and renewal requirements.’

Policy BNE10 Reuse or change of use of building

69. **Policy BNE10** supports the conversion to housing, permanent businesses space or residential tourist accommodation of redundant buildings of traditional material subject to a series of safeguarding criteria.

Representations

(a) *District Council* -

The policy does not provide a requirement for vacant buildings or provide opportunity for unviable uses to change to a more suitable use.

5.3.16 Mention is made of a ‘Village Design Statement’ but no further mention of such a document can be found within the Plan itself. What is the document, and where is it? Does it actually refer to the ‘Village Design Guidelines’ as set out in Appendix 1M to the Plan? If so, this paragraph needs

amending, accordingly. If not, the Village Design Statement will either need to be included as an Appendix or mention of it removed from the explanatory text.¹⁹

- (b) *Graham Musson* - In support - As previously, last paragraph set out **BNE4** should apply.
- (c) *Richard Woodman* - In support - Again could be considered restrictive and the last paragraph of **BNE4** should apply.

Compliance with the Framework, Core Strategy and Basic Conditions:

70. Paragraph 146(d) of the Framework states that within the Green Belt the re-use of buildings provided that the buildings are of permanent and substantial construction is not inappropriate development provided they preserve its openness and do not conflict with the purposes of including land within it.
71. Further, paragraph 79 states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: the development would re-use redundant or disused buildings and enhance its immediate setting. This is supported by the text at Paragraph 83(a) which says that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
72. The Core Strategy at **CS.10** provides that the limited infilling or the partial or complete redevelopment of a previously developed ('brownfield') site, whether redundant or in continuing use (excluding temporary buildings), subject to it not having a materially greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
73. The policy does not currently comply with Green Belt Policy which is relevant to the Neighbourhood Plan area and is in conflict with supporting text of the Policy at

¹⁹ This point has now been addressed in correspondence between the Parish Council and the District Council. It is now acknowledged by the Parish Council that the reference should be amended to 'Appendix 1M - Village Design Guidelines', not 'Village Design Statement'.

paragraph 5.3.16 which supports the reuse of redundant agricultural buildings for employment. **Policy H1** also supports the conversion of existing buildings. The modifications bring consistency and clarity to the policies in the plan.

Recommended modifications:

- (d) **‘BNE10 – Reuse or change of use of buildings**
74. ~~This Plan supports~~The conversion **or reuse of buildings that are of permanent and substantial construction** to housing, ~~permanent business employment~~ space or residential tourist accommodation ~~of redundant buildings built of traditional materials and of architectural merit, provided the building is genuinely capable of being converted without significant modification, rebuilding (including foundations and walls) or extension~~ **where it does not conflict with Green Belt policy and preserves the openness of the Green Belt will be supported provided that it:** ~~and the overall development:~~
- a) Does not have a detrimental impact on the visual and landscape amenity of the area.
 - b) Does not have a detrimental impact on any of its neighbours’ amenity.
 - c) Does not cause harm to nature conservation interests.
 - d) Benefits from safe and convenient access to the site or satisfactory access can be created.
 - e) Ancillary and/or outbuildings and boundary treatments are in keeping with the character and setting of the original building.
75. ~~Proposals will be expected to comply with the above criteria through the submission of appropriate supporting documentation.~~ Redevelopment, alteration or extension of historic farmsteads and agricultural buildings within the Parish should be sensitive to their distinctive character, materials and form **and take into account the Village Design Guidelines as set out in Appendix 1M to the Plan.’**

Policy BNE11 - Empty Homes and Spaces

76. **Policy BNE11** supports bringing empty homes back into use provided there is no adverse environmental impact and the new use is compatible with neighbouring uses.

Representations

- (a) *District Council* - Poses the question - does the first sentence of this policy apply to any use, or just residential use? This needs to be clarified as at the moment the policy seems to suggest that any proposed use would be acceptable as long as it utilises an empty home. Core Strategy Policy CS.20 is clear that existing housing stock in the District will be safeguarded unless there is specific and overriding justification for its change of use.
- (b) *Graham Musson* - In support.
- (c) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

77. Paragraph 118(d) of the Framework states

“d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure).”

Footnote 45 states that as part of this approach, plans and decisions should support efforts to identify and bring back into residential use empty homes and other buildings, supported by the use of compulsory purchase powers where appropriate.

78. The Core Strategy at **CS.20** provides that the District’s existing housing stock will be managed and safeguarded as a vital resource. Proposals will not result in the net loss of dwellings through demolition or change of use unless there is a specific and overriding justification.
79. The Policy is consistent with the Framework and **CS.20** but for the Policy to be clear and effective in accordance with paragraph 16 of the Framework a modification is made for clarification.

Recommended Modifications:

80. **‘BNE11 – Empty Homes and Spaces**

Proposals that bring empty homes back into **residential** use will be supported and encouraged.

Proposals that seek to reuse empty or unused spaces within existing buildings will also be favourably considered, provided there is no adverse environmental impact and the new use is compatible with existing neighbouring uses.’

Policy BNE12 – Skyline Protection

81. **Policy BNE12** seeks to resist communication masts, wind turbines and other structures where they would have an adverse impact upon the landscape and built environment.

Representations

(a) *District Council* -

The first paragraph does not actually relate to the Policy heading. How would you assess whether a structure is ‘highly visible’ and what is the difference between ‘visible’ and ‘highly visible’? This could cause difficulty in utilising the policy to evaluate whether a structure would be acceptable, or not since it is open to individual interpretation.

The second paragraph relates to an unusual topic and its purpose is not covered in the explanation. Some structures [such as construction equipment] do not require planning consent due their temporary and transient nature and could not therefore be controlled via planning condition. Additionally, structures such as electricity pylons do not need consent. Concern is raised that this part of the policy is not justified or reasonable for the reasons stated here. Even if the paragraph were deemed acceptable, it would need to be clarified what is meant by ‘reasonable time limit’ as this would mean different things to different people and would be open to different interpretation. Would this meet these tests for planning conditions?

Concern is also raised that this paragraph reads more like policy and merely repeats what is stated within the Policy – it does not add any further reasoning or justification for the Policy itself. Additionally, it reads more as a ‘Natural Environment’ issue, rather than a ‘Built Environment’ issue. Is it in the correct Chapter of the Plan?

(b) *Graham Musson* - In support.

(c) *Richard Woodman* - In support.

Will the Plan guide development to sustainable locations?

82. At paragraph 113 of the Framework states that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.
83. Paragraph 145 states that engineering operations are not inappropriate in the Green Belt, but no exception is given for telecommunications.
84. Paragraph 170. Planning policies and decisions should contribute to and enhance the natural and local environment by:
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - b) recognising the intrinsic character and beauty of the countryside
85. The Landscape Sensitivity Assessment as amended and corrected by the addendum in 2014 identifies much of Bearley and surrounding land as of high or high / medium sensitivity.

86. **Policy BNE12** is seeking to address a natural landscape environment rather than a built environment issue. I agree with the District Council that this is in the wrong place in the Neighbourhood Plan. I also agree that the definition of other structures that are highly visible is and the limitation to be imposed on the construction phase is unclear and ambiguous and does not provide the clarity required by NPPF. Additionally, much of paragraph 5.3.20 duplicates the Policy.

Recommended modification:

Insert Policy BNE12 into ‘Natural Neighbourhood Environment’ after Policy NNE5 – Valued Landscapes, Vistas and Skylines

‘Policy NNE6 – Communications and Energy Infrastructure

87. Communication masts, wind turbines or other structures **relating to communications and energy** ~~that are highly visible~~ will not be supported if they would have an **unacceptable** adverse impact on the character of the landscape and the built environment.
88. ~~Highly visible construction equipment adversely impacting on the skyline must have a reasonable time limit imposed on the construction phase as a condition of approval.’~~
89. In Paragraph 5.3.20 delete reference to tall structures and amend to energy and communications infrastructure. Delete the following sentence - ‘will only be supported if they conserve and enhance the character and special qualities of the landscape and the built environment of the village and’ insert the word ‘should’ before ‘include mitigation...’
90. The policy, references and supporting text should be moved to Natural Neighbourhood Environment Chapter as Policy NNE6 and the subsequent policies and supporting text, as modified, renumbered accordingly.

NATURAL NEIGHBOURHOOD ENVIRONMENT

Policy NNE1 – Protection of SSSI and Potential Wildlife Sites

1. **Policy NNE1** seeks to resist development that would adversely affect two SSSI's and potential Local Wildlife Sites.

Representations:

- | | |
|------------------------------|---|
| (a) District Council - | Figure 11 - The map is quite truncated at the bottom of the page and the parameters of the sites are not provided. The map should be more akin to a Local Green Space map, indicating the parameters of each referenced site. |
| (b) <i>Graham Musson</i> - | In support. |
| (c) <i>Richard Woodman</i> - | In support. |

Compliance with the Framework, Core Strategy and Basic Conditions:

2. The Framework at paragraph 174 states as follows: To protect and enhance biodiversity and geodiversity, plans should:
 - a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity....
 - b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.
3. **Policy CS.6** of the Core Strategy sets out the district wide policy where proposals will be expected to minimise impacts on biodiversity and where possible secure a net gain in biodiversity by safeguarding and where possible enhancing existing habitats including:
 - a) Sites of Special Scientific Interest, which will be subject to a high degree of protection. Development proposals should seek to avoid adverse effects on SSSIs. Development adversely affecting a SSSI, either directly or indirectly, will only be permitted in exceptional circumstances where the benefits of

development clearly outweigh the likely impacts on the site and any broader impacts on the national networks of SSSIs.

