

# **BOSTON SPA NEIGHBOURHOOD PLAN**

Boston Spa Neighbourhood Plan Examination,  
A Report to Leeds City Council

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## Introduction

### The Neighbourhood Plan

- 1 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.
- 2 This Report provides the findings of the examination into the Boston Spa Neighbourhood Plan (referred to as the Neighbourhood Plan).
- 3 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”*

(Paragraph 183, National Planning Policy Framework)

- 4 The Neighbourhood Plan was prepared by the Boston Spa Neighbourhood Plan Steering Group, on behalf of Boston Spa Parish Council.
- 5 As set out in the opening chapter of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Boston Spa Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).
- 6 This Examiner's Report provides a recommendation with regards whether the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Leeds City Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Boston Spa Neighbourhood Area.

### Role of the Independent Examiner

- 7 I was appointed by Leeds City Council, with the consent of the Qualifying Body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 8 I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.
- 9 As the Independent Examiner, I must make one of the following recommendations:
  - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 10 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Boston Spa Neighbourhood Area to which the Plan relates.

Neighbourhood Plan Period

- 11 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan clearly specifies that the document covers the plan period:

*"2012-2028."*

- 12 I also note that Paragraph 2.3 on page 4 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, sets out that:

*"The plan period of the BSNDP is from 2012 to 2028..."*

- 13 Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in this regard.

## Public Hearing

- 14 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 15 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 16 Further to consideration of the information submitted, I confirmed to Leeds City Council that I was satisfied that the Boston Spa Neighbourhood Plan could be examined without the need for a Public Hearing. In making this decision I was mindful that the Neighbourhood Plan has emerged through robust consultation (see *Public Consultation*, later in this Report) and that people have been provided with significant and appropriate opportunities to have their say.

## **2. Basic Conditions and Development Plan Status**

### Basic Conditions

- 17 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>1</sup> following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>2</sup>
  - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>3</sup>
- 18 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:
- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;

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<sup>1</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

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

<sup>3</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

- 19 Subject to the content of this Report, I am satisfied that these three points have been met.
- 20 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

### European Convention on Human Rights (ECHR) Obligations

- 21 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 22 In this respect, I am mindful that the Consultation Statement submitted alongside the Neighbourhood Plan provides evidence to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Many representations were made during the plan-making process. These were considered and helped to influence the content of the Neighbourhood Plan.

### European Union (EU) Obligations

- 23 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>4</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 24 In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*  
(Planning Practice Guidance<sup>5</sup>)
- 25 It goes on to state<sup>6</sup> that the draft plan:
- “...must be assessed (screened) at an early stage of the plan’s preparation...”*
- 26 This process is often referred to as a screening report, determination, statement or assessment. If the screening report identifies likely significant effects, then an environmental report must be prepared. A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites.

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<sup>4</sup> Planning Practice Guidance Paragraph 072, Reference ID: 41-072-20140306 and 11-026-20140306.

<sup>5</sup> Planning Practice Guidance Paragraph 027, Reference ID: 11-027-20150209.

<sup>6</sup> Planning Practice Guidance Paragraph 028, Reference ID: 11-028-20150209.

- 27 The Basic Conditions Statement confirms, on page 20, that Leeds City Council issued a Screening Report (*“Leeds City Council Strategic Environmental Assessment and Habitats Regulations Assessment: Screening Report”*) in July 2016. This concluded that:

*“...it is unlikely that any significant environmental effects will arise as a result of the Boston Spa Neighbourhood Plan...an SEA is not required when judged against the application of the SEA Directive criteria.”*

- 28 The Screening Report produced by Leeds City Council was provided to the statutory consultees, Natural England, Historic England and the Environment Agency, for consultation. The responses of these statutory bodies are provided in the Report and none dissent from Leeds City Council's above conclusion.
- 29 A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites.
- 30 In the Screening Report, Leeds City Council identified the presence of the Kirk Deighton Special Area of Conservation (SAC) within a 15km radius of the Neighbourhood Area boundary. In this regard, the Screening Report established that the Neighbourhood Plan is not likely to have:
- “...a significant effect (on) Kirk Deighton SAC or any other European site...”*
- 31 Again, none of the statutory consultees dissented from Leeds City Council's conclusion.
- 32 In addition to the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

*“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations” (Planning Practice Guidance<sup>7</sup>).*

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<sup>7</sup> Paragraph 031, Reference: 11-031-20150209, Planning Practice Guidance

- 33 In undertaking all of the work that it has, Leeds City Council has considered the Neighbourhood Plan's compatibility with EU obligations and has raised no objections or concerns in this respect. Taking this and all of the above into account, I conclude that the Neighbourhood Plan meets the basic conditions with regards meeting European obligations.

### **3. Background Documents and the Boston Spa Neighbourhood Area**

#### **Background Documents**

34 In undertaking this examination, I have considered various information in addition to the Boston Spa Neighbourhood Plan. This has included, but is not restricted to, the following main documents:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- Leeds Core Strategy (2014)
- Leeds Unitary Development Plan Review (2006)
- Basic Conditions Statement
- Consultation Statement
- Leeds City Council Strategic Environmental Assessment and Habitats Regulations Assessment: Screening Report
- Character Assessment

Also:

- Representations received

35 In addition, I spent an unaccompanied day visiting the Boston Spa Neighbourhood Area.

Boston Spa Neighbourhood Area

- 36 No plan showing the boundary of the Boston Spa Neighbourhood Area is provided within the Neighbourhood Plan itself. Whilst a loose insert sheet has been produced and a boundary plan forms one of a number of separate Appendices, the absence of a boundary plan within the Neighbourhood Plan itself runs the unnecessary risk of reducing clarity and detracting from the quality of the document as a whole.
- 37 I recommend:
- **Provide the “Boston Spa Neighbourhood Area” (delete “October 2016”) plan, comprising a red line boundary identifying the Neighbourhood Area, within the Neighbourhood Plan itself.**
- 38 The Boston Spa Neighbourhood Area was originally designated by Leeds City Council on 17<sup>th</sup> September 2012, however following changes to the parish boundary, the Parish Council applied to re-designate the Neighbourhood Area to correlate with the new parish boundary. Leeds City Council approved the re-designation of Boston Spa as a Neighbourhood Area on 15<sup>th</sup> November 2016.

