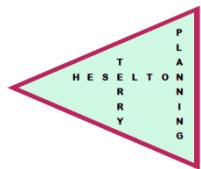


Draft Scarcroft Neighbourhood Plan (Submission Version)

Report of the Independent Examination

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Independent Examiner



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Summary

I have examined the Scarcroft Neighbourhood Plan as submitted to Leeds City Council by Scarcroft Parish Council. The examination has been undertaken by written representations.

I conclude that the Neighbourhood Plan meets all of the statutory requirements, including those set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990. However a number of modifications are required to ensure that the Plan meets the four ‘Basic Conditions’, as defined in Paragraph 8(2) of the Schedule.

Subject to making the modifications set out in my report I recommend that the Scarcroft Neighbourhood Plan proceed to referendum, and that the voting area corresponds with the revised Scarcroft Neighbourhood Area as re-designated by Leeds City Council on 15 November 2016.

1.0 Introduction

- 1.1 I have been appointed by Leeds City Council, with the consent of Scarcroft Parish Council, to examine the Scarcroft Neighbourhood Development Plan and report my findings as an Independent Examiner.
- 1.2 The Scarcroft Neighbourhood Plan (referred to as ‘the Neighbourhood Plan’ or ‘the Plan’) has been produced by Scarcroft Parish Council under the provisions of the Localism Act 2011, which introduced the means for local communities to produce planning policies for their local areas. Scarcroft Parish Council is a qualifying body for leading the preparation of a neighbourhood plan¹.
- 1.3 The Plan covers the entire rural Parish of Scarcroft situated 7 miles north east of Leeds within the West Yorkshire Green Belt. The main settlement of Scarcroft is primarily a dormitory village for Leeds and other West/North Yorkshire towns, and is inset within the Green Belt. It contains a mixture of older housing and modern estate developments.
- 1.4 The surrounding rural area comprises a mixture of arable and pasture land with significant areas of woodland, and is recognised locally for its special landscape quality. It also supports a number of golf and horse related enterprises.
- 1.5 The A58 Leeds – Wetherby Road bisects the village with the largest number of residential properties situated immediately to the west and a number of smaller residential estates to the east. The former National Power offices, incorporating Scarcroft Lodge a Grade II listed building, are situated to the south east in a parkland setting.
- 1.6 The Plan focuses on protecting and enhancing the local environment while managing proposals for new development in a way that is beneficial to the local community.
- 1.7 My report provides a recommendation as to whether or not the Neighbourhood Plan should proceed to referendum. Were it to go to referendum and achieve more than 50% of votes in favour, then the Neighbourhood Plan would be *made* by Leeds City Council. The Plan would then be used to determine planning applications and guide planning decisions in the Scarcroft Neighbourhood Area.

2.0 Scope and Purpose of the Independent Examination

- 2.1 The independent examination of neighbourhood plans is intended to ensure that neighbourhood plans meet four ‘Basic Conditions’², together

¹ Section 38C of the Planning and Compulsory Purchase Act 2004 and Section 61F of the Town and County Planning Act 1990.

² Set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990

with a number of legal requirements. Neighbourhood plan examinations are narrower in scope than Local Plan examinations and do not consider whether the plan is 'sound'.

- 2.2 A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State', it is appropriate to 'make' the plan,
 - the plan contributes to the achievement of sustainable development,
 - it is in general conformity with the strategic policies of the development plan for the area of the authority (or any part of that area), and
 - it does not breach, and is otherwise compatible with EU obligations
- 2.3 In addition to reviewing the Submission Draft of the Neighbourhood Plan I have as part of the examination considered a number of background documents which are listed in Appendix 1, together with comments submitted in response to the Regulation 16 Publicity.
- 2.4 The general rule is that examination of the issues is undertaken through consideration of written representations, unless the examiner considers that a public hearing is necessary to ensure adequate examination of an issue (or issues) or to ensure that a person has a fair chance to put a case.
- 2.5 In reviewing the Neighbourhood Plan and the accompanying background documents and submitted representations, I have not identified any issues which require a public hearing to be held. I am also of the opinion that all parties have had the opportunity to register their views and put their case forward. I have therefore undertaken the examination through consideration of written representations, supported by an unaccompanied site visit of the Neighbourhood Plan Area.
- 2.6 In undertaking the examination I am also required to check whether:
- the Neighbourhood Plan policies relate to the development and use of land for the designated neighbourhood area³;
 - the Neighbourhood Plan meets the requirement to specify the period for which it is to have effect, not to include provision relating to 'excluded development', and not to relate to more than one neighbourhood area⁴,
 - the Neighbourhood Plan has been prepared for an area that has been properly designated⁵ and has been developed and submitted for examination by a qualifying body⁶, and
 - adequate arrangements for notice and publicity have been made in connection with the preparation of the Neighbourhood Plan⁷.
- 2.7 In order to assess whether Regulatory and other requirements have been

³ Section 38A (2) Planning and Compulsory Purchase Act 2004 as amended

⁴ Section 38B (1) Planning and Compulsory Purchase Act 2004 as amended

⁵ Section 61G Town and Country Planning Act 1990 as amended

⁶ Section 38C Planning and Compulsory Purchase Act 2004 and Section 61F of the Town and County Planning Act 1990.

⁷ Section 38A (8) Planning and Compulsory Purchase Act 2004 as applied by the Neighbourhood Planning (General) Regulations 2012

satisfied I have where necessary during the examination requested clarification from Leeds City Council and/or Scarcroft Parish Council on a number of points and factual matters. The questions arising and the Councils' joint responses are reproduced in Appendices 2 and 3.

- 2.8 As Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan is submitted to referendum, on the basis that it meets the 'Basic Conditions' and other legal requirements; or
 - that modifications (as recommended in the report) are made to the draft Neighbourhood Plan and that the draft Neighbourhood Plan as modified is submitted to referendum; or
 - that the Neighbourhood Plan does not proceed to referendum, on the basis that it does not meet the 'Basic Conditions' and other relevant legal requirements⁸.
- 2.9 Modifications may only be recommended to ensure that the Neighbourhood Plan meets the 'Basic Conditions', that it is compatible with Convention Rights, or for the purpose of correcting errors.⁹
- 2.10 If recommending that the Neighbourhood Plan should proceed to referendum, I am required to then consider whether or not the Referendum Area should extend beyond the Scarcroft Neighbourhood Area, and if so what the extended area should be¹⁰.
- 2.11 I make my recommendations in this respect in the final section of this report.

3.0 Representations

- 3.1 Responses were received to the Regulation 16 Publicity from or on behalf of two local residents, a local landowner and seven organisations, namely; BT Open Reach, the Coal Authority, Gladman Developments Ltd, Historic England, Natural England, the National Farmers Union and the York Consortium of Drainage Boards.
- 3.2 **Gladman Developments Ltd** consider that Policies GE3, BE2, BE3, BE4, and H3 do not reflect the requirements of national planning policy and guidance and/or conflict with higher tier local policy and therefore do not satisfy the Basic Conditions.
- 3.3 Two **local residents** are concerned that Policies BE3 and BE4 are overly prescriptive, contrary to NPPF guidance on design.
- 3.4 A **local landowner** objects to the inclusion of land between Syke Lane and

⁸ Paragraph 10(2) Schedule 4B of the Town and Country Planning Act 1990 as amended

⁹ Paragraph 10(3) Schedule 4B of the Town and Country Planning Act 1990 as amended

¹⁰ Paragraph 10(5) Schedule 4B of the Town and Country Planning Act 1990 as amended

- Wetherby Road as Local Green Space on the grounds that it does not meet NPPF requirements.
- 3.5 **The National Farmers Union** suggest the Plan should take account of a number of 'general principles' which they are promoting in order to help shape the rural economy and support sustainable growth.
- 3.6 **Natural England** support policies aimed at safeguarding the landscape and protecting/enhancing green spaces, and confirm that the Plan gives an appropriate level of recognition to the SSSI which falls partly within the Plan area.
- 3.7 **BT Open Reach, the Coal Authority, Historic England and the York Consortium of Drainage Boards** have no substantive comments to make.
- 3.8 Detailed points made on specific issues and policies in the Plan by those submitting representations are considered in Section 6.0.

4.0 Compliance with Legal Requirements

(a) The Qualifying Body

- 4.1 Scarcroft Parish Council is recognised as a relevant body for the purposes of preparing Neighbourhood Plans under sections 61F and 61G of the Town and Country Planning Act 1990.

(b) The Plan Area

- 4.2 The Neighbourhood Plan relates to the Neighbourhood Area that was designated by Leeds City Council on 15 November 2016, in response to an application by Scarcroft Parish Council submitted on 9 March 2016. I note that this supersedes the Neighbourhood Area boundary previously designated in 2013, in order to reflect changes to the Parish boundary following a review of parish boundaries in 2014. The re-designated Scarcroft Neighbourhood Area is coterminous with the revised Scarcroft Parish boundary.
- 4.3 The Neighbourhood Area application and map of the proposed Neighbourhood Area were publicised on the City Council's website and copies were made available for inspection at the Council's (former) city centre offices, and at Scarcroft Village Hall over a six week period.
- 4.4 I therefore confirm that the requirements for preparing a Neighbourhood Development Plan under section 61G of the Town and Country Planning Act 1990 (as amended) and Regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012 have been complied with.

- 4.5 I am also satisfied that the Plan does not relate to more than one neighbourhood area and there are no other neighbourhood development plans for the designated Neighbourhood Area in accordance with statutory requirements.

(c) Policies for the Development and Use of Land

- 4.6 The Neighbourhood Plan sets out policies in relation to the development and use of land for the defined Neighbourhood Area, which accords with the definition of neighbourhood plans in Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended).

(d) Time Period

- 4.7 A neighbourhood plan must specify the period during which it is to have effect. The Neighbourhood Plan clearly states on its title page that it covers the period 2018 to 2033 and therefore satisfies this requirement.

(e) Excluded Development

- 4.8 The Neighbourhood Plan does not include policies on excluded development such as national infrastructure, mineral or waste related development.

(f) Publicity and Consultation

- 4.9 Public consultation on the production of land use plans, including neighbourhood plans, is a legislative requirement. Building effective community engagement into the plan-making process encourages public participation and raises awareness and understanding of the plan's scope and limitations.

- 4.10 I have considered the steps taken to engage with the local community and other stakeholders during preparation of the Neighbourhood Plan with particular regard to content, openness and transparency, as well as the extent to which the Regulatory requirements have been satisfied.

- 4.11 The stages of consultation and engagement, as identified in the Consultation Statement accompanying the 'Submitted Plan', can be summarised as :-

- Initial Public Engagement/Awareness Raising (2011)
- Ongoing Consultation (2012/14)

- Consultation on First Draft Plan (August/September 2016 and February 2017)
- Pre-submission (Regulation 14) consultation on the Draft Plan (July/August 2017)

Initial Public Engagement/Awareness Raising

- 4.12 The first step in the preparation of the Plan was a public meeting organised by the Parish Council in December 2011 to discuss the scope and level of support for preparing a neighbourhood plan. The meeting was attended by over 60 people.
- 4.13 Responsibility for preparing the Plan was subsequently delegated to the Scarcroft Development Working Group comprising a mixture of Councillors and members of the public, and a dedicated webpage was established on the Parish Council's website in order to keep the community informed as work on the Plan progressed.
- 4.14 A number of task groups were also established to work together with members of the community to compile information about the village and to agree a number of recommendations to be included in the Plan.

Ongoing Consultation (2012/14)

- 4.15 In order to further promote the preparation of the Plan and to obtain views about the emerging vision and key issues a questionnaire was published on the Parish Council's website and distributed to all residences in the Parish in July/September 2012.
- 4.16 A total of 123 survey forms were returned which represents a healthy 28% response rate. The survey results were published on the Parish Council's website and Parish notice boards.
- 4.17 During 2012/14 a number of open village meetings were held in order to gather ideas and information from the community and identify local issues. This included a joint consultation event with Leeds City Council in June 2013 at which those attending were informed about emerging Local Plan proposals being prepared by the City Council in parallel with the Neighbourhood Plan.
- 4.18 Meetings were also held with local businesses and other stakeholders, including Leeds City Council and groups representing older people, to help better understand specific issues and opportunities.

