

Budbrooke Neighbourhood Development Plan 2011-2029

**A report to Warwick District Council on the
Budbrooke Neighbourhood Development Plan**

**Andrew Ashcroft
Independent Examiner
BA (Hons) MA, DMS, MRTPI**

Director – Andrew Ashcroft Planning Limited

Executive Summary

- 1 I was appointed by Warwick District Council in January 2018 to carry out the independent examination of the Budbrooke Neighbourhood Development Plan.
- 2 The examination was undertaken by written representations. I visited the neighbourhood plan area on 2 February 2018.
- 3 The Plan proposes a series of policies and seeks to bring forward positive and sustainable development in the plan area. There is a concentration on safeguarding local landscape character and its Green Belt setting. It has a specific focus on policies for the development of the sites allocated for residential use in the Local Plan and on designating local green spaces.
- 4 The Plan has been underpinned by community support and engagement. The community has been actively engaged in its preparation in a proportionate way.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the Budbrooke Neighbourhood Development Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood plan area.

Andrew Ashcroft
Independent Examiner
3 April 2018

1 Introduction

- 1.1 This report sets out the findings of the independent examination of the Budbrooke Neighbourhood Development Plan 2011-2029 (the Plan).
- 1.2 The Plan has been submitted to Warwick District Council (WDC) by Budbrooke Parish Council in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework in 2012 and which continues to be the principal element of national planning policy.
- 1.4 This report assesses whether the Plan is legally compliant and meets the Basic Conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.5 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the plan area and will sit as part of the wider development plan.

2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by WDC, with the consent of the Parish Council, to conduct the examination of the Plan and to prepare this report. I am independent of both WDC and the Parish Council. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 30 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral Service.

Examination Outcomes

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan is submitted to a referendum; or
 - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
 - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

The Basic Conditions

- 2.5 As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
 - contribute to the achievement of sustainable development; and
 - be in general conformity with the strategic policies of the development plan in the area; and
 - be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I have examined the submitted Plan against each of these basic conditions, and my conclusions are set out in Sections 6 and 7 of this report. I have made specific comments on the fourth bullet point above in paragraphs 2.6 to 2.10 of this report.

- 2.6 In order to comply with the Basic Condition relating to European obligations the District Council carried out a screening assessment. The conclusion of the draft

screening report was that there were no significant environmental effects as a result of the production of the Plan.

- 2.7 The required consultation was carried out with the three prescribed bodies.
- 2.8 The screening assessment incorporated a Habitats Regulations Assessment (HRA) screening report on the Plan. It concluded that the Plan was not likely to have any significant effect on a European site.
- 2.9 Having reviewed the information provided to me as part of the examination I am satisfied that a proportionate process has been undertaken in accordance with the various Regulations. None of the statutory consultees have raised any concerns with regard to either neighbourhood plan or to European obligations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.
- 2.10 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

Other examination matters

- 2.11 In examining the Plan I am also required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
 - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (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); and
 - the 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.
- 2.12 Having addressed the matters identified in paragraph 2.11 of this report I am satisfied that all of the points have been met subject to the contents of this report.

3 Procedural Matters

3.1 In undertaking this examination I have considered the following documents:

- the submitted Plan.
- the Basic Conditions Statement.
- the Consultation Statement.
- the WDC Screening report
- the representations made to the Plan.
- the Warwick District Local 2011-2029.
- the National Planning Policy Framework (March 2012).
- Planning Practice Guidance (March 2014 and subsequent updates).
- Relevant Ministerial Statements.

3.2 I carried out an unaccompanied visit to the Plan area on 2 February 2018. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. My site inspection is covered in more detail in paragraphs 5.9 to 5.16 of this report.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted plan, I was satisfied that the Plan could be examined without the need for a public hearing. I advised WDC of this decision early in the examination process.