## 4. Public Consultation

### Introduction

- 39 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 40 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

### Boston Spa Neighbourhood Plan Consultation

- 41 A Consultation Statement was submitted to Leeds City Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*<sup>8</sup>.
- 42 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Boston Spa Neighbourhood Area, having regard to Paragraph 183 of the Framework.
- 43 As identified earlier in this Report, the Neighbourhood Plan was produced by a Steering Group. The Steering Group, comprising Parish Councillors and local residents, was "*charged with carrying out consultations*" and considering "*all of the valued responses.*"
- 44 The Consultation Statement refers to "*helpful liaison*" with officers from Leeds City Council and states that "*co-operation with Leeds City Council was invaluable.*" Such a positive collaborative approach to plan-making represents good practice and has regard to national guidance, which calls for constructive engagement with the local planning authority.<sup>9</sup>

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<sup>8</sup>Neighbourhood Planning (General) Regulations 2012.

<sup>9</sup> Planning Practice Guidance Reference ID: 41-022-2015020.

- 45 Early consultation, during 2012 and early 2013, included local distribution of leaflets, a drop-in event and an article in the Parish Magazine. Further to this, a questionnaire was produced and distributed in Spring 2013, when individual Young Persons, and Retailers and Business Projects were undertaken; and consultation took place during June and July of that year, by way of a stall at the village gala, and a two day public exhibition.
- 46 Emerging policies and actions were subsequently consulted on during the first half of 2014 in a variety of ways, including an article in the Parish Magazine, a presentation at the Annual Parish Meeting, "**gazebo public events**," a stall at the village gala and a further two day public exhibition. Information gathered informed the shaping of policies and plan content.
- 47 A further round of public consultation, supported by a questionnaire, was undertaken during 2015. Again, this included, amongst other things, "*gazebo public events*" and a two day public exhibition. The results of this and all previous engagement helped shape the production of the pre-submission draft plan.
- 48 The draft plan was consulted upon during May and June 2016. Consultation was supported by events and a joint Parish Council and Neighbourhood Plan stall at the village gala. Representations received were considered and informed the submission version of the plan.
- 49 Evidence has been provided to demonstrate that the plan-making process was widely publicised. Consultation was supported by articles and information published in Parish newsletters, by flyers, by a large banner and by posters on display boards. Relevant information was also readily available on the Parish Council website.
- 50 The Consultation Report provides evidence to show that public consultation was central to the production of the Neighbourhood Plan. Community engagement was strongly encouraged throughout the plan-making process. The reporting process was transparent and matters raised were duly considered.
- 51 Taking all of the above into account, I am satisfied that the consultation process was robust.

## 5. The Neighbourhood Plan – Introductory Section

- 52 The Basic Conditions require consideration of whether or not the Neighbourhood Plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State and whether or not it is in general conformity with the strategic local policies of the Local Plan.
- 53 The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner's Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.
- 54 There is a typographical error in Paragraph 2 on page 3 of the Introduction. I recommend:
- **Para 2, line 12, change to "...took place *which* led to..."**
- 55 Whilst essentially it means the same thing, Neighbourhood Plans are *made* rather than *adopted* and whilst perhaps pedantic, for the purposes of accuracy, I recommend:
- **Para 2, penultimate line, change to "...plan is *made* and it becomes..."**
- 56 The Implementation section of the Neighbourhood Plan sets out, in clear terms, how Boston Spa Parish Council will seek to deliver the Neighbourhood Plan's objectives. It provides a helpful context and a positive introduction to the Policies that follow.
- 57 I note that the Policy Section of the Neighbourhood Plan includes a number of Community Actions. These provide an excellent way of capturing non-land use planning aspirations that have arisen during the plan-making process. However, some of the Community Aspirations are worded as though they comprise land use planning policies, which they do not and/or they suggest that the Neighbourhood Plan itself will "*do*" something, when rather, it is the Parish Council that is responsible for the Action proposed. The Neighbourhood Plan, if made, would become a statutory document, rather than undertake a Community Action.

58 Taking the above into account, I recommend:

- CAGS1, page 27, replace the three references to “We” with “*The Parish Council*” and also do the same for CAT1 and CAT2 on page 28
- CAE1, page 28, add “...encouraged by *the Parish Council*.”
- TMA1, page 34, add “...supported by *the Parish Council*.”
- TMA2, page 34, change to “*The Parish Council will support initiatives which...*”
- CPA1, page 35, change to “...will be supported by *the Parish Council*.”
- PTCA1, page 36, change to “*The Parish Council, in collaboration with surrounding communities, will pursue actions...*”
- SSCA1, page 37, change to “...will be sought by *the Parish Council (see map) in priority order:...*”
- CAPFVC1, page 42, change to “...and doors, *the Parish Council will seek to encourage them to provide...*”
- CACW1, page 44, change to “...active lifestyle and *the Parish Council seeks to increase the number and range of opportunities. In particular, the Parish Council will seek to address the matters set out below...The Parish Council will seek to establish a children’s play area...*”
- CACW2, page 45, change to “*The Parish Council will endeavour to undertake all of the following: (insert line break) to establish methods...*”
- CACW3, page 45, change to “*The Parish Council will make every endeavour to ensure...*”
- CACW4, page 45, change to “*Where possible, the Parish Council will seek to resist the loss of services and facilities unless:*”

