

**Kirk Langley Parish Council**

# **Kirk Langley Neighbourhood Development Plan**

A report to Amber Valley Borough Council of the Independent Examination of the Kirk Langley Neighbourhood Development Plan

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## Overall Finding

This is the report of the Independent Examination of the Kirk Langley Neighbourhood Development Plan. The plan area comprises the entire administrative area of Kirk Langley Parish Council within the Amber Valley Borough Council area. The plan period runs to 2032. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the basic conditions and other requirements. It is recommended the Plan should proceed to a local referendum based on the plan area.

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area*”.<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Kirk Langley Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Kirk Langley Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Kirk Langley Neighbourhood Area which was formally designated by Amber Valley Borough Council (the Borough Council) on 7 April 2017. The Neighbourhood Plan has been produced by the Neighbourhood Plan Steering Group Committee made up of Parish Councillors and other volunteers from the local community.
4. The submission draft of the Neighbourhood Plan has been approved by the Parish Council for submission of the plan and accompanying documents to the Borough Council.<sup>2</sup> The Borough Council arranged a period of publication between 13 December 2019 and 20 March 2020 and subsequently submitted the Neighbourhood Plan to me for independent examination.

## Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan.<sup>3</sup> The report makes recommendations to the Borough Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The

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<sup>1</sup> Paragraph 29 National Planning Policy Framework (2019)

<sup>2</sup> Kirk Langley Parish Council Extraordinary Meeting 14 November 2019

<sup>3</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

Borough Council will decide what action to take in response to the recommendations in this report.

6. The Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the application.<sup>4</sup>
7. Should the Neighbourhood Plan proceed to local referendum<sup>5</sup> and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>6</sup> unless the Borough Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan.<sup>7</sup> The Framework is very clear that where a planning application conflicts with an up to date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.<sup>8</sup>
8. I have been appointed by the Borough Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of neighbourhood plans. I am a Member of the Royal Town Planning

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<sup>4</sup> Paragraph 48 of the National Planning Policy Framework 2019 explains full weight is not given at this stage. Also see Planning Practice Guidance paragraph: 107 Reference ID: 41-107-20200407 Revision date: 07 04 2020 for changes in response to the coronavirus (COVID-19) pandemic

<sup>5</sup> The Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020 Regulation 13 states referendums that would have been held from 7 April 2020 up to 6 May 2021 will be held on 6 May 2021

<sup>6</sup> Section 3 Neighbourhood Planning Act 2017

<sup>7</sup> Section 156 Housing and Planning Act 2016

<sup>8</sup> Paragraph 12 National Planning Policy Framework 2019

Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.

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

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

10. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>9</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>10</sup>

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

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

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<sup>9</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>10</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>11</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

## Basic Conditions and other Statutory Requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>12</sup> A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>13</sup>

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.<sup>14</sup> All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan Policies’.

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>15</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 (the

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<sup>12</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>13</sup> This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”.

<sup>14</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998

<sup>15</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

Regulations) which are made pursuant to the powers given in those sections.

16. The Neighbourhood Plan relates to the area that was designated by the Borough Council as a neighbourhood area on 7 April 2017. A map of the Neighbourhood Plan area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Kirk Langley Parish Council boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>16</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>17</sup> All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>18</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>19</sup> I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>20</sup> The front cover of the Submission Version Plan clearly states the Plan period is 2019 - 2032.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans.<sup>21</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.

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<sup>16</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>19</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>20</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

<sup>21</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.<sup>22</sup>

## Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:
- Kirk Langley Neighbourhood Plan 2019-2032 Submission Copy including Appendices 1 to 11
  - Kirk Langley Neighbourhood Development Plan Consultation Statement, including Engagement Timeline [*In this report referred to as the Consultation Statement*]
  - Kirk Langley Neighbourhood Plan 2019–2032 Basic Conditions Statement, including Table 1<sup>23</sup> [*In this report referred to as the Basic Conditions Statement*]
  - Strategic Environmental Assessment and Habitats Regulations Assessment of the Kirk Langley Neighbourhood Plan - SEA and HRA Screening Document, Lepus Consulting October 2019
  - Habitats Regulations Assessment and the Environmental Assessment of Plans and Programmes Regulations 2004 Regulation 9 Screening Determination: Kirk Langley Neighbourhood Plan, Amber Valley Borough Council 5 November 2019

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<sup>22</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

<sup>23</sup> Incorrectly titled 2019-2033 see the Annex to my report

- Information available on the Kirk Langley Neighbourhood Development Plan website
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the Borough and Parish Councils including: the initial letter of the Independent Examiner dated 1 April 2020; the letter of the Independent Examiner seeking clarification of various matters dated 29 April 2020; and the joint response of the Parish and Borough Councils dated 4 May 2020, which included a Parish Council comment on the Regulation 16 representations of Derbyshire County Council
- Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map)
- National Planning Policy Framework (February 2019) and subsequently updated [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- The Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Equality Act 2010
- The Localism Act 2011
- The Housing and Planning Act 2016
- The Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- The Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- The Neighbourhood Planning (General) (Amendment) Regulations 2015
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016
- The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
- The Local Government & Police & Crime Commissioner (Coronavirus) (Postponement of Elections & Referendums) (England & Wales) Regulations 2020

## Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.
25. An initial community meeting attended by 40 residents held in November 2016 led to the formation of an NDP Committee which first met in January 2017 and which has continued to meet throughout the plan preparation process. The process has been well advertised through use of posters, inserts in the village newsletter, and reports to the Parish Council. Response to a community questionnaire delivered to each of the 293 households in the parish was encouraged at the Church fete in June 2017. Approximately 50% of questionnaires were completed and returned. The responses informed the preparation of a draft vision flyer setting out the key strategic aims of the plan. The flyer and feedback sheet were delivered to residents in August 2017. The 40 responses were analysed. Businesses were separately consulted and discussions were held with the school, including with the children. The outline policy objectives were also presented at the village field day in September 2017. A public consultation event was held in December 2017 at the village hall. Planning proposals at Langley Common resulted in a well-attended public meeting.
26. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan between 15 September 2019 and 2 November 2019. This consultation was preceded by a parish-wide leaflet drop signposting electronic sources and availability of paper copies of the Neighbourhood Plan. The consultation included email to local stakeholders and an online questionnaire and a well-attended Field Day stand, and two drop-in sessions at the village hall. The representations arising from the responses to the consultation are presented in the Regulation 14 'responses considered and actions taken document' presented on the Borough Council website where responses and changes made to the Neighbourhood Plan are set out. Suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was approved by the Parish Council, for submission to the Borough

Council.

