

BARDSEY-CUM-RIGTON NEIGHBOURHOOD PLAN

Bardsey-cum-Rigton Neighbourhood Plan Examination,
A Report to Leeds City Council

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Introduction

The Neighbourhood Plan

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

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

(Paragraph 183, National Planning Policy Framework)

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

Role of the Independent Examiner

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

Neighbourhood Plan Period

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

"May 2017 to May 2032."

- 12 I also note that Paragraph 1.3 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan sets out that:

"The intended period of the Neighbourhood Plan extends to 2032."

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

- 14 Further to the above, there is a mistake on page 20 of the Neighbourhood Plan, which refers to:

"...the conclusion of the anticipated life of this Plan in 2028."

- 15 This conflicts with the stated plan period and consequently, I recommend changing the third line of Para 3.2 on page 20 to:

- **"...life of this Plan in 2032."**

Public Hearing

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

2. Basic Conditions and Development Plan Status

Basic Conditions

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

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

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

³ The Convention rights has the same meaning as in the Human Rights Act 1998.

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

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

European Convention on Human Rights (ECHR) Obligations

- 23 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 24 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a "*summary of responses and outcome of comments.*"

European Union (EU) Obligations

- 25 A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites.
- 26 The Basic Conditions Statement establishes that:

"The Neighbourhood Area is not in close proximity to any European designated nature sites so does not require an appropriate Assessment under the EU Habitats Regulations."
- 27 This is not quite the case. Leeds City Council, in its Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report, recognised that the Kirk Deighton Special Area of Conservation (SAC) is located within a 15km radius of the Neighbourhood Area boundary. However, the HRA Screening Report established that the Neighbourhood Plan:

"...is not likely to have significant effects on the Kirk Deighton SAC, whether alone or "in combination" with other projects and programmes."

The Report also went on to recognise that:

“Natural England has confirmed that in their view the proposals contained within the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect...a full HRA of the BNP is not required.”

- 28 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal⁴. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.

- 29 In this regard, national advice states:

“Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.” (Planning Practice Guidance⁵).

- 30 This process is often referred to as a screening report, opinion, statement or assessment. If the screening report identifies likely significant effects, then an environmental report must be prepared.

- 31 The Basic Conditions Statement confirms that Leeds City Council issued a screening opinion (referred to above) in October 2016 and that this advised:

“In the light of the assessments undertaken...a Strategic Environmental Assessment (is) not required for the Bardsey NP.”

- 32 The Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report produced by Leeds City Council was provided to the statutory consultees, Natural England, Historic England and the Environment Agency, for consultation. The responses of the statutory consultees are provided in the Report and can be summarised as:

“...it is unlikely that significant negative impacts on environmental characteristics that fall within our remit and interest will result through the implementations of the plan.” (Environment Agency)

“...Historic England concurs with the Council that the preparation of a Strategic Environmental Assessment is not required.” (Historic England)

⁴ Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance

⁵ Paragraph 027, *ibid*

"...there are unlikely to be significant environmental effects from the proposed plan." (Natural England)

- 33 In addition to all of the above, I am mindful that national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

"It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations" (Planning Practice Guidance⁶).

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

⁶ Paragraph 031, Reference: 11-031-20150209, Planning Practice Guidance

3. Background Documents and the Bardsey-cum-Rigton Neighbourhood Area

Background Documents

35 In undertaking this examination, I have considered various information in addition to the Bardsey-cum-Rigton Neighbourhood Plan. This has included the following main documents:

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

Also:

- Representations received

36 In addition, I spent an unaccompanied day visiting the Bardsey-cum-Rigton Neighbourhood Area.

Bardsey-cum-Rigton Neighbourhood Area

- 37 A plan showing the boundary of the Bardsey-cum-Rigton Neighbourhood Area is provided on page 6 of the Neighbourhood Plan.
- 38 The Neighbourhood Area covers all land within the boundary of Bardsey-cum-Rigton Parish. I note that the Parish boundary has changed since 2014 and that the plan provided in the Neighbourhood Plan takes this change into account.
- 39 Leeds City Council approved the designation of Bardsey-cum-Rigton as a Neighbourhood Area on 17th September 2012. This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