4 Consultation

Consultation Process

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 the Parish Council has prepared a Consultation Statement. The Statement reflects the Plan area and its policies. It also provides specific details on the consultation process that took place on the pre-submission version of the Plan from November 2015 to January 2016.
- 4.3 The Statement sets out details about the engagement with the statutory bodies and the public consultation events in the village. It also sets out details of the consultation events that were carried out in relation to the initial stages of the Plan including websites. It also provides details about more specific events and processes as follows:
- The establishment of a steering group;
 - The circulation of a questionnaire to all households and businesses;
 - The initial local consultation in September 2015; and
 - The use of flyers/posters to advertise the various events.
- 4.4 The Statement also sets out details of the responses received to the consultation process on the pre-submission version of the Plan. Section 6 properly sets out the comments received and how the Plan responded to those representations. The Statement also explains the way in which the emerging neighbourhood plan took account of the emerging Warwick District Local Plan between the pre-submission and submission periods.
- 4.5 A key element of the Statement is the way in which its various appendices reproduce or explain the consultation techniques that were used. This approach adds depth, interest and integrity.
- 4.6 Other appendices helpfully identify the range of bodies that were consulted as part of the preparation of the Plan.
- 4.7 From all the evidence provided to me as part of the examination, I conclude that the Plan has sought to develop an inclusive approach to seeking the opinions of all concerned throughout the process. The approach adopted is proportionate to the size of the Plan area and the issues that it has addressed. I am satisfied that it meets the tests for a consultation process for a neighbourhood plan as set out in paragraphs 183 and 184 of the NPPF. WDC has carried out its own assessment of this matter and has concluded the consultation process has complied with the requirements of the Regulations.

Representations Received

4.8 Consultation on the submitted plan was undertaken by the District Council for a six-week period that ended on 5 January 2018. This exercise generated comments from the following persons and organisations:

- National Grid
- Natural England
- Michael Farnsworth
- Severn Trent
- Canal and River Trust
- Jan and Vic Di Terlizzi
- Warwickshire County Council
- Highways England
- Historic England
- Environment Agency
- Vic Di Terlizzi
- Warwick District Council
- The Coal Authority

4.9 I have taken account of all these representations as part of the examination of the Plan. Where it is appropriate and relevant to do so I refer specifically to the representation in this report.

5 The Plan Area and the Development Plan Context

The Plan Area

- 5.1 The Plan area covers the parish of Budbrooke. In 2011 its population was 1863 persons living in approximately 793 dwellings. It was designated as a neighbourhood area on 5 November 2014. It is an area of significant contrast. In addition to the residential area described in the following paragraph it has two transport-related elements. The first is the iconic Hatton Locks on the Grand Union Canal. The second is the Warwick Parkway Station. As such it represents an interesting area in which to prepare a neighbourhood plan.
- 5.2 The Plan area is located to the immediate west of Warwick. It is bounded by the A46 to the east, by the M40 to the south and by Birmingham Road (A4177) to the north. The Plan area is primarily in agricultural use with the built-up areas of Hampton Magna, Hampton-on-the-Hill and Budbrooke at its heart. These three settlements have very different characters and histories which are very well summarised in Section 1 of the Plan. Budbrooke village gives its name to the parish. Little remains of the ancient village, although that which does is attractive and well-maintained. Hampton-on-the Hill displays a linear format along Hampton Road. It includes a pleasant mix of buildings of different ages and styles. Hampton Magna is the largest settlement in the Plan area. It occupies the former site of the Royal Warwickshire Regiment. It was developed as a new settlement in the late 1960s/early 1970s when the barracks was no longer required for military purposes. The Plan area is within the West Midlands Green Belt.
- 5.3 The principal elements of development identified in the Plan are in or around Hampton Magna. This reflects the approach taken in the recently-adopted Plan. In particular it includes a detailed policy in respect of the two housing allocations identified in the neighbourhood area in the adopted Local Plan.

Development Plan Context

- 5.4 The Warwick District Council Local Plan 2011 to 2029 was adopted in September 2017. It sets out the basis for future development in the District area from 2011 to 2029. It provides a very clear spatial context for development in the Plan area. The submitted neighbourhood plan and the Local Plan were being prepared at largely the same time.
- 5.5 Within this broader context the Plan area lies in the West Midlands Green Belt. Policy DS18 defines its boundaries and applies national policy within the Green Belt. Budbrooke and Hampton-on-the-Hill are washed over by the Green Belt. Hampton Magna is identified as a Growth Village (Policy H10) and Hampton-on-the-Hill as an Infill village (Policy H11). Two housing allocations are identified to the immediate south of Hampton Magna (H27 and H51).