- d) Those not yet subject to formal designation but which are known to make a positive contribution to biodiversity, taking account of their current or potential role in strategic networks of habitats across the District.
4. To be consistent with Core Strategy and the Framework and to provide an effective planning framework the policy should distinguish between SSSI and sites that are not yet formally designated but make a positive contribution to biodiversity and be clear and effective in terms of the potential Wildlife Sites.

Recommended modifications:

5. **‘Policy NNE1 – Protection of SSSI and Potential Wildlife Sites**
Development that would adversely affect SSSIs at Bearley Bushes and Bearley Waste ~~and the Potential LWS~~ either directly or indirectly will not be supported **unless in exceptional circumstances where the benefits of development clearly outweigh the likely impacts on the site and any broader impacts on the national networks of SSSIs.**
6. **Proposals which directly or indirectly affect the 5 potential wildlife sites identified in Figure 11 will be expected to minimise impacts on biodiversity and where possible secure net gains in biodiversity by safeguarding and where possible enhancing existing habitats.’**
7. **Figure 11** should be enlarged to A4 size and the Local Wildlife Site boundaries clearly identified.

Policy NNE2 –Protection of Natural Features and other Areas of Rich Biodiversity

8. **Policy NNE2** sets out details of local sites of ecological value and promotes greater biodiversity in the neighbourhood area.

Representations:

- (a) *District Council* - Suggests it would be helpful if the “mitigation hierarchy policy” is defined in the explanation. This requires explanation as to what it is and under what circumstances it would be applicable, since it is unclear at present.
- It seems unrealistic to expect all new developments to incorporate tree and hedgerow planting – some developments may have no or little external area or consist of very small-scale developments (e.g. householder extensions). Suggest sentence should be rewritten to read “all new developments, where appropriate, should...”
- (b) *Graham Musson* - In support.
- (c) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

9. **Policy CS.6** of the Core Strategy sets out the district wide policy where proposals will be expected to minimise impacts on biodiversity and where possible secure net gain in biodiversity by safeguarding and where possible enhancing existing habitats. It also sets out a mitigation hierarchy.
10. Where a development will have a negative impact on a biodiversity asset, mitigation will be sought in line with the mitigation hierarchy. Impacts should be avoided and, if this is not possible, mitigated. Where there would be a residual impact on a habitat or species and mitigation cannot be provided on site in an effective manner, developers will be required to offset the loss by contributing to appropriate biodiversity projects elsewhere in the area. Where an impact cannot be fully mitigated or, as a last resort, compensated for, then planning permission will be refused.
11. Modifications are required to align with the BNDP and to provide a clear and unambiguous Framework for decision makers. A number of recommendations are therefore suggested in the text of the Policy.

Further the **Policy** includes ecosites. There is no definitions or evidence-base which details an ecosite, and therefore should be deleted.

Also, **criterion (b)** would be clearer if the words ‘and result in pollution’ were deleted.

In addition, it is recommended that in the fifth paragraph relating to native trees and hedge species, the words ‘where appropriate’ be added after ‘all new developments’.

The supporting text would benefit from an additional commentary on the mitigation hierarchy as set out in **CS.6** of the core strategy.

There is some conflation between the goals contained in **Policy NNE2** and **Policy NNE3**. I have endeavoured to separate the contents of the two Policies in order to enable each to provide a distinct and separate goal.

Recommended modifications:

12. **‘Policy NNE2 – Protection of Natural Features and other Areas of Rich Biodiversity**

Development should protect and, ~~where possible,~~ enhance the natural environment, including important landscapes, ~~Ecosites,~~ natural features, wildlife corridors and other biodiversity-rich areas.

Development will not be supported that would destroy or **have a significant adverse impact on** ~~affect~~ these features **unless the impact can be mitigated or as a last resort compensated against.**

Development will be expected to ensure that the natural features and functions of watercourses and their wider corridors are retained and, where relevant, reinstated, and that appropriate habitat buffers are established. In all cases, development is ~~expected to~~ **should** not adversely affect:

- a) The integrity of the watercourse structure.
- b) The quality of the water ~~and result in pollution~~ due to unauthorised discharges and run off; or
- c) The ecological quality and character of the waterways.

Where a development will have a negative impact on a biodiversity asset, mitigation will be sought in a “mitigation hierarchy” policy as set out in CS.6 of the Core Strategy which must be followed to ensure activities do not have unnecessary impacts on the environment.

All new developments should, **where appropriate**, incorporate the planting of appropriate native tree and hedge species, as well as nectar-rich plants in their plans. New planting should connect habitats to maintain and improve wildlife corridors. When constructing boundaries, hedges should be used in preference to walls and close-boarded fences.

Opportunities to create, enhance and restore adjacent habitats for biodiversity will be encouraged.

There should be no harm to or loss of irreplaceable habitats such as ancient trees and veteran trees.’

Further minor amendments:

I consider that the supporting text would benefit from an additional commentary on the mitigation hierarchy as set out in Further Minor Amendments to **Policy NNE3** are set out in paragraph 16 below.

Policy NNE3 – Biodiversity and Protection of Individual species

13. **Policy NNE3** seeks to protect enhance and restore habitat diversity.

Representations:

(a) *District Council -*

The sentence following the three criteria talks of a “mitigation hierarchy-based approach”. Whilst a link is provided in the references, as in Policy NNE2, this requires explanation as to what it is and under what circumstances the hierarchy would be applicable.

Final sentence – suggest amending to read: ‘...plant species are present as long as if it can be demonstrated that it will does not affect...’

(b) *Graham Musson* - In support.

(c) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

14. **Policy CS.6** of the Core Strategy sets out the district wide policy where proposals will be expected to minimise impacts on biodiversity and where possible secure a net gain in biodiversity by safeguarding and where possible enhancing existing habitats. It also sets out a mitigation hierarchy.
15. **Policy NNE3** does not represent positive planning and is negatively worded. The policy is now re-framed to reflect the approach in Framework and the Core Strategy and to remove ambiguity and inflexibility.

Recommended modifications:

16. **‘Policy NNE3 – Biodiversity and Protection of Individual Species**
Development will ~~not~~ be supported ~~unless~~ **where** it protects, enhances and/or restores habitat biodiversity.

Development proposals where ~~necessary~~ **appropriate** will be expected to demonstrate that they:

- a) ~~Will not lead to a net loss of~~ **Assess the impact on** biodiversity by means of an approved ecological assessment (see Policy NNE~~6~~**7**) of existing site features and development impacts.
- b) Protect or enhance biodiversity assets and secure their long-term management and maintenance.
- e) ~~Avoid negative impacts on existing biodiversity.~~ **Minimise impacts on biodiversity and where possible secure a net gain.**

Where a development will have a negative impact on a biodiversity asset, mitigation will be sought in a “mitigation hierarchy”-based approach as set out in CS.6 of the Core Strategy which must be followed to ensure the activities do not have unnecessary impacts on the environment.

~~Development will only be supported in areas~~ Where Notable Bird Species or other rare or vulnerable wildlife or plant species are present ~~as long as it can be~~ the proposal should demonstrate that it does not **adversely** affect the conservation status of such species.’

Further minor amendments:

I recommend that a commentary on the hierarchy should be added in the supporting text. The Parish Council has suggested the insertion of the following text into paragraph 5.4.13 (with which I agree) – ‘The mitigation hierarchy is a sequential process. It is based on avoidance of adverse effects, if possible. Failing this, the nature of the effect should be reduced so that it is no longer significant. If neither avoidance nor reduction is feasible, mitigation measures should be considered. Mitigation measures might include offsetting biodiversity effects or provision of new supporting green infrastructure. Mitigation is proposed to help address adverse effects so that, if possible, no residual effects remain.’

Policy NNE4 – Designated Local Green Spaces²⁰

17. **Policy NNE4** identifies five sites as Local Green Spaces where development will be resisted.

Representations:

- (a) *District Council* - The first paragraph of the Policy states that Local Green Spaces will be protected to ‘ensure adequate amenity is available’, in keeping with ‘the rural character of the village and ‘green space inheritance’. None of these relates to the criteria by which Local Green Spaces are assessed under paragraph 100 of the Framework. However, there is no definition of what is meant by ‘amenity space’.

²⁰ Figure 12 on page 60 of the Neighbourhood Plan identifies the five sites, and this process lacks clarity. It is difficult to assess on the evidence provided as to precise identification. It is always of value to make an appropriate assessment of such sites at a Site View; (see the Introduction, paragraphs 2, and 3 and Part 5 Annex 1 of this Report). The Site View has taken place. I recommend that all these Figures representing plans would benefit from enlargement to A4 size so as to enable them to be more comprehensible to the reader. Recommendations are made for each Policy where this applies.