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

Bardsey-cum-Rigton Neighbourhood Plan Consultation

- 42 A Consultation Statement was submitted to Leeds City Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*⁷.
- 43 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Bardsey-cum-Rigton Neighbourhood Area, having regard to Paragraph 183 of the Framework.
- 44 As established earlier in this Report, the Neighbourhood Plan was produced by a Steering Group. This Steering Group had delegated responsibility for preparing the Neighbourhood Plan and was made up of Parish Councillors and local residents. The Steering Group met on 63 occasions during the course of the plan-making process.
- 45 The Consultation Statement highlights the positive working relationship between the Steering Group and Leeds City Council's Neighbourhood Planning Officer. This has regard to national guidance, which calls for constructive engagement with the local planning authority.⁸

⁷Neighbourhood Planning (General) Regulations 2012.

⁸ Planning Practice Guidance Reference ID: 41-022-2015020.

- 46 Following a public meeting in March 2012, attended by around 150 residents, a simple Questionnaire was produced and distributed to all households. More than ninety completed questionnaires were received and the results were published in October 2012. A subsequent Drop In session was publicised and held in November 2012, where visitors were encouraged to comment on possible development sites. A total of 233 residents attended.
- 47 A Housing Needs Survey was then produced, with professional support and was distributed to all households during May 2013. Almost half of the surveys, amounting to 449, were completed and returned. These were assessed and the results published in September 2013.
- 48 In July 2013, landowners/advisers were invited to present proposals to a Steering Group meeting attended by around 100 residents. This included a Questions and Answers session.
- 49 In April 2014, a suite of documents including a Visions and Objectives report was delivered to all households and was consulted upon for a five week period. The results, comprising 172 completed surveys, helped to inform the first draft plan.
- 50 A pre-submission draft plan was produced and this underwent a six week public consultation period during June and July 2016. Notification of the consultation was hand-delivered to all households and digital and hard-copies of the plan were made available. The consultation period was also supported by a Drop In event held in July 2016. The results of the consultation were duly collated and publicised.
- 51 The Submission version of the Neighbourhood Plan was subsequently prepared and submitted to Leeds City Council.
- 52 Evidence has been provided to demonstrate that the plan-making process was widely publicised. Consultation was supported by articles and information published in the Bardsey News and on the dedicated village website.

- 53 The Consultation Report provides evidence to show that public consultation was central to the production of the Neighbourhood Plan. Community engagement was strongly encouraged throughout the plan-making process. Matters raised were duly considered and the reporting process was transparent.
- 54 Taking all of the above into account, I am satisfied that the consultation process was robust.

5. The Neighbourhood Plan – Introductory Section

55 The Basic Conditions require consideration of whether or not the Neighbourhood Plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State and whether or not it is in general conformity with the strategic local policies of the Local Plan.

56 The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner's Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.

57 The legislation behind Neighbourhood Planning underpins the power of communities to plan for themselves and it is important that it is referenced precisely. A neighbourhood plan is *made*, not adopted and in the interests of precision, I recommend:

- **Para 1.1, top of Page 7, line 2, change to “Before it can be *made*, the Neighbourhood Plan and its supporting material must meet legislative requirements and pass examination by an Independent Examiner. Most importantly of all...Once *made*, the Neighbourhood...statutory responsibility to afford full material weight to the Policies of the made Neighbourhood Plan when considering planning applications.”**

58 Paragraph 1.4, on page 9 of the Neighbourhood Plan refers to the content of Chapter 4 being:

“...substantiated by evidence and cross referenced to national and local policy...”

59 However, Chapter 4 does not include such information and in any case, I note that, if the Neighbourhood Plan was made then it would, by its very nature, meet the basic conditions. Consequently, no such references are necessary in Chapter 4. I recommend:

- **Page 9, Para 1.4, end sentence after “...achieving our objectives.”**

60 Map 2 refers to details regarding "*cherished views*" as being on page 41. They are on page 42. For accuracy, I recommend:

- **Map 2 legend, change to "...and page 42, in the appendices to the Neighbourhood Plan (*cherished views*)."**

61 Also for accuracy, with respect to legislation, I recommend:

- **Page 19, para 3.1, line 1, change to "...it must have regard to national policy and advice and be in general conformity with strategic local policy."**

62 Parts of the description of the development plan as it affects Leeds appears to be taken from Leeds City Council's website, but other parts do not and the result is a confusingly worded summary which is not quite correct. Further, listing a series of emerging documents adds little but confusion to this part of the Neighbourhood Plan and is unnecessary. For accuracy, I recommend:

- **Page 20, para 3.1.2, line 2, change to: "*The development plan for Leeds comprises a range of documents, including the Leeds Core Strategy (adopted in 2014) and the Leeds Unitary Development Plan (UDP), (reviewed in 2006).*" Delete the rest of the paragraph, including the various bullet points.**

63 I note earlier in this Report that Paragraph 3.2 should change to reflect the plan period.

64 The Policies of the Neighbourhood Plan are the most important part of the document. Whilst they may have emerged from stated objectives, the fundamental role of the Policies is to steer and control development as part of the development plan. For clarity, I recommend:

- **Page 21, under "Objectives," delete "*, supported by detailed policies*"**

65 I note that the plans provided in the Neighbourhood Plan, together with the provision of photographs, the use of colour and the clear distinction afforded to the Policies, provide for an exceptionally well-presented document.

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Landscape and rural environment (LRE)

Policy LRE1: Conserving historic rural character

66 Policy LRE1 is concerned with rural landscape and character. There is no reference in the Policy to historic character. The supporting text to the Policy also refers to “*historic landscape features*” but no indication is provided of what these historic features comprise and how, if at all, they differ from “*landscape features.*” To avoid unnecessary confusion, it is therefore recommended:

- **Policy LRE1 title, delete “*historic*”**
- **Paras 4.2.1 and 4.2.1.1, delete “*Historic*” and “*historic*”**

67 Paragraph 58 of the National Planning Policy Framework (the Framework) requires planning policies to ensure that developments:

“...respond to local character...reflect the identity of local surroundings...”

68 Policy LRE1 aims to ensure that development respects local character and in this way, it has regard to national policy. Evidence that appears proportionate to neighbourhood planning in respect of “*cherished views*” has been provided and sensitivity to these views would help development respond to local character, having regard to national policy.

69 However, Criterion iii. refers to the need for development to “*remain sensitive*” to cherished views. In this regard, it is not clear how a development that has not yet taken place can “*remain,*” or how such a thing would be controlled beyond development. I address this in the recommendations below.

70 The Policy goes on to require all development to “*seek to conserve and enhance*” the rural landscape. This requirement goes well beyond any national or local policy requirements without substantive justification and there is no information to demonstrate that it would be viable, or even possible, in all circumstances for development to enhance the rural landscape. Consequently, this part of the Policy fails to have regard to Paragraph 173 of the Framework, which establishes that:

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

71 The final part of Policy LRE1 seeks to avoid development on “*prominent skyline locations.*” However, no indication is provided in respect of where these might be or why all forms of development would be “*particularly injurious*” were they to be located there. This part of the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

72 Taking the above into account, I recommend:

- **Policy LRE1 iii., change to “*Be sensitive to...*”**
- **Delete Policy LRE1 iv**
- **Policy LRE1 v., delete and replace with “*Avoid development that unduly dominates the skyline.*”**

Policy LRE2: Enhancing the Public Rights of Way network

73 Paragraph 75 of the Framework states that:

“Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks...”

74 Policy LRE2, in seeking improvements to the public rights of way network, has regard to national policy.

75 The first part of the Policy could result in unintended consequences. Rather than simply support improvements to public rights of way, Policy LRE2 supports any form of development, so long as it improves rights of way. This could result in support for unsustainable forms of development and there is no evidence before me to the contrary.

76 Part ii. of Policy LRE2 states that all development *“will protect”* proposed footpath routes. Notwithstanding that not all proposals for development in the Neighbourhood Area will have a bearing on proposed footpath routes, the approach set out in LRE2 ii. seeks to impose requirements in respect of *“intended routes”* that do not exist and that may or may not exist in the future. In effect, this part of the Policy concerns a local aspiration rather than a land use planning matter that the Neighbourhood Plan can control.

77 In the above regard, I am mindful that the Note forming part of the Policy confirms that the proposed routes are *“aspirations.”* The fact that the future provision of new routes are *“designated Projects”* does not change the fact that the routes do not exist. Furthermore, there is no evidence to demonstrate that the Neighbourhood Plan, or Bardsey-cum-Rigton Parish Council, can guarantee their delivery in the future.