27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 13 December 2019 and 7 February 2020. In addition, consultation bodies were provided with an opportunity to submit representations between 7 February 2020 and 20 March 2020. Four representations were submitted in total. I have been provided with copies of each of those representations. In preparing this report I have taken into consideration all of the representations submitted even though they may not be referred to in whole. Where representations suggest additional matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Where representations relate to specific policies, I refer to these later in my report when considering the policy in question.
28. A representation submitted by the Borough Council identified necessary corrections which I refer to in the annex of my report. The Borough Council has also made representations in respect of Policies HOUS2; HOUS5; HOUS6; HER2; ENV1; ENV2; ENV4; ENV5; BUS1; and BUS2. I have taken these comments into consideration when considering each of those policies later in my report.
29. Derbyshire County Council has commented on aspects of general and supporting text which I refer to in the annex to my report. The County Council state the requirement for biodiversity net gain being introduced in the Environment Bill 2020 will provide greater support for the issues of conservation and enhancement of the natural and built environment included in the environment and business policies of the Neighbourhood Plan. The County Council has also made specific representations in respect of Policies HOU1; HOU2; HOU3; HOU5; and HER1 which I refer to when considering those policies later in my report.
30. Natural England has confirmed it does not have any specific comments. Severn Trent Water has commented on housing supply and suggested that references could be made regarding a drainage hierarchy and Sustainable Urban Drainage Systems (SUDS). There is no requirement for the Neighbourhood Plan to include references of this nature in order to meet the Basic Conditions.

31. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. On 4 May 2020 the Parish Council responded to the opportunity to comment by setting out a statement in respect of the Regulation 16 representations of Derbyshire County Council. I have taken the Parish Council comments into account in preparing my report.
32. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a Consultation Statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
  - b) explains how they were consulted;
  - c) summarises the main issues and concerns raised by the persons consulted; and
  - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>24</sup>
33. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

34. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the plan

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<sup>24</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

35. The Basic Conditions Statement states the making of the Neighbourhood Plan “*would not involve the breach of any EU obligations.*”

36. I have considered the European Convention on Human Rights and in particular Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>25</sup> Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. The Basic Conditions Statement confirms that in preparing the Neighbourhood Plan great care has been taken “*to ensure that the views of the whole community were embraced to avoid any unintentional negative impacts on particular groups*”. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst no Equality Impact Assessment has been undertaken in respect of the Neighbourhood Plan, from my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

37. The objective of EU Directive 2001/42<sup>26</sup> is “*to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an*

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<sup>25</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

<sup>26</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

*environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>27</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>28</sup>

38. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Amber Valley Borough Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
39. A Strategic Environmental Assessment and Habitats Regulations assessment of the Kirk Langley Neighbourhood Plan Screening Document prepared by Lepus Consulting in October 2019 recommended, at paragraph 4.1.4, that the Neighbourhood Plan should not be screened into the SEA process. Consultation had been undertaken with the Environment Agency, Historic England and Natural England none of which indicated likely significant environmental effects. The Regulation 9 Screening Determination<sup>29</sup> prepared by the Borough Council dated 5 November 2019 states “*After having giving consideration to the anticipated scope of the Kirk Langley Neighbourhood Plan, and the relevant environmental issues locally, it is concluded that the potential for significant effects to arise as a result of the Plan is unlikely. Consequently, it is considered that a formal SEA is not required.*” I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
40. The Screening Document prepared by Lepus Consulting in October 2019, and the Regulation 9 Screening Determination prepared by the Borough Council dated 5 November 2019, both also relate to Habitats Regulations Assessment. The Regulation 9 Screening Determination states “*The nearest European designated site is approximately 23km to the north west of the Neighbourhood Area*” and “*the Kirk Langley Neighbourhood Plan would not be likely to have significant effects on European sites either alone or in-combination with any other plan or project and therefore Appropriate Assessment (Stage 2 of the Habitat Regulation Assessment process) is not required.*” The Screening Determination confirms a statutory consultation with Natural England. I

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<sup>27</sup> Defined in Article 2(a) of Directive 2001/42

<sup>28</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

<sup>29</sup> Habitats Regulations Assessment and the Environmental Assessment of Plans and Programmes Regulations 2004

have earlier in my report, in Footnote 11, referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout much of the period of preparation of the Neighbourhood Plan. The Regulation 9 Screening Determination is dated 5 November 2019. I am satisfied that the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.

41. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
42. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
43. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The Borough Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU obligations:
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
  - when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>30</sup>

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

44. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as

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<sup>30</sup> Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

part of the tests of soundness provided for in respect of examinations of Local Plans<sup>31</sup> which requires plans to be “*consistent with national policy*”.

45. Lord Goldsmith has provided guidance<sup>32</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”
46. The most recent National Planning Policy Framework published on 19 February 2019 (subsequently updated) sets out the government’s planning policies for England and how these are expected to be applied. In my initial letter published by the Borough Council I confirmed that I would undertake this Independent Examination of the Neighbourhood Plan in the context of the Framework published in February 2019 (as updated) and the most recent Planning Practice Guidance.
47. The Basic Conditions Statement includes Table 1 which sets out a summary of how each policy of the Neighbourhood Plan has regard to the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.
48. The Neighbourhood Plan includes a positive vision for Kirk Langley. Section 1.5 of the Neighbourhood Plan states “*The overarching aim of this plan is to ensure that the culture, heritage and environment of Kirk Langley is preserved and where possible enhanced, whilst also providing for housing and business development which is needed, proportionate and sensitive to its surroundings.*” The strategic aims endorsed through public consultation are set out on page 24 of Neighbourhood Plan. The strategic aims include economic dimensions (“*the local economy will be vibrant*” and “*housing provision which is in scale, sensitive to and reflective of the character and landscape of the parish and also reflecting the limitations of available infrastructure and*

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<sup>31</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>32</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

*facilities”, and social components (“keep its village atmosphere, by maintaining and improving opportunities for neighbours to meet and get to know each other and by ensuring Kirk Langley continues to have a strong sense of community.”), whilst also referring to environmental considerations (“protect and enhance its distinctive character and rich heritage as an historic agricultural village, valuing its conservation area, listed buildings, parkland and its setting within the wider landscape” and “value, protect and improve its natural environment, enhance the ecosystem and minimise the impact of new developments on the surrounding countryside, landscape and ecosystems.”). Paragraph 2.6 of the Neighbourhood Plan provides an explanation of how the two topics of, the approach to the Conservation Area, and to the issue of housing need, have been explored. The vision for the Neighbourhood Area and the analysis of key topics provide a framework for the key objectives and policies that have been developed. The Neighbourhood Plan includes in Section 4 proposed arrangements for monitoring and review.*

49. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to *‘have regard to’* national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition *“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”*

50. At the heart of the Framework is a presumption in favour of sustainable development<sup>33</sup> which should be applied in both plan-making and decision-taking.<sup>34</sup> The Guidance states, *“This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate*

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<sup>33</sup> Paragraph 10 National Planning Policy Framework 2019

<sup>34</sup> Paragraph 11 National Planning Policy Framework 2019

*that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”<sup>35</sup>.*

51. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

52. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Sections 9 to 12 of the Basic Conditions Statement present a detailed analysis which demonstrates how each of the policies of the Neighbourhood Plan contribute to the economic, social or environmental dimensions of sustainable development. The analysis confirms that every policy has a positive impact on at least one dimension. The analysis does not highlight any negative impacts.