There is mention of areas of ‘recreation value’ in the Framework, but this suggests public access. Do all the Local Green Spaces have public access? Is ‘amenity space’ the same as ‘recreational area’? The rural nature of a village is unimportant in this assessment. It is not clear what is meant by ‘green space inheritance’. It is suggested this paragraph is re-drafted in accordance with the criteria set out within the Framework.

Replace ‘permitted’ with ‘supported’ on third line, to use consistent language throughout the Plan

Figure 12 – The map is quite ‘squashed’ at the bottom of the page and it should be larger, so it easier to interpret.

There are no site assessments for the proposed Local Green Spaces within the Neighbourhood Plan. These should be added as a further Appendix to the Plan.

(b) *Graham Musson* -

Bearley Park and the Play Area is neither properly protected, maintained or enhanced by the Parish Council. Note 5.7.8.

(c) *Richard Woodman* -

In support. However - these spaces should also be adequately maintained, so they are not simply green wasteland and add to the attractiveness of the village.

Compliance with the Framework, Core Strategy and Basic Conditions:

18. The Framework at paragraph 100 sets out the circumstances in which it is appropriate to designate a Local Green Space. The Local Green Space designation should only be used where the green space is:
 - a) in reasonably close proximity to the community it serves;
 - b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance,

recreational value (including as a playing field), tranquillity or richness of its wildlife; and

c) local in character and is not an extensive tract of land.

19. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. The introduction to the Policy states that the Local Green Space will be protected to ensure adequate amenity is available for the community. This is not the purpose of the Local Green Space and should be deleted from policy.

The first sentence of final paragraph should be deleted as it is inconsistent with the Framework and the subsequent text in the paragraph.

Assessment of each of the sites:

LGS1 Sports Field rear of village hall, Snitterfield Road

20. The two-hectare site is an established sports field which includes a village hall (not in the Local Green Spaces area) adjacent to an employment area. It is used for community events and is separate from the main body of the village, but I consider it reasonably close to the community that it serves. The Local Green Spaces Report sets out how it is demonstrably special to the local community including its recreational value. It is suitable for designation as a Local Green Space.

LGS2 Bearley Park Playing Fields, off Grange Road

21. The 0.65-hectare site is a community park and recreation ground which is well use and valued by the local community. It is reasonably close to the community it serves. The site area identified in the Neighbourhood Plan is different from the site identified in the Local Green Spaces Report. The Neighbourhood Plan contains an additional and discrete parcel of land to the east of the playing fields. The playing field as identified in the Local Green Space Report is suitable for designation as a Local Green Space.

LGS3a Upper Play Area

22. Located in the heart of the village Upper Play Area (LGS 3a) is regularly used informally by children and adults for recreational activities, it is regarded for its beauty and tranquillity and wildlife.

23. The LGS report set out how it is demonstrably special to the local community including its recreational value. It is suitable for designation as a Local Green Space.

LGSb and LGSc Bearley Green

24. Two parcels of land are separated by a residential access road. These contribute strongly to the beauty and tranquillity of the area and are valued as an informal space in the village. Being reasonably close to the village, representing two parcels of discrete land which is demonstrably special to the community it is a suitable designation as a Local Green Space.

LGS4 – Land between Church Lane and Ash Lane

25. The site is a paddock which is privately owned and is not accessible to the public. The Local Green Space report states there is a public right of way along the western boundary which affords unrestricted views across the site and towards the village.
26. I am satisfied that this site is reasonably close to the village and is not an extensive tract of land. However, although the site is appreciated by the community due to its openness and contribution to the setting of the Conservation Area and listed buildings and provides views from the public footpath, I originally considered that the site was not demonstrated as being of demonstrably special to the community or of particular local significance. However, now having undertaken the Site View, and seen the representation made by the Parish Council on this issue, I am satisfied that it is a suitable designation as a Local Green Space.
27. The final sentence of **Policy NNE4** states that development in the immediate vicinity of the Local Green Space will be required to show how it enhance the character or setting of that Local Green Space. This policy is too restrictive and is addressed in other policies on the plan.

Recommended modifications:

28. **‘NNE4 – Designated Local Green Space**

The following **sites identified in Figure 12** are designated as Local Green Spaces. ~~will be protected, maintained and, where possible, enhanced to ensure adequate amenity is available for the community in keeping with the rural character of the village and its green space inheritance.~~

- LGS1 – Sports and playing fields at the rear of the Village Hall
- LGS2 – Bearley Park playing fields – the New Play Area
- LGS3a – Upper Play Area – the green grassed land bordered by mature trees and hedges along Snitterfield Road and Old Snitterfield Road
- LGS3b/c – Bearley Green – the green grassed land covered in mature trees and hedging bounded by Bearley Green and Greenswood housing, St Mary’s Church and Snitterfield Road
- LGS4 – Land between Church and Ash Lane

~~Proposals for development on designated Local Green Spaces will not be supported. Development on any Local Green Space that would harm its special character or its significance and value to the local community will not be permitted unless there are very special circumstances which outweigh the harm to the Local Green Space. Development in the immediate vicinity of any designated Local Green Space will be required to show how it enhances the character or setting of that Local Green Space.~~

29. The map at Figure 12 should be enlarged so that the location and extent of the Local Green Space can be easily understood.

Further minor amendments:

30. I originally considered that the site assessments for Local Green Space should be included as an Appendix within the Neighbourhood Plan. However, having seen the representations made by the Parish Council, I now consider that the archiving of the relevant documents for future study will be sufficient. I therefore no longer recommend that an Appendix is necessary.

Policy NNE5 – Valued Landscapes, Vistas and Skylines

31. **Policy NNE5** requires development proposals to demonstrate how they integrate and are appropriate to the landscape setting, while conserving and where appropriate enhancing the character of the landscape including local features. Development proposals should ensure that all prominent views of the landscape and important vistas and skylines (known as valued landscapes) are maintained and safeguarded.

Representations:

- (a) *District Council* - Figure 13 - This is a new map. The map is quite truncated at the bottom of the page and it should be larger, so it easier to interpret. Whilst the sites are numbered on the map, it is not clear whether each are landscapes or vistas? The map does not make it clear which direction each 'protected' view is.
- (b) *Graham Musson* - Apparently, there has been much discussion regarding Valued Landscape. Unfortunately, it can be subjective and demonstrable physical attributes may not always be agreed upon. Whilst supporting the Policy it should not be viewed as over restrictive and used to negate any development.
- (c) *Richard Woodman*: In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

32. Paragraph 170 of the Framework provides as follows - planning policies and decisions should contribute to and enhance the natural and local environment by:
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
33. **Policy CS.5** of the Core Strategy states the landscape character and quality of the District will be maintained by ensuring that development takes place in a manner that minimises and mitigates its impact and, where possible, incorporates measures to enhance the landscape. The cumulative impact of development proposals on the quality of the landscape will be taken into account. The Policy sets out a series of criteria where development will be permitted.
34. **Policy CS.12** sets out additional factors to be taken into account when considering development proposals in those parts of the district designated as Special Landscape

Areas, such as the Special Landscape Area of Ancient Arden in which Bearley lies. The Policy states that the high landscape quality of the Special Landscape Areas, including their associated historic and cultural features, will be protected by resisting development proposals that would have a harmful effect on their distinctive character and appearance which make an important contribution to the image and enjoyment of the District. The cumulative impact of development proposals on the quality of the landscape will be taken into account.

35. **Policy NNE5** uses the terms: *‘appropriate to and integrate with’* rather than minimise and mitigate. **Policy NNE5** seeks to safeguard prominent views of the landscape but these are not defined in the Policy, nor in the supporting text. The plan contained within Figure 13 which purports to detail valued landscapes, vistas, and SSSIs. However, confusingly, the appraisal immediately above the plan on page 62 refers to *‘...numerous other uplifting and inspirational vistas and skylines..’* included in Section 3 of the Neighbourhood Plan, and refers to views contained in Figures 3, 4, 5 and 6 together with photos, but those show significantly more *‘views or viewpoints’* than contained in Figure 13 and the list contained in paragraph 5.4.20. Further, the Policy itself makes no reference to this list or to Figure 13. It may be that the list in fact is a combination of valued landscapes and views.
36. Thus, the thrust of this Policy is confused and quite complicated, and it is hard to discern what is intended as to the relative importance of each site. Further, the plan contained in Figure 13 fails to provide the level of information and clarity required by the Framework so as to define with precision the eleven important local features or indeed vistas and skylines. Figures 3,4,5 and 6 are a list of viewpoints.²¹ There is not an appropriate evidence base or analysis to distinguish ‘all prominent views of the landscape and important vistas and skylines’ to which the Policy purports to relate, or the level of importance of each site. Also, as stated above, Figure 13 should be enlarged to A4 size so that it is easier to follow the thrust of the information, and to identify the

²¹ Figure 3, page 25, is described as ‘Viewpoints from the Bearley surrounds’, (the letter ‘G’ before ‘28’ is missing from the plan, and the photo G6 appears twice – on page 24 and 27); Figure 4, page 26, is described as ‘Viewpoints in the Conservation Area; Figure 5, page 29 (the page number seems to be missing) is described as ‘Aerial Views of Bearley Neighbourhood Plan’; and Figure 6, page 30 is described as ‘Aerial Viewpoints in the Conservation Area’.

extent of the important local features. Further, it should have a key or legend for the benefit of the reader.