## **6. The Neighbourhood Plan – Neighbourhood Plan Policies**

### Housing and Development

- 59 Part of the introductory text to the Housing and Development section of the Neighbourhood Plan is worded as though it comprises a Policy, which is not the case. Also, the first Paragraph on page 8 places requirements on development outside the Neighbourhood Area. Supporting text is not the same as a Policy and the Neighbourhood Plan cannot control development outside the Neighbourhood Area.
- 60 The introductory text, on page 8, goes on to include a confusing reference to “*these two sites*” and refers to there being “*infill sites*” on “*Plan 1D.*” Plan 1D does not identify “*infill sites.*” The final paragraph of introductory text reads as a Policy requirement, which it is not.
- 61 As consequence of the above, there are three paragraphs of text on page 8 that appear unclear and detract from precise nature of the Neighbourhood Plan.
- 62 Taking all of the above into account, I recommend:
- **Delete the final three paragraphs of the first column of text on page 8 (“New housing...Implement Plan”).**

## **Policy Dev 1**

- 63 The supporting text to Policy Dev 1 identifies a need to provide housing for younger people, as well as for the ageing population of Boston Spa. To achieve this, it sets out a requirement for “two-bed accommodation” for young people; and “one-and-two bed accommodation” for the elderly wishing to downsize.
- 64 However, Policy Dev 1 requires that 65% of all new housing should comprise one to three bedroom dwellings. This could support the provision of 65% of all dwellings as three bedroom houses and the remainder as larger properties. As such, it would fail to achieve the stated need.
- 65 Further to the above, but inextricably linked with it, there is an absence of robust evidence to justify the expressed figure of 65%, which could break down in any number of ways (1% one bedroom or 65% one bedroom, etc).
- 66 Given the above, I find that Policy Dev 1 is imprecise. In this regard, Planning Practice Guidance<sup>10</sup> states that:

*“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*

- 67 As set out, Policy Dev 1 does not meet the basic conditions.
- 68 However, in the interest of delivering a wide choice of high quality homes, Paragraph 50 of the National Planning Policy Framework (the Framework) supports planning:

*“...for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community...”*

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<sup>10</sup> Paragraph: 042 Reference ID: 41-042-20140306

69 The overall aims of Policy Dev 1, as expressed in the supporting text, seek to provide for this and taking this and the above into account, I recommend:

- **Change wording of Policy Dev 1 to *“The provision of one and two bedroomed new homes that meet the needs of young people and the over-55s will be supported.”***

## Policy Dev 2

70 National policy sets out the requirement to:

*"...boost significantly the supply of housing..."* (Paragraph 47, the Framework)

71 In the light of this, it is a requirement that neighbourhood plans do not:

*"...promote less development than set out in the Local Plan or undermine its strategic policies."* (Paragraph 184, the Framework)

72 In line with national policy, the Leeds Core Strategy seeks to provide for sustainable development. It promotes the concentration of new development in and around established urban areas. However, neither the Leeds Core Strategy nor national policy seek to prevent any form of development anywhere else unless exceptional circumstances apply. Indeed, such an approach would be significantly more onerous than Green Belt policy, or even land use planning policy affecting National Parks or heritage assets. Rather, strategic planning policies provide for and even encourage appropriate sustainable development, including housing, even in such *"protected"* locations.

73 Policy Dev 2 seeks to prevent any new development taking place outside the village envelope, unless exceptional circumstances apply. No robust justification for such a radical departure from national and local strategic policy is provided. Rather, the supporting text simply refers to *"existing constraints."* No evidence is set out to demonstrate that existing constraints prevent all forms of development other than in exceptional circumstances. Given this and without substantive evidence to the contrary, I find that Policy Dev 2 could prevent sustainable development from coming forward. Policy Dev2 is not in general conformity with the Leeds Core Strategy and fails to have regard to national policy.

74 The supporting text emphasises local support for development within the village of Boston Spa. To some degree, this reflects Leeds Core Strategy Spatial Policy 1 (*"Location of Development"*), which requires smaller settlements such as Boston Spa to contribute to development needs, having regard to the settlement's size, function and sustainability, whilst respecting local character.

75 Taking all of the above into account, I recommend:

- **Change Policy Dev 2 to “*New development in Boston Spa’s village envelope that respects local character will be supported.*”**
- **Delete the second, third, fourth and fifth Paras in the first column of supporting text on page 9. All of these read as Policy text, but do not comprise a Policy in the Neighbourhood Plan. In making this recommendation, I also note that it is not the role of the Neighbourhood Plan to undertake Green Belt review.**

76 I note that Plan D1 provides general and indicative information, and no changes are recommended in this regard. Also, the Neighbourhood Plan does not seek to allocate sites for development and that there is no requirement for it to do so. Taking the recommendations of this Report into account, the Neighbourhood Plan does not promote less development than that set out in the adopted development plan, nor undermine its strategic policies.

## Design Considerations

- 77 Part of the second Paragraph of supporting text to this section of the Neighbourhood Plan reads as though it comprises a Policy, which it does not. In this regard I also note that Paragraph 32 of the Framework is explicit in stating that:

*“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

- 78 The remaining Paragraphs of supporting text on page 9 are largely worded as a Policy rather than text to support the subsequent Policies in the Neighbourhood Plan. I also note that the Boston Spa Character Assessment provides important guidance, but does not form part of the Neighbourhood Plan's Policies.

- 79 I recommend:

- **Supporting text, page 9, second column, delete from second Para “...In the light of the...” to the end of the fifth Para “...of the Conservation Area.”**
- **Change last Para of second column of supporting text to “...in particular, *provide relevant background information to the Neighbourhood Plan's development Policies* (See Appendix 8).”**

## Policy Des 1

80 Good design is recognised by the Framework as comprising:

*“a key aspect of sustainable development...indivisible from good planning.”*  
(Paragraph 56)

81 Also, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework). Paragraph 58 of the Framework goes on to require development to:

*“...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation...”*

82 In addition to the above, Core Strategy Spatial Policy 1 (*Location of Development*) requires development to respect and enhance the identity of places and neighbourhoods; and Core Strategy Policy P10 (*Design*) establishes that good design is a requirement for development in Leeds.

83 Generally, Policy Des 1 promotes good design and in so doing, it meets the basic conditions.

84 However, it is not clear why the Policy distinguishes between housing and *“other development”* as it goes on to apply to all development. Also, it is unclear how Policy Des 1 will *“encourage”* innovation, as no information is provided in this regard.

