

BISHOP'S TACHBROOK NEIGHBOURHOOD PLAN

Bishop's Tachbrook Neighbourhood Plan Examination,
A Report to Warwick District Council

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1. Introduction

The Neighbourhood Plan

Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in *italics*.

This Report provides the findings of the examination into the Bishop's Tachbrook Neighbourhood Plan (referred to as the Neighbourhood Plan).

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)

Bishop's Tachbrook Parish Council is the *qualifying body* responsible for the production of this 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).

This Examiner's Report provides a recommendation as to whether or not 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 Warwick District Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Bishop's Tachbrook Neighbourhood Area.

Role of the Independent Examiner

I was appointed by Warwick District 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.

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.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Bishop's Tachbrook Neighbourhood Area to which the Plan relates.

Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan does not specify the plan period, but refers to a publication date and a *“Submission Statement.”*

Page 5 of the Neighbourhood Plan refers to it being place *“from the date the plan is made until 31st March 2029.”*

For clarity, having regard to the above requirement, I recommend:

- **Front Cover, delete “Submission Statement January 2016” and replace with “To 2029”**

Subject to the above, the Neighbourhood Plan satisfies the relevant requirement in this regard.

Public Hearing

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.

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.

Further to consideration of all of the relevant information, I confirmed to Warwick District Council that I was satisfied that the Bishop's Tachbrook Neighbourhood Plan could be examined without the need for a Public Hearing.

In reaching my decision, I was mindful of the significant amount of background material submitted alongside the Bishop's Tachbrook Neighbourhood Plan and the large amount of public consultation that has taken place. Given this, I am satisfied that everyone has had a fair chance to put their case.

2. Basic Conditions and Development Plan Status

Basic Conditions

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

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;
- 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);

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 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.

Subject to the content of this Report, I am satisfied that these three points have been met.

I note that, 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

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.

European Union (EU) Obligations

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.

With the above in mind, Planning Practice Guidance states:

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

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.

The Screening Opinion submitted alongside the Neighbourhood Plan was provided by Warwick District Council in November 2014 and stated that:

“...it is considered unlikely there will be any significant effects arising from the Bishop’s Tachbrook Neighbourhood Plan that were not covered-addressed in the Sustainability Appraisal of the Local Plan. As such, it is considered that the Bishops Tachbrook Neighbourhood Plan does not require a full SEA to be undertaken.”

Following representations, a further Screening Opinion was provided by Warwick District Council in March 2015. This reconfirmed that:

“...it is the opinion of this screening report that the Bishops Tachbrook Neighbourhood Plan does not require a full SEA to be undertaken.”

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

⁵ Paragraph 027, *ibid*

Further to the above, the statutory consultees, Natural England, Historic England and the Environment Agency, have all been consulted on the Neighbourhood Plan. In this regard, Historic England stated that:

“English Heritage concludes that the preparation of a Strategic Environmental Assessment is unlikely to be required.”

The Environment Agency stated:

“We have reviewed the Screening Report dated March 2015 and concur with the recommendations that the plan will have no significant environmental effects.”

Natural England stated:

“Natural England welcomes the production of an SEA Screening Report and is satisfied that the Local Planning Authority’s conclusion that an SEA is not required is appropriate.”

A Habitats Regulations Assessment is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites. In this regard, I am most mindful of Natural England’s comment:

“Natural England welcomes the consideration given to the Habitat Regulations. We are satisfied that the conclusion of the Local Planning Authority (as competent authority) that there are no likely significant effects on European sites is appropriate, and therefore advise that further Habitats Regulations Assessment is not required.”

In addition to all of the above, national guidance establishes that ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations is placed on the local planning authority,

“The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.” (Planning Practice Guidance⁶)

In undertaking the screening report, Warwick District Council has considered the Neighbourhood Plan’s compatibility with EU obligations and, like the statutory consultees above, it has no concerns in this regard.

Taking all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

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

3. Background Documents and the Bishop's Tachbrook Neighbourhood Area

Background Documents

In undertaking this examination I have considered various information in addition to the Bishop's Tachbrook 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)
- Warwick District Local Plan 1996-2011 (Saved 2008) (Local Plan)
- Basic Conditions Statement
- Consultation Statement (December 2014)
- 2nd Pre-Submission Consultation Statement
- Strategic Environmental Assessment Screening Opinion
- Options for New Housing Development

Also:

- Representations received
- Various Appendices and Supporting documents, including "Landscape Study," "Aims and Issues Statement," "Background Statement" and "Report of Previous Consultation Statement."

In addition, I spent an unaccompanied day visiting the Bishop's Tachbrook Neighbourhood Area.

Bishop's Tachbrook Neighbourhood Area

The Neighbourhood Plan provides a plan showing the boundary of the Bishop's Tachbrook Neighbourhood Area on page 6.

Confusingly, page 6 goes on to consider what the boundary of the Neighbourhood Area might be in the future, when future changes take place. This is unnecessary and detracts from the clarity of the Neighbourhood Plan. The Neighbourhood Area is that designated, as below. I recommend:

- **Page 6, delete second paragraph ("Recent...Map 1)**

Further to an application made by Bishop's Tachbrook Parish Council, Warwick District Council approved the designation of Bishop's Tachbrook as a Neighbourhood Area on 10 October 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

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.

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.

Bishop's Tachbrook Neighbourhood Plan Consultation

A total of three Consultation Statements were submitted to Warwick District Council alongside the Neighbourhood Plan. The information within them sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*⁷. I note that Bishop's Tachbrook Parish Council carried out two Pre-Submission Consultations, partly in response to what appear to have been, in the context of neighbourhood planning, somewhat heavy-handed representations.