37. However, perhaps a more fundamental aspect is that there is a possible duplication or conflation with **Policy BNE12 – Skyline Protection and Telecommunications**.

Recommended modifications:

38. **Policy NNE5** lacks clarity and is ambiguous. The plan contained within Figure 13 fails to demonstrate with any accuracy the important local features be conserved or enhanced.

The evidence base for such identification of those views (or key valued landscapes) identified in 5.4.20 is not proportionate, relevant and up to date evidence. It is more than the Landscape Sensitivity Study which explores zones of sensitivity but not specific views. The Policy should be re-written as follows.

39. ~~‘Policy NNE5 – Valued Landscape, Vistas and Skylines~~ **Landscape Character and Setting**

Bearley is located in the Warwickshire Special Landscape Area of Ancient Arden. Development proposals must demonstrate how they are appropriate to, and integrate with, the character of the landscape setting, while conserving and, where appropriate, enhancing the character of the landscape., ~~including important local features. Development proposals should ensure that all prominent views of the landscape and important vistas and skylines (known collectively as valued landscapes) are maintained and safeguarded, particularly where they relate to heritage assets and village approaches.’~~

40. Delete paragraph 5.4.20, bullet points 1 to 11, the final sentence after the bullet points and Figure 13. With the exception of the final sentence after the bullet points, reinsert this text within the Character Appraisal section in chapter 3 after paragraph 3.1.3 and renumber the paragraphs accordingly.

41. Figure 13 should be enlarged to show the eleven views and the figure reference renumbered accordingly. The Local Wildlife Sites are a duplication of Figure 11 and should be removed from this figure.

Policy NNE6 – Ecological Surveys

42. The basis of **Policy NNE6** is to require the provision of additional survey and mitigation plans for proposals for development in the circumstances where the evidence suggests developments may have an unacceptable adverse impact on regional or local importance or priority habitat or species applicants. Development will not be supported unless supported unless any mitigation or compensatory measures have been the subject to an Environmental Assessment.

Representations:

- (a) *Graham Musson* - In support.
(b) *Richard Woodman* - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

43. Paragraph 170 of the Framework sets out:

*“170. Planning policies and decisions should contribute to and enhance the natural and local environment by:
d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;”*

Paragraph 171 provides that Plans should distinguish between the hierarchy of international, national and locally designated sites;

44. Paragraph 174 further states that in order to protect and enhance biodiversity and geodiversity, plans should:
- a) identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation;
 - b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and

identify and pursue opportunities for securing measurable net gains for biodiversity.

46. It is also stated in paragraph 177 that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
47. **Policy CS.6** of the Core Strategy states Development will be expected to contribute towards a resilient ecological network throughout the District that supports ecosystems and provides ecological security for wildlife, people, the economy and tourism.
48. Developments that are likely to have an adverse effect either directly, indirectly or cumulatively, upon a site designated through the EC Habitats Directive or Birds Directive will not be permitted. It is not appropriate to refer to other policies in the Policy. These should be deleted.
49. To reflect the Framework the Policy should refer to appropriate assessments in criterion (b). Further, to ensure flexibility include the words ‘as necessary’ in criterion (c).

Recommended modifications:

50. **‘Policy NNE6 – Ecological Surveys –**
Where evidence suggests that developments may have an unacceptably adverse impact on a site of national, regional or local importance or a priority habitat or species (~~see Policies NE1, NE2 and NE3~~), applicants will be expected to provide, where necessary:
 - a) A detailed ecological survey undertaken at an appropriate time, which assesses cumulative impacts.
 - b) Other ~~surveys~~ **assessments** as appropriate.
 - c) A mitigation plan, **as necessary**.
51. Development will not be supported unless it can be demonstrated that any mitigation or compensatory measures proposed have been subject to an Ecological Assessment. The Ecological Assessment should include due consideration of the importance of the natural asset, the nature of the measures proposed (including plans for long-term

management) and the extent to which they reduce the impact of the development. Development must follow any applicable Biodiversity Action Plan (BAP).’

Policy NNE7 – Renewable Energy

52. **Policy NNE7** seeks to support proposals for the production of renewable energy especially when it leads to a tangible benefit to the community and makes economic sense both from a national and national viewpoint.

Representations

- (a) *District Council* - Suggests that the words ‘makes economic sense’ should be replaced with ‘will provide economic benefit’.
- (b) *Graham Musson* - In support.
- (c) *Richard Woodman* - In support .The restrictions on building-type should also allow for this. Development should be allowed but design should be as sensitive as possible.

Compliance with Framework, Core Strategy and Basic Conditions:

53. The Framework at paragraph 147 is clear. When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
54. More generally the Framework and the Core Strategy (**CS.2, CS.3**) supports proposals that help to increase the use and supply of renewable and low carbon energy and heat, plans should and provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily.
55. In order to align with national guidance, the Policy should include the requirement to demonstrate very special circumstances.
56. Additionally, delete the remaining sentence after ‘...makes economic sense’ and insert ‘..or economic benefit’. This is to ensure that the Policy provides a clear and

unambiguous framework for decisions on planning applications, as required by paragraph 16 of the Framework.

The words ‘...and that they are not in conflict with any other policies in the Plan’ should be deleted as this is unnecessary. The Neighbourhood Plan is a document read in its entirety.

Recommended modifications:

57. **‘Policy NNE7 – Renewable Energy**

Development proposals relating to the production of renewable energy will be supported **where very exceptional circumstances are demonstrated** especially when this leads to a demonstrably tangible benefit to the community ~~and makes economic sense~~ **and economic benefit** both from a local and national viewpoint. Plans being brought forward should ensure that adverse impacts are addressed, including cumulative landscape and visual impacts., ~~and that they are not in conflict with any other policies in this Plan.’~~

INFRASTRUCTURE

Policy IN1 – Infrastructure Criteria

1. **Policy IN1** seeks to ensure new developments will not adversely affect existing infrastructure. It also seeks to demonstrate that adequate SuDS has been adopted and incorporated which demonstrates that the development will not increase the likelihood of surface water flooding, includes energy efficient measures in the design, connects to fibre optic network and permeable surface on driveways.

Representations

- | | |
|----------------------------|---|
| (a) District Council - | Would SuDS always be necessary for all development? Provision seems to suggest they should always be used, regardless of the type or scale of new development

How would ‘comprehensive energy efficiency measures’ be required in planning terms? Will these differ to those required by Building Regulations? |
| (b) Severn Trent - | In support. |
| (c) Warwickshire Council - | County
Suggests amending the infrastructure vision to include new developments needing to consider their flood risk and sustainable drainage systems when building on Greenfield and brownfield sites.

All developments will be expected to include sustainable drainage systems when building on Greenfield and brownfield sites and need to consider their flood risk.

Warwickshire County Council state that the supporting text could include the SuDS hierarchy. The hierarchy is a list of preferred drainage options that the LLFA refer to when reviewing planning applications. The preferred options are (in order of preference): infiltration (water into the ground), discharging into an existing water body and |

discharging into a surface water sewer. Connecting to a combined sewer system is not suitable and not favourable.

Warwickshire County Council additionally comments that the District Council does not have powers to undertake works on ordinary watercourses. Any works on ordinary watercourses will require Ordinary Watercourse Land Drainage Consent which can be obtained from the County Council as the LLFA in Warwickshire.

(d) Graham Musson - In support - already mentioned is that all new developments should have a recharging point for cars. With numbers of electrical cars needing charging the extra load on the electrical supply system needs to be considered and planned for.

(e) Richard Woodman - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

2. The Framework states that a qualifying body may wish to consider what infrastructure projects are required in their neighbourhood area from the earliest stages of plan-making (as set out in paragraph 102 of the National Planning Policy Framework) alongside development such as homes, shops or offices. Infrastructure is needed to support development and ensure that a neighbourhood can grow in a sustainable way.
3. The Framework also states that it is necessary to recognise the need to consider viability and market conditions as required by paragraph 122 of the Framework. Paragraph 122 states that neighbourhood plans should make efficient use of land taking into account local market conditions and viability and the availability and capacity of infrastructure and services – both existing and proposed.
4. Modifications are required to ensure that the Policy is clear as to how decision makers should react to development proposals, as required by paragraph 16 of the Framework and also to address the concerns of the District Council. It also necessary to address duplication in a subsequent **Policy IN2** where SuDs are also referred to in this Policy.

5. The suggested amendment by Warwickshire County Council is not required to meet the Basic Conditions test. It is therefore beyond my remit to recommend modifications so that the vision or policy includes additional issues. However, for accuracy the supporting text should be amended as requested by Warwickshire County Council.
6. Further, it is recommended that in paragraph 5.5.3 the sentence commencing with the words “SDC as a risk... ending ...on main rivers”, be deleted and the following sentence be substituted:
 “Any works on ordinary watercourses will require Ordinary Watercourse Land Drainage Consent which can be obtained from WCC as the LLFA in Warwickshire.”