5.6 The Basic Conditions Statement helpfully maps the various policies in the submitted neighbourhood plan against the policies in what were then the saved Local Plan and the emerging Local Plan. In summary, the following policies (as now incorporated in the final version of the Plan) have been particularly important in underpinning neighbourhood plan policies:

- DS4 Spatial Strategy
- DS6 Levels of Housing Growth
- DS11 Allocated Housing Sites
- DS18 Green Belt
- H10 Growth Villages
- H11 Limited Village Infill Housing Development in the Green Belt
- BE1 Layout and Design
- BE3 Amenity
- HS3 Local Green Space
- HS4 Improvements to Open Spaces, Sports and Recreation Facilities

5.7 Policy DS11 allocates a series of housing sites throughout the District. The schedule of sites includes H27 (land south of Arras Boulevard) and H51 (land south of Lloyd Close). They are anticipated to yield approximately 130 and 115 dwellings respectively. Policy H10 comments further that the development of these and other allocated sites in the Growth Villages should include a mix of houses to reflect local housing needs. A collaborative approach is also expected involving local communities and neighbourhood planning groups.

5.8 The submitted Plan has been prepared within the context of the now-adopted Local Plan. In doing so it has relied on up-to-date information and research. This approach reflects key elements in Planning Practice Guidance on this matter. The neighbourhood plan has sought to consolidate the detail and approach included in the Local Plan.

Site Visit

5.9 I carried out an unaccompanied visit to the Plan area on 2 February 2018.

5.10 I drove into the Plan area from the A46 to the south. I went initially to Hatton Locks off Birmingham Road. Its industrial heritage did not disappoint. I took the opportunity to start off the day with a brisk walk around the Locks.

5.11 I then drove back down Birmingham Road and to Budbrooke. On my way I saw the Warwick Parkway railway station.

5.12 I spent some time in Hampton Magna looking at the areas identified for housing development and the proposed local green spaces. I saw that the School, the Monty public house and the Community Centre were key focal points in the village and the wider community.

- 5.13 I then spent time looking round Hampton-on-the-Hill. I saw its linear format and the wide range of buildings.
- 5.14 I then drove out along Woodway to the north of Hampton-on-the-Hill so that I could understand the wider location of the neighbourhood area within the Green Belt.
- 5.15 I then drove along Ugly Bridge Road and over Ugly Bridge itself so that I could understand the access arrangements into the Plan area.
- 5.16 I finished my visit by driving towards Warwick along the A4189 so that I could understand the relationship between the Plan area and the town.

6 The Neighbourhood Plan as a whole

- 6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped considerably in the preparation of this section of the report. It is a well-presented, informative and very professional document.
- 6.2 The Plan needs to meet all the basic conditions to proceed to referendum. This section provides an overview of the extent to which the Plan meets three of the four basic conditions. Paragraphs 2.6 to 2.10 of this report have already addressed the issue of conformity with European Union legislation.

National Planning Policies and Guidance

- 6.3 The key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in March 2012.
- 6.4 The NPPF sets out a range of core land-use planning principles to underpin both plan-making and decision-taking. The following are of particular relevance to the Budbrooke Neighbourhood Plan:
- a plan led system– in this case the relationship between the neighbourhood plan and the recently-adopted Warwick District Local Plan.
 - Proactively driving and supporting sustainable economic development.
 - taking account of the different roles and characters of different areas including protecting Green Belts;
 - recognising the intrinsic character and beauty of the countryside and supporting thriving local communities.
 - always seeking to secure high quality design and good standards of amenity for all future occupants of land and buildings.

- 6.5 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development, which is identified as a golden thread running through the planning system. Paragraph 16 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.6 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and the recent ministerial statements.