Consultation on First Draft Plan

- 4.19 The evidence produced by the various task groups and feedback received from public meetings and ongoing engagement with the community and other stakeholders was used to inform the preparation of a 'First Draft Plan' which was published in May 2015.
- 4.20 Although further work on the Plan was delayed for approximately 12 months (partly due to uncertainty over emerging proposals in the Leeds City Council Site Allocations Plan) an informal four week consultation on the Draft Plan was undertaken during August/September 2016.

- 4.21 This was accompanied by a detailed questionnaire and two drop in events (an evening event at the village pub and a Saturday morning event at the village hall) for people to get more information or make comments.
- 4.22 50 individuals responded to the questionnaire representing approximately 5% of the community.
- 4.23 A further three week consultation on policies and proposals affecting individual sites and buildings was undertaken in February 2017, including a drop in event at the village pub. This consultation was specifically targeted at land and property owners who were potentially affected by the emerging Plan.

Pre-submission (Regulation 14) Consultation

- 4.24 The draft Plan was published for consultation between 17 July and 28 August 2017.
- 4.25 A summary of the Plan and a questionnaire was hand delivered to local residents and posted to local businesses, community groups, faith groups, landowners and other non-statutory consultees. The consultation was also publicised through the Parish Council website and a hard copy of the Plan and supporting documents were made available for inspection at Wetherby Library.
- 4.26 To ensure a good response to the consultation informal meetings were held with local interest groups, and delivery boxes for submitting comments were provided at the village hall and the local pub.
- 4.27 Relevant statutory consultees were contacted either by email or letter. Although no evidence is provided in the Consultation Statement accompanying the Plan as to which organisations were consulted, that information has been provided by Leeds City Council as part of the response to my first set of questions seeking clarification and further evidence on parts of the Plan, which is reproduced in Appendix 2.
- 4.28 Specific evidence is provided in the Consultation Statement to demonstrate how the Plan and the opportunity to comment on it has been publicised. There is also a well presented summary of submitted comments which addresses the requirement to explain how the various issues raised by interested parties and requested changes have been taken into account, and/or to explain the reason for not making changes in some cases.

Conclusions

- 4.29 During the preparation of the Plan it is apparent that the Parish Council has placed considerable emphasis on community consultation and liaison with interested parties, and has taken positive steps to keep the local community informed of progress. This is demonstrated by the decision to distribute questionnaires to every household within the Plan Area, and also by the healthy responses to the questionnaires.
- 4.30 Delegating the preparation of the Plan to a working group made up of a mixture of Parish Councillors and volunteers from the local community has also ensured that the views of a wide cross section of the community have

been taken into account.

- 4.31 While I have reservations about the fact that no evidence is produced to demonstrate how public meetings and working group meetings have been publicised, other than through the website which suggests an over reliance on digital media, I acknowledge that the meetings held appear to have been effective in gathering views and creating a consensus. I also note that the Regulation 14 Consultation Draft Plan was available in both paper and electronic formats so that those without access to digital media have not been unduly disadvantaged.
- 4.32 Similarly while it would have been helpful give an indication of the numbers attending 'open public meetings' in order to assess the effectiveness of the meetings, and the associated publicity, as there is no prescription in the Regulations on the frequency or manner of publicity this does not prevent the Plan satisfying the Basic Conditions.
- 4.33 Taking all the above factors into account there is enough evidence to show that the consultation process as a whole was appropriate to the size of the local community and that reasonable steps were taken to publicise and invite comments on the Plan. The Regulation 14 requirements for consultation and publicity, including pro-actively seeking views of relevant consultation bodies, have therefore been met.

Regulation 16 Publicity

- 4.34 The Draft Neighbourhood Plan, as amended in response to the consultation, was subsequently submitted to Leeds City Council in May 2018 together with a Consultation Statement, and a Basic Conditions Statement explaining how the proposed Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990. The submitted Plan incorporates a map identifying the area covered by the Neighbourhood Plan.
- 4.35 Leeds City Council published details of the Plan on their website, notified interested parties and 'consultation bodies' of its receipt, and provided details as to how and by when representations could be submitted. Copies of the submitted documents were also made available for inspection at the Council's City Centre Hub, Wetherby Library, and Scarcroft Village Hall, and on-line on both the City Council's and Parish Council's websites.
- 4.36 The formal publicity stage for submitting representations covered a six week period between Monday 4 June and Monday 16 July 2018.

Conclusions

- 4.37 In the light of the foregoing I am satisfied that the Regulation 16 requirements to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area have been met.

5.0 Basic Conditions

- 5.1 This section of my report considers whether the Neighbourhood Plan taken as a whole has regard to national policies and advice contained in guidance issued by the Secretary of State, whether the plan contributes to the achievement of sustainable development, and whether it is in general conformity with local strategic policy. It also addresses EU obligations. Each of the plan policies is considered in turn in the section of my report that follows this.

(a) National Planning Guidance

- 5.2 National Planning Guidance is set out principally in the National Planning Policy Framework (NPPF) which was first published in 2012, and revised in July 2018. At the heart of the NPPF is a presumption in favour of sustainable development¹¹ which when applied to neighbourhood planning means that neighbourhoods should develop plans which support the strategic development needs set out in Local Plans, and which plan positively to support and shape local development that is outside the strategic elements of the Local Plan.¹²
- 5.3 For the purpose of this examination as the Scarcroft Neighbourhood Plan was submitted before 24 January 2019 the provisions of the previous Framework continue to apply, in accordance with the transitional arrangements for examining plans set out in the revised NPPF (paragraph 214).¹³ Where reference is made to the NPPF in my report this should be taken as a reference to the 2012 version of the NPPF.
- 5.4 The NPPF incorporates 12 Core Principles¹⁴ which underpin both planning and decision-taking. These are summarised in paragraph 17 of the NPPF and elaborated in the remainder of the NPPF through individual policy topics such as building a strong economy, delivering a wide choice of high quality homes, requiring good design, promoting sustainable transport, and conserving the historic environment.
- 5.5 Included in the 12 Core Principles is a requirement to produce neighbourhood plans which set out a positive vision for the future of the area and which provide a practical framework within which decisions on planning applications can be made.
- 5.6 The NPPF also requires neighbourhood plans to be ‘aligned with the strategic needs and priorities of the wider local area, and to be in general

¹¹ National Planning Policy Framework (2012) para 14

¹² National Planning Policy Framework (2012) para 16

¹³ The accompanying footnote to paragraph 214 of the revised NPPF clarifies that the arrangements described in paragraph 214 for examining plans submitted on or before 24 January 2019 also apply to neighbourhood plans.

¹⁴ National Planning Policy Framework (2012) para 17

conformity with the strategic policies of the Local Plan (NPPF paragraph 184). To facilitate this, Local Planning Authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans (and neighbourhood development orders) should not promote less development than that set out in the Local Plan or undermine its strategic policies.

- 5.7 It goes on (paragraph 185) that once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict.
- 5.8 More detailed guidance and advice, expanding on the general policies in the NPPF has been available since March 2014 as Planning Practice Guidance. This includes specific guidance as to 'What evidence is needed to support a neighbourhood plan?¹⁵', and 'How policies should be drafted'¹⁶, that is "*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*".
- 5.9 I have had regard to these principles in carrying out the examination, since the manner in which policies are drafted and whether or not they are supported by appropriate evidence is clearly fundamental to determining whether or not individual policies and a plan as a whole satisfies the Basic Conditions.
- 5.10 Less straightforward to determine is whether a policy is distinct, and whether it reflects local circumstances. For example while it is clear that policies in the Scarcroft Neighbourhood Plan are driven by local circumstances and community preferences, to a certain extent some could apply to other, if not all, locations. I have taken the view that the fact that a local community has chosen to include a particular policy, reflects its awareness that the particular issue is of special importance to the locality, and this does not therefore prevent that policy from satisfying the Basic Conditions.
- 5.11 Taken as a whole I conclude that the Neighbourhood Plan has regard to the policies and principles embedded in the NPPF (2012 version) and Planning Practice Guidance. In those instances where individual policies and/or supporting text have been found to be inconsistent with national planning policy I have made specific recommendations to correct this later in the report.

¹⁵ Planning Practice Guidance para 040 Ref ID: 41-040-20140306

¹⁶ Planning Practice Guidance para 041 Ref ID: 41-041-20140306

(b) Sustainable Development

- 5.12 In carrying out the examination I am also required to consider whether the Plan would contribute to the achievement of sustainable development, as described in the NPPF.
- 5.13 There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of interdependent roles, namely:
- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and co-ordinating development requirements, including the provision of infrastructure;
 - **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
 - **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.
- 5.14 Although the Neighbourhood Plan does not make specific provision for new development, for example through site allocations, it includes policies to manage development subject to environmental safeguards. Other policies aim to protect green space and local heritage, and retain and improve local facilities and amenities. These are key aspects of sustainable development, as set out in the NPPF, which states (paragraph 9) that *"Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):*
- *making it easier for jobs to be created in cities, towns and villages;*
 - *moving from a net loss of bio-diversity to achieving net gains for nature;*
 - *replacing poor design with better design;*
 - *improving the conditions in which people live, work, travel and take leisure; and*
 - *widening the choice of high quality homes".*
- 5.15 Subject to the modifications recommended later in my report I am satisfied that the Neighbourhood Plan is capable of contributing to the achievement of sustainable development.

(c) Strategic Local Policy

- 5.16 Statutory weight is given to neighbourhood development plans that are in general conformity with the strategic policies of the development plan for the local area. Neighbourhood plans are also required to plan positively to support local strategic policies¹⁷. This ensures neighbourhood plans cannot undermine the overall planning and development strategy for the local area set out in the development plan.
- 5.17 The current development plan for the Leeds City Council area comprises
- The Leeds Core Strategy 2012 – 2028 (adopted November 2014)
 - The Natural Resources and Waste Plan (adopted January 2013, Minerals and Transport sections adopted September 2015),
 - Aire Valley Leeds Area Action Plan (adopted November 2017), and
 - Remaining ‘saved’ policies in the Leeds Unitary Development Plan Review 2006 (adopted July 2006).
- 5.18 The Aire Valley Leeds Area Action Plan has no direct relevance to the Scarcroft Neighbourhood Area.
- 5.19 The adopted Leeds Core Strategy (LCS) and the Natural Resources and Waste Local Plan (NRWLP) set out a number of strategic policies to guide future development across the whole City Council area, including Scarcroft. (Although the Neighbourhood Area is not affected by NRWLP policies to safeguard mineral resources or identify locations for waste management general NRWLP policies, including policies for energy generation, safeguarding trees and air and water quality, managing flood risk, and recycling land are relevant).
- 5.20 As the LCS and the NRWLP post date the NPPF (2012 version) the policies in both Plans take precedence over the NPPF in the event of any conflict.
- 5.21 I am also mindful of the fact that Leeds City Council is currently undertaking a selective review of the Core Strategy and is preparing a Site Allocations Plan (SAP) which when adopted will also form part of the development plan.
- 5.22 However as the Core Strategy selective review is at a relatively early stage of preparation having been submitted to the Secretary of State for examination as recently as 9 August 2018 no weight can be attached to it. Similarly, although the Public Hearing Sessions concerning the examination of the SAP concluded on 3 August 2018 until the inspector’s report is received only limited weight may be given to the policies in the emerging Plan which (if found to be sound) may still have some way to go to reach adoption. There is therefore no certainty as to when this document may be adopted and the extent to which it may be changed.

¹⁷ National Planning Policy Framework (2012) para 184

- 5.23 Although a number of policies in the Leeds Unitary Development Plan (LUDP) remain in force until replaced by new development plan policies¹⁸ none of these are regarded as strategic policies by Leeds City Council within the meaning of national Planning Practice Guidance¹⁹. In any case less weight may be attached to these policies owing to the period of time which has elapsed since they were first adopted, and the fact that some are also superseded by national planning policy.
- 5.24 In assessing whether the Neighbourhood Plan is in general conformity with strategic policies contained in the Development Plan for the area I have therefore relied on policies in the adopted LCS and the NRWLP.
- 5.25 A number of modifications are necessary for the Neighbourhood Plan to be in general conformity with the above strategic policies. These are set out in the *Comments on the Neighbourhood Plan* section of my report.