85 It is not clear how the final criteria of Policy Des 1 would work in practice. No evidence is provided to demonstrate that it will be appropriate in all circumstances for new boundary treatments to match any existing boundary treatments. Policy Des 1 c. does not provide for flexibility and in the absence of evidence to the contrary, could therefore result in a requirement to match inappropriate boundary treatments.

86 I recommend:

- **Policy Des 1, delete first sentence “Design of...developments.”**
- **Criterion c., change to “Where existing boundary treatments make a positive contribution to local character, new development should ensure that new boundary treatments provide an appropriate match, with particular respect to the materials used.”**

## Policy Des 2

- 87 National policy recognises that heritage assets are irreplaceable. Chapter 12 of the Framework, "*Conserving and Enhancing the Historic Environment*," requires heritage assets to be conserved in a manner appropriate to their significance and establishes that it is desirable to enhance heritage assets and put them to uses consistent with their conservation.
- 88 Whilst it is the general intent of Policy Des 2 to conserve heritage assets, the detail within the Policy fails to have regard to the requirements of national policy in respect of heritage assets.
- 89 National policy provides for harm arising from a development proposal to be considered against benefits, whereas the second criterion of Policy Des 2 ignores this essential aspect of providing for sustainable development. Policy Des 2 b. does not have regard to national policy.
- 90 Prior to this, the first criterion of the Policy simply comprises a statement regarding a preference. No indication is provided of what might happen if the materials referred to were not proposed or were not even relevant to the development proposal. This part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 91 Whilst, as a matter of law, the Neighbourhood Plan, if made, would control development as part of the adopted development plan for the Neighbourhood Area, no evidence is provided to demonstrate that the Neighbourhood Plan would "*control modifications*," whatever these might be, as referred to in the third criterion of the Policy.
- 92 In the absence of any evidence, it is not clear that all new shop fronts can preserve and enhance the host building and the wider Conservation Area, as required by the Policy. This is neither a national nor local strategic requirement and no justification for such an onerous approach is provided.
- 93 Similarly, there is no evidence to demonstrate that all new development within the Conservation Area or its setting can achieve the potentially onerous requirements of the fifth criterion, or why it should need to. Equally, there is nothing to demonstrate that it would not be possible for development to be sustainable and therefore appropriate, if it were not to "*retain and reinforce*" the various requirements set out in this part of Policy Des 2.

- 94 Policy Des 2 g. includes an unnecessary reference to all other Policies in the Neighbourhood Plan. When considering a development proposal, it is a requirement that the Policies of the development plan should be considered as a whole.
- 95 Permitted Development is simply that. It is not the role of the Neighbourhood Plan to impose requirements upon the General Development Order.
- 96 A planning application in the Neighbourhood Area must be submitted to the Local Planning Authority, which in the case of Boston Spa, is Leeds City Council. Planning application requirements are controlled by the Local Planning Authority, having regard to national requirements and any local requirements (which are the responsibility of Leeds City Council). It is not the role of the Neighbourhood Plan to impose statutory planning application requirements.
- 97 Taking all of the above into account, I recommend:
- **Policy Des 2, change first sentence to “*Design in the Conservation Area.*”**
  - **Delete Des 2a. and Des 2b.**
  - **Des 2c., change to “*New development within the Conservation...*”**
  - **Des 2d., change to “*New shop fronts in the Conservation Area should be designed to conserve or enhance local character. Exceptional...*”**
  - **Delete Des 2e.**
  - **Des 2g. change to “...and the Conservation Area.” (Delete rest of paragraph)**
  - **Delete Des 2h.**

### Policy Des 3

- 98 Policy Des 3 seeks to impose standards not controlled by the Neighbourhood Plan. No detail is provided in respect of what these standards might comprise.
- 99 Further to the above, it is not clear what “*exceeding*” an unidentified standard might comprise, or how, in practice, a development proposal would be “*favoured*.” Policy Des 3 is imprecise in this regard.
- 100 Whilst statutory requirements must be met as a matter of law, a Ministerial Statement in 2016<sup>11</sup> established that house building standards should be incorporated into new building regulations and that optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need. The Statement added that:

*“Neighbourhood plans should not be used to apply the new national technical standards.”*

- 101 Policy Des 3 does not meet the basic conditions. I recommend:

- **Delete Policy Des 3 and supporting text**

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<sup>11</sup> Ref: Ministerial Statement 25<sup>th</sup> March 2016.

Heritage

**Policy H1 (Protection of Key Views)**

- 102 The Neighbourhood Plan identifies a number of general views regarded as special. Whilst these are not tightly defined, they are indicative of locally recognised characteristics that make a contribution towards the attractive appearance of the Neighbourhood Area.
- 103 Generally, Policy H1 provides a positive, flexible approach to requiring that development should take account of local character, by being sensitive to views and location. This has regard to Paragraph 58 of the Framework, which requires development to respond to local character.
- 104 As worded, the Policy is unclear with regards whether or not a development would “*impact*” on a Key View, or in terms of who would be the arbiter responsible for judging this and on what basis. Taking this and the above into account, I recommend:
- ***Policy H1, change to “Development should respect local character, including Key Views listed on page 13 and indicated on the plan on page 14.”***

**Policy H2 (Protection of Listed Buildings)**

105 Chapter 12 of the Framework, "*Conserving and enhancing the historic environment,*" and Leeds Core Strategy Policy P1 ("*Conservation*") provide a policy framework for the protection of heritage assets.

106 Policy H2 seeks to ensure that development is sensitive to Listed Buildings and in this regard, it meets the basic conditions.

107 As worded, the Policy refers to development that has an (undefined) "*impact*" on Listed Buildings. This introduces uncertainty and considerable scope for subjectivity and I recommend:

- **Policy H2, change to "*Development must respond sensitively to the character and setting of Listed Buildings.*"**

**Policy H3 (Protection of historical heritage assets)**

108 National policy requires that the effect of an application for development on the significance of a non-designated heritage asset should be taken into account when determining the application, having regard to the scale of any harm or loss, and the significance of the heritage asset.