- 6.7 Having considered all the evidence and representations available as part of the examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It sets out a positive vision for the future of the plan area within the context of its character and location. At its heart are a suite of policies that aim to safeguard its character and appearance in its wider

landscape setting and to promote sensitive development appropriate to this character. It sets out to provide a context for the development of the two sites allocated for residential development in the Local Plan. It also proposes a range of local green spaces and a policy to protect and enhance local community facilities. Table 1 of the Basic Conditions Statement is particularly effective in terms of mapping the Plan policies with the core planning principles in the NPPF.

- 6.8 At a more practical level the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraphs 17 and 154). This was reinforced with the publication of Planning Practice Guidance in March 2014. Its paragraph 41 (41-041-20140306) indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.9 As submitted the Plan does not fully accord with this range of practical issues. The majority of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

Contributing to sustainable development

- 6.10 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear to me that the submitted Plan has set out to achieve sustainable development in the Plan area. In the economic dimension, the Plan includes policies for the redevelopment of the two residential sites (BNDP5), for housing development (BNDP6) and to support and enhance local employment (BNDP11). In the social role, it includes policies on community facilities (BNDP1), local green spaces (BNDP2) and for other open spaces (BNDP3). In the environmental dimension, the Plan sets out guidance on the design of development (BNDP7) and to protect and enhance local landscape character (BNDP8).

General conformity with the strategic policies in the development plan

- 6.11 I have already commented in detail on the development plan context in the wider District area in paragraphs 5.4 to 5.8 of this report.
- 6.12 I consider that the submitted Plan delivers a local dimension to this strategic context and supplements the detail already included in the Local Plan. Table 3 of the Basic Conditions Statement comprehensively relates the Plan's policies to policies in the Local Plan. I am satisfied that as recommended to be modified the submitted Plan is in general conformity with the strategic policies in the development plan.

7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the policies in the Plan. In particular, it makes a series of recommended modifications to ensure that the various policies have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is distinctive and proportionate to the Plan area. The wider community and the Parish Council have spent time and energy in identifying the issues and objectives that they wish to be included in their Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (41-004-20170728) which indicates that neighbourhood plans must address the development and use of land.
- 7.5 I have addressed the policies in the order that they appear in the submitted plan.
- 7.6 For clarity this section of the report comments on all policies whether or not I have recommended modifications in order to ensure that the Plan meets the basic conditions.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

The initial sections of the Plan (Parts 1-4)

- 7.8 These introductory elements of the Plan set the scene for the policies. They are commendable to the extent that they are proportionate to the Plan area and the subsequent policies. The Plan is well-presented with a healthy mix of maps and well-chosen photographs. The overall effect is very professional. In particular there is a very clear distinction between the policies and the supporting text. In the event that the Plan is 'made' this will provide clarity and consistency to the decision-maker. In this context the Plan would sit comfortably with a wider development plan context
- 7.9 Part 1 provides a clear context to the neighbourhood area. It also provides a useful background to the three principal settlements, its amenities, its population and how it relates to, and secures access to its wider context.
- 7.10 Part 2 sets out the factors that underpinned the preparation of the Plan and how it relates to wider legislation. It summarises national planning policy and then describes local planning policies. It sets a context of what was then the emerging local plan and how the submitted Plan had been prepared in a complementary fashion.
- 7.11 Part 3 sets out a series of key issues which have fed into the preparation of the Plan. These key issues helpfully overlap with the information on demography and

population and its characteristics, buildings and facilities as set out in Section 1 of the Plan. They include:

- the need to retain and improve valued local community facilities, open spaces and recreational areas;
- the need to accommodate new housing in an integrated fashion;
- the need to address local housing needs;
- the need to protect the character and nature of the villages and landscape;
- the need to address congestion areas and to improve choice of sustainable transport modes; and
- the need to retain and encourage local business

7.12 Part 4 sets out a vision and objectives for the Plan. These naturally flow from the earlier parts of the Plan.

7.13 The remainder of this section of the report addresses each policy in turn in the context set out in paragraphs 7.5 to 7.7 of this report.

Policy BNDP1 – Protection and Enhancement of Local Community Facilities

7.14 This policy has two related parts. The first sets out to protect and enhance existing community uses. They are identified in paragraph 1.43 of the submitted Plan, with a cross-reference in paragraph 5.1.7. The second part offers support for new community facilities. The policy clearly reflects the nature and character of the neighbourhood area. The importance of the various community facilities is well-stated in paragraph 5.1.7 of the Plan. I am satisfied that the approach adopted in this policy is appropriate to the context and the setting of the Plan area.