(d) European Union Obligations

- 5.26 Local Planning Authorities are legally responsible for deciding whether neighbourhood plan proposals are compatible with EU obligations, including obligations under the Strategic Environmental Assessment (SEA) Directive²⁰.
- 5.27 In circumstances where a neighbourhood plan is likely to have significant environmental effects, for example where it includes proposals to allocate land for development, it may require an SEA to be undertaken as part of the preparation process in accordance with the SEA Directive and Environmental Assessment Regulations²¹. Draft neighbourhood plan proposals should therefore be screened to assess whether they are likely to have significant environmental effects²². Where significant environmental effects are identified plans should be accompanied by a full SEA report.
- 5.28 Leeds City Council has therefore prepared a Strategic Environmental Assessment (SEA) screening opinion based on policies in the draft Plan. The assessment concludes that the Neighbourhood Plan does not require a full SEA as no significant environmental effects are likely to occur as a result of the implementation of policies contained in the Plan.
- 5.29 All three statutory consultation bodies (the Environment Agency, Historic England and Natural England) who were consulted during the preparation of the screening opinion agree with the conclusions in the report and no concerns in relation to the screening process have been raised.

¹⁸ By Direction of the Secretary of State under the provisions of the Planning and Compulsory Purchase Act 2004 (as amended).

¹⁹ Planning Practice Guidance paras 075 &076 Ref ID: 41-075 -20140306 and 41-076-20140306

²⁰ European Directive 2001/42/EC

²¹ Environmental Assessment of Plans and Programmes Regulations 2004

²² Planning Practice Guidance para 027 Ref ID: 11-027-20150209

- 5.30 A separate Habitats Regulation Assessment screening as to whether a Habitats Regulations Assessment (HRA)²³ was required under the Habitats Directive²⁴ was also carried out on behalf of the Parish Council by Leeds City Council. Although there are no European designated sites within the boundaries of the Neighbourhood Area the screening report examined the impact of the Plan on sites located within 15km of the boundary. This concludes that given the nature of the designations and the scope of the Plan there are no likely significant adverse effects on European sites, and an appropriate assessment of European designated sites is therefore not required in order to progress the Plan further.
- 5.31 The statutory consultation body (Natural England) who were consulted during the preparation of the screening opinion agree with the conclusions in the report and no concerns in relation to the screening process have been raised.
- 5.32 Subsequent to the preparation of the screening opinion the European Court of Justice has issued a judgement concerning the interpretation of the EU Habitats Directive and the implications for screening plans and projects. The Judgement²⁵ overturns the previous interpretation of the Directive and rules that measures intended to avoid or reduce the harmful effects of a plan or project on a European site can only be considered as part of the appropriate assessment stage of the HRA, and it is therefore not appropriate to take account of such measures at the preceding screening stage.
- 5.33 Leeds City Council have therefore reconsidered and updated the HRA Screening Report in the light of the Judgement in consultation with Natural England as the statutory consultee. The updated screening opinion concludes that as no mitigation measures were included in the September 2017 screening and the Plan does not give rise to any likely significant effects, it is not caught by the Judgement and is considered to be legally compliant. No objections to the updated screening opinion have been received in response to a six week consultation on the report.
- 5.34 I am therefore satisfied that the SEA screening report and the updated HRA screening report undertaken in accordance with the Regulations, demonstrate that neither a full SEA nor HRA report are required.
- 5.35 Although an equalities impact assessment has not been undertaken the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics and on property rights. And no evidence has been put forward to suggest otherwise.
- 5.36 I conclude that the Neighbourhood Plan does not breach, and is otherwise compatible with EU obligations and human rights requirements and therefore satisfies that 'Basic Condition'.

²³ in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 63, 105 and 106 of the Conservation of Habitats and Species Regulations 2017.

²⁴ European Directive 92/42/EEC

²⁵ Case C - 323/17 People over Wind and Sweetman v Coillte Teoranta

6.0 Comments on the Neighbourhood Plan

- 6.1 The Neighbourhood Plan is considered against the Basic Conditions in this section of my report, particularly whether individual policies and supporting text have regard to national policy, and whether they are in general conformity with local strategic policies. Where modifications are recommended, they are highlighted in **bold print**, with any proposed new wording in *italics*.

(a) Overall Approach

- 6.2 The Plan recognises that the LCS and emerging SAP will set the agenda for housing numbers and growth and does not therefore attempt to establish an appropriate level of future housing growth or allocate specific sites for development. Instead it focuses on how proposals for new housing development will be managed through policies aimed at influencing the design and development requirements on a prospective housing allocation identified in the emerging SAP, securing an appropriate mix of housing types in new development and restricting housing densities to no more than 10 dph.
- 6.3 The emphasis in the Plan is on protecting and enhancing community facilities, local heritage, and green infrastructure; safeguarding the character of the area; promoting improvements in road safety and access to footpaths, cycle routes and public transport; and ensuring adequate off-street car parking provision.

Comments

- 6.4 Neighbourhood Plans are required to be prepared in conformity with the extant development plan for the area, in this case the LCS. While they are not to be tested against policies in an emerging Local Plan²⁶ Planning Practice Guidance advocates a collaborative approach to ensure the production of complementary neighbourhood plans and Local Plans.²⁷
- 6.5 The regard given in the Neighbourhood Plan to the emerging SAP is consistent with this guidance. However greater clarity could be achieved by specifically acknowledging that the Plan is effectively leaving decisions regarding the scale and distribution of future development to the emerging SAP.
- 6.6 This issue is addressed in my recommended modifications to the introductory chapters and the housing section of the Plan and I am otherwise satisfied that the Plan will not undermine the spatial growth strategy in the LCS and the emerging SAP.

²⁶ Planning Practice Guidance para 009 Ref ID: 41-009-20160211

²⁷ Planning Practice Guidance para 009 Ref ID: 41-009-21040306

- 6.7 Other policies in the Plan to safeguard and enhance environmental features, and to support local services and facilities are consistent with LCS policies and with Scarcroft's role in the settlement hierarchy as a village which is inset in the Green Belt and which is not identified as either a major or minor settlement type and therefore not specifically required to contribute to meeting development needs.

(b) Scope of the Plan/Omissions

- 6.8 In responding to the Regulation 16 Publicity the NFU have suggested that the scope of the Plan should be extended to provide support for rural communities with priority given to developing and diversifying farming enterprises, supporting renewable energy initiatives and improving access to high speed broadband. It is further suggested that the Plan should be based on ten key principles including meeting the needs of a diverse rural population, supporting sustainable growth in the rural economy, increasing farm productivity and encouraging links between rural and urban areas.

Comments

- 6.9 While the Plan may be improved by incorporating some of these suggestions neighbourhood plans are not obliged to contain policies addressing all types of development²⁸ and there is no prescription in current guidance or legislation about the range of topics that should be covered, or the level of detail. It is also outside my remit to recommend the incorporation of additional policies and proposals or changes to introduce more ambitious targets or objectives, which in any case have not previously been subject to consultation during the preparation of the Plan.
- 6.10 The perceived omission does not therefore affect the Plan's ability to satisfy the Basic Conditions and the Plan instead concentrates on addressing issues which have been identified as local priorities through consultation with the wider community.
- 6.11 No changes to the Plan are therefore recommended in response to the above representation.

(c) Introductory Chapters

- 6.12 The Introductory chapters (Introduction, the Neighbourhood Plan Area and the Neighbourhood Plan Process) explain the role of neighbourhood planning, and the process for engaging with the local community during the Plan's preparation. They also describe the planning policy context within which the Plan has been prepared and highlight the socio-economic, demographic and spatial characteristics of the area including its history and heritage.

²⁸ Planning Practice Guidance para 040 Ref ID: 41-040-20160211

- 6.13 The text (and the Plan as a whole) is supported by a number of photographs and maps which contribute toward the readability of the Plan. There is also a map identifying the Parish boundary.

Comments

- 6.14 These introductory chapters are clearly written and informative. They provide the background to the Plan and help to develop a sense of place. By highlighting specific local issues they help to demonstrate how the overall Plan vision and aims have been arrived at.
- 6.15 A number of minor changes are however required to future proof and to improve the clarity of the text in a number of places.
- 6.16 First, to avoid giving the misleading impression that the scope of the Plan includes allocating land for development references to future house building should acknowledge that the Plan relies on the Leeds Core Strategy and the emerging Site Allocations Plan to establish the future housing requirement and to allocate land for development.
- 6.17 Second, the explanation provided in Chapter 2 (the Neighbourhood Plan Preparation Process) concerning the amended Parish and Neighbourhood Area boundaries should clarify that the original Neighbourhood Area boundary was amended to ensure it coincides with the revised Parish boundary following a boundary review.
- 6.18 Third, references to the remaining stages of the plan preparation process should be updated in the final version of the Plan.
- 6.19 Fourth, the status of the former National Power offices in the ‘Local Economy’ sub section on page 6 should be updated.

Recommendation 01

- a) In Chapter One (Introduction) clarify that the Plan does not allocate land for future development but relies on the LCS and the emerging SAP to establish future housing requirements and to identify sites for development.
- b) Replace the last sentence in the ‘Local Economy’ sub section on page 6 with ‘*The National Power operation has now ceased and the site is earmarked for housing development in the emerging Site Allocations Plan being prepared by Leeds City Council*’.

Recommendation 02

Replace ‘as well as within the Neighbourhood Area’ in the final sentence in paragraph 3 in the first column on page 7 with ‘*following which the Neighbourhood Area was amended to coincide with the revised Parish boundary*’.

Recommendation 03

Update the final paragraph in the right hand column on page 7 and the first paragraph in the left hand column on page 8 to reflect the stage reached in the preparation of the Neighbourhood Plan at the time the Plan is ‘made’.

(d) Vision and Objectives

- 6.20 The overarching vision of the Plan is for Scarcroft in 2033 to be an even more vibrant and balanced place in which to live, which benefits from both its close proximity to the city centre and good access to green space and open countryside. It is anticipated that new development will reflect the needs of the community and respect the nature and special identity of the village.
- 6.21 The vision is supported by eight objectives which inform the land use and development related policies in the next section of the Plan.

Comments

- 6.22 The vision and objectives capture the concerns and key issues raised by the local community during the preparation of the Plan. They are relevant to the local area and demonstrate how particular local issues have influenced the overall approach in the Plan and justify the inclusion of specific policies.
- 6.23 However in order to fully reflect national planning policy Objective 4 should acknowledge that provision for new housing should be based on ‘objectively assessed housing need’ across the whole housing market rather than just local housing need. (NPPF paragraph 47 refers). Discrimination in favour of providing housing for local people only would also be at odds with the proposed allocation of land for approximately 100 dwellings on the Scarcroft Lodge site on Wetherby Road in the emerging SAP, particularly since this proposal is supported in the Plan.
- 6.24 Objective Five is only tenuously related to land use planning, while Objective Six is concerned with influencing the investment decisions and operational practices of transport providers rather than the development and use of land, and should therefore be deleted.
- 6.25 I also agree with **Gladman Developments** that it is more appropriate to refer to the ‘conservation and enhancement’ of the historic environment in Objective 7, rather than ‘protection and enhancement’, in line with national planning policy.

Recommendation 04

- a) Replace ‘the needs’ in line 1 of Objective Four with ‘*identified*

housing needs, including local housing needs, or which meets other needs.....' and delete 'housing,' in line 2.

- b) Delete Objective Six.
- c) Replace 'To protect and enhance' in Objective 7 with '*To conserve and enhance*'.

(e) The Plan Policies and Community Actions

- 6.26 The land use policies and community actions part of the Plan covers four topics; Green Environment, Built Environment, Community Facilities and Services, and Housing.
- 6.27 The introduction to each topic incorporates an explanation as to how the section's provisions contribute to delivering specific plan objectives.
- 6.28 Individual land use policies are accompanied by supporting text and justification, which precedes the policy in each case. For ease of reference policies are presented in a black lined box to distinguish them from the preceding supporting text and justification
- 6.29 Three of the four topic area sections also incorporate a number of 'Community Actions' where the Parish Council intends to undertake specific actions or lobby/work with other organisations to achieve specific objectives linked to those policies.