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

- Support the building of 54 new homes including farm conversions;
- Direct the location of new housing to within or adjacent to the built framework of Kirk Langley village and to small gaps within existing groups of houses in Langley Common;
- Ensure the mix of new housing meets local needs;
- Establish design criteria for new buildings and extensions;
- Conditionally support the conversion of redundant farm buildings to residential uses and ensure extensions are in scale and proportion;

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<sup>35</sup> Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019

- Retain the distinctive and separate identities of communities;
- Protect the Conservation Area, listed buildings and other heritage assets;
- Conditionally protect open spaces and recreation facilities;
- Protect, enhance and conserve the landscape and views;
- Protect and enhance biodiversity;
- Preserve high quality agricultural land;
- Ensure development does not increase the risk of flooding and/or drainage problems;
- Foster sustainable economic development; and
- Contain the environmental impact of business development.

54. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

55. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.<sup>36</sup> Plans should make explicit which policies are strategic policies.<sup>37</sup> “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”<sup>38</sup>. “*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*”.<sup>39</sup>

56. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National*

<sup>36</sup> Paragraph 13 National Planning Policy Framework 2019

<sup>37</sup> Paragraph 21 National Planning Policy Framework 2019

<sup>38</sup> Footnote 16 National Planning Policy Framework 2019

<sup>39</sup> Paragraph 29 National Planning Policy Framework 2019

*Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.*<sup>40</sup>

57. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The Borough Council has informed me that the Development Plan applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan are the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map). The Borough Council has confirmed that all the saved policies are considered to be strategic with the exception of policies EN3, H7, LC4 and LC5.
58. On 25 September 2019 the Borough Council resolved to prepare a new local plan for Amber Valley, with a plan end date of at least 2038. It is anticipated the Borough Council will be undertaking targeted engagement with key stakeholders and establishing an up to date evidence base in the period up to October 2020. Whilst the Borough Council has commenced work on the preparation of a new Local Plan this is at a very early stage. I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and any future Local Plan when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan unless the latter plan states otherwise.
59. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*<sup>41</sup>. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

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<sup>40</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

<sup>41</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision 09 05 2019

60. In considering a now-repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there to introduce a degree of flexibility.”<sup>42</sup> The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

61. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”<sup>43</sup>

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

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

## The Neighbourhood Plan Policies

63. The Neighbourhood Plan includes 15 policies as follows:

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<sup>42</sup> Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P & CR 31

<sup>43</sup> Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

Policy HOUS1 Number of developments  
 Policy HOUS2 Location  
 Policy HOUS3 Natural and Built Environmental Impact  
 Policy HOUS4 New Housing Mix  
 Policy HOUS5 Housing Design  
 Policy HOUS6 The Conversion of Redundant Farm Buildings & Extensions to Existing Housing  
 Policy HER1 Maintaining identity as a separate and distinct community  
 Policy HER2 Protecting the Conservation Area, listed buildings and other heritage assets  
 Policy ENV1 To protect and enhance the Parish's open spaces and recreation facilities  
 Policy ENV2 To protect, enhance and conserve the landscape and views  
 Policy ENV3 To protect and enhance biodiversity  
 Policy ENV4 To use land efficiently and to preserve high quality agricultural land  
 Policy ENV5 Flooding and Drainage  
 Policy BUS1 Fostering sustainable growth  
 Policy BUS2 Managing the environmental impact of business development

64. Paragraph 29 of the Framework states *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*. Footnote 16 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*
65. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*
66. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective*

*engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).*

67. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*<sup>44</sup>

68. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*<sup>45</sup>

69. A neighbourhood plan should contain policies for the development and use of land. *“This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004).”*<sup>46</sup>

70. *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.”*<sup>47</sup> *“A neighbourhood plan*

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<sup>44</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

<sup>45</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

<sup>46</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

<sup>47</sup> Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

*can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”<sup>48</sup>*

71. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

### **Policy HOUS1 Number of developments**

72. This policy seeks to establish support for the building of 54 new homes, including farm conversions.

73. In a representation DCC confirm that *“just ‘committed development’ would be more than sufficient to meet future needs of the Parish. On this basis the Policy approach in 3.2.3.1 HOUS1 Number of developments, is fully supported.”* Severn Trent Water has commented on housing supply as follows *“We recognise that housing within the parish will be focussed around small brownfield redevelopments opportunities and infill, currently there are no larger strategic allocations made in the parish by the district. We also acknowledge that the recommended housing supply figure of 54 generated from a recent housing study has already been exceeded with existing commitments and sites with planning.”*

74. The Guidance states *“The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies. While there is no set method for doing this, the general policy making process already undertaken by local authorities can continue to be used to direct development requirements and balance needs and protections by taking into consideration relevant policies such as the spatial strategy, evidence such as the Housing and economic land availability assessment, and the characteristics of the neighbourhood area, including its population and role in providing*

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<sup>48</sup> Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

services. In setting requirements for housing in designated neighbourhood areas, plan-making authorities should consider the areas or assets of particular importance (as set out in paragraph 11, footnote 6), which may restrict the scale, type or distribution of development in a neighbourhood plan area.”<sup>49</sup>

75. “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”<sup>50</sup>

76. “Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make. Neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it. A sustainable choice of sites to accommodate housing will provide flexibility if circumstances change, and allows plans to remain up to date over a longer time scale. Where neighbourhood planning bodies intend to exceed their housing requirement figure, proactive engagement with their local planning authority can help to assess whether the scale of additional housing numbers is considered to be in general conformity with the strategic policies. For example, whether the scale of proposed increase has a detrimental impact on the strategic spatial strategy, or whether sufficient infrastructure is proposed to support the scale of development and whether it has a realistic prospect of being delivered in accordance with development plan policies on viability. Any neighbourhood plan policies on the size or type of housing required will need to be informed by the evidence prepared to support relevant strategic policies, supplemented where necessary by locally-produced information.”<sup>51</sup>

77. “The scope of neighbourhood plans is up to the neighbourhood planning body. Where strategic policies set out a housing requirement figure for a designated neighbourhood area, the neighbourhood planning body does not have to make specific provision for housing, or seek to allocate sites to accommodate the requirement (which may

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<sup>49</sup>Planning Practice Guidance Paragraph: 101 Reference ID: 41-101-20190509 Revision date: 09 05 2019

<sup>50</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 41-040-20160211 Revision date: 11 02 2016

<sup>51</sup> Planning Practice Guidance Paragraph: 103 Reference ID: 41-103-20190509 Revision date: 09 05 2019