Together, the reports provided in respect of the consultation carried out demonstrate that community engagement was at the heart of the plan-making process and was carried out in a comprehensive manner.

Further to a number of initial meetings, it was confirmed at a meeting of Bishop's Tachbrook Parish Council in March 2012 that Bishop's Tachbrook had been confirmed for a neighbourhood plan pilot scheme. An Aims and Issues Statement was then produced by Bishop's Tachbrook Parish Council, further to various meetings and information-gathering, and published in January 2013. A Neighbourhood Plan event was held in June 2013, at the Church Fete. Around 200 people actively engaged with plan-makers at the event, providing information to feed into the emerging plan.

During 2012 and 2013, plan-makers arranged meetings with developers and landowners. A Housing Needs Survey was carried out at the end of 2013, with 1,020 forms distributed and 234 returned. The Survey Report was published in 2014 and highlighted local views. A Housing Options report was then produced and published in 2014.

⁷Neighbourhood Planning (General) Regulations 2012.

Events and workshops were held in support of the plan-making process during 2013 and 2014. The draft plan was produced and underwent consultation between September and November 2014. This was supported by a consultation event, held in October 2014.

The second consultation period took place between April and June 2015.

The plan-making process was supported by weekly Neighbourhood Plan development group meetings. It was widely publicised, including through the distribution of leaflets, information on a website, Public Notices, regular updates at Bishop's Tachbrook Parish Council meetings and the publication of articles in the Parish Magazine.

The Consultation Statements provide evidence to demonstrate that engagement was encouraged, matters raised were considered and the reporting process was transparent.

Taking everything into account, I am satisfied that the consultation process was not only robust, but that it went well beyond that required by legislation.

5. The Neighbourhood Plan – Introductory Section

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.

The opening two pages comprise a long list of Contents. Whilst this appears somewhat intimidating on first opening the Neighbourhood Plan, I make a number of recommendations in this Report that will result in a shorter, more concise Contents page.

There are a number of factual errors in the Executive Summary. I recommend:

- **Page 5, Para 2, line 2, change to “...Basic *Conditions* Statement...” (I note, for reference only, that there is also an error within the Basic Conditions Statement itself)**
- **Page 5, Para 4, line 7, change to “and ensure it *has regard to* the...”**
- **Page 5, last sentence, change to “...it will become part of *the development plan for Warwick District.*”**

The reference to conformity with the emerging Local Plan is confusing. It is not clear how or why the Policies of the Neighbourhood Plan can/should conform to an emerging document. In this regard, I am also mindful that Warwick District Council has expressed major reservations concerning the Neighbourhood Plan’s compatibility with the emerging Local Plan.

For clarity, I recommend:

- **Page 5, Para 4, delete from line 7 to line 11, “The new Local Plan...to the community”**

I make a recommendation in respect of page 6 earlier in this Report.

The last sentence of Paragraph 1.2 does not make sense and there are a number of minor points of clarification on page 9. For clarity, I recommend:

- **Page 7, Para 1.2, last sentence, delete “...and taken into the Local Plan.”**
- **Page 9, Para 1.53e, change to “...Conservation Area...Grade 1 *Listed...Listed Buildings...*”**

The last paragraph of Para 1.6.2 is repetitive and goes on to suggest what the content of the Local Plan “*should*” be. It is not for the Neighbourhood Plan to state what an existing adopted Local Plan *should* contain.

I recommend:

- **Page 10, Para 1.6.2, delete last paragraph “The adopted...market area.”**

The last sentence at the top of page 11 does not make sense and there are errors in the paragraph that follows. I recommend:

- **Page 11, Para 1.7.1, delete “...and taken into the Local Plan.”**
- **Page 11, Para 1.7.2, change to “...Basic *Conditions* Statement...the Basic *Conditions* have...carried out throughout the plan-making process. There...”**

The introduction to Section 2 is confusing and misapplies the Basic Conditions. I recommend:

- **Page 11, Section 2, delete first two sentences “Neighbourhood Plans are required...to have regard to the following planning policy documents:”**

There is no requirement for a neighbourhood plan to be in conformity with an emerging local plan. I recommend:

- **Page 12, Para 2.3.1, delete “In addition...plan.”**

Section 3 of the Neighbourhood Plan is confusing and detracts significantly from the clarity of the document. It repeats large chunks of the Local Plan as well as information from the emerging Local Plan. It is not the role of a neighbourhood plan to simply repeat existing policy and as above, there is no requirement for a neighbourhood plan to be in general conformity with an emerging Local Plan.

Section 3 goes on to set out information under the heading “*Draft Local Plan Site Allocations.*” However, this section does not comprise Draft Local Plan Site Allocations, but is a somewhat confusingly presented commentary on various things including the Neighbourhood Area’s environment, resulting in an imprecise and unclear document.

I find that the whole of this section, from page 18 to page 21, reads as a confusing mix of background information, much of which appears to relate to the emerging Local Plan. The section is unclear and detracts from the clarity of the Neighbourhood Plan.

I recommend:

- **Delete Section 3**

Section 4.2 of the Neighbourhood Plan comprises a long list of extracts from the National Planning Policy Framework (The Framework). This is information more suited to a background document. The Framework exists and there is no need to repeat chunks of it within what is a subjective and long list. This detracts from the clarity and precision of the Neighbourhood Plan.

Sections 4.2.3 and 4.3 provide long lists of extracts from the emerging Local Plan. However, the emerging Local Plan is simply that. It is not an adopted planning document and its content is subject to change.

Taking the above into account and for reasons of clarity and precision, I recommend:

- **Delete Sections 4.2 and 4.3**

There are no Policies in the Neighbourhood Plan that “*propose the preparation of a local list of non-designated heritage assets.*” I note that, in any case, this would not comprise a land use planning policy, but would be a statement of a proposed action that may or may not occur at some time in the future.