Comments

- 6.30 The presentation of policies and the rationale behind each policy is clear and easy to follow, particularly where this is cross referenced to supporting evidence/appendices including the analysis of questionnaires undertaken during preparation of the Plan. The explanation provided at the beginning of each section as to how the policies that follow are linked to the Plans overall Vision, aspirations and objectives is particularly helpful.
- 6.31 I am also satisfied that the proposed 'Community Actions' which are presented at the end of topic area sections are sufficiently distinguishable from the Plan policies to avoid confusing non-land use aspirations with land use and development policies which will be used to inform the decision making process.

5.1 Green Environment

- 6.32 **Policy GE1 (The Collingham/East Keswick/Bardsey/Scarcroft/Thorner/Shadwell Special Landscape Area)** aims to ensure that development does not seriously harm the character and appearance of the LUDP designated Special Landscape Area, which covers a significant part of the Plan Area. Development or change in land use will be required to contribute positively to the restoration or enhancement of a number of particular landscape characteristics that are identified in the policy.

Comments

- 6.33 Policy GE1 reflects the general intention of national planning policy to ensure that planning policies and decisions protect and enhance valued landscapes. Enhancing the natural and local environment is a key attribute of the environmental dimension of sustainable development.
- 6.34 The policy also generally conforms with the principles established in LCS Policy P12 (Landscape) to protect the distinctiveness of Leeds townscapes and landscapes. Although it duplicates elements of LUDP Policy N37 (Special Landscape Areas) and LUDP Policy N37A (Development in the Countryside) it adds an extra dimension to those policies (and to LCS Policy P12) by identifying particular landscape characteristics which developments or changes in land use will be expected to positively contribute towards.
- 6.35 While the policy generally meets the Basic Conditions a number of minor corrections are required to improve the clarity of both the policy wording and the supporting text.
- 6.36 First, the reference to 'as set out above' in line 4 of Policy GE1 is superfluous and potentially confusing.
- 6.37 Second, the supporting text should clarify that while most of the Plan area is affected by Green Belt designation Scarcroft village is inset within the Green Belt for planning purposes.
- 6.38 Third, while the supporting text acknowledges that the Special Landscape Area was previously designated by LCC through extant LUDP polices, in order to be consistent a similar approach should be taken when referring to 'Strategic Green Infrastructure' which is identified in the LCS.

Recommendation 05

- a) Delete 'as set out above' in line 4 of Policy GE1.
- b) Replace 'All of Scarcroft's hinterland' in line 9 in the right hand column on page 11 with '***While Scarcroft Village is inset within the Green Belt the surrounding countryside***'.
- c) Insert '***in Leeds Core Strategy***' after 'Strategic Green Infrastructure' in line 12 in the right hand column on page 11.

- 6.39 **Policy GE2 (Local Green Infrastructure)** identifies a number of locally important green links which provide wildlife corridors, recreation access routes and environmental buffers which development proposals are expected to take into account in order to avoid severance and harm to the green space network. Proposals adjacent to Local Green Infrastructure are required to include measures to enhance or extend the network where appropriate.

Comments

- 6.40 Policy GE2 complements LCS Spatial Policy 13 (Strategic Green Infrastructure) which identifies a number of strategically important multi functional and interlinked green spaces in Leeds and the surrounding rural area, including a small area in the east of the Plan Area. It generally conforms with LCS Policy G1 (Enhancing and Extending Green Infrastructure). It also reflects the general intention in national planning policy to plan positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.
- 6.41 My only reservation is that while the accompanying text acknowledges that the Plan cannot increase the level of protection afforded to Strategic Green Infrastructure identified in the LCS, the last part of the policy potentially introduces a stricter level of control over development proposals adjacent to Local Green Infrastructure than for proposals adjacent to Strategic Green Infrastructure.
- 6.42 As the policy does not necessarily preclude development within areas identified as Local Green Infrastructure and the requirement to enhance or extend the green space network only applies in adjacent locations, and in appropriate circumstances, I acknowledge that the policy generally conforms with and adds a local dimension to higher tier policy.
- 6.43 In order to ensure a consistent approach with LCS Spatial Policy and national planning policy I do however recommend rephrasing the wording of the first part of the policy to clarify that the policy does not necessarily preclude development within the designated Local Green Infrastructure network, and making specific reference to this in the supporting text.
- 6.44 My recommended wording clarifies and strengthens the policy in line with LCS Policy G1 (Enhancing and Extending Green Infrastructure) by emphasising that the desirability of retaining continuous linkages and avoiding harm to the operation of the multi functional green space network should be taken into account in the design of development proposals.

Recommendation 06

- a) Replace ‘Development proposals will have regard for this where such proposals may sever it or harm’ with ‘*The design of development proposals affecting designated Local Green Infrastructure should take into account the desirability of avoiding severance or harming*’ in line 2 of Policy GE2.
- b) Incorporate a reference in the accompanying text to reflect the fact that the inclusion of land within the Local Green Infrastructure network does not mean that no development can take place (unless precluded by other policies) and that development may in certain circumstance create an opportunity to enhance and/or extend the green space network.

- 6.45 Subject to the above modifications the Policy meets the Basic Conditions.
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- 6.46 **Policy GE3 (Local Green Space)** designates a number of open spaces and green sites considered to have particular local significance as Local Green Space.
- 6.47 Fourteen sites are identified, comprising a golf course, cricket pitch, children's equipped play area, and various sites considered important for informal recreation and/or their nature conservation or amenity value, including a number of highway verges.

Comments

- 6.48 The desirability of identifying and protecting Local Green Space is recognised in national planning policy subject to meeting stringent conditions set out in paragraph 77 of the NPPF and taking account of supporting Planning Practice Guidance on Local Green Space designation.
- 6.49 The protection of locally significant open spaces also contributes toward one of the key objectives of LCS to 'protect and enhance Green Infrastructure, green corridors, green space, and areas of important landscape character', although it does not strictly conform with LCS Policy G6 (Protection and Redevelopment of Existing Green Space) which has a more flexible approach to safeguarding green space.

NPPF Paragraph 77 Conditions

- 6.50 The three NPPF paragraph 77 conditions which must all be satisfied are;
- that the green space is in reasonably close proximity to the community it serves
 - the green area is demonstrably special to a local community and holds a particular local significance, and
 - it is local in character and not an extensive tract of land.
- 6.51 In considering whether individual designations satisfy the NPPF conditions and other NPPF and Planning Practice Guidance requirements I have taken into account representations submitted by Gladman Developments and ID Planning (on behalf of landowner clients) in response to the Regulation 16 Publicity. I have also visited each of the sites and reviewed the supporting evidence and justification for each of the sites presented in Appendix 3 of the Plan.
- 6.52 While the evidence presented in Appendix 3 identifies individual site characteristics the analysis is incomplete and I therefore agree with Gladman Developments that it does not in all cases demonstrate how the NPPF requirements are met.
- 6.53 First, while it is self evident that the majority of the sites are located in reasonably close proximity to the community they serve because they are either within or adjacent to Scarcroft, four sites (sites 5, 6, 8 & 9) are relatively remote from the main built up area. In this respect I do not consider the approach taken in the Appendix 3 analysis that close proximity to a single or small group of dwelling is sufficiently robust to pass the 'close proximity' test.

- 6.54 Second, although reference is made as to whether individual sites have landscape, historical, recreational or wildlife/green infrastructure value, as referred to in the NPPF, that does not necessarily demonstrate why an area holds particular local significance or is demonstrably special to the local community.
- 6.55 Third, while it is a moot point as to what constitutes a site that is local in character the Scarcroft Disused Railway (site 5) forms part of a continuous green corridor along the route of a former railway, extending beyond the Plan area into adjacent Parishes, and as such cannot be regarded as 'local in character'.
- 6.56 In addition, although the 'extensiveness' test has not been applied in the Appendix 3 analysis, while it is self evident that twelve of the ten sites are not extensive in nature in relation to the scale of the built up area, that is not the case with Scarcroft Golf Course (site 2) and Kidhurst Wood/Fishponds/Hell Wood (site 8).

Duplication of Extant Policy

- 6.57 I am also mindful of the fact that a number of sites are already protected through Green Belt and extant development plan designations, or a combination of both. For example
- Ten sites (sites 1, 2, 3, 4, 5, 6, 8, 9, & 10) and part of one site (site 14) fall within the designated West Yorkshire Green Belt (LUDP Policy N32 and Leeds Local Plan Policies Map) and are already afforded a high level of protection through national planning policy and LUDP Policy N33 (Development in the Green Belt).
 - Two sites (sites 6 & 9) are designated Sites of Special Scientific Interest and are afforded an appropriate level of protection by LCS Policy G8 (Protection of Important Species and Habitats), and
 - One site (site 1) is identified as a protected playing pitch and safeguarded through the provisions of LUDP Policy N6 (Protection of Playing Pitches).
- 6.58 Not only does this duplicate extant development plan policies but it conflicts with Planning Practice Guidance²⁹ on Local Green Space designation which suggests that where land is already protected by another designation consideration should be given as to whether any additional local benefit would be gained by designation as Local Green Space.
- 6.59 As no specific reasons have been put forward, such as whether 'appropriate' forms of development in the Green Belt might harm the character of the proposed Local Green Space, there does not appear to be any justification for an extra level of protection for designated Green Belt sites.
- Hellwood Lane Local Green Space (site10)
- 6.60 Notwithstanding the above I have a dilemma regarding the Green Belt status of the proposed Hellwood Lane Local Green Space (site10) which

²⁹ Planning Practice Guidance para 011 Ref ID: 37-011-20140306

- extends along the southern side of Hellwood Lane, as the precise Green Belt boundary at this location is questionable.
- 6.61 On the one hand inspection of the Leeds Local Plan Policies Map suggests that the Green Belt boundary corresponds with the northern (inner) edge of Hellwood Lane, and the site therefore falls within Green Belt. However I note that the convention adopted elsewhere for defining the Green Belt boundary, for example in the vicinity of Syke Lane and the A58 Wetherby Road, is to follow the outer edge of the highway.
- 6.62 It seems to me that if the normal convention had been followed there would be a case for using the field boundary to the south of Hellwood Lane as the definitive boundary, due to the fact that Hellwood Lane is an unadopted Road with no clearly defined highway edges, footpaths or verges.
- 6.63 In order to ensure that the level of protection afforded by the Green Belt status of the site, is not affected by a future boundary challenge, I do not in this particular case recommend its removal from the list of Local Green Space.
- Land between Syke Lane and Wetherby Road (site 14)
- 6.64 I am also required to consider representations submitted by ID Planning on behalf of landowner clients, who oppose the designation of land between Syke Lane and Wetherby Road (site 14) as Local Green Space on the grounds that the site does not meet all the NPPF paragraph 77 criteria.
- 6.65 Although it is suggested that the local community value of the site relates to the bridleway which passes along the northern edge of the site rather than the woodland to the south which has no public access, this ignores the fact that public access is not a pre-requisite for designation.
- 6.66 Neither do I agree that the site is an extensive tract of land when considered in relation to the scale of the existing built up area of the village, or that it may not be capable of enduring beyond the Plan period, since most of the site falls within designated Green Belt, although I accept that the quality of the site may be affected by changing management regimes.
- 6.67 However, for the reasons stated above, as I do not consider it is appropriate to introduce an additional level of protection on designated Green Belt land, that part of the site outside the built up area of the village (within the Green Belt) is recommended for deletion.
- 6.68 I also recommend deleting the remaining part of the site as the private dwelling and garden opposite Woodland Farm/Green Way in Syke Lane have been incorrectly included within the proposed Local Green Space leaving a narrow strip of land, approximately 10' wide, which accommodates the bridleway between Syke Lane and Wetherby Road. As the bridleway is already protected by public rights of way legislation there is no justification in designating a short linear corridor as Local Green Space.
- 6.69 While the desire to protect locally important green space is a laudable aspiration, since sites 1, 2, 3, 4, 5, 6, 8, 9, & 14 do not comply with national Local Green Space designation criteria and/or Planning Practice Guidance it is necessary to delete them from Policy GE3 in order to meet
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the Basic Conditions.