78 I note that the Neighbourhood Plan does not allocate any land for development and there is no evidence to demonstrate that Community Infrastructure Levy contributions will ensure the delivery of the proposed routes.

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

- **Policy LRE2, change the start of Criterion i. to *“Improvements to our Public...”***

- **Delete Criterion ii. and corresponding Note**
- **After Policy LRE2 add “*Community Action: The Parish Council will seek to deliver the new routes identified in map 4.*” This Community Action is not a Policy and should be presented in similar text to the Supporting Text (and not in a green Policy box).**

Policy LRE3: Biodiversity, conservation and enhancement

- 80 National policy requires the planning system to minimise impacts on biodiversity and provide net gains in biodiversity where possible (Framework, Paragraph 109). In general terms, Policy LRE3 has regard to this.
- 81 In a similar way to Policy LRE2, Policy LRE3 establishes general support for any kind of development, so long as it protects biodiversity. As set out, this approach could result in unforeseen circumstances arising from unwitting support for unsustainable forms of development. It is also unclear why the Policy singles out a Site of Special Scientific Interest (SSSI) when it is seeking to support biodiversity in general. As SSSI's, such sites are already afforded protection from inappropriate forms of development.
- 82 The second part of Policy LRE3 effectively imposes requirements relating to third parties, over which the Neighbourhood Plan has no authority or control.
- 83 Taking the above into account, I recommend:
- **Change first sentence of Policy LRE3 to *“The protection, conservation, enhancement and/or interpretation of the Parish’s rich heritage of habitats, landscapes and historic features will be supported.”***
 - **Delete second sentence *“(Where necessary...bodies.)”***

The built environment (BE)

Policy BE1: High quality building design

84 Good design is recognised by the Framework as comprising:

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

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

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

86 Also, Core Strategy Spatial Policy 1 (*Location of Development*) requires development to respect and enhance the identity of places and neighbourhoods; and Core Strategy Policy P10 (*Design*) requires the provision of good design.

87 The opening paragraph of Policy BE1 clearly seeks to ensure that development in the Neighbourhood Area is underpinned by high quality design. In this way, Policy BE1 is in general conformity with the strategic policies of the Core Strategy and has regard to national policy.

88 However, it is unclear why the first Criterion of the Policy only seeks to provide for high quality design in residential areas. Neither national nor local policy seeks to limit good design to residential areas. Other Policies in the Neighbourhood Plan, along with supporting evidence, indicate that the whole of the Neighbourhood Area and its inherent qualities, are important to the local community and I address this in the recommendations below.

89 The second Criterion of the Policy refers to *“any renovations...alterations or extensions.”* The majority of such things do not require planning permission and cannot be controlled by the Neighbourhood Plan. It is not clear why the Policy then goes on to provide a detailed, but incomplete list of various parts of buildings. Notwithstanding this, the first Criterion already requires development to take local character into account.

90 The final Criterion of the Policy is confusingly worded. Essentially, it states that development will “*seek to use sustainable materials and/or techniques*” subject to “*robustly demonstrating*” that it can do so sensitively. Consequently, if a development cannot demonstrate that it can use sustainable materials or techniques sensitively, then it simply won't don't do so and there will be no policy consequences. However, I am mindful of national policy's presumption in favour of sustainable development and this is reflected in the modifications below.

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

- **Policy BE1 i., delete “...in all residential areas...”**
- **Delete Policy BE1 ii.**
- **Policy BE1 iii., delete and replace with “*The use of sustainable materials and/or techniques will be supported.*” The terms “*sustainable materials*” and “*techniques*” are defined in the notes to the Policy and I recommend that these notes are retained.**

Policy BE2: Improving streets and street scene

92 Planning Practice Guidance⁹ 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.”

93 The opening sentence to Policy BE2 states that *“development will seek to achieve the following set of key principles.”* The wording is imprecise. Further, even changing the word *“will”* to *“should”* would still result in the vague reference to *“seek to achieve...key principles.”*

94 The Neighbourhood Plan provides no evidence of any *“new street design”* or *“improvements to the current street arrangements”* and it is therefore unclear what this part of the Policy relates to. Similarly, there is no indication of what an *“emphasis on people movement”* actually means. This part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal.