109 Policy H3 fails to have regard to national policy, but rather, seeks to impose a blanket requirement for development to enhance and conserve non-designated heritage assets and their settings. This is an onerous approach – more onerous than the protection national policy affords to designated heritage assets - and its departure from national policy is not justified by any substantive evidence.

110 I recommend:

- **Delete Policy H3**
- **Page 18, first column of text, line 7, delete “...and that the Neighbourhood Plan should include a policy to protect and conserve, enhance and interpret these features for the future benefit of residents.”**
- **Page 18, first column of text, line 11, change to “...agreed that the list should be *included* in the Neighbourhood Plan and...”**

## Green Spaces

### **Policy GS1 (Protect existing and potential local green spaces)**

- 111 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 76 of the Framework states that:

*“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”*

- 112 Consequently, Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land.

- 113 National policy establishes that:

*“The Local Green Space designation will not be appropriate for most green areas or open space.”* (Paragraph 77)

- 114 Thus, when identifying Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

- 115 Policy GS1 seeks to designate twenty four areas of Local Green Space. The Appendices to the Neighbourhood Plan provide information justifying the designations in the light of the requirements of the Framework and in the absence of any substantive evidence to the contrary, I consider that each of the proposed designations have regard to national policy.

- 116 As set out, Policy GS1 simply designates sites, but provides no relevant land use policy information in respect of what the designation actually means. I address this in the recommendations below.

- 117 In addition to the above, whilst a plan accompanies the information in the Appendices, there is nothing in the Neighbourhood Plan to show where each of the Local Green Spaces is located. This is a significant omission, not least given the importance of the designation and again, is addressed in the recommendations below.
- 118 The title of the Policy is imprecise as it refers to *“existing and potential”* Local Green Space. Prior to the Neighbourhood Plan being made, Local Green Space does not exist. Once the Neighbourhood Plan is made, Local Green Space designations will not be *“potential”* but actual.
- 119 Taking the above into account, I recommend:
- **Policy GS1, delete title and replace with *“Local Green Space”***
  - **Replace first sentence of the Policy with *“The following sites, shown in the plans below, are designated as Local Green Space, where development is ruled out other than in very special circumstances:”***
  - **Provide new plans. These should be of a large enough scale to clearly identify (and leave no uncertainty) in respect of the detailed boundaries of each Local Green Space. A single plan is incapable of showing these on an appropriate scale and therefore a number of plans, on an Ordnance Survey background, will be required. The plans should follow on directly from the Policy.**

**Policy GS2 (Increase the quantity of green spaces)**

- 120 The first sentence of Policy GS2 could result in unforeseen consequences, such as welcoming inappropriate development. As worded, the Policy would welcome any form of development whatsoever, so long as it improved green space provision.
- 121 The second sentence of Policy GS2 is vague, imprecise and confusing, to the extent that it makes little sense – it suggests that green space provision on a site could be provided elsewhere (other than on the site). In any case, the second sentence also relates directly to the flawed sentence that precedes it.
- 122 Notwithstanding the above, the general intent of Policy GS2 is to increase green space, which has regard to Chapter 7 of the Framework, *“Requiring good design.”* I recommend:
- **Policy GS2, change to *“The provision of accessible new green space in the Neighbourhood Area will be supported.”***

**Policy GS3 (Improve the quality of green areas)**

123 Paragraph 69 of the Framework seeks to promote:

*"...opportunities for meetings between members of the community who might not otherwise come into contact with each other..."*

124 Further, the Framework goes on to support positive planning for:

*"...the provision and use of shared space, community facilities..."* (Paragraph 70) and *"...access to high quality open spaces and opportunities for sport and recreation..."* (Paragraph 73)

125 Policy GS3, which promotes improvements to play facilities and opportunities for social engagement, has regard to national policy and meets the basic conditions.

126 No changes recommended.

**Policy GS4 (Improve the accessibility of green spaces)**

127 Generally, Policy GS4 seeks to improve the accessibility of green spaces and has regard to national policy, as referred to above.

128 As worded, the Policy runs the risk of unforeseen consequences, by "*encouraging*" any form of development, so long as it improves accessibility of green space. Indeed, the Policy goes further than this, by supporting any form of development whatsoever adjacent to Stables Lane Playing Fields, as long as it incorporates public access. Also, it is unclear what a "*potential green space*" might comprise and the Policy is therefore imprecise in this regard.

129 I recommend:

- **Policy GS4, re-word as "*Improvements to the accessibility of green space will be supported.*" (delete rest of Policy)**

Trees, Hedges and Wildlife Habitat

**Policy T1 (Retain existing trees)**

130 Like previous Policies, Policy T1 is worded such that it could result in unforeseen consequences. Aside from this, the Policy supports the retention of important trees or groups of trees and in so doing, it has regard to Paragraph 109 of the Framework, which seeks to minimise impacts on biodiversity.

131 I recommend:

- **Policy T1, re-word as “*The retention of important trees or groups of trees, such as...Avenue, will be supported.*”**

**Policy T2 (Plant extra trees)**

132 Policy T2 promotes net gains in biodiversity, having regard to Chapter 11 of the Framework, *“Conserving and enhancing the natural environment.”*

133 However, as worded, the Policy requires all forms of development to seek to include the planting of extra trees, regardless of viability or relevance. Such an approach fails to have regard to Paragraph 173 of the Framework, which establishes that:

*“Plans should be deliverable. Therefore, the...scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.”*

134 No evidence is provided to demonstrate that there are specific locations under the control of the Neighbourhood Plan *“in places of heavy traffic”* where trees can be planted. Further, there is nothing to demonstrate that the planting of trees in such locations, if they did exist, would be directly related to development or necessary to make development acceptable in planning terms. As such, this part of Policy T2 fails to have regard to Paragraph 204 of the Framework which states that:

*“Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.”*

135 I recommend:

- **Re-word Policy T2 as *“The planting of native trees will be supported, especially in locations where they can serve to reduce pollution.”***

**Policy T3 (Retain and increase hedges)**

136 Again the wording of Policy T3 could result in unforeseen consequences, although the intent of the Policy, to support the retention of existing and planting of new hedges, has regard to the national policy aim of providing net gains in biodiversity where possible (Paragraph 109, the Framework).