- 6.70 Consequential changes are required to Neighbourhood Plan Map 1 and the accompanying map key, Map 3 and Appendix 3.
- 6.71 With regard to the remaining sites I note that site 11 and site 13 are also affected by (Policy GE2) Local Green Infrastructure designation. In order to avoid a potential policy conflict I therefore recommend excluding site 11 and site 13 from the area identified as Local Green Infrastructure on the Scarcroft Neighbourhood Plan Map 2.
- 6.72 The last sentence in the right hand column on page 13 should also be deleted as this is superfluous in the light of my recommended changes.

Policy Wording

- 6.73 While the text accompanying the policy makes it clear that designated Local Green Space is intended to be afforded the same level of protection as Green Belt, this is not reflected in the policy wording.
- 6.74 Rather than rely on national planning policy to manage development within Local Green Space it would be more appropriate to incorporate specific wording in the policy as referred to in paragraph 78 of the NPPF.
- 6.75 I therefore recommend re-instating the wording from the pre-submission version of the policy, which has been omitted from the submission version. Although this widens the scope of the policy I do not consider any third party interests will be prejudiced as the pre-submission version of the policy was previously consulted on without attracting comment on the policy wording, and as referred to above the wording is consistent with national planning policy.

Recommendation 07

- a) Insert '*Development on these areas will not be permitted other than in very special circumstances*' after the first sentence in Policy GE3.
- b) Delete sites 1, 2, 3, 4, 5, 6, 8, 9, & 14 from Policy GE3, Scarcroft Neighbourhood Plan Map 1 on page 30 and map key, and Scarcroft Neighbourhood Plan Map 3 on page 33.
- c) Make consequential changes to Appendix 3.
- d) Delete the last sentence in the right hand column on page 13.
- e) Amend the boundary of (Policy GE2) Local Green Infrastructure on the Scarcroft Neighbourhood Plan Policy Map 2 on page 32 by excluding the areas covered by Local Green Space sites 11 and 13.

- 6.76 Subject to the above modifications Policy GE3 meets the Basic Conditions.
- 6.77 **Policy GE4 (Local Green Space Enhancement)** identifies three (Policy GE3) Local Green Space sites which are considered to be in need of
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enhancement based on community views and the Parish Council's own assessment, and specifically supports the enhancement of these sites.

Comments

- 6.78 Although the policy is effectively redundant as a consequence of my recommendation above to delete all three sites from the list of Local Green Space sites, I am also mindful of the fact that it is aspirational in nature and represents a proposed action on the part of the Parish Council. As such it could more appropriately be included as a 'Community Action' in the Plan rather than as a land use policy. This would also enable the Parish Council's priorities to be taken into account in any future negotiations regarding the disbursement of CIL funding.

Recommendation 08

Delete Policy GE4 and the accompanying justification and incorporate the Parish Council's priorities for enhancing open spaces in the 'Community Actions' section.

- 6.79 **Policy GE5 (Provision of New Green Space)** identifies green space typologies in Scarcroft where additional provision will be supported based on specific evidence of existing deficiencies.

Comments

- 6.80 The policy reflects the emphasis in national planning policy on enhancing the health and well being of communities and providing new green space and recreational facilities to meet community needs. These are key attributes of sustainable development.
- 6.81 It also complements LCS Policy G3 and LCS Policy G4 which establish standards for the provision of additional open space, sport and recreation facilities.
- 6.82 Policy GE5 therefore meets the Basic Conditions and no modifications are required.

5.2 Built Environment

- 6.83 **Policy BE1 (Scarcroft Hill Local Heritage Area)** requires development proposals within or adjacent to a 'Local Heritage Area', which is defined in the Plan, to respect a number of design and development considerations including the scale and massing of development, safeguarding key views and the use of materials.

Comments

- 6.84 National planning policy recognises the importance of sustaining and

- enhancing heritage assets so that they can contribute toward the quality of the built environment and toward the quality of life that can be enjoyed by this and future generations, two of the key aspects of sustainable development.
- 6.85 Although national planning policy confers a greater level of protection on designated heritage assets such as listed buildings and conservation areas the management of other heritage assets which do not qualify for conservation area or listed building status, is also an important element of the heritage protection system. This can take the form of Local Lists of non designated assets prepared by Local Planning Authorities in consultation with local communities and/or additional forms of local designation such as 'areas of special character' often referred to as 'Local Heritage Areas'.
- 6.86 However while the policy generally conforms with local strategic policy on design and conservation (LCS Policies P10 and P11) I have a number of reservations regarding the level of prescription in the policy, the justification for particular elements of the policy, and the accuracy and clarity of both the policy wording and the accompanying justification.
- 6.87 First, a number of policy criteria introduce detailed design considerations such as specific building heights and material types whereas national planning policy (NPPF paragraph 60) indicates that planning policies should not impose architectural styles or particular tastes or require development to conform to certain development forms or styles. The emphasis should instead be on reinforcing local distinctiveness.
- 6.88 Second, the meaning of the phrase 'respect the prevalence of historic architecture' in bullet point 1 is unclear.
- 6.89 Third, I disagree that the existing scale of development and massing within the area is 'largely domestic' as referred to in bullet point 2 since the area is typified by farmsteads, agricultural buildings and buildings associated with the stabling and training of horses, as well as a small number of dwellings.
- 6.90 Fourth, no explanation or justification is provided as to why bullet point 3 precludes infill development when national planning policy (NPPF paragraph 89) defines limited infilling as an appropriate form of development in the Green Belt, provided development would not have a greater impact on the openness of the Green Belt.
- 6.91 Fifth, in line with national planning policy objectives, rather than constrain development, bullet point 5 should ensure that where development is otherwise acceptable in principle it should take account of the visual significance of key views. The reference to 'key views.....particularly to the north and west' is also insufficiently precise to provide a practical framework for objective decision making and should be cross referenced to the specific views identified in Map 4.
- 6.92 Sixth, while there is some justification in ensuring that new development reflects the historic character of the area through the use of traditional building materials, in order to provide an element of flexibility the policy should clarify that traditional materials are not limited to millstone grit and

- sandstone.
- 6.93 Seventh, it is misleading to imply that Conservation Area status can be pursued through the Neighbourhood Plan and to state that the proposed Scarcroft Hill Local Heritage Area is worthy of a similar level of protection to the existing Conservation Area. It is also inappropriate to refer to Policy BE1 as interim guidance, particularly since the City Council has no plans to progress the Conservation Area review at the present time.
- 6.94 I therefore recommend amending the accompanying text to clarify that Conservation Area designation and review is the responsibility of Leeds City Council under specific legislation and to explain the relative status of 'local designations' such as Local Heritage Areas as non designated heritage assets. I further recommend that the Parish Council's intention to pursue Conservation Area status for Scarcroft Hill should be included within the 'community actions' section rather than the land use planning section.
- 6.95 Minor amendments are required to clarify the status of the Conservation Area Review and to correct the description of Scarcroft Hill which seems to me should more appropriately be described as a hamlet rather than a village.

Recommendation 09

- a) Replace bullet point 1 in Policy BE1 with '**Respect the historic character of the area**'.
- b) Replace bullet point 2 with '**Be sympathetic to the character and context of surrounding buildings**'.
- c) Delete 'avoiding infill' in bullet point 3.
- d) Delete bullet point 4.
- e) Replace bullet point 5 with '**Take into account key views towards open space and rural surroundings, as delineated on Map 4**'.
- f) Replace bullet point 6 with '**Continue the use of traditional materials such as millstone grit/sandstone in new buildings and boundary walls**'.
- g) Replace the last sentence in paragraph 2 of the 'Local Heritage Area' sub section on page 17 with '**Following a Conservation Area Review minor amendments to the Conservation Area boundary have been suggested by the City Council although there are no current plans to progress the review**'.
- h) Insert a new paragraph after paragraph 2 explaining that while Leeds City Council is responsible for Conservation Area designation and review through specific legislation, Neighbourhood Plans may identify and manage those parts of the historic environment most valued by the local community but which do not qualify for Conservation Area status, as non designated heritage assets.
- i) In paragraph 3 of the 'Local Heritage Area' sub section replace 'similar' with '**local**', and replace 'village' with '**hamlet**'.

- j) Replace the final paragraph in the left hand column on page 17 with the last sentence in the right hand column (and delete this sentence from the right hand column).
- k) Incorporate a reference in the ‘Community Actions’ section regarding the Parish Council’s intention to continue lobbying Leeds City Council to upgrade the designated Local Heritage Area to Conservation Area status.

6.96 Subject to the above modifications the policy meets the Basic Conditions.

6.97 **Policy BE2 (Protection and Enhancement of Non Statutory Local Heritage Assets)** is intended to ensure that development proposals take account of seven local heritage assets (ie non designated assets as opposed to designated heritage assets such as listed buildings and conservation areas) which are identified in the policy. The policy also encourages the protection, preservation or sympathetic enhancement of these non statutory local heritage assets.

Comments

- 6.98 Identifying and managing those parts of the historic environment valued by local communities, but which do not qualify for conservation area or listed building status (designated assets) is an important element of the heritage protection system. This can take the form of Local Lists of non designated assets prepared by Local Planning Authorities in consultation with local communities³⁰.
- 6.99 However, since Leeds City Council does not have a formal Local List of non-designated heritage assets at the present time there is no reason why locally valued features, buildings, structures and spaces should not be protected through the Neighbourhood Plan. This approach generally conforms with local strategic policy in LCS Policy P11 (Conservation) and is arguably one of the main purposes of neighbourhood planning.
- 6.100 The local heritage assets identified in the Policy are also supported by strong evidence (in Appendix 5) which has been prepared in accordance with English Heritage guidance and have been subject to consultation at both Regulation 14 and Regulation 16 stage without objection from either the community or other third party interests.
- 6.101 However while I do not agree with Gladman Developments that the policy wording elevates the significance of locally identified heritage assets to that of designated heritage assets, in order to ensure that the policy wording is fully compliant with national planning policy (as set out in paragraph 135 of the NPPF), reference should be made to the requirement to specifically consider the effect of an application on the significance of a non designated heritage asset.
- 6.102 A number of minor corrections are also required to remove an element of

³⁰ Planning Practice Guidance para 041 Ref ID: 18a-041-20140306

duplication in the policy and to improve the clarity and accuracy of the supporting text.

- 6.103 First, reference to 'non-statutory local heritage assets' is a rather convoluted expression which contrasts with the reference to non-designated heritage assets in national planning policy. I recommend adopting the phrase 'Local Heritage Assets' which is used by Historic England to describe non-designated heritage assets, and which would complement the phrase 'Local Heritage Area' in Policy BE1.
- 6.104 Second, reference to supporting and encouraging the sympathetic enhancement of local heritage assets in the final sentence of the policy duplicates the first part of the policy.
- 6.105 Third, the references in the supporting text (paragraph 1 on page 17) to buildings within the conservation area and supporting evidence in the CAAMP, are superfluous as these concern designated heritage assets and should be deleted.
- 6.106 Fourth, the phrase 'Protection and Enhancement of Non Statutory' in line 21 in the right hand column on page 17 is superfluous and should be deleted.

Recommendation 10

- a) Delete 'Non-Statutory' from the Policy BE2 heading and from the section heading.
- b) Replace 'The non-statutory' in line 1 of Policy BE2 with '*Development proposals should take into account the effect on the significance of the*'.
- c) Delete the second sentence of the policy and replace the last sentence of the policy with '*The protection, preservation, and/or sympathetic enhancement of local heritage assets will be supported and encouraged*'.
- d) Delete 'Other buildings within the conservation area are identified as positive buildings within the CAAMP. The evidence base includes a map showing all such buildings' from paragraph 1 in the right hand column on page 17.
- e) Delete 'Protection and Enhancement of Non Statutory' in line 21 in the right hand column on page 17.

- 6.107 Subject to the above modifications the policy meets the Basic Conditions.
- 6.108 **Policy BE3 (Development and Design in and Adjacent to Scarcroft Conservation Area)** establishes the design and development criteria against which proposals for new development affecting the conservation area will be considered. The policy also supports the sympathetic enhancement of the conservation area.