*have already been done through the strategic policies or through non-strategic policies produced by the local planning authority). The strategic policies will, however, have established the scale of housing expected to take place in the neighbourhood area. Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing. However, there is an expectation that housing requirement figures will be set in strategic policies, or an indicative figure provided on request. Where the figure is set in strategic policies, this figure will not need retesting at examination of the neighbourhood plan. Where it is set as an indicative figure, it will need to be tested at examination.”<sup>52</sup>*

78. *“Where an indicative housing requirement figure is requested by a neighbourhood planning body, the local planning authority can follow a similar process to that for providing a housing requirement figure. They can use the authority’s local housing need as a starting point, taking into consideration relevant policies such as an existing or emerging spatial strategy, alongside the characteristics of the neighbourhood plan area. Proactive engagement with neighbourhood plan-making bodies is important as part of this process, in order for them to understand how the figures are reached. This is important to avoid disagreements at neighbourhood plan or local plan examinations, and minimise the risk of neighbourhood plan figures being superseded when new strategic policies are adopted”.*<sup>53</sup>

79. *“Where strategic policies do not already set out a requirement figure, the National Planning Policy Framework expects an indicative figure to be provided to neighbourhood planning bodies on request. However, if a local planning authority is unable to do this, then the neighbourhood planning body may exceptionally need to determine a housing requirement figure themselves, taking account of relevant policies, the existing and emerging spatial strategy, and characteristics of the neighbourhood area. The neighbourhood planning toolkit on housing needs assessment may be used for this purpose. Neighbourhood planning bodies will need to work proactively with the local planning authority through this process, and the figure will need to be tested at examination of the neighbourhood plan, as neighbourhood plans must be in general conformity with strategic policies of the development plan to meet the basic conditions.”*<sup>54</sup>

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<sup>52</sup> Planning Practice Guidance Paragraph: 104 Reference ID: 41-104-20190509 Revision date: 09 05 2019

<sup>53</sup> Planning Practice Guidance Paragraph: 102 Reference ID: 41-102-20190509 Revision date: 09 05 2019

<sup>54</sup> Planning Practice Guidance Paragraph: 105 Reference ID: 41-105-20190509 Revision date: 09 05 2019

80. *“If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process.”<sup>55</sup>*
81. *“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date local plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*
- *the emerging neighbourhood plan*
  - *the emerging local plan (or spatial development strategy)*
  - *the adopted development plan*
  - *with appropriate regard to national policy and guidance.”*
82. *“The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing*

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<sup>55</sup> Planning Practice Guidance Paragraph: 043 Reference ID: 41-043-20140306 Revision date: 06 03 2014

requirement (paragraph 65 of the revised National Planning Policy Framework). Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new local plan.”<sup>56</sup>

83. “A neighbourhood plan can allocate additional sites to those identified in an adopted plan so long as the neighbourhood plan meets the basic conditions.”<sup>57</sup> and “A neighbourhood plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy. Neighbourhood plans should not re-allocate sites that are already allocated through these strategic plans. A neighbourhood plan can also propose allocating alternative sites to those in a local plan (or spatial development strategy), where alternative proposals for inclusion in the neighbourhood plan are not strategic, but a qualifying body should discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate. The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see paragraph 13 and paragraph 29 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy. Should there be a conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”<sup>58</sup>

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<sup>56</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509 Revision date: 09 05 2019

<sup>57</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 67-009-20190722 Revision date: 22 07 2019

<sup>58</sup> Planning Practice Guidance Paragraph: 044 Reference ID: 41-044-20190509 Revision date: 09 05 2019

84. Whilst it is not within my role to test the soundness of the Neighbourhood Plan it is necessary to consider whether the Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies, as required by paragraph 29 of the Framework; and meets the requirements set out in the Guidance.

85. The Saved Policies of the Amber Valley Local Plan seek to establish a development strategy and settlement hierarchy. Saved Policy H4 applies in the case of settlements within the Neighbourhood Area. Within the built framework of settlements new development is limited to a form of infilling of small gap capable of accommodating no more than two dwellings within existing groups of houses, subject to the character of the surroundings. Paragraph 3.44 of the Local Plan defines a built framework as the limits of continuous or contiguous development forming the existing built up area of a settlement. Outside the built framework of settlements, Saved Policy H5 states *“planning permission will not be granted for housing development unless the proposals are in the form of one or more of the following:*

- 1. extensions to existing dwellings, provided this would not result in a significant change to the scale or character of the dwelling and its surroundings*
- 2. replacement of existing dwellings, providing that the number of dwelling units is not increased*
- 3. new development which can be shown to be necessary for the operation of a rural based activity and where a countryside location is essential.”*

Saved Policy H6 states *“Planning permission for the conversion of existing buildings in the countryside to residential use from other uses will only be permitted if:*

- 1. it can be demonstrated that employment or tourism uses would not be suitable or viable, and*
- 2. the building or group of buildings is of permanent and substantial construction, is of a form, bulk and general design in keeping with its surroundings and can be converted without extensive alteration, rebuilding or extension.”*

86. The Borough Council has not provided a housing target at neighbourhood area level and the Parish Council have not requested an indicative housing requirement figure. The revisions to the

Guidance relating to these matters were published in May 2019 when the Neighbourhood Plan was at an advanced stage of preparation.

87. Appendix 1 of the Neighbourhood Plan sets out a well-evidenced assessment of housing need that produces a figure of 40 or 54 for a plan period ending in 2032. Appendix 9 of the Neighbourhood Plan sets out information regarding dwellings under construction and awaiting completion as at 1 April 2019 amounting to 13 dwellings, and planning permissions not yet started as at the same date, amounting to 35 dwellings. Together these figures equate to more than the mid-point of the range of assessed need. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the built framework of settlements where it meets stated criteria, nor beyond the built framework boundaries where the proposal is accepted in terms of Development Plan and national planning policy. In this policy context it is reasonable to assume there will be some windfall supply during the Plan period up to 2032 which will boost the supply of homes in the Neighbourhood Plan area. I am satisfied the approach adopted to address housing need in the Neighbourhood Area is appropriate for the purpose of neighbourhood plan preparation for Kirk Langley parish and provides the necessary justification that those policies that are relevant to housing supply, as recommended to be modified, will result in local housing needs being met. The Neighbourhood Plan meets the Basic Conditions in so far as it will not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.
88. In addition to Policy HOUS1, Policies HOUS2, HER1, ENV2, and ENV4 of the Neighbourhood Plan, are relevant to housing supply. I am satisfied those other policies meet the Basic Conditions in so far as they are relevant to housing supply.
89. Policy HOUS1 is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
90. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the

Framework, and the components of the Framework concerned with delivering a sufficient supply of homes the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy HOUS2 Location**