137 I recommend:

- ***Re-word Policy T3 “The retention of existing hedges and the use of hedges to define new boundaries, where appropriate, will be supported. Where appropriate, new developments will be expected to provide for the filling of gaps in hedges, using native species.”***

**Policy T4 (Provide wildlife habitats)**

138 Whilst it may not always be possible to retain “*natural areas*” (for example, there is no evidence to demonstrate that every possible development site in the Neighbourhood Area includes a “*natural area*”), the Framework supports gains in biodiversity. I note that irreplaceable habitats, including nationally important sites, are afforded protected by national policy.

139 Having regard to the above, I recommend:

- **Policy T4, change to “*Where possible, new housing developments should deliver gains in biodiversity and incorporate natural areas of space.*”**

Energy Efficiency

**Policy E1 (On-site energy efficiency)**

**Policy E2 (On-site generation)**

**Policy E3 (Community generation)**

- 140 Chapter 10 of the Framework, "*Meeting the challenge of climate change, flooding and coastal change*," supports the increased use and supply of renewable and low carbon energy.
- 141 In addition, Leeds Core Strategy Policy EN1 ("*Climate change – carbon dioxide reduction*") establishes requirements for residential development to contribute towards managing and responding to climate change in the UK.
- 142 Whilst Policies E1, E2 and E3 aim to promote energy efficiency, in practice they comprise general statements of intent, rather than land use planning policies. There is no indication of how the aims of each Policy will be "*encouraged*" – who by, or on what basis. Further, there is no indication of what, if anything, would happen if developers simply ignored the Policies. The Policies do not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 143 Consequently, the laudable aims of Policies EN1, EN2 and EN3 are more suited to Community Actions, rather than land use planning policies to control development.
- 144 I recommend:
- **Delete Policies E1, E2 and E3. Replace as Community Actions, CAE1, CAE2 and CAE3 (changing the existing CAE3 to CAE4)**
  - **Add to the end of each new Community Action "*...will be encouraged by the Parish Council*"**

The Local Economy

**Policy BE1 (Adapting to the needs of business)**

145 Paragraph 23 of the Framework seeks to ensure the viability and vitality of town centres, which are recognised for their role at the heart of communities. Paragraph 70 goes on to require planning policies to plan positively for the provision of shops and to:

*“...ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community...”*

146 Policy BE1 seeks to afford protection to shops in the Neighbourhood Area and at the same time, provide for flexibility, whilst ensuring that vitality and viability are maintained. In this way, the Policy has regard to the Framework.

147 Leeds Core Strategy Policy P1 (“*Town and Local Centre Designations*”) establishes Boston Spa as a Higher Order Local Centre. Policy BE1 refers to primary and secondary shopping zones in the Local Centre, but does not provide any plans to show where these are. Given the general reference to the Leeds Core Strategy in the supporting text and the absence of plans in the Neighbourhood Plan, the reference to zones appears confusing and unnecessary.

148 The Policy refers to “*commercial buildings*” but does not take account of the fact that, in some circumstances, the General Permitted Development Order provides for some changes of use without the need for planning permission. I address this in the recommendations below.

149 An existing A1 use is likely to contribute to vitality and viability. Imposing a requirement to enhance this further runs the risk of being so onerous that it could prevent sustainable development from coming forward and there is no evidence to the contrary.

150 I recommend:

- **Policy BE1, change opening sentence to *“Proposals requiring planning permission for a change of use away from A1 retail uses (as defined in the Town and Country Planning (Use Classes) Order) will be supported where:”***
- **Policy BE1, change second criterion to: *“...use would maintain or improve the vitality and viability...”***

**Policy BE2: Adapting buildings in the village to support the local economy**

- 151 Paragraph 28 of the Framework requires planning policies to support economic growth in rural areas in order to create jobs and prosperity. Policy BE2 seeks to provide for appropriate employment creating and thus has regard to national policy.
- 152 A development will either create employment or it won't. No definition of "*likely to create employment*" is provided and this part of the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 153 The Policy refers to "*new buildings or building alterations*" but not extensions. It also refers to harm to the surrounding area, but not the host property or development site. I address these matters below.
- 154 The Policy also seeks to impose an imprecise requirement – suggesting that hours of business use will be restricted, but not providing any indication of what these would be, under what circumstances, and who would impose them and on what basis. Further, no indication of what being "*prejudicial to highway safety*" actually means is provided. Again, I address these matters below.
- 155 The final paragraph of Policy BE2 is simply a vague statement and not a land use planning policy.
- 156 The supporting text refers to "*chief income earners.*" This is an unusual phrase and is not defined. As such, it detracts from the clarity of the Neighbourhood Plan. Also, the final part of the first paragraph of supporting text on page 31 refers to matters not addressed by the Policies of the Neighbourhood Plan and as such, appear confusing.
- 157 I recommend:
- **Policy BE2, change first sentence to "*Development that will create employment will be supported subject to it respecting local character, residential amenity and highway safety.*"**
  - **First Para supporting text on page 31, delete first sentence and delete last three sentences ("There may be a need...support these changes.")**