Comments

- 6.109 The policy has regard to national planning policy by seeking to sustain and enhance a designated heritage asset by promoting designs which will make a positive contribution toward the conservation and appreciation of the historical and architectural context of the area. The promotion of good design principles and safeguarding built heritage are key aspects of sustainable development.
- 6.110 The policy also complements LCS Policy P10 (Design) and Policy P11 (Conservation) and LUDP Policies N18A, N18B, N19, N20 and BC7 which establish a range of considerations to be taken into account in managing development in Conservation Areas.
- 6.111 However while neighbourhood plans may supplement higher tier policy I agree with the view put forward by objectors to the policy (Gladman Developments and Barton Willmore) that it is not appropriate to impose detailed design considerations such as specific building heights or architectural styles in line with paragraph 60 of the NPPF. This proviso does not extend to the use of traditional building materials which are normally required in conservation areas, for example in accordance with LUDP Policy BC7.
- 6.112 However, in order to provide an element of flexibility the policy should clarify that traditional materials are not limited to millstone grit and sandstone and that the provision of chimney stacks and pots will only be required where appropriate.
- 6.113 I also have reservations about the extent to which some other policy requirements provide a practical framework for managing development proposals.
- 6.114 For example as the conservation area is typified by farmsteads and large imposing buildings in a rural setting it is not appropriate to require proposals to respect the domestic scale of development within the area.
- 6.115 In addition while I acknowledge that a number of plans have policies in place to protect important views, both into and out of conservation areas, no indication is given as to which views or vistas are particularly valued and worthy of protection in order to safeguard the character and appearance of the conservation area. As the principle of protecting a view cannot realistically be extended to protecting general, undefined views, in the absence of specifically identified views on a Policies Map I recommend that this bullet point be deleted.
- 6.116 For clarification while the draft Conservation Area Appraisal and Management Plan (CAAMP) referred to in the Plan usefully forms part of the evidence base, this document has no formal status as it has not been subject to formal consultation and has not been adopted by the City Council. Reliance on 'positive' buildings or key views which have been identified in the CAAMP, but which are not specifically identified in the Plan, is not appropriate, particularly since the City Council has no plans to

take the CAAMP forward at the present time.

- 6.117 Minor amendments are required to the supporting text in order to clarify the status of the CAAMP.

Recommendation 11

- a) Replace bullet point 1 in Policy BE3 with '**Respect the historic character of the area**',
- b) Delete 'positive' in bullet point 2.
- c) Delete bullet point 3.
- d) Delete bullet point 5.
- e) Delete bullet point 6.
- f) Replace 'Use' in bullet point 7 with '**Continue the use of traditional building materials such as**'.
- g) Insert 'where appropriate' after 'articulate the roofscape' in bullet point 13.
- h) Delete '(ref draft CAAMP 2016)' in line 15 in the left hand column on page 20.
- i) Delete 'new 2016' in line 16 and insert 'Area' after 'Scarcroft Conservation'.
- j) Insert 'draft' after 'in the' in line 1 of the right hand column on page 20.

- 6.118 Subject to the above modifications the policy meets the Basic Conditions.

- 6.119 **Policy BE4 (Development and Design outside the Conservation Area and Local Heritage Area)** is intended to ensure that development proposals respect local features such as the largely open, green environment, tree lined streets, and large gardens and generous frontages.

Comments

- 6.120 The policy reflects the emphasis in national planning policy on reinforcing local distinctiveness, and generally conforms with principles established in LCS Policy P10 (Design) which requires development to respect the character and quality of surrounding buildings, streets and spaces that make up the public realm and wider locality, and to protect and enhance natural assets and features.

- 6.121 My only reservation is that the policy ignores the fact that Scarcroft comprises a number of different character areas which are identified in Appendix 6, with no one dominant style of design or materials, a point which is referred to by Barton Willmore in their response to the Regulation 16 Publicity. It is therefore inappropriate to impose a requirement for development to respect the prevalence of traditional building and roofing materials, in line with national planning policy on design (NPPF paragraph 60).

- 6.122 As worded the policy also includes the unrealistic expectation that the

design of all development proposals should respect specific features which may or may not be found within every locality. I therefore recommend a more general form of wording.

Recommendation 12

- a) Insert '*character and context of the local area including*' after 'should respect the' in line 2 of Policy BE4, and insert '*where these are a dominant characteristic of the locality*' after 'following features'.
- b) Delete bullet point 6.

6.123 Subject to the above modifications the policy meets the Basic Conditions.

5.3 Community Facilities and Services

6.124 The Plan recognises the importance of safeguarding existing community facilities and encourages the provision of new facilities.

6.125 **Policy CF1 (Protection and Enhancement of Community Facilities)** resists development proposals that result in the loss of specific facilities identified in the policy unless the facility is replaced by alternative equivalent facilities, or is no longer required by the community. Commercial facilities must demonstrate that they have been marketed for at least one year and the facility is no longer viable. **Policy CF2 (Provision of New Community Facilities)** supports the provision of new community facilities particularly, health, childcare and educational facilities. **Policy CF3 (Retail Development in Scarcroft Village)** promotes the provision of a small scale stand-alone food store within the vicinity of Wetherby Road, provided this is located within the existing residential area and adequate car parking is provided.

Comments

- 6.126 The need to guard against the unnecessary loss of services and facilities and to plan positively for the provision of services and facilities which enhance the sustainability of communities are fundamental principles embedded in national planning policy (NPPF paragraph 69). The provision of accessible local services that reflect a community's needs and support its health, social and cultural well-being are key attributes of the social dimension of sustainable development.
- 6.127 The policies generally reflect principles established in LCS Policy P9 (Community Facilities and Other Services). Policy CF3 also conforms with the provisions of LCS Policy P4 (Shopping Parades and Small Scale Stand Alone Food Stores Serving Local Neighbourhoods and Communities) in relation to the location of small scale retail facilities.
- 6.128 I am satisfied that the flexible approach to providing facilities at alternative

locations, and the inclusion of commercial viability and marketing tests in Policy CF1 provides a practical framework for considering development proposals. In my experience, and based on current market conditions, one year is a reasonable amount of time to allow for marketing.

- 6.129 As drafted however the policy implies that the closure of the local pub and/or golf club would be dependent on alternative provision being made elsewhere, whereas planning policy has no control over whether commercial businesses continue operating or not. I therefore recommend redrafting the policy to clarify that the policy is intended to manage development proposals which would result in the loss of premises which accommodate a local facility/business (either through change of use or redevelopment) rather than to control whether the facility/business continues to operate or not.
- 6.130 Further amendment is required to remove the duplication between the first and second paragraphs of the policy.
- 6.131 Policies CF2 and CF3 clearly reflect strong community support for the provision of additional community facilities, including a new retail store. However by not identifying specific sites or linking the policies to delivery mechanisms such as CIL or Planning Obligation mechanisms, the effectiveness of the policies is likely to be rather limited, although I appreciate a more robust approach would require evidence of demand and engagement with service providers and/or the retail sector.
- 6.132 On balance this does not prevent the policies satisfying the Basic Conditions although to avoid conflict with Green Belt policy the text accompanying Policy CF2 should clarify that only appropriate forms of development will be acceptable in the Green Belt.

Recommendation 13

- a) Insert '*Development proposals that result in'* at the beginning of Policy CF1.
- b) Replace 'should result in the' in line 2, with '*will not be supported unless*'.
- c) Insert '*is made*' after '*equivalent facilities*' in line 3.
- d) Replace 'unless' in line 4 with 'or'.
- e) Replace '*Commercial facilities must demonstrate they*' in line 5 with '*Alternatively in the case of commercial facilities it must be demonstrated that the premises*'.
- f) Insert '*at a reasonable price*' after '*been marketed*' in line 6
- g) Delete paragraph 2 of Policy CF1.

Recommendation 14

Insert a reference in the text supporting Policy CF2 to the effect that proposals for development will be supported within the Green Belt provided they constitute an appropriate form of development in the Green Belt, as defined in national planning policy and local strategic

policy, such as the re-use, extension or replacement of buildings and partial or complete redevelopment of previously developed sites.

5.4 Housing

- 6.133 **Policy H1 (Wetherby Road – Scarcroft Lodge Development Requirements)** sets out detailed parameters and requirements for the development of the former National Power offices site which is situated in the Green Belt to the south of Scarcroft village, and which contains a number of designated heritage assets. The policy also identifies a range of acceptable future uses for Scarcroft Lodge together with potential developer contributions toward improved community facilities and increased public transport use.
- Comments
- 6.134 The policy is intended to support the delivery of housing on a site earmarked for development in the emerging SAP. This reflects the legitimate aspiration of the local community to influence the design and form of development on the site bearing in mind that one of the main purposes of neighbourhood plans is to provide local communities with the opportunity to ‘shape and direct sustainable development within their area’ (NPPF paragraph 185).
- 6.135 However the policy is drafted in such a way that it is open to interpretation as to whether the site is being promoted as an allocation through the Neighbourhood Plan. As the Plan does not attempt to address either the quantum or spatial distribution of development, and no justification is provided for the allocation of the site, this approach would not satisfy the Basic Conditions.
- 6.136 In any case neighbourhood plan policies should be self contained and not rely on the justification for an allocation to be provided in an emerging higher tier policy, particularly since there is no certainty at the moment as to when (or even if) the site will be included in an adopted SAP.
- 6.137 The policy and supporting text should therefore clarify that the site represents a potential future development opportunity rather than a specific neighbourhood plan allocation, and be more positively worded in line with national planning policy. This approach has the advantage of providing a context for considering future development proposals that may come forward outside the Local Plan process. A consequential change is required to the key supporting Scarcroft Neighbourhood Plan Map 1 which should refer to Policy H1 rather than to a proposed Leeds City Council housing allocation.
- 6.138 While I am mindful of the fact that the policy duplicates local strategic and national planning policies to protect Green Belt, Listed Buildings and Conservation Areas I also recognise the merit in establishing comprehensive list of requirements in connection with site specific policies.

- 6.139 However I do have reservations about the justification for and/or level of prescription in some policy requirements, particularly where these may affect scheme viability.
- 6.140 First, while the intention (in bullet point 2) to preclude development on part of the site in order to safeguard the setting of a listed building is a reasonable objective, this should not be confused with the requirement in the emerging SAP for development to avoid creating a major increase in the developed part of the site, which is linked to Green Belt objectives.
- 6.141 Second, no evidence has been put forward to justify the provision of off-site highway works (bullet point 3) and the provision of pedestrian and cycle routes (bullet point 7) in connection with the scheme. Technical highway requirements should in any case be considered as part of a Transport Assessment and in consultation with the Local Highway Authority. Similarly since it is not clear how the provision of off-site green space may be achieved on land outside the control of the developer the policy wording should be qualified by reference to 'where feasible'.
- 6.142 Third, the introduction of a maximum housing density of 30 dwellings per hectare (in bullet point 9) conflicts with minimum density requirements in national planning policy and the emerging SAP.
- 6.143 Fourth, the requirement (in bullet point 10) to 'deliver varying density levels across the site reflecting the variety of local architectural forms and building styles' is at odds with national planning policy (NPPF paragraph 60) which indicates that planning policies should not impose architectural styles or particular tastes or require development to conform to certain development forms or styles.
- 6.144 I also recommend deleting the final part of the policy which is aspirational in nature and does not provide a practical basis for making decisions on the development and use of land. In particular the inclusion of preferences in the policy for the re-use of Scarcroft Lodge could be counter-productive as this may restrict the range of alternative uses that could help secure a viable future for the building, contrary to the flexible approach in national planning policy and extant LUDP Policy N15.
- 6.145 Reference to securing the viable re-use of Scarcroft Lodge in conjunction with development proposals could instead be incorporated in the accompanying text together with guidance on the type of public transport and community facility improvements that may be secured through developer contributions.
- 6.146 A further change is required to remove the reference to Woodlands as a 'positive' building in bullet point 5 of the policy as this relates to terminology and buildings identified in a draft Conservation Area Appraisal and Management Plan produced by Leeds City Council which (as referred to previously in my comments on Policy BE3) has not yet been formally consulted on or adopted.