91. This policy seeks to establish that new housing will be permitted on land within or adjacent to the built framework of Kirk Langley village, and at Langley Common provided the development is in the form of infilling of small gaps within existing groups of houses.
92. In a representation the Borough Council state *"the second line of criterion b) – the words 'in writing' should be deleted"*. I agree this restriction has not been justified and have recommended modification of the policy so that the policy *"is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals"* as required by paragraph 16d) of the Framework.
93. Derbyshire County Council have raised concern that the built framework description is open to interpretation but otherwise fully support the approach of the policy and consider it would provide for a sustainable approach to the location of new housing development. In a letter to me dated 4 May 2020 the Parish Council confirm a previous similar comment had been considered following the Regulation 14 consultation stage and have expanded on the previous response, as follows: *"The issue of a settlement boundary was discussed at length, with the Steering Committee working through various supporting advice documents in deciding what was the best option for our area. This process is documented in the minutes of the Committee and the decision not to create such a boundary was endorsed by the Parish Council. Settlement boundaries are not the only way to restrict inappropriate development. Planning policies can be used against each plot of land to assess appropriateness for development. The advantage of this approach is that it would increase flexibility in deciding where development could come forward. However, the disadvantage would be a lack of clarity about where development may occur. That is the trade-off considered at the development stage of the plan. In addition, because of the building development which has already taken place since the inception of the plan, it was felt there was no pressing need to allocate land for development. This was an important consideration. This issue was also discussed with ... the*

*Borough Council, who assisted in devising the following definition, which is consistent with that in the adopted Amber Valley Borough Local Plan 2006: “3.2.3.4 Justification - The “built framework” at a) above is defined as “the limits of continuous or contiguous development forming the existing built up area of a settlement”. I am satisfied the approach adopted in the Neighbourhood Plan in this respect meets the Basic Conditions.*

94. The policy includes the term “*permitted*” three times and the term “*not permitted*” once. These terms are inappropriate as it is necessary to take account of material considerations that may not be known until the time of decision making.<sup>59</sup> The statement that new build dwellings will not be permitted in the areas classed as “*open countryside*” does not have sufficient regard for national policy, in particular paragraph 79 of the Framework. I have recommended a modification in these respects so that the policy has sufficient regard for national policy.
95. It is unnecessary and confusing for a policy to refer to other policies of the Neighbourhood Plan as the Neighbourhood Plan should be read as a whole. The term “*relevant*” is imprecise. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
96. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
97. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes; and conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy

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<sup>59</sup> Paragraph 2 National Planning Policy Framework 2019

is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 1:  
In Policy HOUS2**

- replace “permitted” with “supported” in all four instances
- delete the sentence commencing “In either”
- continue the sentence commencing “Outside of” with “unless one or more of the circumstances set out in paragraph 79 of the Framework apply”

**Policy HOUS3 Natural and Built Environmental Impact**

98. This policy seeks to establish criteria so that all new development minimises the impact on the natural and built environment.

99. In a representation Derbyshire County Council suggest the parish could provide support for public transport by helping to fund new bus shelters in partnership with the County Council. There is no requirement for the Neighbourhood Plan to make reference to this matter.

100. Policy HOUS2 has established the locations where new housing development will be supported. Policy HOUS3 in part repeats a criterion on Policy HOUS2 and introduces additional criteria but these are imprecise resulting in a confused policy framework such that it is not evident how a decision maker should react to development proposals as required by paragraph 16 d) of the Framework. The locational requirements of the policy do not have sufficient regard for national policy which, through paragraph 79 of the Framework, provides for homes in the countryside where specified circumstances apply. The term “*minimises the impact*” does not provide a basis for the determination of planning applications. The terms “*easy walking distance*” and “*village facilities*” are imprecise. This policy does not meet the Basic Conditions. I have recommended a modification so that the policy is deleted.

**Recommended modification 2:  
Delete Policy HOUS3**

## Policy HOUS4 New Housing Mix

101. This policy seeks to establish that the dwelling mix on a site will be required to meet local housing needs.
102. Paragraph 61 of the Framework states *“the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies”*. Appendix 1 of the Neighbourhood Plan presents a Kirk Langley Housing Needs Assessment prepared in March 2019. This assessment recommends the housing mix that has been incorporated in the text of Policy HOUS4. The policy is underpinned by relevant and up-to-date evidence as required by paragraph 31 of the Framework. I have recommended a modification so that changing identified housing needs throughout the plan period can be responded to.
103. Paragraph 16 of the Framework states plans should be deliverable. The policy is without consequence. The term *“as far as is practicable”* does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
104. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
105. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3:**

**Replace Policy HOUS4 with “To be supported housing development proposals must, unless this can be demonstrated to not be deliverable, reflect the following housing mix: 8% one-bedroom homes; 43% two-bedroom homes; 47% three-bedroom homes; and 2% four-bedroom homes, or reflect the findings of the most recent housing needs assessment.”**

**Policy HOUS5 Housing Design**

106. This policy seeks to establish housing design criteria and principles.
107. Derbyshire County Council has expressed support for the policy, particularly the references to electric vehicle charging points, the use of renewables, sustainable drainage systems (SuDS), and energy efficiency.
108. In a representation the Borough Council has expressed concern that parts of the policy are not consistent with the Framework and has suggested replacement wording for points 4 and 5, and the deletion of points 6 and 12. The term “*styled to complement*” in point 4 and the term “*good quality materials*” in point 5 are imprecise and do not have sufficient regard for national policy. Points 6 and 12 refer to matters that are not subject to planning control and cannot form part of a planning policy. I agree with the representation and have incorporated the suggestions in my recommended modification so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
109. The policy is without consequence. The terms “*will need to describe*” does not provide a basis for the determination of planning applications. The determination of planning proposals does not enable strong support to be conveyed. The term “*other buildings*” introduces uncertainty. In response to my request for clarification the Parish Council has confirmed the term “*other buildings*” is intended to apply to other domestic buildings which require planning permission. The policies of the Neighbourhood Plan only apply to development that requires planning permission. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a*

*decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

110. Paragraphs 124 to 132 of the Framework set out a clear statement of national policy for achieving well-designed places. Paragraph 125 of the Framework states *“Neighbourhood Plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.”* The Guidance regarding design process and tools was updated on 1 October 2019. The Guidance states *“Neighbourhood plan-making is one of the key ways in which local character and design objectives can be understood and set out, and with the benefit of being a community-led process.”* The National Design Guide, which is to be read alongside the Guidance, sets out under ten headings, the characteristics of well-designed places and demonstrates what good design means in practice. As recommended to be modified Policy HOUS5 has regard for national policy in that it seeks to promote or reinforce local distinctiveness without unnecessary prescription. The policy is supported by a satisfactory evidence base. The policy functions in the way that paragraph 127 of the Framework envisages it should.

111. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

112. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places, conserving and enhancing the natural environment, and conserving and enhancing the historic environment the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 4:**

### **In Policy HOUS5**

- **replace the opening statement with “To be supported development proposals must demonstrate how they meet the following criteria:”**
- **replace “other buildings” with “other domestic buildings”**
- **delete “strongly”**
- **replace “Design Principle” with “design principles”**
- **in point 4 replace “styled to complement” with “designed in a way which complements”**
- **in point 5 delete “good quality”**
- **delete point 6**
- **delete point 12**

### **Policy HOUS6 The Conversion of Redundant Farm Buildings & Extensions to Existing Housing**

113. This policy seeks to establish conditional support for the conversion of redundant farm buildings, and for extensions to houses.

114. In a representation the Borough Council suggest reference to scale should be deleted from criterion 1a) as it is not clear this is relevant given an existing building will be ‘in situ’. I agree this point and also consider criterion 1a) is imprecise and does not provide a basis for the determination of planning proposals, and unnecessarily duplicates part 1d) with respect to landscape setting. The Borough Council also suggest a re-wording of criterion 2 to provide greater clarity where it will apply. I agree with this point and consider the term *“in scale and proportion”* is imprecise. The representation of the Borough Council also states part of the justification presented in paragraph 3.2.3.12 is not consistent with the Framework. I agree with this point also in that national policy does not require demonstration that a redundant farm building is *“no longer needed for agricultural purposes”*. The justification text should not in any case be used to introduce elements of policy to the Neighbourhood Plan. It is unnecessary and confusing for one policy to refer to other policies as the Neighbourhood Plan should be read as a whole. I have recommended a modification in these respects so that the Neighbourhood Plan has sufficient regard for national policy and *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

115. Paragraph 109 of the Framework states *“development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
116. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
117. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes; achieving well-designed places; promoting sustainable transport; and conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:  
In Policy HOUS6**

- **in criterion 1 delete part a), and in part b) replace “undue impact on the road network” with “unacceptable impact on highway safety”**
- **replace criterion 2 with “To be supported extensions to dwellings must be subservient to the existing building in scale and proportion, and must complement its design.”**

**In justification paragraph 3.2.3.12 delete “where it can be shown that the building is no longer needed for agricultural purposes,”**

## **Policy HER1 Maintaining identity as a separate and distinct community**

118. This policy seeks to ensure that the distinctive and separate identities of Kirk Langley village, Langley Common, and surrounding hamlets and farmhouses will not be adversely affected by development. The policy states any development which extends the village towards Langley Common or along the A52 will not be permitted unless this improves or enhances the approach to the village along these routes.
119. In a representation Derbyshire County Council has stated support for this policy.
120. The policy includes the term “*not be permitted*”. This term is inappropriate as it is necessary to take account of material considerations that may not be known until the time of decision making.<sup>60</sup> I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
121. Paragraph 170 of the Framework states planning policies should protect and enhance valued landscapes, and recognise the intrinsic character and beauty of the countryside. The Consultation Statement, and the spatial and character analyses, that support the Neighbourhood Plan provide evidence that the gaps between settlements and buildings are regarded as having intrinsic character and beauty, and are a valued landscape. Paragraph 127 of the Framework states planning policies should ensure developments are sympathetic to the surrounding built environment and landscape setting. Maintaining distinctive and separate identities is not the same as preventing any development between settlements and buildings. Sustainable development could occur in areas between settlements and buildings that does not undermine visual separation. A policy defining an area where no development is to be permitted would seek to establish a regime that is more restrictive than even that applying in designated Green Belt. Such an approach would not have sufficient regard for national policy for it to be appropriate. Whilst the resistance of all forms of development in a defined area of open countryside would not have sufficient regard for national policy, the maintenance of distinctive and separate identities of settlements and buildings can be a legitimate objective of land use policy. Supporting text paragraph 3.3.3.2 confirms the purpose of the policy is to maintain the gaps

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<sup>60</sup> Paragraph 2 National Planning Policy Framework 2019

between settlements as well as buildings as being key to maintaining character.

122. As recommended to be modified the policy would not prevent sustainable development and has regard for those elements of the Framework that specifically recognise the importance of economic growth in rural areas; and the special circumstances where isolated homes in the countryside will be acceptable. As recommended to be modified the policy would not prevent the development of essential utility infrastructure that is appropriately sited and designed, and the policy is in general conformity with strategic policy relating to rural exception housing schemes. The policy has regard for the protection and enhancement of valued landscapes set out in paragraph 170 of the Framework. As recommended to be modified, I am satisfied the policy has regard for national policy; will not prevent sustainable development; and is in general conformity with the strategic policies.

123. The term *“Any application for new development, whether housing or commercial”* is internally inconsistent. The term *“demonstrate in writing”* would exclude other submissions and has not been justified. The terms *“the village”* and *“improves or enhances the approach”* are imprecise. I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

124. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

125. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places, conserving and enhancing the natural environment, and conserving and enhancing the historic environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be

included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 6:**

##### **In Policy HER1**

- **replace the first sentence with “To be supported proposals for new development must demonstrate the distinctive and separate identities of Kirk Langley village, Langley Common, and surrounding hamlets and farmhouses will not be adversely affected by the development.”**
- **replace “the village towards” with “Kirk Langley village towards”**
- **replace “permitted” with “supported”;**
- **insert “visual amenity of the” before “approach”**

#### **Policy HER2 Protecting the Conservation Area, listed buildings and other heritage assets**

126. This policy seeks to establish a policy approach in respect of development proposals that may affect the significance of the Conservation Area, Listed Buildings, and other heritage assets.

127. In a representation the Borough Council has suggested it is necessary to amend the policy in order to be consistent with paragraphs 190 and 199 of the Framework. I have recommended modifications so that the policy has sufficient regard for national policy in these respects. I have also recommended part c) of the policy is modified to have sufficient regard for paragraph 189 of the Framework.