**Policy BE3: Alterations to farm buildings**

- 158 Chapter 3 of the Framework, "*Supporting a prosperous rural economy*," promotes the development and diversification of agricultural businesses. In addition, Paragraph 55 of the Framework establishes special circumstances for certain types of residential development in the countryside, including the re-use of redundant or disused buildings in a way that enhances the immediate setting. Also, the General Permitted Development Order provides considerable scope for the re-use of agricultural buildings for housing without the need for planning permission.
- 159 Whilst the supporting text to Policy BE3 suggests that the aim of the Policy is to support changes to farm buildings, the Policy itself is considerably more restrictive, and less precise, than policy that already exists to achieve this. Policy BE3 introduces a new test – whereby a proposal must demonstrate "*a thrust towards sustainability*." This is an undefined phrase and is vague and ambiguous. It fails to provide a decision maker with a clear indication of how to react to a development proposal.
- 160 No indication of what "*damage*" to local character might comprise is provided. Policy BE3 does not provide for harm to be balanced against benefits and without information to establish what "*damage*" might be, who will judge this and on what basis, it is difficult to reach the conclusion that the Policy provides a decision maker with a clear indication of how to react to a development proposal.
- 161 The Policy requires alterations not to be "*dominant*" but does not apply the same test to extensions or to the proposed use itself. This appears inconsistent and is not justified. No indication of which "*residents*" the Policy applies to is provided and nor is any indication given of where the "*existing road*" referred to is located.
- 162 The Policy requires any alteration, extension, or change of use affecting a farm building or isolated building not to be primarily residential. No justification is provided for this significant departure from national policy. The requirement also conflicts with the final sentence of the Policy, which suggests that live-work units may be acceptable.

163 Taking all of the above into account, Policy BE3 does not meet the basic conditions. I recommend:

- **Delete Policy BE3**
- **Delete paragraph of supporting text below photograph on page 31 ("In and around...and pollution)**
- **Delete first two bullet points under "Evidence" on page 31**

In making the above recommendations, I note that national policy and guidance supports the appropriate re-use of farm buildings and buildings in the countryside.

## Traffic Management

### Policy TM1 (Drop off zones)

164 Policy TM1 states that it will encourage unidentified developments to create a drop-off zone. In this regard, the Policy is imprecise and fails to have regard to Paragraph 204 of the Framework in respect of planning obligations. Further, no evidence is provided to demonstrate that the Policy has regard to Paragraph 173, quoted earlier in this Report.

165 Consequently, Policy TM1 comprises an aspiration - suited to a Community Action - and is not a land use planning policy that meets the basic conditions.

166 I recommend:

- **Delete Policy TM1 and replace as a Community Action TMA3**  
***“The Parish Council will seek to encourage the creation of a drop-off zone, which will serve local schools, as indicated on the plan below.”***

**Policy TM2 (Deliveries of large loads)**

- 167 Paragraph 32 of the Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 168 Policy TM2 refers to development that impacts on traffic flow along the High Street, but provides no distinction between a negligible or a severe impact. Consequently, the Policy seeks to “encourage” any development, with any kind of impact, to “organise delivery of large loads outside peak traffic periods.”
- 169 No indication is provided of what a “large load” might comprise, or what “peak traffic periods” are. The Policy is imprecise. Further, it is not clear who will “encourage” who, or how. Also, no indication of how a development can “organise” something is provided.
- 170 Policy TM2 does not comprise a land use planning policy that meets the basic conditions. There is no evidence to demonstrate that the approach set out would have any impact on the overall aim of tackling congestion at peak hours – for example, there is no evidence in respect of delivery times for heavy loads. As an aside, I note that businesses may require deliveries for all kinds of reasons and it may well be that a delivery during peak hours, whenever those may be, provides an important business, or even community-related, function. It may also be that deliveries outside peak hours result in noise and disturbance during quiet times. There is no evidence to the contrary.
- 171 Taking the above into account, I recommend:
- **Delete Policy TM2**
  - **Last sentence of supporting text on page 32, change to “*The Parish Council will promote timed deliveries of goods with the aim of reducing the impact of these...peak times.*”**
  - **Delete the supporting text on page 34, which which refers to matters considered elsewhere (cycle routes), a matter not under the control of the Neighbourhood Plan (school admissions) and deleted Policy TM1**

## Car Parking

### **Policy CP1 (Developing off-road parking)**

172 Paragraph 40 of the Framework supports the improvement of car parking in town centres.

173 As set out, Policy CP1 could result in unforeseen consequences, as it supports any kind of development, so long as it increases off-road public parking. Subject to addressing this, the Policy meets the basic conditions.

174 I recommend:

- **Policy CP1, change to “*The provision of off-road public parking, particularly in the village centre, will be supported.*”**

**Policy CP2 (Reducing on-street parking)**

175 As set out, Policy CP2 reads as a vague statement. Taking the supporting text into account, the intention of the Policy is to prevent the reduction of off-road parking.

176 For clarity, I recommend:

- **Policy CP2, change to “*Development that reduces the overall provision of off-road parking in the village envelope will not be supported.*”**

## Safer Cycling

### Policy SC1 (Cycle Roads)

177 Policy SC1 sets out a requirement for all development to provide new or improved cycle routes. It goes on to require the provision of specific routes.

178 No evidence is provided to demonstrate that it would be viable or deliverable for all, or even any, development to meet the requirements of Policy SC1. Consequently, the Policy fails to have regard to national policy. Repeated for emphasis, Paragraph 173 of the Framework states that:

*“Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”*

179 However, the intention of the Policy, as identified in the supporting text, to provide for improved, safe cycling in the Neighbourhood Area, has regard to Chapter 4 of the Framework, which promotes cycling as a sustainable form of transport.

180 Taking this and the above into account, I recommend:

- **Policy H4, change to “The provision of new or improved cycling routes, in order to provide safe access to schools, play areas and the village centre, as well as to link up with national cycling routes and neighbouring communities, will be supported. The provision of cycle lanes along Primrose Lane, Grove Road and the A659, to link up with Route 66 at Newton Kyme, will be supported.”**

Accessibility and Footpaths

**Policy AF1 (Accessibility)**

181 Paragraph 75 of the Framework states that:

*“Planning policies should protect and enhance public rights of way and access.”*

182 To some degree, Policy AF1 supports the enhancement of public rights of way and has regard to national policy.

183 As worded, Policy AF1 applies to all development and fails to have regard to Paragraph 173 of the Framework, as set out above. In addition, road surfaces and signage tend to be the responsibility of the highway authority and there is no evidence to demonstrate that this is not the case in Boston Spa.