Recommendation 15

- a) Replace the first sentence in Policy H1 with '*Proposals for residential development affecting land and property in the vicinity of Scarcroft Lodge as identified on Neighbourhood Plan Policies Map 1 will be supported provided the following requirements are met*'.
- b) Delete bullet point 2 and insert '*In order to protect the setting of Scarcroft Lodge areas of new development should be restricted to previously developed land to the east of the Lodge , including areas of hardstanding*' at the end of bullet point 5 (Listed Buildings).
- c) Delete bullet points 3, 7, and 9.
- d) Insert '*Where feasible*' at the beginning of bullet point 8.
- e) Delete '*Deliver varying density levels across the site reflecting the variety of local architectural forms and building styles*' in bullet point 10.
- f) Delete '*positive*' in line 3 of bullet point 5
- g) Delete the final part of the policy from '*The following measures*' to the end of the policy and incorporate reference in the supporting text to
 - i. *The desirability of securing viable uses for Scarcroft Lodge such as residential, hotel/leisure or hotel/conference in conjunction with proposals for new development on the site, and*
 - ii. *The opportunity to secure developer contributions toward increased use of public transport and community facilities.*
- h) Incorporate a reference in the supporting text to clarify that the Plan is relying on LCS and the SAP to establish the level of housing need and spatial distribution of housing and that the Plan does not specifically allocate land for development.
- i) Replace '*via a concept statement cum outline brief*' in line 8 of the final paragraph in the right hand column on page 25 with '*should proposals come forward for development*'.
- j) Replace '*Wetherby Road-Scarcroft Lodge Boundary - LCC Site Designation*' in the key supporting Scarcroft Neighbourhood Plan Map 1 with '*Wetherby Road-Scarcroft Lodge H1 Policy Area*'.

6.147 Subject to the above modifications the policy meets the Basic Conditions.

6.148 **Policy H2 (Development on Non-Allocated sites)** establishes planning and development requirements for housing development on non-allocated sites. Proposals will be expected to promote positive impacts on environmental and built heritage features and road safety, to ensure good access to the local highway network and local facilities, to provide adequate on-site parking and to avoid adverse impacts on residential amenity.

Comment

- 6.149 The policy reflects sustainable development principles in national planning policy, and has regard to sustainable transport objectives including the provision of safe and suitable access. It also reflects core planning principles to maintain a good standard of residential amenity and promote good access to local facilities and amenities. This will ensure that future housing developments contribute to the social and environmental dimensions of sustainable development.
- 6.150 The policy generally conforms with and supplements LCS Policy H2 (New Housing Development on Non Allocated Sites) by adding a Scarcroft perspective to the range of considerations to be taken into account in considering proposals for development.
- 6.151 However as drafted the policy does not provide a practical basis for managing development proposals. It should also be more positively worded in line with national planning policy.
- 6.152 First, there is an unrealistic expectation that all housing proposals should promote positive impacts on special local environmental and local heritage features, although this may not necessarily be appropriate in each case, for example where proposals are not located near local features.
- 6.153 As the ‘special environmental features’ considered worthy of protection are not identified in the policy, and local heritage features are afforded protection through policies BE1, BE2, and BE3 I recommend replacing bullet point 1 with a general requirement for proposals to ‘respect and enhance local distinctiveness’. This captures the policy intention to safeguard and enhance distinctive local features in line with national planning policy. My recommended modification also reduces the amount of duplication with Policy BE4.
- 6.154 Second it is unreasonable to expect all development proposals to positively impact on road safety in the sense of improving or overcoming existing road safety problems. A more realistic expectation would be to ensure that proposals do not create or exacerbate highway safety problems.
- 6.155 Third, it is also inappropriate to require proposals to avoid any adverse impact on neighbouring amenities since all proposals must have some degree of adverse impact. While the impact of excessive overshadowing and over dominant designs are relatively clear cut considerations it is less easy to assess the potential impact of overlooking.
- 6.156 I therefore recommend that the test as to whether a proposal has an adverse effect on amenity should be qualified by reference to whether it has an ‘unacceptable adverse effect’ or not. I appreciate that decision makers would still be required to make a judgement as to whether an impact is considered unacceptable or not but on the whole this is a more realistic approach.

Recommendation 16

- a) Delete 'should' in line 1 of Policy H2 and insert '*in Scarcroft will be supported provided proposals*'.
- b) Replace bullet point 1 with '**Respect and enhance local distinctiveness**'.
- c) Replace bullet point 2 with '**Do not compromise highway safety**'.
- d) Insert '**unacceptable**' after '**Avoid**' in bullet point 6.

6.157 Subject to the above modifications Policy H2 meets the Basic Conditions.

6.158 **Policy H3 (Housing Density)** is intended to restrict net housing densities to no more than 10 dph in keeping with the prevailing character and appearance of the existing built up area, (except for the SAP proposed allocation at Scarcroft Lodge, Wetherby Road).

Comments

- 6.159 While national planning policy (NPPF paragraph 47) supports the establishment of housing densities which reflect local circumstances this is written from the perspective of 'significantly boosting the supply of housing'.
- 6.160 I therefore agree with the point made Gladman Developments in their response to the Regulation 16 Publicity that restricting net densities to no more than 10 dph is contrary to sustainable development principles in both national planning policy which promotes the most effective use of land, and LCS Policy H3 (Density of Residential development) which establishes minimum rather than maximum densities.
- 6.161 Neither do I consider that the case for imposing such an exceptionally low housing density requirement has been adequately demonstrated, particularly since the current average housing density referred to in the Plan includes highway land, greenspace and non residential buildings and curtilages in the calculation giving a gross density of 7dph, whereas net residential density is likely to be much higher.
- 6.162 Crucially the policy also ignores the fact that densities vary across the built up area, as evidenced by my site inspection and the character area assessments provided in Appendix 6 of the Plan.
- 6.163 Although there may be a case for establishing character area specific densities or a general policy requiring densities to respect the character of the local area it is outside the scope of the examination to introduce new or revised density requirements which have not previously been subject to consultation during the preparation of the Plan. I am also mindful of the fact that LCS (paragraph 5.2.9) indicates that density requirements do not apply in villages such as Scarcroft which are not identified as 'smaller settlements' in the LCS because housing policies only allow for a small amount of housing development in those 'other areas'.

6.164 For the above reasons I therefore recommend deletion of Policy H3.

Recommendation 17

Delete Policy H3 and the accompanying justification and Appendix 8.

6.165 **Policy H4 (Housing Mix)** aims to ensure that new housing developments of 5 or more dwellings, in or adjacent to Scarcroft, deliver a mix of dwelling types particularly for smaller households and elderly persons. A second policy strand requires developments over 50 units to be supported by an up to date housing needs assessment.

Comments

6.166 Policy H4 has regard to national planning policy by supporting the provision of inclusive and mixed communities one of the key aspects of sustainable development. It also generally conforms with and supplements LCS Policy H4 (Housing Mix).

6.167 By encouraging the provision of more housing for older people the policy reflects the additional emphasis given to the housing needs of older people through recent changes to Planning Practice Guidance³¹ in the light of the projected national increase in the number of households aged 65 and over.

6.168 However I do not consider that the evidence of local housing need reproduced from a nearby Parish survey can be accepted as anything other than an indicative guide to housing need in the general locality. As the conclusions from that survey cannot be specifically applied to Scarcroft amendment to the policy wording is therefore required to emphasise that development proposals should provide an appropriate mix of dwellings which includes provision for smaller households and elderly persons rather than prioritising specific housing type requirements identified in the East Keswick survey.

6.169 To more accurately reflect national policy and local strategic policy, reference should also be made to the provision of a mix of dwelling types and sizes not just housing types.

6.170 Minor amendments are required to correct the inaccurate references to Policy H5 rather than Policy H4 in the accompanying text.

Recommendation 18

- a) Replace ‘a mix of dwelling types to include particular’ in line 3 of Policy H4 with ‘*an appropriate mix of dwelling types and sizes including*’.
- b) Replace ‘including’ in line 4 with ‘and’.
- c) In the second paragraph in the left hand column on page 28 replace the reference to the conclusions from the East Keswick housing needs assessment being reasonably applied to

³¹ Planning Practice Guidance para 021 Ref ID: 2a-021-20150326

Scarcroft with a reference to the conclusions providing an indication of need within the general locality.

- d) Replace ‘H5’ with ‘H4’ in line 14 of the final paragraph in the left hand column on page 28, and in line 3 of the first paragraph in the right hand column.

6.171 Subject to the above modifications the Policy meets the Basic Conditions.

(f) Monitoring, Review and Implementation

- 6.172 The land use policies are followed by a section outlining the Parish Council’s approach to monitoring and reviewing the Plan. While it is acknowledged that responsibility for managing development proposals in accordance with relevant Neighbourhood Plan policies rests with Leeds City Council the Plan also identifies local priorities for spending monies collected through the Community Infrastructure Levy.
- 6.173 Planning Practice Guidance recognises the importance of ensuring that neighbourhood plans are deliverable and the Parish Council are to be commended for identifying a range of complementary ‘Community Actions’ to be undertaken in conjunction with partner organisations through a Project Delivery Plan.
- 6.174 A minor factual correction is required in the sub-section on Community Actions and Approaches to qualify the status of the community facilities referred to as ‘potential’ Assets of Community Value, and to clarify the respective roles of the Parish Council and Leeds City Council with regard to Assets of Community Value.

Recommendation 19

Amend the second paragraph in column 2 on page 34 to clarify that the community facilities referred to are ‘potential’ Assets of Community Value and that the Parish Council is an eligible body for the purposes of nominating buildings or land for inclusion in the statutory ‘List of Assets of Community Value’ maintained by Leeds City Council.

(g) Neighbourhood Plan Maps and Appendices

- 6.175 While there is no prescription in either legislation or neighbourhood plan regulations as to the form that any accompanying maps, diagrams and other illustrative material should take, the area to which particular policies and proposals apply are quite often delineated on a map or proposals map. The Scarcroft Neighbourhood Plan uses three maps for this purpose, one of which is based on an aerial photographic base, supported by a number

of illustrative maps (Map 1, Map 2, etc) within the main document. There are also eight appendices at the end of the document.

Comments

- 6.176 In line with Planning Practice Guidance it is not only important that the meaning of policies and proposals is clear and unambiguous but also that the areas to which they apply are identified in sufficient detail to be of use for development management purposes.
- 6.177 However this is questionable in the case of Map 4 (Scarcroft Hill Local Heritage Area) since the poor quality ordnance survey base makes it difficult to interpret the position of the proposed Local Heritage Area boundary in relation to physical features such as highways and field boundaries.
- 6.178 Similarly the maps identifying areas of Local Green Space in Appendix 3 are potentially confusing, particularly sites 3, 7, 10, 11 and 14, since both principal roads and Local Green Spaces are coloured green, and the boundaries of the A58 verges (referred to collectively as site 11) are insufficiently well defined.
- 6.179 It is also important to differentiate between information maps that are presented within the main body of the Plan (Map 1, Map 2 etc) and the three maps presented on pages 30 – 33 (incl) which are specifically intended to inform the decision making process. It would therefore be more appropriate to refer to these as ‘Scarcroft Neighbourhood Plan Policies Maps’ throughout the Plan.
- 6.180 I also recommend a number of changes to correct anomalies and inaccuracies on some of the maps and appendices, including the addition of north points and map scales.
- 6.181 While the Google Earth generated base to identify individual areas of Local Green Space in Neighbourhood Plan Map 3 does not provide the level of accuracy necessary to be of use for development management purposes I am satisfied that in combination with the ordnance survey based maps in Appendix 3 (as recommended to be amended) it is possible to identify precise site boundaries.

Recommendation 20

- a) **Improve the legibility of Map 4 (Scarcroft Hill Local Heritage Area) on page 19 by upgrading the quality of the Ordnance Survey base, and incorporate the proposed Local Heritage Area boundary notation in the map key.**
- b) **Insert ‘Policies’ after ‘Neighbourhood Plan’ in the titles of Scarcroft Neighbourhood Plan Map 1, Map 2, and Map 3, and in all references to ‘Neighbourhood Plan Maps’ throughout the text of the Plan.**
- c) **Change the Special Landscape Area notation in the key accompanying Scarcroft Neighbourhood Plan Map 1 on page 31 to correspond with the notation on the Map.**

- d) Replace ‘Green Infrastructure’ in the key to Map 2 (Strategic Green Infrastructure) on page 14 with ‘*Strategic Green Infrastructure*’.
- e) Improve the legibility of the maps in Appendix 3 by removing the green notation from all highways and providing a larger scale Site 11 map to identify the boundaries of individual A58 highway verges.
- f) Ensure all maps have north points and map scales.