7.15 WDC raises the issue of the relationship of the policy to Policy HS8 of the recently-adopted Local Plan. As submitted Policy BNDP1 is very restrictive in resisting changes of use of existing community uses other than where it would result in the occupation of the premises by other community uses. Depending on the circumstances some of the potential changes of occupancy would not in themselves need planning permission. In contrast the Local Plan policy is based around a criteria-based approach within which proposals that would result in the loss of an existing community facility would be assessed.

7.16 In this case there is no issue of the submitted policy failing to be in general conformity with a strategic policy in the development plan as Policy HS8 of the Local Plan is not a strategic policy of that Plan. Nevertheless, the submitted policy fails to have regard to the importance attached to viability issues as set out in paragraphs 173 to 177 NPPF. In particular its restrictive approach conflicts with the opening part of paragraph 173 which advises that ‘pursuing sustainable development requires careful attention to viability and costs in plan making and decision-taking’.

- 7.17 In addition there are two key elements of the policy which do not have the clarity required by the NPPF. In the first instance the policy does not adequately define the existing community facilities that it seeks to safeguard. Whilst the implication is that they are the facilities listed in paragraph 1.43 of the Plan this point is not confirmed. The matter is further compounded as several of the identified 'community facilities' are not of a land use basis that can be addressed in a neighbourhood plan policy (for example Residents Associations, The Combined Charities and local newspapers and magazines). In addition, some of the land use facilities (such as farms) are not community facilities in a policy-based context. In the second (and related) instance the policy uses general language ('such as/for example') which naturally detracts from its clarity.
- 7.18 I recommend a series of modifications so that the policy has the clarity required by the NPPF and has regard to national policy. In particular I recommend that the policy defines the existing land use community facilities in the neighbourhood area and then applies the principles of Local Plan Policy HS8 to those facilities. This will give appropriate flexibility for WDC to assess all the appropriate material considerations on any particular proposal. The second is to ensure that any proposed new community facility is required to meet all of the four criteria set out in the policy.

Replace the first part of the policy to read:

The following facilities are identified as local community facilities:

- **Budbrooke Community Centre**
- **Hampton on the Hill Village Hall**
- **Budbrooke CoE Church**
- **Hampton on the Hill RC Church**
- **Budbrooke House Nursery**
- **The Open Door café and meeting centre**
- **Hampton on the Hill Allotments**
- **Farm Shop, Grove Park, Hampton-on-the-Hill**
- **Church Farm micro-brewery, Church Hill, Budbrooke**
- **Monty Public House, Hampton Magna**
- **Beauty Parlour, Slade Hill, Hampton Magna**
- **Shop, Slade Hill, Hampton Magna**

**The proposed redevelopment or change of use of community facilities that serve local needs will only be supported where it can be demonstrated that:
[Insert here a) to c) from the submitted policy]**

In the second part of the policy replace 'permitted' with 'supported' and insert semi-colons after criteria a) and b) and ';' and' after criterion c)

*In paragraph 5.1.7 add the following sentence at the end of the paragraph:
Policy BNDP1 sets out a policy that identifies the specific land use community facilities as local community facilities to be safeguarded through the neighbourhood plan process.*

*In paragraph 5.1.9 delete the second sentence and the extract from the policy in the Local Plan. At the end of the modified paragraph add:
‘Policy BNDP1 gives local definition to the approach adopted in the Warwick District Local Plan’.*

Policy BNDP2 – Protection of Local Green Spaces

- 7.19 This policy designates four local green spaces (LGS) in the neighbourhood plan area. I looked at the four proposed LGSs when I visited the area. An assessment of the four proposed LGSs against the criteria set out in paragraph 77 of the NPPF is very effectively set out in Table 3 of the Plan. All the four areas are within or immediately adjacent to the built-up area of Hampton Magna.
- 7.20 The policy itself is a combination of policy and supporting text. This makes it difficult to understand. I recommend that the policy is simplified in general terms and to reflect the approach adopted in the NPPF.
- 7.21 There is a degree of confusion between the information in Table 3 and Map 2a. This was usefully resolved by the Clarification Note process. I recognise that this was a simple typographic error and that no-one has been disadvantaged. I recommend a modification to remedy the matter.
- 7.22 I also recommend the deletion of the latter part of the policy (which comments about pedestrian paths and shortcuts) and paragraphs 5.1.6 – 5.1.9 (which refer to trees and landscaping)