For clarity, I recommend:

- **Page 28, Para 5.2, change to “...and buildings. *It is the intention of the Parish Council to prepare a local list of non-designated heritage assets.*”**

For consistency and clarity, I also recommend:

- **Page 28, Para 5.3, change to “...the *Conservation Area...Conservation Area.*”**
- **Page 29, Para 5.5, change to “...*Listed Building...*”**
- **Page 29, Para 5.6, change to “...*Listed Buildings...*”**
- **Page 31, Para 5.7b, there is no “Neighbourhood Plan Map”, delete “All these Gardens...light blue.”**
- **Page 31, Para 5.8, last line, change to “...*Roman...*”**
- **Page 32, Para 5.10, last line, change to “...*Scheduled Ancient Monument...*”**

Page 29 of the Neighbourhood Plan states that:

“The District Council’s local plan will cover the green area causing unacceptable damage to the views...”

However, there is no substantive evidence to support this assertion. I recommend:

- **Page 29, Para 5.5, delete “The District...Tachbrook Valley.”**

In considering Sustainable Development, Section 6 reproduces large chunks of the Framework. This Section would appear less unwieldy and more precise if the final paragraphs were deleted. There is reference to the Basic Conditions Statement elsewhere in the Neighbourhood Plan and there is no need to go into further detail about its contents. Also, I note that, further to balanced consideration of it, a development might prove to be sustainable whilst not necessarily jointly and simultaneously satisfying *“the 5 principles, the 3 dimensions and”* paragraphs 18-219 of the Framework. There is no substantive evidence to demonstrate that this is not the case. I note that there is no need for the Neighbourhood Plan to outline where a supporting document *“takes data from”* as per Section 7.

Taking the above into account, I recommend:

- **Pages 33 and 34, delete Paras 6.4, 6.5 and 6.6**
- **Page 34, delete “It takes data from...Business’s in Bishop’s Tachbrook”**

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Housing

Together, Policies BTH1-BTH4 set out the Neighbourhood Plan's approach to housing.

Policy BTH1: Location of New Housing within the Growth Village and Policy BTH2: Bishop's Tachbrook Settlement Boundary

Policy BTH1 states that housing development “*will be permitted*” on a site to the south of the school. This site already has outline planning permission⁸ for up to 150 dwellings. Consequently, planning permission has already been granted and I am also mindful that the discharge of conditions has already commenced.

Taking the above into account, I find that the content of Policy BTH1 has been overtaken by events. It is inappropriate for Policy BTH1 to state that “*new housing development will be permitted*” at a site where planning permission has already been granted.

The Policy then goes on to seek to apply restrictions in respect of how the site can be developed. Again, Policy BTH1 has been overtaken by events and I am also mindful that no substantive evidence has been provided to demonstrate that the provisions of Policy BTH1 (and by cross-reference within that Policy, those of Policies BTH3 and BTH4) have regard to Paragraph 173 of the Framework, which states:

“Plans should be deliverable. Therefore, the sites and 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.”

Policy BTH1 does not have regard to national policy. Furthermore, when taken together with the other housing Policies in the Neighbourhood Plan, I find that the Neighbourhood Plan seeks to impose an unduly restrictive approach to housing development.

⁸ Ref: W/14/0689.

Rather than provide for sustainable growth – as required by national policy - the Neighbourhood Plan: identifies a single site for housing, which itself already benefits from planning permission; draws a tight settlement boundary, with no apparent room for sustainable growth within it; seeks to apply an approach far more restrictive than Green Belt policy in an “*Area of Coalescence Protection*,” and seeks to apply a highly restrictive approach to development anywhere else in the Neighbourhood Area.

Taken as a whole, the approach set out does not allocate any new sites for housing but, to a very large degree, seeks to severely restrict the development of new housing. It is a concern that it seeks to do so in the absence of an up-to-date Local Plan and without the support of Warwick District Council.

In this regard, national advice is clear:

“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; the adopted development plan, with appropriate regard to national policy and guidance.” (Planning Practice Guidance⁹)

The Neighbourhood Plan’s approach to housing is not the agreed result of collaborative working between Bishop’s Tachbrook Parish Council and Warwick District Council. Rather, it is Warwick District Council’s stated view that the Neighbourhood Plan:

“...should not therefore be negative about the emerging plan and making counter claims about housing numbers and site allocations when the clear intention is to reduce the number of houses within the Neighbourhood Plan area contrary to national and local policy and indeed to the guidance on the production of neighbourhood plans...we are not supportive of the approach that the Body has agreed in respect of the emerging Local Plan...” (Letter from Warwick District Council to Bishop’s Tachbrook Parish Council, 7 April 2016).

Whilst I note that the Neighbourhood Plan has been supported by a Background Statement, a Housing Needs Survey and an Options for New Housing Development Report, none of these documents, either individually, or taken together, provide clear evidence of an objectively assessed local housing need for the Neighbourhood Area, taking into account fundamental matters including the fact that Warwick District needs to significantly increase its housing land supply to meet identified needs, as set out in the interim findings of the Inspector of the emerging Warwick Local Plan (published in June 2015).

⁹ Reference ID: 41-009-20160211.

No substantive evidence has been provided to demonstrate that the Neighbourhood Plan's housing policies reflect emerging evidence of housing need. Rather, the Neighbourhood Plan appears to rely upon a "*Village Housing Options and Settlement Boundaries Consultation*" document "*which identified Bishop's Tachbrook for housing growth of 150 new dwellings over the plan period.*" (Page 40, Neighbourhood Plan Background Statement). Whatever the status of this document at the time, I am mindful that it was produced some considerable time before the examination, and subsequent suspension, of the emerging Local Plan.