95 It is unclear what an *“improvement”* to an *“opportunity”* might mean in land use planning terms. The gist of Policy BE2 ii. appears to support improvements to public rights of way and this has regard to Paragraph 75 of the Framework, which states:

“Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks...”

96 However, these are matters already covered by the Neighbourhood Plan in Policy LRE2 and the reference in Policy BE2 appears as unnecessary repetition.

97 No indication of what the minimum requirements of *“safety and functionality”* are for street signage and the Policy is therefore imprecise in this regard. I note that the provision of signage along the public highway is the responsibility of the highways authority.

⁹ Paragraph: 042 Reference ID: 41-042-20140306

- 98 No evidence is provided to demonstrate that the requirements set out in Criterion iv. of the Policy would be viable, let alone relevant, necessary or material, in respect of all proposals for new development. Consequently, this part of the Policy fails to have regard to Paragraph 173 of the Framework.
- 99 Taking all of the above into account, Policy BE2 does not meet the basic conditions. I recommend:
- **Delete Policy BE2 and supporting text**

Policy BE3: Managing car parking

- 100 Policy BE3 requires the provision of “adequate car parking.” No definition is provided of what adequate parking comprises and consequently, this part of the Policy is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal.
- 101 The Policy goes on to require the provision of at least two car parking spaces per dwelling. It is not clear why a one bedroom flat and say, a five bedroom house should provide the same number of parking spaces and there is nothing to demonstrate that this would be “adequate” in all circumstances.
- 102 In addition to the above, Policy BE3 states that car parking spaces can be “in the form of well screened on-road parking bays.” It is not clear how a parking bay developed on an existing highway can be well screened and no information is provided in this respect.
- 103 Furthermore, there is no evidence to demonstrate that new well screened on-road parking bays can be provided without harm to highway safety, or without adding street clutter. The Policy fails to have regard to Paragraph 58 of the Framework, which requires developments to ensure safe environments; and Paragraph 35 of the Framework, which requires developments to “avoid street clutter.”
- 104 The Policy ends with the vague statement that “Consideration will be given” to visitor parking. No indication is provided of who will consider this or on what basis, or what the outcome of any such consideration might be. This part of the Policy is imprecise.
- 105 Taking all of the above into account, Policy BE3 does not meet the basic conditions. I recommend:
- **Delete Policy BE3 and supporting text.**
- 106 In making the above recommendations, I am mindful that Leeds City Council’s Parking Supplementary Planning Document (2016) provides guidance in respect of parking standards.

Policy BE4: Maintaining dark villages

- 107 Policy BE4 states that *“new street lighting will be discouraged.”* However, no indication is provided of what will actually be done to *“discourage”* street lighting and how this relates to a land use planning policy. This part of the Policy lacks clarity.
- 108 Further to the above, I am mindful that street lighting is generally the responsibility of the highways authority and there is no evidence to suggest that this is not the case in the Neighbourhood Area.
- 109 The Policy goes on to require security, decorative or feature lighting to be *“carefully designed.”* No evidence is provided to demonstrate that such lighting requires planning permission or that this is a matter that the Neighbourhood Plan has control over.
- 110 However, those parts of the Neighbourhood Area that are unlit and that contribute towards its *“dark nature”* are important to local people. In presenting a requirement for development to respect these, Policy BE4 has regard to the Framework's requirement for development to respond to local character, as referred to earlier in this Report.
- 111 As worded, Policy BE4 requires development to *“maintain”* the village's dark nature, although there is no evidence setting out precisely what this dark nature is and how it may alter across the Neighbourhood Area. Consequently, this part of the Policy is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal.
- 112 Planning applications are not determined on the basis of whether *“residents are in favour”* and consequently, I recommend a change to the supporting text to the Policy.
- 113 Taking the above into account, I recommend:
- **Policy BE4, change first sentence to *“New development in areas of the Parish that are unlit by street lighting should respect the ‘dark’ nature of those parts of the Neighbourhood Area.”***
 - **Delete Criteria i. and ii.**
 - **Paragraph 4.3.4.1, delete the second sentence**

Policy BE5: Integrating green infrastructure

114 As worded, Policy BE5 states that all development “*will*” enhance green infrastructure. However, no evidence is provided to demonstrate that it is viable, or relevant, for all forms of development to do so and consequently, as presented, the Policy fails to have regard to Paragraph 173 of the Framework.