Replace the policy to read:

‘The following areas as shown on Map 2a are designated as Local Green Spaces

[List the four sites]

New development will not be supported on land designated as local green space except in very special circumstances.’

On Map 2a transpose G3 and G4

Policy BNDP3 – Protection of Open Spaces

- 7.23 This policy refers to other open spaces in the neighbourhood area. Whilst they do not meet the exacting standards set out for LGS designation in the NPPF they nevertheless make a useful contribution to the openness of the neighbourhood area. They are helpfully shown on Map 2b.
- 7.24 As with Policy BNDP2 the policy itself is a combination of policy and supporting text. This makes it difficult to understand. I recommend that the policy is simplified in general terms, and that the incorporated text is transferred into the wider supporting text.

- 7.25 The policy appears at face value to have similar if not more stringent controls to the designated LGSs in Policy BNDP2. This approach fails to have regard to national policy. I recommend a modification to address this matter. The thrust of the policy is the retention of these open spaces. However, the recommended modification would support development on the open spaces where the harm to these areas and the community's enjoyment of them would be outweighed by the economic or social attractions of the development proposed.

Replace the policy with the following:

'The following areas shown on Map 2b are designated as open spaces

[List sites O1-O7]

Built development on the designated open spaces will only be supported where the harm to or the loss of the open space concerned are outweighed by the economic or social attractions of the development proposed.'

Reposition the first two paragraphs of the submitted policy into the supporting text (as replacements for 5.1.16 / 5.1.17)

Policy BNDP4 – Community Facilities and Community Infrastructure Levy

- 7.26 This policy identifies that all new residential development will be required to support proposals for improved community facilities in the neighbourhood area. The Clarification Note process confirmed that the purpose of this policy is to identify priorities for the use of the local element of community infrastructure levy (CIL) funding. WDC adopted a CIL in December 2017. I recommend a modification to the policy so that it adopts this approach.
- 7.27 I also recommend the deletion of the final part of the policy. It is more properly supporting text. I recommend that it is repositioned into the supporting text. This approach would provide a context to the policy which does not otherwise appear in the Plan itself.

Replace the submitted policy with:

'Community Infrastructure Levy contributions from development in the neighbourhood area will be used for the benefit of the local community with priority being given to the following proposals:

[Include at this point existing list in the submitted policy]'

Insert the following additional supporting text as a replacement for 5.1.18)

Warwick District Council adopted its Community Infrastructure Levy in December 2017. Once this neighbourhood plan is 'made' the local community will benefit from 25% of the Levy generated in the Plan area. Policy BNDP4 identifies a series of priority projects for the use of these monies. They are set out in no particular order of importance. [Insert at this point the final paragraph of policy BNDP4 as submitted (and recommended to be replaced above)]

Policy BNDP5 – Development Principles – Residential Allocations

- 7.28 This policy provides a comprehensive range of design principles for the development of the two housing allocations in the Local Plan within the neighbourhood area. They are:

Site H27

Land south of Arras Boulevard

Site H51

Land south of Lloyd Close

For clarity I recommend that the policy title and the policy itself explicitly refer to these sites.