Recommended modifications:

‘Policy IN1 – Infrastructure Criteria

7. New developments **for new residential development or commercial floorspace** must not ~~adversely~~ **have unacceptable** impacts on the existing infrastructure and ~~must demonstrate~~ **where appropriate seek:**
 - a) ~~An adequately dimensioned sustainable drainage system (SuDS) has been can be adopted and incorporated, which demonstrates that the development will not increase the likelihood of surface water flooding.~~
 - b) Inclusion of ~~comprehensive~~ energy efficiency measures in the design.
 - c) Connection to a fibre optic network **or high-speed broadband where feasible and viable.**
 - d) Permeable surface materials on pathways and driveways, **wherever possible.’**

Further minor amendments:

8. As recommended above, for accuracy the supporting text at the end of paragraph 5.5.2 insert **‘The hierarchy is a list of preferred drainage options that the LLFA refer to when reviewing planning applications. The preferred options are (in order of preference): infiltration (water into the ground), discharging into an existing water body and discharging into a surface water sewer. Connecting to a combined sewer system is not suitable and not favourable** and at end of paragraph 5.5.3 add the following wording:

“Any works on ordinary watercourses will require Ordinary Watercourse Land Drainage Consent which can be obtained from WCC as the LLFA in Warwickshire.”

Policy IN2 – Drainage and Flooding

9. **Policy IN2** seeks to locate development in Flood Zones 1 and not Flood Zones 2 and 3. The Policy seeks to set out minimum standards, to provide appropriate SuDS and to control and discharge run-off generated on site. Surface Water Drainage Schemes are to be in accordance with Warwickshire’s Surface Water Management Plan and other non-statutory technical standards. The Policy also seeks to direct the local authorities to secure contributions to future maintenance of the Bearley Brook Flood Mitigation.

Representations

(a) District Council -

This repeats the need for SuDS – the inclusion in Policy IN1 therefore seems superfluous. It also prevents any development in flood zones 2 and 3- surely some water compatible development would be acceptable, or development accompanied by mitigation?

It is not clear what is meant by the term ‘Bearley Brook flood mitigation’ referred to in the final paragraph of the Policy. What development would contribute toward this [scheme]? Does this mean all development (including extensions to dwellings) should contribute? If so, this seems too onerous. Contributions to such schemes would normally only be through ‘major’ development, which won’t take place in the Neighbourhood Area due to Green Belt restrictions, except possibly in relation to the potential re-development of the Bearley Mill site. This is not the subject of a specific policy in the Neighbourhood Plan. The final sentence places the responsibility upon the District and County

Councils to seek contributions toward future maintenance of Bearley Brook. Have both Authorities agreed to this? How/when should the two Councils seek contributions? This is not explained or justified at present.

(b) Severn Trent -

Supports the Policy and seek to add ‘All applications for new development shall demonstrate that all surface water discharges have been carried out in accordance with the principles laid out within the drainage hierarchy, in such that a discharge to the public sewerage systems are avoided, where possible.’

(c) Warwickshire Council-

County

Supports the protection of open spaces and river corridors – this could be developed to mention the benefits of open space as flood risk management to retain water. Above ground sustainable drainage systems could be utilised in open spaces. It is considered to be a well written policy’

As to Greenfield discharge rate, it is indicated that the 5 l/s rate is NOT the minimum possible discharge rate achievable. In relation to this, the requirements set out in the following documents should also be adhered to in all cases: The National Planning Policy Framework, paragraphs 030 - 032 of the Planning Practice Guidance, and DEFRA’s Non-statutory technical standards for sustainable drainage. On smaller development sites where the discharge rate is below 5 l/s, these rates are achievable through water reuse, protected orifices, and better design.

All developments will be expected to include sustainable drainage systems. The adoption and

maintenance of all drainage features is a key consideration to ensure the long-term operation and efficiency of SuDS. As part of the planning procedure the LLFA will expect to see a maintenance schedule, at detailed design stages. All SuDS features should be monitored and cleaned regularly as a matter of importance.

The final sentence refers to maintenance contributions. The LLFA do not undertake any routine maintenance works to watercourses and therefore we do not seek contributions for such works through the planning process. The responsibility of such works lies with the riparian owner as highlighted elsewhere in the Development Plan.

(d) Graham Musson -

In support - Land A in heavy rainstorms has substantial run off that often floods garages at the eastern end of Grange Road and the garages off Oak Tree Close that adjoin Land A. Additionally, there is a substantial run of water through Bearley Park from the land to the east. Many other properties in Grange Road and Oaktree Close are fearful that an extraordinary storm could cause flooding of properties. With imaginative involvement of all concerned the opportunity to minimise flooding through limited development on Land A could both enhance the village and mitigate flooding - a win-win situation. With the risk of flooding minimised through limited development a view could be house prices would be enhanced. It is understood there has been no direct communications with residents as to whether there would be any support such an opportunity.

(e) Richard Woodman - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

10. The Framework states that inappropriate development in areas of risk of flooding should be avoided by directing development away from areas at highest risk. The statement that all development should be located in Flood Zone 1 and not Flood Zone 2 and 3 is contrary to the Framework guidance and should be modified.
11. Paragraph 56 of the Framework refers to the tests where planning obligations should be sought. It is not appropriate for the Neighbourhood Plan to set out a blanket contribution to the maintenance of Bearley Brook mitigation. In response, the Parish Council suggest the following formula - “The Parish Council will continue to seek financial support when necessary from SDC and WCC towards the future maintenance of the Bearley Brook”.
12. Although the Parish Council supports the suggested amendment by Severn Trent and the County Council, both representations are not required to meet the Basic Conditions test. It is therefore beyond my remit as Examiner to recommend modifications so that the policy includes additional issues.
13. Modifications are recommended to ensure the Policy has a clear and unambiguous framework within which decisions on planning applications can be made as required by paragraph 16 of the Framework.

Recommended modifications:

‘Policy IN2 – Drainage and Flooding

14. Proposed development should be located ~~in Flood Zone 1 (low probability flood risk) and not in Flood Zones 2 or 3 (1)~~ **in areas with the lowest risk of flooding**. All new development proposals must provide a minimum easement of eight metres from the top of the bank of the Bearley Brook to allow access for maintenance and to ensure that the natural features and functions of the wider river corridor are retained and/or reinstated.
15. Appropriate Sustainable Drainage Systems (SuDS) should be incorporated, where necessary, into new developments following the SuDS hierarchy. This should maximise any opportunities to enhance biodiversity, create amenity and contribute towards green

infrastructure. Infiltration SuDS and above ground SuDS attenuation, such as swales, ponds and other water-based ecological systems, should be used wherever feasible, as they are preferred to the underground storage of water.

16. Where it can be demonstrated that infiltration SuDS and above ground SuDS attenuation is not practicable, development proposals should maximise opportunities to use SuDS measures that require no additional land take, such as green roofs.
17. All development proposals should seek to control, and discharge runoff generated on site to the Greenfield runoff rate for all return periods up to the 1 in 100-year plus climate-change-critical storm event using above ground sustainable drainage systems. The reuse and recycling of water within developments will be encouraged, including the use of water butts.
18. The surface water drainage scheme should be in accordance with Warwickshire's Surface Water Management Plan (SWMP), the non-statutory technical standards for sustainable drainage(2) and must be agreed with the LLFA. ~~A contribution towards future maintenance of the Bearley Brook flood mitigation should be sought by Stratford-on-Avon District Council and Warwickshire County Council.~~

Further minor amendments:

19. It is also recommended that additional wording be inserted in the supporting text 5.5.10 - 'The Parish Council will continue to seek financial and enforcement support when necessary from SDC and WCC towards the future maintenance of the Bearley Brook as part of the WCC duties as the LLFA and DC duties towards riparian enforcement.'

Policy IN3 – Highway Safety

20. **Policy IN3** seeks to ensure that all development does not adversely affect and/ or impact on levels of highway safety to all users especially pedestrians and cyclists. The policy sets out a series of criteria that need to be satisfied for a development to be supported.

Representations:

- (a) Graham Musson - In support - It is a Policy that should be supported. However, the Policy will appear hollow to those pedestrians who try to get to the Village Hall along the footpath from the Village. At this time, it is apposite to comment on 5.7 Managing Aspirations: 5.7.8 establishes the Parish Council with 3 Councillors cannot sustain delivering basic duties and obligations of the council and aspirations of the community. 5.7.13 states "This Plan will put all the effort and resources possible towards supporting the continuity and enhancement of community spirit and participation of all sections of the community in the governance of the village". If the Parish Council cannot perform now how will a NP suddenly perform.
- (b) Richard Woodman - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

21. Paragraph 109 of the Framework is quite specific - development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
22. Modification is recommended in order to provide a formula which is consistent with the Framework. It is also not appropriate to confirm that the Policy applies to the Neighbourhood Area.