115 The criteria provided in Policy BE5 are simply a list of things related to green infrastructure.

116 However, the general thrust of the Policy, in promoting green infrastructure and biodiversity, has regard to the national policy requirement, which establishes that the planning system should minimise impacts on biodiversity and provide net gains in biodiversity where this is possible (Framework, Paragraph 109).

117 Taking this into account, I recommend:

- **Policy BE5, delete first paragraph and replace with, “*New development should protect and where possible, enhance green infrastructure and provide net gains in biodiversity.*”**
- **Move the three criteria to the end of Paragraph 4.3.5.1 and precede them with, “*A positive approach to green infrastructure and biodiversity provides for the following:*”**

Housing

Policy H1: New Housing

- 118 Land outside the built-up area of Bardsey-cum-Rigton is located within the Leeds Green Belt and is consequently controlled by national Green Belt policy. The Neighbourhood Plan does not seek to provide for development inappropriate in Green Belt and in this respect, it has regard to Chapter 9 of the Framework, "*Protecting Green Belt Land*," and is in general conformity with the Green Belt policies of the Leeds Core Strategy (2014). Together, national and local policy provide the policy basis for the protection of the openness of the Leeds Green Belt.
- 119 However, neither national nor local planning policy precludes all residential development in the Green Belt. In conflict with this, Policy H1 states that housing should be located outside the Green Belt. Such an approach may prevent sustainable development that meets national and local policy requirements from coming forward and there is no substantive evidence to the contrary.
- 120 More generally, Policy H1 seeks to focus residential development within the existing built-up area and in so doing, it provides for sustainable development to come forward. Whilst the Neighbourhood Plan does not allocate land for development, there is no substantive evidence to demonstrate that it promotes less development than required by, or undermines the adopted strategic policies of, the development plan.
- 121 The Policy goes on to set out a requirement for all residential development to do various things. However, there is no evidence to demonstrate that these requirements are viable or deliverable, having regard to Paragraph 173 of the Framework. For example, there is nothing to indicate that it would be viable for a development comprising one dwelling to "*improve the sustainable connectivity of the parish by way of roads, rights of way and connecting green infrastructure*." This part of the Policy does not have regard to the Framework and does not meet the basic conditions.
- 122 Subject to the clarity of the wording (and I make a recommendation in this regard below), Criterion iii. of Policy H1 seeks to ensure that development responds to local character and has regard to Paragraph 58 of the Framework, referenced earlier in this Report.

- 123 No evidence has been provided in respect of the existence of *“suitable brown field sites.”* In this respect, it is unclear how development proposals can prioritise something that has not been demonstrated to exist. Notwithstanding this, national planning policy establishes a presumption in favour of sustainable development. There is nothing before me to suggest that it seeks to prevent sustainable development from coming forward on the basis that there might possibly be a brown field site elsewhere, that might be capable of development. Criterion iv. does not meet the basic conditions.
- 124 The supporting text to Policy H1 includes a confusing reference to sites being identified *“as potentially accommodating new homes.”* The Neighbourhood Plan does not identify any such sites and the inclusion of this reference detracts from the document's clarity.
- 125 Taking the above into account, I recommend:
- **Policy H1 i. delete “, and outside the green belt.”**
 - **Policy H1 ii. change to “Where viable, new development should seek to improve...of way and/or connecting green infrastructure.”**
 - **Policy H1 iii. change to “Development of back land and gardens which would harm the open aspect of the parish will not be supported.”**
 - **Delete Policy H1 iv.**
 - **Para 4.4.1.1, delete second sentence and replace with “The village is surrounded by Green Belt and this severely limits the scope for residential development.” Delete last sentence (“These restrictions...parish.”)**