- 7.29 The policy addresses design principles under seven headings as follows: density, traffic, construction phase, layout, design, affordable housing and self-build. In total this generates 28 design criteria.
- 7.30 Plainly there is a balance to be struck with this policy. On the one hand it should properly provide a level of detail over and above that already contained in the adopted Local Plan. On the other hand, it should not set out to repeat general guidance already captured in the Local Plan on the seven headings set out in the previous paragraph. WDC comments in a similar fashion whilst recognising that there would be a degree of merit in this policy reinforcing some of the key local plan policies.
- 7.31 Different headings of the design principles meet the basic conditions in different ways. I address the headings in turn below.
- 7.32 On the density issue the proposed 35 dwellings/hectare maximum figure is not directly evidenced in the Plan. In any event it is a rather blunt tool to ensure that the development is in keeping with the character of the surrounding area. I recommend a modification accordingly.
- 7.33 Several of the proposed traffic principles lack the clarity required by the NPPF. This particularly applies to criteria 2-4 which I recommend to be deleted. I recommend a modification to criterion 4 to incorporate the planting element currently included in criterion 3.
- 7.34 Criteria 6-8 provide significant levels of detail on the construction phase of the two developments. They are more project management issues rather than planning policy. As such I recommend that they are addressed in the supporting text.

- 7.35 The layout and design principles sit at the heart of this policy. The layout principles do so in a very effective way. I recommend two modifications to ensure conformity with strategic policies in the development plan.
- 7.36 The design principles are equally impressive. In criterion 22 I recommend two modifications. The first deletes 'good' from 'a good proportion'. The issue is not sufficiently well defined so that it could be applied on a consistent basis by WDC throughout the Plan period. I also recommend the deletion of its final sentence. It is not the role of a neighbourhood plan to require compliance with the Building Regulations. Such matters are administered under separate legislation.
- 7.37 The affordable housing criteria (23-26) largely repeat the general policies set out in the Local Plan. Nevertheless, I am satisfied that their incorporation into the details of this policy meets the basic conditions. In particular their presence in the policy clarifies the requirements on the developers of the two sites concerned.
- 7.38 Finally the self-build criteria address an important element of national policy. I recommend modifications to C.27 to avoid repetition of this national policy. I also recommend the deletion of C.28. There is no need for a neighbourhood plan to repeat local policy. Equally it cannot impose future policies that have not yet been published.

In the title of the policy replace 'Residential Allocations' with 'Housing Allocations H27 (Arras Boulevard) and H51 (Land south of Lloyd Close)'

**Replace the opening element of the policy with:
'Development proposals for the two sites identified in Map 3 will be supported where they address the following design principles in a sensitive fashion:'**

Replace C.1 with:

The density of development on the site should be in keeping with that of the existing residential development in the immediate surrounding area

Delete C.2-C.4

In C.5 insert 'incorporate the planting of street trees on the main residential streets after 'each site'. Make 'where' the start of a new sentence to start 'Where necessary, traffic calming....'

Delete C.6-C.8

In C.12 insert 'or any subsequent replacement document' after 'adopted 2007'

In C.13 insert 'or other similar types of housing accommodation' after 'Bungalows'

In C.22 delete 'good' in the first sentence and the whole of the second sentence

In C.27 delete 'and encouraged.... own home'

Delete C.28

Delete the final section of the policy (the reference to Appendix 2)

Relocate the deleted C.6 to C.8 to the end of paragraph 5.2.3 prefaced with the following:

'In this context the construction phase of the development of the two sites will need to be carefully controlled. The Parish Council considers that the following three aspects should be addressed by the developers concerned.'

In paragraph 5.2.4 replace 'This ...contains' with 'Policy BNDP5 sets out'.

At the end of paragraph 5.2.4 add:

'Appendix 2 provides details of how the implementation of these design principles could inform and underpin the development of the two sites.'

Policy BNDP6 – Scale and type of new housing

- 7.39 Whereas the previous policy refers to the two allocated housing sites this policy applies to other, more general residential developments which may come forward elsewhere in the neighbourhood area. This distinction was helpfully clarified by the Parish Council in its response to my Clarification Note. I recommend modifications to clarify this important distinction.
- 7.40 The policy is commendably thorough and design-led. Its criteria-based approach will assist WDC in applying it throughout the Plan period. I recommend modifications to criteria (c) and (j) to reflect those made to equivalent matters in the previous policy. I also recommend the deletion of the unnecessary criterion (a).
- 7.41 I also recommend that the final part of the policy (infill definition) is deleted and reproduced as supporting text. It is a series of definitions rather than policy in its own right.