There is a national policy assumption in favour of sustainable development¹⁰. The Neighbourhood Plan's severely restrictive approach, combined with a lack of any provision for new housing sites anywhere in the Neighbourhood Area, serve to place a significant barrier in the way of new housing coming forward. In the absence of any substantive evidence, it is not clear to me that the Neighbourhood Plan will provide for sustainable growth and this leads me to conclude that it fails to contribute to the achievement of sustainable development.

Policy BTH2 draws a tight boundary around the existing settlement of Bishop's Tachbrook (shown on Map 3). It seeks to limit housing development outside this boundary to unallocated sites in a document that does not yet exist (the emerging Local Plan). In the absence of demonstrating how the Neighbourhood Plan can achieve this, I find that the approach fails to have regard to that part of the Framework that requires plans to be deliverable (Paragraph 173).

Outside the village boundary and an "*Area of Coalescence Protection*" (see below), Policy BTH2 seeks to introduce onerous requirements, without supporting evidence of having had regard to national policy and advice. These requirements include restricting development to affordable housing on rural exceptions sites of not more than 3 dwellings, which themselves adjoin a settlement subject to local needs criteria; or limiting development to that needed for a rural worker, without any definition of what rural work might comprise; or limiting development to that of an outstanding or innovatively designed house "*without any intrusion into the landscape*" – such a requirement having no regard to Paragraph 55 of the Framework.

¹⁰ Ministerial Foreword, National Planning Policy Framework: "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision."

The Policy goes on to seek to: prevent replacement dwellings being larger than the footprint or height of the development to be replaced, regardless of circumstances; and to “*make a positive gain to environmental quality,*” without any indication of what this actually means; to enhance character and appearance (effectively introducing a requirement across the whole of the Neighbourhood Area more onerous than that applied by national policy to Conservation Areas and their settings); and only to allow conversion of agricultural buildings in exceptional circumstances – without any evidence to demonstrate that the introduction of a requirement more onerous than Green Belt policy has regard to national policy or advice.

Taking all of the above into account, Policy BTH2 fails to have regard to national policy and advice and does not contribute to the achievement of sustainable development.

I recommend:

- **Delete Policy BTH1**
- **Delete Policy BTH2**
- **Delete Paragraphs 8.2.1 to 8.2.3 inclusive (including Maps 3, 4 and 5).**

Policy BTH3: Mix of Housing Types

Policy BTH3 requires 40% of new housing to be affordable. This is in general conformity with Local Plan Policy SC11 (Affordable Housing), which requires 40% affordable housing.

However, as set out, Policy BTH3 would apply to any residential site, no matter how small. This fails to have regard to the 10-unit threshold for affordable housing, established in national policy¹¹. I make a recommendation in this regard below.

Also, it is not apparent how a small residential development, for example, for one dwelling, *“will help ensure a balanced mix of housing.”* As worded, the Policy imposes an onerous requirement on all residential planning proposals, without demonstrating that the obligation is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. Consequently, there is no evidence that the requirement has regard to Paragraph 204 of the Framework and again, I take this into account in the recommendations below.

The Policy goes on to refer to a site that already has planning permission and to the requirements of Policies not under the control of the Neighbourhood Plan. Further, the second sentence of the Policy does not make sense and is imprecise. I also note that the Policy refers to Lifetime Homes Standards. Whilst technical standards provide a helpful tool, a recent Ministerial Statement¹² established that house building standards will be incorporated into new building regulations. It went on to state that the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need and that:

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

Taking all of the above into account, I recommend:

- **Policy BTH3, change first sentence to *“Where possible, proposals for new housing development should demonstrate how the type of dwellings proposed will support the provision of a balanced mix of housing for Bishop’s Tachbrook.”***
- **Policy BTH3, change second sentence to *“On sites for more than 10 dwellings, 40% of the development should comprise affordable housing.”***
- **Delete the rest of Policy BTH3**

¹¹ This follows the order of the Court of Appeal dated 13 May 2016, which gives legal effect to the policy set out in the Ministerial Statement of 28 November 2014.

¹² Ref: Ministerial Statement 25th March 2016.

- **Delete Para 8.2.4c**
- **Delete Para 8.2.4d, which relies on something that doesn't yet exist**
- **Delete second sentence of Para 8.2.4e**
- **Delete Para 8.2.4f, which does not relate directly to Policy BTH3**

Policy BTH4: New Housing Design

Good design is recognised by national policy as comprising

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

In addition, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Local Plan Policy DP1 (*Layout and Design*) promotes good design.

In general terms, Policy BTH4 supports good design. However, as set out, its requirements are unduly onerous, without justification or evidence to demonstrate that they meet the basic conditions. For example, no indication of what *“improve Bishop’s Tachbrook as a sustainable garden village”* actually means is provided. Policy BTH4 applies to any residential development and no evidence has been provided to demonstrate that it would be viable or deliverable, in the light of Paragraph 173, for a development of one dwelling to provide a mix of housing types or create a well defined street.

Also, for example, it is not clear why, to comprise sustainable development, any new house within 50 metres of an existing dwelling’s boundary must be single storey. *“Good access to public transport”* is undefined and no information is provided to demonstrate that it would be viable or deliverable for all new housing to provide paths and cycleways.

The Policy seeks to impose new parking standards without evidence or reference to demonstrate that the requirements set out have regard to Paragraph 39 of the Framework. It also seeks to impose a requirement relating to fragmentation of farming units, without defining precisely what this means, and the viability of farming units, without any indication of how viability will be measured, on what basis and who by. Further, there is no evidence to demonstrate that a requirement for an independent design report has regard to national policy or advice, or is in general conformity with the Local Plan. No indication is provided with regards what weight would be afforded to such a report, who by and on what basis; or what would happen if such a report was not provided.