184 Taking the above into account, I recommend:

- **Policy AF1, change to *“Improvements to public rights of way, for the benefit of all pedestrians regardless of ability, will be supported.”***

**Policy AF2 (Safer Crossings)**

185 Policy AF2 seeks to impose a requirement on non-specific development (no indication is provided in respect of what development, where, will impact (in what way) on "*the volume of pedestrian or vehicle activity in the vicinity of the Deepdale Centre*") to provide a crossing point. The Policy fails to have regard to Paragraphs 173 and 204 of the Framework, highlighted earlier in this Report. It does not meet the basic conditions.

186 It is acknowledged that the Parish Council would like to see a new crossing point for the Deepdale Centre and I recommend:

- **Delete Policy AF2 and replace with a Community Action, CAAF1**  
***"The Parish Council will seek to work with other parties to provide a crossing point on the High Street for the Deepdale Centre."***

Creating a People Friendly Village Centre

**Policy PFVC1 (Making a people friendly village)**

187 Policy PFVC1 comprises a general statement. It is ambiguous and provides no indication of what might happen were the Policy to be ignored. It does not set out land use planning criteria and does not provide a decision maker with a clear indication of how to react to a development proposal. It does not meet the basic conditions.

188 I recommend:

- **Delete Policy PFVC1 and replace with a Community Action, CAPFVC1 *"The Parish Council will seek to encourage development to make a positive contribution towards making the centre of Boston Spa more people friendly."***
- **Change the first sentence of the supporting text on page 40 to *"...covered in the "Creating a People Friendly Village" section."***

## Community and Well-being

189 The introductory text to this section suggests that the Neighbourhood Plan achieves something that it does not. Designating Local Green Space is not the same thing as significantly increasing the level of amenity space.

190 The introductory text also refers the future development of Policies, which is not something covered by the Neighbourhood Plan.

191 I recommend:

- **Supporting text, page 43, first column, first paragraph, line 11, delete "A priority for the...indoor and outdoor."**
- **Supporting text, first column, second paragraph, line 18, change to "To this end we aim to provide opportunities for residents..."**

## Policy CW1 (Improvement/enhancement of Community Assets)

192 Paragraph 58 of the Framework promotes:

*"...the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship."*

193 The first part of Policy CW1 seeks to improve the provision of community facilities, having regard to national policy. The rest of the Policy seeks to establish that developers will be *encouraged* to undertake consultation. Whilst national policy encourages consultation and engagement, it does not place a requirement on developers to do so (unless circumstances are such that consultation is a legal requirement). Neither the Policy nor the supporting text sets out how consultation will be *encouraged*. In addition, no indication is provided of what would happen if development failed to protect an identified community asset.

194 The supporting text to Policy CW1 refers to "*assets of value to the community,*" "*community assets,*" "*assets of community value,*" "*assets for the community as a whole,*" "*assets for community use*" and "*right to buy assets,*" often in an interchangeable manner. This is confusing and detracts from the clarity and precision of the Neighbourhood Plan.

- 195 An Asset of Community Value needs to be formally registered as such. No registered Assets of Community Value are identified as such by the Neighbourhood Plan.
- 196 The supporting text refers to the Neighbourhood Plan protecting events and organisations, without indicating how this might happen and states that community assets *"will be registered"* as Assets of Community Value, without reference to the due process that needs to be undergone.
- 197 I recommend:
- **Policy CW1, delete all text after first sentence and replace with *"Where proposed development affects any of the community assets listed above, consultation with the community will be welcomed."***
  - **Supporting text under "Services and Community Assets," line 8, change to *"...there are many events and organisations that contribute to the community, including Arts..."***
  - **Next para, change to *"The Parish Council will seek to protect all of this and build..."***
  - **Under title "Community Assets," line 2, change to *"...members of the community and can provide a source of income."* Line 6, change to *"...meet. The Parish Council seeks to protect community assets for the future enjoyment..."***
  - **Under "Community Assets" third Para, line 4, change to *"...and possible, the Parish Council will seek to register community assets as "Assets of Community Value." This is a formal process and as yet, there are no such "ACVs" in the Neighbourhood Area. Formal registration provides a layer of legal protection, providing the community with an option to purchase an ACV, if it were to come up for sale. Community assets (not ACVs) owned by Leeds City Council are:"***
  - **Next list of bullet points, change to *"Community assets owned by third parties are:"***
  - **Next list of bullet points, change to *"Community assets owned by the community are:"***

**Policy CW2: Creation of New Community Assets**

198 The first part of Policy CW2 simply repeats the first part of Policy CW1, which already supports the provision of new services and facilities for the community.

199 The remainder of Policy CW2 comprises a statement of intent/outlines some aspirations and does not comprise a land use planning policy.

200 I recommend:

- **Delete Policy CW2 and replace with a Community Action CACW5**  
***“Where appropriate, the Parish Council will seek to hold community assets on behalf of the local community.”***

## **7. The Neighbourhood Plan: Other Matters**

201 Page 47 refers to "*policies for energy.*" The recommendations in this Report propose the deletion of these policies and I recommend:

- **Page 47, point 10, change to "...through *the approach to energy; as well...*"**

202 Page 48 comprises background information relating to the pre-examination version of the Neighbourhood Plan and I recommend:

- **Delete Page 48**

203 The recommendations made in this Report will have a subsequent impact on Policy, page and paragraph numbering.

204 I recommend:

- **Update the Policy, page and paragraph numbering, taking into account the recommendations contained in this Report.**

## **8. Summary**

205 Taking all of the above into account, a number of modifications are recommended in order to enable the Neighbourhood Plan to meet the basic conditions.

206 Subject to these modifications, I confirm that:

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

207 Taking the above into account, I find that the Boston Spa Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

## 9. Referendum

208 I recommend to Leeds City Council that, subject to the modifications proposed, **the Boston Spa Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

209 I am required to consider whether the Referendum Area should be extended beyond the Boston Spa Neighbourhood Area.

210 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

211 Consequently, I recommend that the Plan should proceed to a Referendum based on the Boston Spa Neighbourhood Area approved by Leeds City Council on 15<sup>th</sup> November 2016.

**Nigel McGurk, July 2017**  
**Erimax – Land, Planning and Communities**