128. The justification presented in paragraph 3.3.3.4 of the Neighbourhood Plan states that the Listed Buildings listed in Appendix 4 and the historic assets presented in Appendix 6 should be regarded as “*designated historical assets*”. This term is used in part a) of the policy. I consider use of this term could be confused with the term “*designated heritage assets*” as used in the Framework. The meaning of the terms “*local identified historical assets*” and “*locally important asset*” used in part b) of the policy is unclear. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

129. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

130. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 7:**

##### **In Policy HER2**

- **delete part a) and replace the first sentence of part b) with "To be supported development proposals must demonstrate regard for the significance of the Conservation Area, and any heritage asset identified in Appendix 4 and Appendix 6 (as updated throughout the plan period) where they, or their setting may be affected by the proposal."**
- **delete the final sentence of part b)**
- **replace part c with "Where a site on which development is proposed includes, or has potential to include heritage assets with archaeological interest, an appropriate desk-based assessment, and where necessary a field evaluation, must be submitted. Where assets with archaeological interest are to be lost it must be demonstrated why that loss is necessary, and how an appropriate record will be publicly accessible."**

## **Policy ENV1 To protect and enhance the Parish's open spaces and recreation facilities**

131. This policy seeks to protect open spaces and recreation facilities from development, unless stated circumstances apply.
132. In a representation the Borough Council has suggested adjustments to the wording of the policy and the title of Figure 31 that improve clarity. The term “*open spaces and recreation facilities*” is imprecise. The term “*suitable*” does not provide a basis for the determination of planning applications. I have recommended a modification in these respects so that the Neighbourhood Plan “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
133. The policy includes the term “*permitted*”. This term is inappropriate as it is necessary to take account of material considerations that may not be known until the time of decision making.<sup>61</sup> I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
134. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
135. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

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<sup>61</sup> Paragraph 2 National Planning Policy Framework 2019

**Recommended modification 8:**

**Replace Policy ENV1 with “Development proposals that detract from the quality or quantity of the current use of the open spaces and recreation facilities, listed below and identified on Figure 31, will not be supported unless:**

- **the open space, building or land is surplus to requirements; or**
- **replacement facilities of an equivalent or better standard are provided in a location no less convenient for users; or**
- **the proposed development is for alternative sports and recreation provision, the need for which clearly outweighs the loss.**

- a) the GB Barrington Playing Field and pavilion, including children’s playground area;**
- b) the allotments at Poles Road;**
- c) the village hall and church;**
- d) the village green; and**
- e) the public house on Moor Lane.”**

**Adjust the title of Figure 31 to “Map showing open spaces and recreation facilities listed in Policy ENV1”**

**Policy ENV2 To protect, enhance and conserve the landscape and views**

136. This policy seeks to establish that development proposals should recognise, protect and enhance the historic landscape and local character.

137. In a representation the Borough Council have suggested deletion of the final sentence of the first paragraph of the policy, and a more precise reference to Policy ENV1. The Borough Council also suggest the key to Figure 33 should appear alongside the map, either within the main document or in Appendix 8. I agree the final sentence of the first paragraph is imprecise; has not been sufficiently justified; and does not provide a basis for the determination of planning proposals. I also agree a more precise reference to Policy ENV1 and insertion of a key to Figure 33 are necessary so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d)

of the Framework. I have incorporated these suggestions in my recommended modifications.

138. The policy is without consequence. It is unnecessary and confusing for one policy to refer to “*within the Parish*” as all the policies of the Neighbourhood Plan apply in whole throughout the Plan area unless a smaller area is specified. The title of Figure 33 includes reference to ridgelines. This reference should be deleted as Policy ENV2 does not specifically refer to ridgelines. I have recommended a modification in these respects so that the Neighbourhood Plan “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
139. Planning policy must operate in the public interest. I am satisfied the significant views identified on Figure 33 are seen from locations to which the general public has free and unrestricted access. Paragraph 170 of the Framework states planning policies should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Consultation responses, and in particular conclusions reached at the public meeting held on 16 December 2017, have confirmed the significant views identified on Figure 33, and described in Appendix 8 of the Neighbourhood Plan, are valued landscapes.
140. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
141. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 9:**

**In Policy ENV2 replace the first paragraph with “To be supported development proposals must demonstrate how they recognise, protect and enhance the historic landscape and local character. The open rural “feel” and those vistas identified on Figure 33, and described in Appendix 8, must be protected. These include the views from footpaths and roads, and from the designated open spaces and recreation facilities identified in Policy ENV1.”**

**Insert a Key to Figure 33 naming the significant views**

**Delete “and ridgelines” from the title of Figure 33**

**Policy ENV3 To protect and enhance biodiversity**

142. This policy seeks to establish criteria for support of development proposals that affect local habitats and species.
143. The term “*local wildlife sites*” is imprecise. It is unnecessary and confusing for one policy to state “*in Kirk Langley Parish*” as all the policies apply in whole throughout the Plan area unless a smaller area is specified. The term “*will be protected from development*” does not provide a basis for the determination of planning applications. It is unnecessary and confusing for the policy to include the term “*in writing*” as acceptable submissions may include maps and other drawn material. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
144. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
145. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the

Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 10:**

##### **In Policy ENV3**

- **replace the text before the first colon with “To be supported development proposals affecting the local wildlife sites identified on Figure 34 must demonstrate”**
- **delete “in Kirk Langley Parish”**
- **in the first two bullet point lists, replace full stops with semicolons, and conclude the penultimate point in both lists by inserting “and”**
- **in the ninth bullet point replace “Including” with “including”**

**In paragraph 3.4.3.6 delete “Figure 33” and insert “Figure 34”**

**In Figure 35 (the key to Figure 34) add a list of the names of the six local wildlife sites identified as follows:**

- AV008 – Meynell Langley Lake**
- AV149 – Burma Road Lake**
- AV150 – Pastures Ponds**
- AV152 – Meynell Gorse Meadow**
- AV338 – Lodge Farm Woods**
- AV346 – Flagshaw Brook Swamp**

#### **Policy ENV4 To use land efficiently and to preserve high quality agricultural land**

146. This policy seeks to establish a policy approach in respect of development of agricultural land.

147. In a representation the Borough Council raise concern that the wording of the policy is not consistent with national policy. Paragraph 170 b) of the Framework states planning policies should recognise “*the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land ...*” I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

148. The terms “*generally not be permitted*” and “*not be permitted*” are inappropriate as it is necessary to take account of material considerations that may not be known until the time of decision making.<sup>62</sup> The term “*generally*” introduces uncertainty and does not provide a basis for the determination of planning proposals. It is unnecessary and confusing for a policy to refer to “*the other policies in this plan*” as the Neighbourhood Plan should be read as a whole. Policy HOUS2 seeks to establish a policy approach to the location of new housing development. The relationship between Policy HOUS2 and Policy ENV4, which relates to all types of development, is unclear. I have recommended a modification in these respects so that the policy “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

149. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

150. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 11:**

**Replace Policy ENV4 with “To be supported proposals for the development of best and most versatile agricultural land must demonstrate the public benefit outweighs the economic and other benefits of the existing use”**

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<sup>62</sup> Paragraph 2 National Planning Policy Framework 2019

## Policy ENV5 Flooding and Drainage

151. This policy seeks to establish that development should not increase the risk of flooding and/or drainage problems. Flood risk areas are identified and flood avoidance measures specified.
152. In a representation the Borough Council state the fourth paragraph of the policy should be deleted on the basis that it relates to matters outside of planning legislation or policy. Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these.<sup>63</sup> The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. I have recommended modification of the policy in this respect so that the policy has regard for national policy.
153. The term *“should not”* does not provide a basis for the determination of planning applications. The term *“where space permits”* is imprecise. In response to my request for clarification the Parish and Borough Councils have suggested the third paragraph should state *“Any new development proposals which provide new sewers will need to ensure that they will safely accommodate floods, which would otherwise not be accommodated due to the design capacity of the existing sewerage network being exceeded.”* The Parish Council has also confirmed that *“the second reference to a map in policy ENV5 is an error and that the photograph at Figure 37 and the narrative immediately above it are intended to expand on the information depicted in Figure 36, to provide a more detailed local reference.”* I have recommended a modification in these respects so that the policy *“is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
154. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies

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<sup>63</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>

(saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

155. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with meeting the challenge of climate change and flooding, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 12:**

##### **In Policy ENV5**

- **replace “and referenced on the map below” with “identified on Figure 36”**
- **replace “noted on the map below” with “referred to below and illustrated on Figure 37”**
- **in the second paragraph replace “where space permits” with “unless there is clear evidence that this would be inappropriate”**
- **replace the third paragraph with “Any new development proposals which provide new sewers will need to ensure that they will safely accommodate floods, which would otherwise not be accommodated due to the design capacity of the existing sewerage network being exceeded.”**
- **delete the fourth paragraph**

#### **Policy BUS1 Fostering sustainable growth**

156. This policy seeks to establish conditional support for limited and proportional economic development consistent with the profiles of existing business types. The policy also seeks to encourage small decentralised domestic renewal energy systems in new buildings.

157. In a representation the Borough Council express concern that the policy is not consistent with paragraph 83 of the Framework in relation to supporting a prosperous rural economy. The Borough Council has suggested modifications to the policy which have informed my recommended modification to ensure sufficient regard for national policy.
158. The primary focus of the policy is unclear from the policy title. I have recommended a modification in this respect to assist users of the plan. The limitation of support to development consistent with the profiles of existing businesses has not been sufficiently justified, and does not have sufficient regard for national policy which states planning policies should enable the sustainable growth and expansion of all types of business in rural areas. Sufficient evidence has however been presented to justify a limitation on the scale of new enterprises to be consistent with that of existing businesses in the Neighbourhood Area. The applicability of the broadband connection speeds specified throughout the plan period has not been justified. Use of the term “*domestic*” in the final sentence is confusing as the policy relates to economic development. The term “*encouraged*” does not provide a basis for the determination of planning applications. It is unnecessary and confusing for a policy to refer to compliance with other policies as the Neighbourhood Plan should be read as a whole. It is unnecessary and confusing for one policy to state “*within the parish*” as all the policies apply in whole throughout the Plan area unless a smaller area is specified. The terms “*applications*” and “*other policies*” are imprecise. The inclusion of references to vehicle charging facilities and renewable energy systems in both Policy BUS1 and BUS2 does not result in a clear policy framework. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
159. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

160. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 13:**

**Replace Policy BUS1 with “Development proposals which foster economic development consistent with the scale of existing businesses will be supported. All proposed employment buildings must provide for broadband connectivity.”**

**In the Policy title after “sustainable” insert “economic”**

**Policy BUS2 Managing the environmental impact of business development**

161. This policy seeks to establish environmental impact criteria for support of development of existing businesses, and in respect of proposals for new business development.

162. In a representation the Borough Council recommend deletion of the term “*where the use is in accordance with what the community consider acceptable.*” I agree that the term in question does not provide a basis for the determination of planning applications and I have recommended a modification in this respect so that the policy has sufficient regard for paragraph 2 of the Framework which requires development proposals to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

163. It is unnecessary and confusing for the policy to state “*within the parish boundary*” as all the policies of the Neighbourhood Plan apply throughout the Plan area unless a smaller area is specified. The second and third paragraphs of the policy result in a lack of clarity when read alongside the first paragraph; are imprecise; and do not provide a basis for the determination of planning proposals. The fifth paragraph is without consequence, and the requirement in relation to extensions, but not new build, has not been justified. The terms

*“encouraged” and “discouraged” do not provide a basis for the determination of planning proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.*

164. As recommended to be modified the policy is in general conformity with the strategic policies included in the Saved Policies (saved by the Secretary of State 8 April 2009) of the Amber Valley Borough Local Plan adopted 12 April 2006 (including the Proposals Map) applying in the Kirk Langley Neighbourhood Area and relevant to the Neighbourhood Plan and serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

165. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with building a strong, competitive economy, and conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 14:  
In Policy BUS2**

- **delete “where the use is in accordance with what the community consider acceptable”**
- **delete paragraphs 2 and 3**
- **replace the fifth paragraph with “To be supported new business developments, and significant extensions to business premises, must provide infrastructure for electric vehicle charging unless it is demonstrated that it is not practicable.”**
- **replace the sixth paragraph with “Development proposals that include small decentralised renewable energy systems, including building mounted solar energy, biomass, and ground and air source heating systems will be supported.**

## Summary and Referendum

166. I have recommended 14 modifications to the Submission Version Plan. I have also made a recommendation of modification in the Annex below.

167. I am satisfied that the Neighbourhood Plan<sup>64</sup>:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Parish and Country Planning Act 1990 and meets the Basic Conditions:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>65</sup>

**I recommend to Amber Valley Borough Council that the Kirk Langley Neighbourhood Development Plan for the plan period up to 2032 should, subject to the modifications I have put forward, be submitted to referendum.**

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<sup>64</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

<sup>65</sup> This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

168. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>66</sup> I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”<sup>67</sup>. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Amber Valley Borough Council as a Neighbourhood Area on 7 April 2017.**

### **Annex: Minor Corrections to the Neighbourhood Plan**

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

170. I also recommend correction of the following errors:

- Basic Conditions Statement title page delete 2033 and insert 2032
- Page 3, paragraph 3, line 3, Borough not District
- Page 9, paragraph 3, line 1, Assessment not Analysis
- Page 16 paragraph under Figure 11 adjust to read “The present school has recently undergone development which will provide an additional 29 places from September 2020.”
- In the key objectives listed in paragraph 3.4.2 insert “Lowland Derbyshire” before “Biodiversity”
- Page 50 last sentence, adjust to read “reflected in the encouragement”
- Add “Plan” to the title of Section 3

171. I recommend minor change in these and any other respects only in so far as it is necessary to correct an error or where it is necessary

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<sup>66</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>67</sup> Planning Practice Guidance Paragraph 059 Reference ID: 41-059-20140306 Revision 06 03 2014

so that the Neighbourhood Plan “*is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

**Recommended modification 15:**

**Modify general text to achieve consistency with the modified policies, and to correct identified errors including those arising from updates. Renumber parts of policies arising from modifications.**

Derbyshire County Council has also suggested additional text relating to education matters. Whilst I would have no objection to inclusion of the suggested text, I have been unable to recommend a modification in this respect as it would not be necessary to meet the Basic Conditions nor be necessary to correct errors.

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10 May 2020  
REPORT ENDS