Taking all of the above into account, I recommend:

- **Policy BTH4, delete first two sentences and replace with *“Proposals for new housing development should incorporate good design. Where relevant, proposals should seek to:”***
- **Policy BTH4, delete Criteria 3, 4, 10 and 13**

- Policy BTH4, end Criterion 5 “...distinctive *character*.” Delete rest of Criterion 5
- Policy BTH4, change last sentence to “*The submission of an independent design review report alongside planning applications will be welcomed.*”

Paragraph 8.2.5e is written as though it formed part of a Policy, which it does not, I recommend:

- Page 50, Para 8.2.5e, change to “...development should aim to show...”
- Page 50, Para 8.2.5e, delete “This should be tested...it is undertaken.”

Employment

Policy BTE1: New Employment Development

Chapter 3 of the Framework, “*Supporting a prosperous rural economy*,” promotes economic growth in rural areas. It states that:

“To promote a strong rural economy...neighbourhood plans should: support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings; promote the development and diversification of agricultural and other land-based rural businesses; support sustainable rural tourism and leisure developments...and; promote the retention and development of local services and community facilities...”
(Paragraph 28)

Rather than have regard to national policy’s positive, sustainable growth-led approach to supporting a prosperous rural economy, Policy BTE1 seeks to impose a restrictive regime to limit business development to the village and “*new settlement areas*” and even then, impose a highly restrictive list of requirements to be met. These include demonstrating no harm to amenity, no harm to the environment and the provision of free parking spaces, amongst other things. Such an approach fails to allow for the balanced consideration of proposals and does not contribute to the achievement of sustainable development. It does not meet the basic conditions.

The Policy goes on seek to prevent any form of business-related development in an “*Area of Coalescence Protection*” and requires all business development outside the areas mentioned above to be “*truly outstanding*” amongst other things. This places an unduly onerous requirement upon development proposals without regard to national policy or advice. As such, the Policy serves to prevent sustainable development.

I recommend:

- **Delete Policy BTE1**
- **Delete Paras 8.3.1a to 8.3.1g, inclusive**

Policy BTE2: Agricultural Employment Development

As set out above, national policy supports agricultural diversification. In so doing, national policy does not seek to restrict diversification and development to uses that are “*agricultural in nature*.” Rather, such an approach would serve to severely limit opportunities for diversification and development and would conflict with the Framework, which states:

*“To support a strong rural economy...neighbourhood plans should support the sustainable growth and expansion of **all types** of business and expansion (my emphasis)...” and support “...other land-based businesses...rural tourism and leisure developments...the provision and expansion of tourist and visitor facilities...”*
(Paragraph 28)

Policy BTE2 seeks to limit agricultural diversification to development that is “*agricultural in nature*,” that leads to no harm to a variety of things (as opposed to allowing for a balanced consideration of benefits against harm) and which does not result in any loss of (undefined) “*production land*,” amongst a whole raft of other onerous requirements.

The approach set out in the Policy does not contribute to the achievement of sustainable development, does not have regard to national policy and fails to meet the basic conditions.

I recommend:

- **Delete Policy BTE2**
- **Delete Paras 8.3.2a to 8.3.2f, inclusive**

Taken together, the recommendations result in the deletion of the Employment section of the Neighbourhood Plan in its entirety.

Climate Change Policies

BTCC1: Climate Change Mitigation Applied to New Development. This Policy is Voluntary Not Mandatory

Chapter 10 of the Framework, “*Meeting the challenge of climate change, flooding and coastal change*,” establishes planning’s key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.

Paragraph 97 of the Framework states that policies should be designed to:

“...maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts...”

Much of the Climate Change section of the Neighbourhood Plan has regard to this and is in general conformity with Local Plan Policies DP12 and DP13 (*Energy Efficiency and Renewable Energy Developments*), which support the development of low carbon and renewable energy.

However, Policy BTCC1 is not a land use planning policy. Rather, it sets out something that Bishop’s Tachbrook Parish Council would like to encourage developers to volunteer to do.

Consequently, I recommend:

- **Delete Policy BTCC1**

Rather than lose sight of an important consideration that has regard to national policy, I recommend:

- **Replace Policy BTCC1 with the heading “*Community Action: Climate Change Mitigation*” and introductory text “*The Parish Council supports the following Community Action. This is not a Policy, but comprises voluntary actions that the Parish Council will encourage and welcome.*”**
- **Place the text of the former Policy BTCC1 below the new text above**
- **Replace heading “Application of Policy BTCC1” with “Notes to Community Action”**
- **Page 56, delete last sentence “The Neighbourhood Plan Background...this concern.”**

- Page 57 delete heading in 8.4.2
- Page 58, delete “Strategic basis”
- Page 58, Para 8.4.2d, change to “...this Neighbourhood plan *supports* proactive strategies...”
- Page 58, delete Para b, which does not relate to the Community Action

Policy BTCC2: Solar Power and Other Renewables

Whilst it is the intention of Policy BTCC2 to set out a positive Policy in support of the provision of Solar Power development, the Policy sets out a highly restrictive approach and there is no evidence to demonstrate that it would allow for any solar power development to come forward.

The Policy limits the development of any solar power development to previously developed land that does not support birds and wildlife that are protected; that is not visible from any other ground location, except in the (undefined) “*immediate vicinity*,” and is not visible from any right of way, amongst other requirements.

No evidence has been provided to demonstrate that anywhere in the Neighbourhood Area could support Solar Power on the basis of the requirements set out in Policy BTCC2. Consequently, in the absence of substantive evidence to the contrary, I find that, rather than support the provision of renewable energy, having regard to Chapter 10 of the Framework, Policy BTCC2 could actively prevent sustainable development from coming forward.