Recommended modifications:

23. **‘Policy IN3 - Highway Safety**
 New development ~~in the Neighbourhood Area~~ must **not** adversely affect and/or **severely** impact on levels of highway safety to all users especially pedestrians and cyclists. It must allow sufficient off-road parking as defined in Policy BNE6.

All new development proposals would be required to demonstrate:

- a) No **severe** adverse impact on the capacity and operation of the local highway network.
- b) No compromise of safety for all users.
- c) Safe access, egress and visibility serving the development.
- d) No exacerbation of the existing on-street parking problems and, if possible, some mitigation of such problems.

Proposals failing to demonstrate compliance with these requirements will not be supported.’

Policy IN4 – Learning and Education

- 24. **Policy IN4** supports proposals that increase opportunity for residents of all ages to access further education and learning.

Representations

- (a) District Council - It is suggested for the Policy to be amended to read “Proposals that will increase the opportunity for residents of all ages to access further education, learning and life skills training, will be supported”, in order to make policy more easily read.
- (b)Graham Musson - In support.
- (c) Richard Woodman - In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

- 25. This is a key aspiration for access to education and training but is not in its current form a spatial or land use policy, contrary to **NPPG (ID 41-004-20140306)**. However, it needs to be reframed to include to reflect land use proposition.

Recommended modifications:

- 26. **‘Policy IN4 – Learning and Education**
Proposals that **will** increase the opportunity for residents of all ages to access ~~further~~ education and **training** ~~learning-acquiring new skills and life skills~~ will be supported.’

AMENITIES FACILITIES AND COMMUNITY

Policy AFC1 – Protecting and Enhancing Existing Community Facilities

1. This Policy seeks to establish support for proposals that enhance and improve identified community facilities and establish that loss of community facilities will not be supported except in stated circumstances.

Representations

- | | |
|-------------------------------|--|
| (a) <i>District Council</i> - | How will the last sentence of the Policy be assessed – will it be assessed against certain criteria, e.g. that it has been marketed for the use for a certain length of time, with no interest expressed by potential occupiers? |
| (b) Graham Musson - | In support. |
| (c) Richard Woodman - | In support. |

Compliance with the Framework, Core Strategy and Basic Conditions:

2. The Policy aligns with the contents of paragraph 20 of the Framework which provides that strategic policies should set out the overall strategy for the pattern, scale and quality of community facilities.
3. Paragraph 83(d) states policies should enable the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
4. Paragraphs 91 and 92 support active, healthy, inclusive communities and plan positively for the provision and use of community facilities.
5. Paragraph 122 also states that plans should make efficient use of land taking into account local market conditions and viability.
6. The principle of the Policy aligns with **Policy AS.10** of the Core Strategy which seeks to maintain the vitality of rural communities and a strong rural economy, provision will be made for a wide range of activities and development in rural parts of the District.

7. Core Strategy **Policy CS.10** supports small scale development in the Green Belt to meet a need identified by the community as one of the exceptions specified in paragraph 145 of Framework.
8. The Policy supports the implementation of the Framework and the aims of supporting a prosperous rural economy as set out in paragraph 83, and in particular the retention of community facilities as specified in sub-paragraph (d). It also takes sufficient account of market conditions and viability as required by the Framework.
9. Paragraph 5.6.1 of the Explanation refers to Appendix 1C. This provides a list of community venues identified by the Parish Council. In effect, it is a commentary on the facilities, clubs and activities both within the village and those services which are provided in alternative locations. As such, the list is not sufficiently clear or precise to be included within the Policy, and it is for that reason it is contained within the Appendix.

Recommended modifications:

10. None

Policy AFC2 – Encouraging Safe Walking and Cycling

11. **Policy AFC2** seeks to protect, enhance and expand and promote positive use of public rights of way whilst not supporting proposals which adversely affect routes, or which fail to encourage new routes.

Representations:

- | | |
|------------------------------|--|
| (a) <i>District Council:</i> | It would seem too onerous to apply the last part of the second sentence to all proposals. It is suggested that the wording be amended to read “...or which fail, where appropriate, to incorporate new walking and cycling opportunities...” |
| (b) <i>Graham Musson:</i> | In support - An inspection of the public rights of way indicates that some sections are deteriorating, succumbing to weeds and narrowing of pathways. |

(c) *Richard Woodman:* In support.

Compliance with, Core Strategy and Basic Conditions

12. The policy aligns with paragraph 84 of the Framework. This states that it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
13. The principle of the policy aligns with **CS.2 CS.7** and **CS.10** of the Core Strategy which seeks to support the provision of walking and cycling.

Recommended modifications:

14. None

Policy AFC3 – Sports and Recreation

15. This policy seeks to establish support for proposals that safeguard recreational and sports facilities and CIL funds will be used to enhance such facilities.

Representations

- (a) *District Council -* The location in Appendix 1 where the existing formal and informal sport facilities are identified in the Neighbourhood Plan should be clearly signposted within the explanatory text.
- (b) *Sports England -* Sets out guidance on the Framework and states that it is essential that neighbourhood plans reflect and complies with national planning policy and is underpinned by robust and up to date evidence. If new or improved sports facilities are proposed Sport England recommend you ensure they are fit for purpose and designed in accordance with our design guidance notes.

Any new housing developments will generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demand, then planning policies should look to ensure that new sports facilities, or improvements to existing sports facilities, are secured and delivered. Proposed actions to meet the demand should accord with any approved local plan or neighbourhood plan policy for social infrastructure, along with priorities resulting from any assessment of need, or set out in any playing pitch or other indoor and/or outdoor sports facility strategy that the local authority has in place.

(c) *Graham Musson* -

In support - it would appear that NNE4/LGS2 will only be addressed when CIL monies are forthcoming. CIL requires development yet, as previously, data has not been provided to ensure the residents of the Village have been given any real indication of how many houses are planned and where (windfall excluded).

(d) *Richard Woodman* -

In support.

Compliance with the Framework, Core Strategy and Basic Conditions:

16. The Policy is in accordance with paragraph 83 of the Framework. Supporting a rural economy states that planning policy should enable the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
17. The principle of the policy aligns with **CS.25** of the Core Strategy which seeks to support the provision of sports and recreation facilities.
18. It is not necessary to include the terms in the Neighbourhood Area as the plan is read as a whole for the Neighbourhood Plan Area.

19. The information provided by Sports England and links to its guidance is also not required to be included in the Policy in order to meet the Basic Conditions test. It is therefore beyond the remit of this examination to recommend modifications so as to include additional issues.

Recommended modifications:

20. **‘Policy AFC3 – Sports and Recreation**

Existing formal and informal sport and recreational facilities ~~in the Neighbourhood Area~~ will be protected, enhanced and expanded where appropriate.

Where appropriate, CIL funds will be used to enhance sports and recreation facilities in order to ensure a suitable quantum and quality is available for the Neighbourhood Area.’

Further minor amendments:

Paragraph 5.6.5 of the Explanation should also include a reference to Appendix 6, 1C – Leisure and Sports Facilities.

MANAGING ASPIRATIONS

Policy MA1 - Managing Aspirations

1. **Policy MA1** sets out how the community will address actions within a single Bearley Neighbourhood Action Plan. These actions will then be reported to Parish Council meetings and assemblies. Progressing items on the action plan will be prioritised.

Representations

- (a) *District Council* - These do not accord directly with land-use matters and need to be distinguished as such.

Compliance with the Framework, Core Strategy and Basic Conditions:

2. The strategic objective sets out in this Chapter is inconsistent with and different from the Strategic Objective set out at Part 4.2 of the Neighbourhood Plan.
3. The NPPG sets out wider community aspirations than those relating to the development and use of land, if set out as part of the Neighbourhood Plan. These would need to be clearly identifiable by reference to an accompanying document such as an annex. It should be made clear in that document that it will not form part of the statutory development plan.

NPPG: 004 Reference ID: 41-004-20190509

4. 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.

NPPG: 041 Reference ID: 41-041-20140306

5. The Neighbourhood Plan should only contain policies relating to development and use of land. Policy is not a land use policy that will determine planning applications. It is one which sets out how the Parish Council will address and prioritise its own action plan.
6. The statement is appropriate as supporting text but should not be contained in a separate Policy.

Recommended modifications:

7. Delete Policy MA1.
8. Delete Strategic Objective paragraph and replace with:
‘To ensure that a mechanism is in place to monitor and report on progress in implementing strategic objectives, monitor existing and changing aspirations, and ensure the continuity of community spirit and the ability of the community to own its governance.’
9. Insert at para 5.7.1:
‘Although not part of the Neighbourhood Development Plan and relating to land use, an Action Plan is put in place in **Appendix 2**. This combines community aspirations originally identified in the Bearley Community Village Plan March 2012 with community aspirations arising from the policies of this Plan, and ensure their implementation by the Parish Council. The progress with the implementation of the Action Plan will be reported at the ordinary Parish Council meetings and at the Annual Parish Assembly..’
10. Delete Para 5.7.3
11. Paragraph 5.7.5 Delete ‘reviews in accordance with Policy MA1 and insert ‘regular reviews at Parish Council meetings’.