Policy H2: Housing size and type

- 126 Chapter 6 of the Framework requires the delivery of a wide choice of high quality homes to meet the needs of different groups in the community.
- 127 The evidence supporting the Neighbourhood Plan identifies local demand for smaller homes. However, no indication of what a dwelling "*designed for new families*" might comprise is provided. The undefined term "*new family*" is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.
- 128 In a similar vein, "*those seeking to downsize to housing more appropriate to their needs*" is also an undefined, imprecise term. It could be that someone living in a ten bedroom mansion now has a need for a much smaller five bedroom dwelling; or that someone in a four bedroom house has a need for a three bedroom house; or many other factors. This lack of precision means that Policy H2 fails to have regard to relevant national planning guidance, referred to earlier in this Report.
- 129 The second part of Policy H2 is confusing. It is not clear how an assessment can "*call for*" new homes. Also, "*the most up to date*" housing assessment at the time of a planning application will depend upon when a planning application is submitted. In the absence of evidence related to future housing needs over the course of the plan period, it is not clear why a report not yet produced relates specifically to the provision of up to 2 bedrooms.
- 130 Taking all of the above into account, I recommend:
- **Delete Policy H2 i.**
 - **Policy H2 ii., change to "*The provision of smaller homes, comprising up to two bedrooms, will be supported.*" (Policy to comprise one sentence, rather than separate criteria)**

Policy H3: Supporting sustainable development

131 Paragraph 193 of the Framework requires information requirements for applications to be:

"...proportionate to the nature and scale of development proposals..."

132 and goes on to require that supporting information is restricted to that which is:

"...relevant, necessary and material to the application in question."

133 Further to the above, it is the responsibility of the Local Planning Authority, in this case Leeds City Council, to determine planning application information requirements over and above national information requirements. No evidence has been provided to demonstrate that a requirement for all developments of more than two dwellings to provide *"Statements of Community Involvement"* and *"Infrastructure Delivery Plans"* would, in all cases, have regard to either Paragraph 193 of the Framework; or that such requirements are viable and deliverable, having regard to Paragraph 173 of the Framework.

134 In addition, Criterion ii. is far from clear. No indication is provided of what *"key issues"* or *"key services"* might comprise and the Policy is therefore imprecise in this regard.

135 Notwithstanding the above, the first part of Policy H3 promotes community engagement, having regard to Paragraph 189 of the Framework, which seeks to:

136 *"...encourage any applicants who are not already required to do so by law to engage with the local community before submitting their applications."*

and the final Criterion relates to the provision of useful information.

137 Taking everything into account, I recommend:

- **Policy H3, delete the wording and replace with *"Developers should seek to engage with the local community before submitting applications and take into account local housing needs, as identified in the most up to date assessments."***

Policy H4: Scale of development

138 As worded, in a similar way to Policy BE1, the start of Policy H4 would apply to many forms of development that do not require planning permission and this is addressed in the recommendations below.

139 Paragraph 58 of the Framework states that development should:

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

141 As set out, Policy H4 requires all housing development to be similar to the density, footprint, separation and bulk of buildings in the surrounding area. In the absence of any evidence to the contrary, I find that this runs the significant risk of stifling opportunities for appropriate innovation and thus preventing sustainable development from coming forward.

142 Criteria a. and b. to Policy H4 encourage development to respond to local character, having regard to national policy.

143 Part of the supporting text reads as though it comprises a Policy, which it does not and this is addressed below.

144 I recommend:

- **Policy H4, change i. to “Development should respond to and reflect its surroundings and materials. New housing development should:”**
- **Para 4.4.4.1, change first sentence to “...developments and the Parish Council considers that these are out of keeping with the rural nature of the parish.”**

The economy (E)

Policy E1: Small business development

145 Paragraph 28 of the Framework supports economic growth Policy E1 has regard to this.

146 The first part of the Policy refers to “*minimising*” impacts, traffic and the use of large vehicles. However, no indication of what “*minimising*” means, how it will be measured, on what basis and who by, is provided. This part of the Policy is imprecise.

147 Similarly, the second part of the Policy refers to “*making every effort to minimise*” impact. This is an imprecise term and does not provide a decision maker with a clear indication of how to react to a development proposal.

148 Taking the above into account, I recommend:

- **Policy E1 i., change to “*...will be supported, subject to development proposals taking into account residential amenity and highway safety.*”**
- **Policy E1 ii., change to “*...work at home and development takes into account the residential amenity of neighbours. Any such...*”**

Policy E2: Farm diversification

149 Paragraph 28 of the Framework aims to promote a strong rural economy and requires neighbourhood plans to:

“promote the development and diversification of agricultural and other land-based rural businesses.”

150 Policy E2 has regard to this and is in general conformity with Core Strategy Spatial Policy 8, which also promotes the diversification of agricultural and other land-based rural businesses.