The Policy does not meet the basic conditions. I recommend:

- **Delete Policy BTCC2**
- **Delete Paras 8.4.3a to 8.4.5 inclusive**

Rural Environment Policies

Policy BTRE1: Flood Risk

The Framework states that:

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk” (Paragraph 100).

Chapter 10 of the Framework, *“Meeting the challenge of climate change, flooding and coastal change,”* goes on to require land use planning policies to apply a sequential, risk-based approach to the location of development, to avoid, where possible, flood risk to people and property.

In general, Policy BTRE1 has regard to national policy and seeks to prevent inappropriate development in areas at risk of flooding. However, no evidence has been provided to demonstrate why, having regard to Paragraph 204 of the Framework, all development within 10 metres of a watercourse requires a flood risk assessment regardless of EA flood maps. This part of the Policy does not have regard to national policy.

Flood Zones are defined by the Environment Agency, it is not the role of neighbourhood plans to introduce their own versions of Flood Zones. Also, it is not clear upon what basis the Neighbourhood Plan is seeking to limit development based on AOD levels. No clarity or detail is provided with regards what Sustainable Urban Drainage *“National Standards”* comprise and in any case, part 4 of Policy BTRE1 seeks to impose a requirement upon another authority and such an approach is beyond the capabilities of a neighbourhood plan.

The final requirement for all development proposals to seek to actively reduce flood risk has no basis in national or local planning policy and comprises an unjustified and unduly onerous obligation that fails to meet the basic conditions.

Taking all of the above into account, I recommend:

- **Policy BTRE1, change first sentence to *“Development proposals in areas at risk of flooding must be accompanied by a Flood Risk...be taken.”***
- **Policy BTRE1, delete *“Any application within 10m...of its users.”***
- **Policy BTRE1, delete Criteria 3, 4 and 6**
- **Page 66, delete Paras 8.5.2a, 8.5.2b and 8.5.2c**

The supporting text on page 68 reads as though it were a Policy requirement, which it is not. It is not the role of a neighbourhood planning policy to impose requirements on statutory bodies. I recommend:

- **Page 68, Para 8.5.2e, lines one and two, replace “must” with “*should*.”**
- **Page 69, delete “Systems must...be demonstrated.”**

Policy BTRE2: Protection of Land

Policy BTRE2 seeks to introduce a highly restrictive approach, aimed at preventing all but severely limited forms of development, across the majority of the Neighbourhood Area.

The Policy is contrary to national policy, which states that the purpose of the planning system is to contribute to the achievement of sustainable development (Paragraph 6, the Framework).

Policy BTRE2 seeks to actively prevent the balanced consideration of development proposals, whereby the benefits of development can be considered against possible harm. Rather, it states that no development at all will take place in an “*Area of Coalescence Protection*.” National and local planning policy does not actively seek to prevent any form of development, but promotes sustainable development.

Furthermore, the Policy seeks to prevent the development of agricultural land “*from any form of development that changes its character from its agricultural base*.” However, rather than protect agricultural land for its own sake, where significant development of agricultural land is demonstrated to be necessary, national policy simply steers major development towards areas of poorer quality land in preference to that of a higher quality (Paragraph 112, the Framework).

Policy BTRE2 does not contribute to the achievement of sustainable development. It does not meet the basic conditions.

I recommend:

- **Delete Policy BTRE2**
- **Delete Paras 8.5.3a to 8.5.3j, inclusive (including Map 7)**

Policy BTRE3: Protect and Enhance the Natural Environment

The opening sentence of Policy BTRE3 does not make sense. Notwithstanding this, the implication of the first two paragraphs of the Policy is that any development must demonstrate protection of the natural environment. This requirement fails to have regard to Paragraph 204 of the Framework, the content of which is considered above.

The Policy refers to “*Protected Views*.” There is no “*Protected View*” Policy in the Neighbourhood Plan. Notwithstanding this, there is no substantive information detailing the various views listed in the supporting text. Views can change on an hourly, daily or seasonal basis. They can change with the weather. There is insufficient evidence, either in the Neighbourhood Plan, or the supporting information, to judge how, or whether, a view would be “*affected*” by a proposed development. Consequently, Policy BTRE3 C) does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

Criterion D) of the Policy makes little sense. No indication is provided of what a “*modification to surrounding rural roads*” might comprise. No indication of how “*rural roads*” will be safeguarded is provided. I am mindful that Bishop’s Tachbrook Parish Council is not the highway authority and that 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.

Policy BTRE3 does not designate Local Green Space. Rather, it states that “*land to be designated as Local Green Space is set out in table 3...*” No indication of when the land will be designated as Local Green Space is provided. Furthermore, no indication of what any such designation means – for example, how Local Green Space will be treated from a land use planning perspective, is provided.

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. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that:

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

Taking the above into account, if designating Local Green Space, plan-makers need to 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.

I have considered each of the sites listed in Table 3 on pages 77 and 78 of the Neighbourhood Plan. Of these, it is unclear why LGS02, LGS03, LGS04, LGS05 and LGS06 include roads. There is no evidence to demonstrate that the roads within each of these proposed areas of Local Green Space meet the tests in the Framework and I find that their inclusion casts doubt upon the “*special reasons*” set out in Table 3. In this regard, I note that it is not for the Independent Examiner to define areas of Local Green Space.

There is no substantive evidence to demonstrate that Site LGS07 is demonstrably special to the community and holds local significance. Whilst the tests set out in the Framework are clear, the Neighbourhood Plan’s attempt to introduce Local Green Space to form future land uses in future development indicates a misunderstanding of what Local Green Space actually comprises.