Policy MA2 - Ensuring enduring continuity of community spirit and capability of the community to own governance

12. **Policy MA2** sets out how the Neighbourhood Plan will support proposals towards ensuring the continuity and wellbeing of the community spirit.

Representations

- (a) *District Council* - This does not relate directly with land-use matters and need to be distinguished as such.

Compliance with Framework, Core Strategy and Basic Conditions:

NPPG - 041 Reference ID: 41-041-20140306

13. The Neighbourhood Plan should only contain policies relating to development and use of land. The policy is not a land-use policy that will determine planning applications.
14. NPPG states wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan.

NPPG - 004 Reference ID: 41-004-20190509

15. 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.

NPPG - 041 Reference ID: 41-041-20140306

16. The Policy is not a land use policy that will determine planning applications. It is one that sets out how the Parish Council will seek to reinforce an integrated community.

Recommended modifications:

17. Delete Policy, references and supporting text.
18. Include the text of the Policy as a supporting text paragraph after 5.7.5. Add 'Further details are provided in Appendix 5'
19. Add text of policy of MA2 and supporting text as an annex 5 to the Neighbourhood Plan.

PART 4

CONCLUSIONS

1. In principle, I am satisfied that the Policies set out in the draft Neighbourhood Plan are broadly justified by legitimate aims, protection of the environment, amenity of local people, protection of existing employment opportunities; conservation of wildlife and local heritage; and that they do not strike an intrinsically unfair balance. I am further satisfied that the Policies will in general conformity with the existing statutory development plan.
2. In essence, therefore, subject to the adoption of the various suggested modifications and amendments, set out above, made in order to address various perceived deficiencies, I am satisfied that the draft Neighbourhood Plan should thereafter be compliant with the various statutory requirements.

Edward F Cousins
Independent Examiner

Radcliffe Chambers
Lincoln's Inn

31st August 2020

PART 5

ANNEX 1

Purpose of the Site View

1. I have noted in Paragraph 2 of the Introduction to this Report that it had become apparent on an initial analysis of the draft Neighbourhood Plan that a Site View would be of assistance in order to address a few features. It was considered that a Site View would be of benefit to understanding and addressing these possible concerns and to provide clarification. Set out below are references to a number of features.

Policy H1

2. Substantive objections were raised as to the contents and direction of the Policy as to the definition of the Village Boundary in the Neighbourhood Plan. Outside the Village Boundary new housing will be constrained. **Policy H1** defines a Village Boundary around the built-up area of the settlement, as identified in Figure 7. This includes the main settlement together with two separate areas of land to the west of the main settlement: one area at the junction of Snitterfield Road and Birmingham Road (A3400), and the other area west of Birmingham Road (A3400) north of the railway line and south of Salters Lane. Within this boundary new dwellings will be supported in principle subject to other policies in the Neighbourhood Plan.
3. In particular, the District Council questioned whether one of the identified sites being an island site of residential properties north of the railway line at Bearley Cross should be included as lying within the Village Boundary.
4. The Policy seeks to strictly control new housing outside the Village Boundary, classed as open countryside, to specified types referencing criterion **CS10 (i)** of the Core Strategy and paragraph 79(e) of NPPF which supports dwellings of exceptional design and merit in the countryside.
5. In essence, the substantive objections to the Development Plan were therefore as follows.

- (a) Policy H1 defines a Village Boundary around the built up area that includes the main settlement together with two separate areas of land to the west of the main settlement, namely:
 - (b) one area at the junction of Snitterfield Road and Birmingham Road (A3400);
 - (c) one area west of Birmingham Road (A3400) north of the railway line and south of Salters Lane.
 - (d) Within this Boundary new dwellings will be supported in principle subject to other policies in the Neighbourhood Plan. Outside of the Boundary - new housing will be limited.

- 6. I believed that this could only be resolved through a **Site View** in order to understand how the sites relate to the village and to ensure consistency.

- 7. Once the Site View had taken place, I was able to add further information on the definition of the Village Boundary and the settlement boundary in the context of the Site Allocation Plan once further clarification was provided.

Policy NNE 4 - Local Green Space

- 8. It was considered that it would also be of value to make an assessment of the classification of Local Green Space, as noted in paragraph 26, page 85.

Policy NNE 5 – Valued Landscapes, Vistas, and Skylines

BNE9 – Replacement Dwellings

- 9. Again, it was considered that a Site View would be of benefit.

ANNEX 2

Health Check Schedule

Part 1 - Process

	Criteria	Source	Comments and Recommendations
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	<ul style="list-style-type: none"> • Para 1.3.1 and 1.3.2 of the Bearley Neighbourhood Development Plan 2019 – 2031 (NDP) • Para 1.5 and 1.6 of the Basic Conditions Statement • Consultation Statement • Stratford Upon Avon District Council letter dated 9th September 2014 <p>(Section 61G (1) (2) and (3) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) and Regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations as amended.</p> <ul style="list-style-type: none"> • The time period satisfies the 	<p>The Bearley Development Plan (“NDP”) states that the plan applies to the Parish of Bearley and to no other Neighbourhood Plan Area.</p> <p>The Consultation Statement states ‘applied for adoption of the Parish Boundary to be designated as the ‘Bearley Neighbourhood Area’ for the purposes of preparing a Neighbourhood Development Plan’.</p> <p>The NDP and the Basic Conditions Statement refers to the “designated Neighbourhood Area” being approved by Stratford upon Avon District Council on 8th September 2014, covering Bearley Parish.</p> <p>The letter designating Bearley Parish as a Neighbourhood Area (letter dated (9th September 2014) is published on District Council website: https://www.stratford.gov.uk/doc/208373/name/Bearley%20area%20designation%20confirmation.pdf</p> <p><i>“This letter confirms that Stratford-on-Avon District Council Cabinet agreed, at a meeting on 8 September 2014, to designate the area shown on Map 1 below as the ‘Bearley Neighbourhood Area’ for the purposes of preparing a Neighbourhood Development Plan by Bearley Parish Council under section 61G(1) of the Town and Country Planning Act 1990 as amended.”</i></p>

	Criteria	Source	Comments and Recommendations
		requirements of Section 38B of the PCPA as amended.	<p>A plan showing the boundary of Bearley Parish is delineated in figure 1 on page 11 of the NDP by a pink dotted line.</p> <p>The statutory requirements are met in terms of the designation of the NP Area.</p> <p>A neighbourhood plan must specify the period during which it is to have effect. The BNP clearly states that it covers the period from 2019–2031.</p> <p>The plan period coincides with the end point of the Adopted Stratford upon Avon Core Strategy which sets out the strategic policies for the neighbourhood plan.</p>
1.2	If the area does not have a parish council, have the necessary statutory requirements been met in terms of the designation of the neighbourhood forum?	<ul style="list-style-type: none"> • Para 1.2.1 NDP • Localism Act (2011) and in Section 61F(1) and (2) of the TCPA (38A of the PCPA) have been met. 	<p>This NDP states that it has been prepared by the “Neighbourhood Planning Committee (NPC)”, which was formally established by Bearley Parish Council (BPC) on 12 July 2014. The Committee was reconstituted as “Neighbourhood Plan Steering Group (NPSG)” in June 2015.</p> <p>It is presumed, but not explicitly stated in the documents, that the draft plan was submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, for the Neighbourhood Area.</p>
1.3	Has the plan been the subject of appropriate pre-submission consultation	<ul style="list-style-type: none"> • Consultation Statement and Appendices 	<p>Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (“the 2012 Regulations”) sets out the requirements of pre-submission consultation, and at Schedule 1 the relevant consultation bodies.</p> <p>The consultation statement sets out:</p>

	Criteria	Source	Comments and Recommendations
	and publicity, as set out in the legislation, or is this underway?		<p>An extensive level of consultation, both with the community and statutory bodies, has been undertaken by the Neighbourhood Plan Committee (NPC), its successor Neighbourhood Plan Steering Group (NPSG) and the Parish Council, the details of which are set out below. The submission plan includes:</p> <ul style="list-style-type: none"> • Details and results of questionnaires sent to householders, local businesses, landowners, village organisations and statutory consultees; • Details of pre-plan and Regulation 14 public consultations, Open Days and responses; • Details of local engagement and communication throughout the development of the Neighbourhood Development Plan; • Details of responses to the consultation on the Neighbourhood Development Plan and how these have been addressed in the final submission version of the plan. <p>The Bearley Neighbourhood Development Plan takes into account representations received to both the formal consultations and comments received from the public, local businesses, landowners, village organisations and statutory consultees.</p> <p>NDP builds on work on a Community Plan, conversations with SDC on the emerging SDC Core Strategy and a consultation on infill sites in February 2014. The Parish Council decided to pursue a NDP in April 2014 with the Neighbourhood Plan Committee formed in August 2014 comprising parish councillors resident volunteers. The membership normally comprising 10-13 members.</p> <p>The groups consultations included publication of questionnaires sent to households, local businesses, landowners and statutory consultees; parish newsletters and parish magazine Bearley Beacon; a website, Pre plan consultation meeting in November 2014 attended by 140 people, and subsequently a consultation on the vision statement distributed via a NP Survey with a total of 152 responses by January 2015 (summary of responses in Appendix 1). A report entitled Bearley Neighbourhood Plan Survey Results – A Clear Vision for Bearley was published in May 2015.</p>