151 No changes recommended.

Policy E3: Redundant buildings

152 The first part of Policy E3 supports the conversion of redundant buildings where this will be in keeping with, or enhance, local character. This is in general conformity with Core Strategy Spatial Policy 8, which supports the conversion of existing buildings in rural areas.

153 The second part of the Policy, as worded, is imprecise. It is not clear how maintaining something that already exists will result in enhancement and further, it may be that the boundary treatment and landscaping associated with a redundant building could itself be redundant and therefore not necessarily in a condition that it is appropriate to "*maintain*." There is no evidence to demonstrate that this is not the case.

154 Taking the above into account, I recommend:

- **Policy E3, delete Criterion ii.**

Community Assets (CA)

Policy CA1: Retaining key community services and facilities

155 Paragraph 58 of the Framework promotes:

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

156 The first part of Policy CA1 seeks to protect and allow for the development of community services and facilities and thus has regard to national policy.

157 The second part of Policy CA1, in stating that any proposal detrimental to the listed facilities will not be supported, fails to provide for a balanced approach to sustainable development, such that the benefits arising from a proposal are weighed against any harm that might arise. Consequently, Policy CF1 ii. does not contribute to the achievement of sustainable development and does not meet the basic conditions.

158 There is a typographical error in the title to Policy CA1.

159 I recommend:

- **Policy CA1, delete Criterion ii.**
- **Change Policy reference in title from “CF1” to “CA1”**

Policy CA2: Local Green Spaces

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

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

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

162 National policy establishes that:

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

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

164 Policy CA2 seeks to designate several areas of Local Green Space. The supporting text states:

“An assessment of potential areas to be designated as Local Green Spaces has been undertaken and results of this consulted upon.”

165 However, the Neighbourhood Plan does not provide any plans showing the boundaries of the proposed areas of Local Green Space. No such plans were submitted for examination. Further to contacting the Qualifying Body, it was confirmed that no plans showing the boundaries of the proposed areas of Local Green Space have been consulted upon. Rather, the description of sites and a Grid Reference (as per the Tables provided in the Neighbourhood Plan) were relied upon.

- 166 The precise areas of Local Green Space that the Neighbourhood Plan seeks to designate are not defined. Given the fundamental importance of Local Green Space designation, as highlighted above, this is inappropriate. Without a plan showing the boundaries of the Local Green Space, there is no knowing the precise area to which the Policy would relate. This would be likely to result in confusion. Policy CA2 is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.
- 167 The supporting text to the Neighbourhood Plan refers to Local Green Space "*designated by Leeds.*" However, Leeds City Council has not designated areas of Local Green Space. Also, the Leeds Site Allocation process is separate to, and not the same as, the plan-making process related to this Neighbourhood Plan.
- 168 Taking the above into account, it is not entirely clear what the precise areas of Local Green Space comprise. Specific areas of Local Green Space have not been consulted upon. Consequently, it is not possible for me to conclude that Policy CA2 meets the tests set out in Paragraph 76 and 77 of the Framework. Policy CA2 does not meet the basic conditions.
- 169 I recommend:
- **Delete Policy CA2, supporting text and Tables 2(a) and 2(b)**
- 170 Whilst I recognise that the above recommendation will come as a significant disappointment to plan-makers, the precise boundaries of a Local Green Space are an essential consideration. They are not something to be agreed upon beyond the submission of the Neighbourhood Plan for examination, but must be consulted upon as part of the plan-making process.
- 171 The deletion of the Local Green Space policy does not mean that Local Green Space cannot be designated in the Neighbourhood Area. Parts of the Local Development Framework for Leeds are emerging through the planning process and once it has been made, there is the opportunity to review the Neighbourhood Plan at any time,.

7. The Neighbourhood Plan: Other Matters

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

173 I recommend:

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

8. Summary

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

175 Subject to these modifications, I confirm that:

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

176 Taking the above into account, I find that the Bardsey-cum-Rigton Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

177 I recommend to Leeds City Council that, subject to the modifications proposed, **the Bardsey-cum-Rigton Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

178 I am required to consider whether the Referendum Area should be extended beyond the Bardsey-cum-Rigton Neighbourhood Area.

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

180 Consequently, I recommend that the Plan should proceed to a Referendum based on the Bardsey-cum-Rigton Neighbourhood Area approved by Leeds City Council on 17th September 2012.

Nigel McGurk, April 2017
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