It is not clear why “*green buffers*” meet the tests set out in the Framework and no substantive evidence is provided in this regard, re: LGS10 and LGS12.

I consider that LGS13, LGS14, LGS16, LGS18 and LGS19 comprise extensive tracts of land and there is no substantive evidence to the contrary. As extensive tracts of land, they do not meet the tests set out in the Framework.

Taking all of the above into account, it is apparent that the majority of the potential areas of Local Green Space referred to in Table 3 do not, in any case, meet the tests set out in the Framework. Only sites LGS01, LGS08, LGS09, LGS011, LGS15, LGS17 and LGS20 appear to meet the tests. However, in this regard, I note that no clear plans, showing the boundaries of each site against an OS background, are provided and as such, it is difficult to understand precisely where the boundaries of the sites would be.

Notwithstanding all of the above, Policy BTRE3 does not designate Local Green Space, but refers to something that will happen in the future. I note that it is not the role of the Independent Examiner to introduce new Local Green Space policy. Taking everything into account, I find that the approach with regards Local Green Space is confused and fails to have regard to national policy.

No indication of how Local Wildlife Sites will be “*enhanced from any development*” is provided and the final part of the Policy contains a reference to a list in Paragraph 5.5 that does not exist. Furthermore, this part of the Policy is imprecise. No indication of how green infrastructure will be encouraged is provided. National policy already protects Ancient Woodland and there is no indication of how the planting of new woodland “*will be sought*” and why this part of Policy BTRE3 comprises a land use planning policy.

Policy BTRE3 does not meet the basic conditions.

I recommend:

- **Delete Policy BTRE3**
- **Delete Paras 8.5.4a to 8.5.4i, inclusive**

Policy BTHE1: Protection of Heritage Assets

Chapter 12 of the Framework, “*Conserving and enhancing the historic environment*,” establishes that the nation’s heritage assets are irreplaceable and sets out a policy approach to conserving them in a manner appropriate to their significance.

However, rather than set out a positive approach to conserving the nation’s heritage assets, having regard to national policy, Policy BTHE1 sets out a negative approach that seeks to prevent development relating to a Listed Building, or a Scheduled Ancient Monument unless a series of requirements are met. The approach set out conflicts with and does not have regard to Chapter 12 of the Framework. It fails to provide for the balanced consideration of a development proposal and does not contribute to the achievement of sustainable development.

The final part of the Policy states that both designated and undesignated heritage assets “*must be enhanced when development proposals are brought forward*.” Such an approach has no basis in national or local planning policy and no evidence is provided to demonstrate that it meets the basic conditions. Rather, it sets out an onerous approach that fails to have regard to Paragraphs 173 and 204 of the Framework.

Policy BTHE1 does not meet the basic conditions. I recommend:

- **Delete Policy BTHE1**
- **Delete Paras 8.6.1 to 8.6.2g, inclusive (including Map 8)**

Policy BTHE2: Conservation Area

As with Policy BTHE1, Policy BTHE2 fails to have regard to national policy, as set out in Chapter 12 of the Framework. Nowhere does national or local planning policy require heritage assets to be protected, conserved and enhanced “*when development proposal (sic) are brought forward.*”

No indication is provided of how “*opportunities will be taken to enhance Bishop’s Tachbrook Conservation Area,*” who by, or on what basis. Nor is it clear why any proposals that enhance the Conservation Area “*will be designed to improve the range, quality and functionality of public amenities and mitigate the impact of motor vehicles in favour of people on foot.*” Such a requirement is without justification and could prevent a sustainable development, which might enhance the Conservation Area, from coming forward, contrary to national policy.

No indication is provided of where “*gardens and open spaces that contribute to the appearance, historic interest and social cohesion*” are, or what this actually means, and it is therefore unclear how a decision maker should react to a development proposal in this regard.

It is not clear what the undesignated assets referred to in Part B of Policy BTHE2 comprise, leading the Policy to be imprecise and lack clarity in this regard. Furthermore, the negative approach set out fails to provide for a balanced consideration of relevant factors, but seeks to pre-determine the planning application process.

Policy BTHE2 does not meet the basic conditions. I recommend:

- **Delete Policy BTHE2**
- **Delete Paras 8.6.3a to 8.6.3f**

Whilst I note that the above recommendations would delete considerable supporting text, much of which is interesting and well written, the Policies provided in the Neighbourhood Plan conflict with national planning policy and fail to meet the basic conditions. I note that there is little point in the Neighbourhood Plan containing a heritage section without any heritage Policies.

Policy BTLACV1: Protection of Local Assets of Community Value

Local groups have a right to nominate a building, or land, for listing by the Local Authority as an Asset of Community Value. Whilst Policy BTLACV1 seeks to protect Assets of Community Value, there is no evidence of any such Assets within the Neighbourhood Area being listed by Warwick District Council.

The content of Policy BTLACV1 comprises an aspiration, not a land use planning policy. I note that it fails to distinguish between Community Assets and Assets of Community Value, but, rather, seeks to treat them simply as “Assets.” The Policy is imprecise in this regard. I recommend:

- **Delete Policy BTLACV1**
- **Replace as “*Community Action: Assets of Local Community Value. The Parish Council would like to nominate Assets of Local Community Value for listing by Warwick District Council and will seek to protect these as appropriate.*”**
- **Delete Para 8.7.2f**
- **Delete 8.7.2**
- **Page 94, Para 8.7.2d, delete “The purpose of Policy...Tachbrook.”**

Policy BTLACV2: The Provision of New Local Assets of Community Value

The first part of Policy BTLACV2 sets out an aspiration of the Parish Council to undertake an assessment further to the granting of every planning permission in the Neighbourhood Area. This is not a land use planning policy, but is a statement, setting out a commitment by the Parish Council to undertake something following the granting of every planning permission.