	Criteria	Source	Comments and Recommendations
			<p>As required by Regulation 14 of the Neighbourhood Plan Regulations 2012 the formal consultation on the pre-submission NDP was submitted to SDC and the 6-week consultation period ran from 31st January to 14th March 2019. The pre-submission consultation included a review of the NP website and a NP brochure entitled –Bearley Neighbourhood Plan - What are we doing in Bearley ‘ which was delivered to all households and detail of the consultation are included in Appendix 2 of the consultation statement. Copies of the draft NDP were delivered to residents, business, landowners and village organisations with return envelope. A consultation process with statutory consultees was via email, documents were placed on the NP website and two open consultation days took place in February 2019 with total of 85 attendees.</p> <p>Representations were received from residents, statutory consultees, landowners and businesses.</p> <p>I am satisfied that due process has been followed during the consultation undertaken on the Plan and satisfies the legislative basis for the Statement provided by Section 15(2) of Part 5 of the 2012 Neighbourhood Plan Regulations.</p> <p>The Consultation Statement is clear in demonstrating who was consulted, how they were consulted, and the main issues and concerns were and what action has been taken to take on board those comments and concerns in developing the Submission Draft Neighbourhood Plan. The record of comments and objections received during the Reg 14 consultation shows that the comments were systematically assessed, and where agreed, resulted in amendments to the plan to accommodate the issues raised. The consultation provided sufficient opportunity for the community to participate in the development of the plan.</p> <p>As stated on the website - Bearley Parish Council has formally submitted the Bearley Neighbourhood Plan to Stratford District Council. In accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended), the District Council held a consultation between 31 October 2019 and Friday 13 December 2019 on the policies proposed in the Submission version of the Plan. This included the NDP, together with a</p>

	Criteria	Source	Comments and Recommendations
			Basic Conditions Statement, a Consultation Statement with Appendices, Screening Report and a Plan of the Neighbourhood Area.
1.4	Has there been a programme of community engagement proportionate to the scale and complexity of the plan?	<ul style="list-style-type: none"> • Consultation Statements and appendices 	The consultation statement details a significant number of consultation events and engagement with landowners, residents, businesses and community groups proportionate to the key issues, priorities and complexity of the plan between 2014 and 2019.
1.5	Are arrangements in place for an independent examiner to be appointed?		Yes
1.6	Are discussions taking place with the electoral services team on holding the referendum?		Unknown at present.
1.7	Is there a clear project plan for bringing the		There is no section of the NDP or commentary setting out the projected timescales or project plan.

	Criteria	Source	Comments and Recommendations
	plan into force and does it take account of local authority committee cycles?		
1.8	Has a SEA screening been carried out by the LPA?	<ul style="list-style-type: none"> • Basic Conditions Statement 	<p>Regulation 15 of the Neighbourhood Planning Regulations as amended requires either that a SEA is submitted with a Neighbourhood Plan proposal or a determination obtained from the responsible authority (SDC) that the plan is not likely to have ‘significant effects.’</p> <p>The Basic Conditions Statement confirms</p> <p>A Strategic Environmental Assessment (SEA) screening exercise was undertaken by Lepus on behalf of Stratford-on-Avon District Council (SDC) in February 2019. The screening exercise involved consultation with the statutory environmental bodies (Historic England, Natural England and the Environment Agency). All three bodies have returned consultations and it was confirmed by SDC in a letter dated 1 March 2019 that a Strategic Environmental Assessment (SEA) is not required in respect of the BNDP. The report confirms</p> <p>‘In accordance with topics cited in Annex 1(f) of the SEA directive, significant effects on the environment are considered to be unlikely to occur as a result of the NDP. It is recommended that the Bearley NDP should not be screened into the SEA process.’</p>
1.9	Has an HRA screening been carried	<ul style="list-style-type: none"> • Basic Conditions Statement 	<p>An Appropriate Assessment should be carried out where a plan is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) or a determination is obtained from the responsible authority (SDC) that the plan is not likely to have a ‘significant effect’.</p>

	Criteria	Source	Comments and Recommendations
	out by the LPA?		<p>The Basic Conditions Statement confirms that it is considered that a Habitat Regulations Assessment would not be required as long as the Neighbourhood Plan makes reference to or includes a link to the SDC Core Strategy's HRA. It is considered that an Environmental Impact Assessment would not be required as the Neighbourhood Plan does not propose any projects which fall under the criteria set out in either Annex I or Annex II of the EIA Directive.</p> <p>The February 2019 report confirms 'This screening report has explored the potential effects of the proposed Bearley NDP with a view to determining whether a habitats regulations assessment is required. It is recommended that the Bearley NDP should not be screened into the HRA process.'</p>
1.10	Human Rights	<ul style="list-style-type: none"> • Basic Conditions Statement 	

Part 2 – Content

Section 1 - Vision

	Criteria	Source	Comments/Recommendations
2.1	Are policies appropriately justified with a clear rationale?	<ul style="list-style-type: none"> • NDP 	The “ <i>vision</i> ” is an expression of “ <i>aspiration</i> ” of the current village population and business.

Section 2 - Objectives

	Criteria	Source	Comments/Recommendations
2.2		<ul style="list-style-type: none"> • NDP 	See the Report

Section 3 - Policies

	Criteria	Source	Comments/Recommendations
3.1		<ul style="list-style-type: none"> • NDP 	See the Report
3.2			
3.3			
3.4			
3.5			
3.6			

Section 4 – Process and Clarity

	Criteria	Source	Comments/Recommendations
4.1	Is it clear which parts of the draft plan form the ‘neighbourhood plan proposal’ (i.e. the neighbourhood <i>development plan</i>) under the Localism Act, subject to the independent examination,	<ul style="list-style-type: none"> • NDP 	<p>The NDP contains:</p> <ul style="list-style-type: none"> (i) an introduction, followed by (ii) Description of the Bearley Neighbourhood Area (iii) Village Character Appraisal (iv) Vision Statement and Strategic objectives (v) Seven objective area which include a policy and supporting justification supported by a series of plans, maps and figures. <p>The Structure of the BNDP is logical and clear with early sections setting out the context, vision, objectives and then policy sections.</p> <p>The plan appropriately distinguishes between the policy with a clearly identified Policy Number Heading within a coloured highlighted box. The policy is supported by references particularly relating to the NPPF and the Adopted Core Strategy. The explanation and reasoned justification for each policy is reported below.</p>

	Criteria	Source	Comments/Recommendations
	and which parts do not form part of the 'plan proposal', and would not be tested by the independent examination?		The plan should provide an unambiguous and clear guide to developers. Where the plan is considered to not be clear I have recommended changes to the policy content.
4.2	Are there any obvious conflicts with the NPPF?	<ul style="list-style-type: none"> • Basic Conditions Statement 	The Policy Section details areas of concern where there are likely conflicts with NPPF. This is particularly so when regard is had to the NPPF, paragraph 16, which states that a neighbourhood plan should be prepared positively and contain policies that are clearly written and unambiguous.
4.3	Is there a clear explanation of the ways the plan contributes to the achievement of sustainable development?	<ul style="list-style-type: none"> • Basic Conditions Statement 	<p>Appears satisfied.</p> <p>The Basic Conditions Statement sets out the NDP's contribution to sustainable development including Table 2, which sets out an assessment of each policy of the plan, and how it impacts upon the Local Plan environmental criteria in a "light-touch" manner. The Table identifies all policies either have a positive or neutral impact upon the sustainability criteria.</p>
4.4	Are there any issues around compatibility with human rights or EU obligations?	<ul style="list-style-type: none"> • Basic Conditions Statement 	<p>The Human Rights Act 1998 encapsulates the Convention and its articles into UK Law.</p> <p>The BNDP has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. It has not been challenged with regard to this, I am satisfied that across the plan as a whole, no sectors of the community would be discriminated against, would generally have public benefits and encourage the social sustainability of the plan area. The consultation statement showed that the need to consult with a wide cross-section of the community was conducted.</p>

	Criteria	Source	Comments/Recommendations
4.5	Does the plan avoid dealing with excluded development including nationally significant infrastructure, waste and minerals?	<ul style="list-style-type: none"> • 	Appears satisfied.
4.6	Is there consensus between the local planning authority and the qualifying body over whether the plan meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement?	<ul style="list-style-type: none"> • Basic Conditions Statement, para 4.2 • NDP page 5 	It would appear from the consultation statement and the responses to the regulation 14 and 16 that the District Council are satisfied that it meets Basic Conditions statement and the NDP supports and is aligned with the Adopted Core Strategy.

	Criteria	Source	Comments/Recommendations
4.7	Are there obvious errors in the plan?		These have been identified in the policy document
4.8	Are the plan's policies clear and unambiguous and do they reflect the community's aspirations?		These have been identified in the policy document