7.0 Conclusions and Formal Recommendations

Referendum

- 7.1 I consider the Neighbourhood Plan meets the relevant legal requirements and subject to the modifications recommended in my report it is capable of satisfying the four ‘Basic Conditions’.
- 7.2 Although there are a number of modifications the essence of the policies would remain, providing a framework, for managing future development proposals and conserving and enhancing the local environment.

I therefore recommend that the Neighbourhood Plan should, subject to the recommended modifications, proceed to Referendum.

Voting Area

- 7.3 I am also required to consider whether the Referendum Area should be extended beyond the Scarcroft Neighbourhood Area (as amended to correspond with the revised Parish boundaries which were approved subsequent to the original Neighbourhood Area designation).
- 7.4 As the impact of the policies and proposals contained in the Plan, which does not include any land allocations, is likely to have minimal impact on land and communities outside the defined Neighbourhood Area I consider the Neighbourhood Area to be appropriate. No evidence has been submitted to suggest that this is not the case.

I therefore recommend that the Neighbourhood Plan should proceed to Referendum based on the revised Neighbourhood Area as re-designated by Leeds City Council on 15 November 2016.

Declaration

In submitting this report I confirm that

- 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 Plan and
- I possess appropriate qualifications and planning and development experience, comprising 43 years experience in development management, planning policy, conservation and implementation gained across the public, private, and community sectors.

Examiner Terry Raymond Heselton BA (Hons), Dip TP, MRTPI

Dated 13 November 2018

Appendix 1 :

List of Documents referred to in connection with the examination of the Scarcroft Neighbourhood Development Plan

- Submission Version of the Scarcroft Neighbourhood Plan and Appendices (April 2018)
- Basic Conditions Statement (April 2018)
- Consultation Statement (April 2018)
- National Planning Policy Framework (2012 version)
- National Planning Practice Guidance
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning (General) Regulations (2012) (as amended)
- The Environmental Assessment of Plans and Programmes Regulations (2004)
- ‘Saved’ policies in the Leeds City Council Unitary Development Plan (Review 2006) (adopted July 2006)
- Leeds Core Strategy (November 2014)
- Leeds City Council Revised Submission Draft Site Allocations Plan (March 2018)
- Leeds City Council Strategic Environmental Assessment Screening Report and Habitats Regulation Assessment Screening Report (September 2017)
- Leeds City Council Habitats Regulation Assessment Screening Report Update (August 2018)
- Nine representations received during the Regulation 16 Publicity period.

I also accessed Leeds City Council’s planning policy web pages and Scarcroft Parish Council web pages during the course of the examination.

Appendix 2 :

Leeds City Council and Scarcroft Parish Council joint response to the Examiners First Set of Questions

1. Were the nine responses to the Regulation 16 Publicity, which were forwarded to me on 16 July 2018, received on or before the end of the Regulation 16 Publicity period, and can you confirm that no late responses have been received.

The City Council confirms that the 9 representations to the Regulation 16 Publicity were received before the end of the Regulation 16 Publicity period (5pm on Monday 16th July 2018). The City Council also confirms that no late representations have been received.

2. Does the Parish Council wish to comment on any of the responses received. If so I would be pleased to receive comments, which should not include new evidence, no later than Friday 10 August. This invitation is extended to the Parish Council in accordance with best practice guidance for conducting neighbourhood plan examinations published by the Neighbourhood Planning Independent Examination Referral Service, although there is no obligation on the Parish Council to comment on the responses received. Any comments submitted in response to this invitation should be published on Leeds City Council's website.

The Regulation 16 Representations were sent to the Parish Council following the close of the publicity period. The Parish Council haven't yet sent any comments to the Council on the responses received. We note that your deadline for Parish Council comments is Friday 10th August, if we receive any comments by the deadline we will forward them to you.

3. Has Leeds City Council undertaken an assessment of extant development plan policies in order to identify those which are considered to be 'strategic policies' within the meaning of paragraphs 075 and 076 of current national Planning Practice Guidance? If so it would be helpful if you could provide me with a schedule of 'strategic' policies that apply within the Scarcroft Neighbourhood Area.

The policies in the Leeds Core Strategy are the strategic policies that cover the Scarcroft Neighbourhood Area.

4. I understand the Council is seeking legal advice in the light of the recent judgement concerning the interpretation of the EU Habitats Directive and its implications for screening plans and programmes. Can you please let me know when the Council expects to be in a position to decide whether the HRA screening undertaken in connection with the Scarcroft Neighbourhood Plan is legally compliant with the judgement, and if not what further work may be required to rectify this.

We are preparing a revised HRA Screening for the Scarcroft NP. Once this is completed we will send this to Natural England and ask for them to respond within

10 days. If they do this, we would hope that this update to be done by mid-August.

5. Please confirm and provide evidence that the Regulation 5, 6 and 7 requirements have been satisfied, with relevant dates, as there is no remaining evidence on the City Council's website. I appreciate that Council websites are frequently updated to avoid becoming overloaded with information so forgive me if I have missed a link to archived material.

The Scarcroft Neighbourhood Area was originally designated in 2013 to match the then Scarcroft Parish Boundary. However, following a review of parish boundaries in 2014, the Council contacted those parishes and gave them a choice to apply for a revised neighbourhood area designation. As a result of this, Scarcroft and Bardsey-cum-Rigton Parish Councils together agreed that they would like the neighbourhood plan to cover the revised parish boundary. The following response details both the initial designation of Scarcroft Neighbourhood Area in 2012/13 and the subsequent re-designation of the Scarcroft Neighbourhood Area in 2016.

Regulation 5: Application for designation of a neighbourhood area

2012 Application: On 2nd July 2012 the Parish Council wrote to the Council and applied for the designation of Scarcroft Parish as a Neighbourhood Area (Appendix 1). This application accorded with Regulation 5.

2016 Application: On 9th March 2016 the Parish Council wrote to the Council and applied for the designation of Scarcroft Parish (in light of the revised parish boundary) as a Neighbourhood Area (Appendix 2). This application accorded with Regulation 5.

Regulation 6: Publicising an area application

2012 Publicity: Public consultation was undertaken for 6 weeks between 20th July 2012 and 31st August 2012. The application documents and a public notice was placed on the Council's website and a paper copy in Shadwell Library in accordance with Regulation 6. An advertisement was placed in Wetherby News on 20th July 2012 and the application was placed on the Council's website (Appendix 3).

2016 Publicity: Public consultation was undertaken for 6 weeks between 15th July 2016 and 26th August 2016. The application documents and a public notice was placed on the Council's website in accordance with Regulation 6. Site notices were made placed in the Neighbourhood Area and paper copies were made available at the Village Hall and at the Council's (former) base in the City Centre, the Leonardo Building and the application was placed on the Council's website (Appendix 4).

Regulation 7: Publicising a designation of a neighbourhood area

2013 Designation: Scarcroft Neighbourhood Area was designated on 31st January 2013 (Delegated Decision Notification attached at Appendix 5). This was published on the Council's website:

<https://democracy.leeds.gov.uk/ieDecisionDetails.aspx?ID=39688>.

The designation was also published on the Council's neighbourhood planning webpage.

2016 Designation: Scarcroft Neighbourhood Area was designated on 15th November 2016. (Delegated Decision Notification attached at Appendix 6). This

was published on the Council's website:

<https://democracy.leeds.gov.uk/ieDecisionDetails.aspx?ID=43892>.

The designation was also published on the Council's neighbourhood planning webpage.

6. Please provide evidence that relevant (Schedule 1) Consultation Bodies were consulted at Regulation 14 stage by the Parish Council and that the same bodies were notified as part of the Regulation 16 Publicity by Leeds City Council.

Parish Council:

The Parish Council wrote/mailed relevant Consultation Bodies at the Regulation 14 Stage on 17th July 2017. Details are provided below

Notification Type	Name	Organisation
Email	Ian Mackay	Leeds City Council
Email	June Gallant	Bardsey-cum-Rigton Parish Council
Email		Thorner Parish Council
Email		Shadwell Parish Council
Email		The Coal Authority
Email		The Homes and Communities Agency
Email		Natural England
Email		The Environment Agency
Email		Historic England
Letter		Highways England
Letter		Yorkshire Water
Letter		York Consortium of Drainage Boards
Letter		BT
Letter		National Farmers' Union
Email		Country Land and Business Association (CLA)
Letter		Ramblers' Association
Email	Mark Robins	Mexborough Estates
Email	Samantha Howe	GSC Grays
Email	David Marjoram	ELG Planning

Copies of the letter/email are available at Appendix 7.

Leeds City Council:

The Parish Council provided the Council a schedule of Consultation Bodies referred to in the Consultation Statement submitted in accordance with Regulation 15. The Council notified those Bodies either via email or by post in accordance with Regulation 16.

Notification emails were sent on Tuesday 5th June 2018 to:

Name	Organisation
June Gallant	Bardsey-cum-Rigton Parish Council
	Thorner Parish Council

	Shadwell Parish Council
	The Coal Authority
	The Environment Agency
	Natural England
	The Homes and Communities Agency
	Historic England
	Highways England
	Yorkshire Water
	The York Consortium of Drainage Boards
	BT
	Country Land and Business Association (CLA)
Andrew Stephenson	National Farmers' Union
	Ramblers' Association
Mark Robins	Mexborough Estates
Samantha Howe	GSC Grays
David Marjoram	ELG Planning

Copies of the Notification Email and Notification Letter are available at Appendix 8.

Appendices

- Appendix 1: 2012 Scarcroft NA Application (*Regulation 5*)
- Appendix 2: 2016 Scarcroft NA Application (*Regulation 5*)
- Appendix 3: 2012 Scarcroft NA Application Publicity Material (*Regulation 6*)
- Appendix 4: 2016 Scarcroft NA Application Publicity Material (*Regulation 6*)
- Appendix 5: 2012 Scarcroft NA Designation (*Regulation 7*)
- Appendix 6: 2016 Scarcroft NA Designation (*Regulation 7*)
- Appendix 7: Scarcroft Regulation 14 Pre-Submission Consultation Email and Letter
- Appendix 8: Scarcroft Regulation 16 Notification Email and Letter

Appendix 3 :

Leeds City Council and Scarcroft Parish Council joint response to the Examiners Second Set of Questions

Policy BE2 / Non-Statutory Local Heritage Assets

1. Has Leeds City Council prepared a ‘Local List’ of non-designated heritage assets as referred to in paragraph 039 of Planning Practice Guidance, or does the Council intend to do so. If the Council has prepared a ‘Local List’ please provide details of any ‘assets’ identified within the Scarcroft Neighbourhood Area.

The Council does not have a formal Local List of Non-Designated Heritage Assets, therefore there are no identified assets in the Scarcroft Neighbourhood Area. However, the Examiner is referred to the City Council’s proposed modification to the Site Allocations Plan (SAP) (page 4), which amends the generic considerations for all proposed sites in the Revised Submission Draft SAP. The Council’s position is that the existing work on non-designated heritage assets is not exhaustive or exclusive and several made neighbourhood plans in Leeds have identified non-designated heritage assets.

Conservation Area Review

2. Please provide an update on the progress of the Scarcroft Conservation Area Review which was published for consultation in April 2016.

The Conservation Area Review did not progress beyond a draft that was shared internally and with the Parish Council for their comment, it did not go out to formal public consultation at any stage. Due to resourcing issues, there are no plans to undertake this work at this time.

Conservation Area Boundary

3. Can you confirm that the blue boundary on Map 3 (Conservation Area) shows minor amendments to the existing conservation area boundary proposed by the City Council?

The Council can confirm that the blue boundary on Map 3 shows the draft minor amendments to the existing Conservation Area boundary proposed by the Council. However, as stated above there are no current plans to progress with the review.

Conservation Area Appraisal and Management Plan

4. Please provide an update on the status of the Conservation Area Appraisal and Management Plan which is referred to as ‘currently awaiting consultation by LCC’ in the third paragraph on page 20 of the Plan.

As above, the Conservation Area Appraisal and Management Plan is a draft document that has yet to be progressed to formal consultation. Although it is hoped that the Council will at some stage consult on the document, there are no plans to do so at this time.