No indication is provided to demonstrate how “*appropriate use*” will be made of CIL, planning agreements or conditions to provide new local assets of community value. This part of Policy BTLACV2 is vague and imprecise. It does not meet the basic conditions.

Having regard to the above, I recommend:

- **Delete Policy BTLACV2**
- **Replace with a new “*Community Action: The Provision of New Local Assets of Community Value. When planning permission is granted, the Parish Council will seek to undertake an assessment of the effect of development on the community and its assets, with an intention of seeking to extend or provide new local assets of community value.*”**
- **Delete 8.7.3 and Para 8.7.3a, which reads as though it were a Policy requirement, but is not**
- **Delete Para 8.7.3b, which does not demonstrate how, why or when the matters raised “*should be considered in conjunction with future planning applications.*”**
- **Delete Para 8.7.3d, which reads as though it were a Policy requirement, but is not.**

Leisure and Well-Being

Policy BTLWB1 Sport, Recreation and Community Provision

No clarity is provided with regards what “*more open space*,” as referred to in Policy BTLWB1, actually means. Consequently, this is a vague and imprecise reference that does not provide a decision maker with a clear indication of how to react to a development proposal.

Further to the above, it is not clear why it is the responsibility of developers to provide additional open space to make up for previous under-provision. In this regard, I am mindful that no evidence has been provided to demonstrate that the requirements set out in Policy BTLWB1 have regard to Paragraphs 173 or 204 of the Framework.

No indication is provided of how “*appropriate use*” will be made of CIL, planning agreements or conditions, to deliver improved and new sporting, recreational and community facilities. The Policy lacks clarity in this regard.

Policy BTLWB1 does not meet the basic conditions. I recommend:

- **Delete Policy BTWLB1**
- **Delete Paragraphs 8.8.1 to 8.8.1h inclusive**

Policy BTLWB2: Allotment Provision

Policy BTLWB2 fails to provide any indication of how allotments will be provided, who by, where and on what basis. No indication is provided of how any allotments will be managed. The Policy is unclear and imprecise in this regard.

Policy BTLWB2 refers to allotments on strategic development sites. The Neighbourhood Plan does not allocate any strategic development sites.

Policy BTLWB2 does not meet the basic conditions.

I recommend:

- **Delete Policy BTWLB2**
- **Delete Paras 8.8.2a to 8.8.2b, inclusive**

Policy BTLWB3: Pedestrian Access to the Countryside

Paragraph 75 of the Framework establishes that:

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

However, the first part of Policy BTLWB3 simply attempts to prevent any development within the (undefined) setting of any public right of way, or (undefined) access points to them. No evidence has been provided to demonstrate that, in all circumstances, development within the setting of a public right of way would fail to comprise sustainable development. Consequently, I cannot conclude that Policy BTWLB3 contributes to the achievement of sustainable development.

No clarity is provided with regards how *“opportunities will be taken to develop, improve and extend the footpath network,”* who by and on what basis. Consequently, this part of the Policy comprises a vague aspiration. The rest of this sentence does not make grammatical sense and consequently, is imprecise.

Having regard to Paragraph 75 of the Framework, I recommend:

- **Re-word Policy BTWLB3 as *“The protection and enhancement of public rights of way will be supported.”***
- **Delete Para 8.8.3d, which is confusing and largely relates to the Parish Plan, not the Neighbourhood Plan**
- **Para 8.8.3g, delete last sentence, which does not relate to the Policy**
- **Delete Para 8.8.3h, which is worded as though it is a Policy requirement, but is not. I note that there is no evidence to demonstrate that the requirements of this Para have regard to Paragraph 173 or 204 of the Framework**
- **Delete Para 8.8.0, having regard to the recommendations above**

Policy BTT1: Improving Transport Provision

This Policy is entirely reliant upon another Policy in another document not under the control of the Neighbourhood Plan. I recommend:

- **Delete Policy BTT1**
- **Delete Paras 8.9.1 to 8.9.1h, inclusive**

Policy BTT2: Improving Road Safety

This Policy is reliant upon the requirements of Warwickshire County Council. It is beyond the control of the Neighbourhood Plan.

I recommend:

- **Delete Policy BTT2**
- **Delete Paras 8.9.2a to 8.9.2e, inclusive**

For clarity, the above recommendations require the deletion of the Transport section of the Neighbourhood Plan.

7. The Neighbourhood Plan: Other Matters

I note that the recommendations made in this Report will have a subsequent impact on page numbering and Contents. I recommend:

- **Update the Contents pages (pages 3 and 4) to reflect the recommendations above**

The Next Steps section implies that the Parish Council has a decision-making responsibility in respect of planning applications. This is not the case. I recommend:

- **Para 9.1, delete “Similarly the Parish...making.”**

For clarity, I also recommend:

- **Para 9.2, change to “*The Parish Council will seek to work with Warwick District Council to monitor progress on the Neighbourhood Plan. It is intended to bring forward proposals...time.*”**

8. Summary

I have recommended a number of modifications further to consideration of the Bishop's Tachbrook Neighbourhood Plan against the basic conditions.

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.

Taking the above into account, I find that the Bishop's Tachbrook Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

I recommend to Warwick District Council that, subject to the modifications proposed, the **Bishop's Tachbrook Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

I am required to consider whether the Referendum Area should be extended beyond the Bishop's Tachbrook Neighbourhood Area.

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

Consequently, I recommend that the Plan should proceed to a Referendum based on the Bishop's Tachbrook Neighbourhood Area approved by Warwick District Council on 10 October 2012.

Nigel McGurk, July 2016
Erimax – Land, Planning and Communities

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