Replace the opening part of the policy to read:

Proposals for housing development in the remainder of the neighbourhood area should respect the position of the principal settlements in the Green Belt. Development proposals will be supported where they address the following design principles in a sensitive fashion:'

Delete criterion (a)

Replace (c) with 'The density of development on the site should be in keeping with that of existing residential development in the immediate surrounding area'

In (j) insert 'or any subsequent replacement document' after 'adopted 2007'

Delete the final paragraph of the policy (definitions)

At the end of paragraph 5.2.1 add:

'Policy BNDP 5 addresses the development of the two Local Plan housing allocations. Policy BNDP 6 addresses potential residential development elsewhere in the neighbourhood area'. [At this point insert the deleted definitions from the policy – changing 'this policy' to Policy BNDP6']

Policy BNDP7 – Design of Development

- 7.42 The policy sets out the Plan's approach to the design of development in the neighbourhood plan area. It does so in a detailed and thorough fashion. It identifies a series of criteria which new development is expected to address.
- 7.43 I recommend a series of modifications to ensure that the policy has the clarity required by the NPPF. In particular I recommend modifications to ensure that new development should meet all the various criteria where it is appropriate and relevant to that development. Plainly different proposals will impact differently on the various criteria. Other recommended modifications delete supporting text from the policy and relocate it to an appropriate part of the Plan. As part of this relocation I also recommended that the supporting text is expanded further to provide a context for the policy
- 7.44 With the addition of these modifications I am satisfied that the policy meets the basic conditions. One of the 12 core planning principles in the NPPF (paragraph 17) is '(always seek) to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings'. Furthermore, the approach adopted in the policy has regard to the more detailed design elements of the NPPF. In particular, it plans positively for high quality and inclusive design (paragraph 57), it has developed a robust and comprehensive policy (paragraph 58), it proposes outlines of design principles (paragraph 59) and does so in a locally distinctive yet non-prescriptive way (paragraph 60).

Delete the first sentence of the policy

In the second sentence:

Delete 'All'

Replace 'permitted' with 'supported'

In the third sentence insert 'where relevant' before 'all development'

Insert '; and' at the end of criterion (I)

At the end of paragraph 5.3.1 add the deleted first sentence of the policy. Thereafter add:

'This character reflects its location within the Green Belt and the very different characteristics of each of the principal settlement in the neighbourhood area as described earlier in this Plan. Policy BNDP7 establishes a policy-based approach to this important matter within the context set by both national planning policy and the recently-adopted Warwick District Local Plan.'

Policy BNDP8 – Protecting and Enhancing Local Landscape character

- 7.45 This policy skilfully provides a landscape context against which new proposals can be assessed. Its supporting text (paragraphs 5.3.5-5.3.7) helpfully references Local Plan evidence base and the National Character Areas.

- 7.46 The policy identifies six landscape design principles that new development will be required to incorporate. They include the scattered nature of the rural settlements, biodiversity, wildlife corridors and ancient woodlands. It is an excellent example of a neighbourhood plan policy that addresses key elements of national policy set out in the NPPF (paragraphs 109-125).
- 7.47 I recommend that the opening aspect of the policy takes account of the scale and nature of planning applications. It particular it should recognise that many planning proposals will be modest in scale and some elements of the policy may not be directly relevant. I also recommend other modifications to ensure consistency and clarity in the policy.

In the opening part of the policy add ‘as appropriate to their scale and location’ after ‘design principles’

In criterion 1 second sentence replace ‘will be expected to’ with ‘should’

In criterion 2 final sentence replace ‘is encouraged to support and’ with ‘will be supported to’

In criterion 5 replace ‘is supported’ with ‘will be supported’

Policy BNDP9 – Traffic Management and Transport Improvements

- 7.48 This policy is the Plan’s principal policy on traffic matters. It addresses three separate elements. The first is the need for new development to comply with local standards on access and car parking. The second is based around the range of traffic improvements that will be sought through developer contributions or the local application of the District-wide CIL. The third aspect of the policy is that the Parish Council’s ambitions to work with public transport providers to enhance local services. I will address these issues in turn.
- 7.49 The first element is of a general nature. Highways England had made representations in respect of criterion (b) which addresses the capacity and operation of the highways network. It suggests that this part of the policy should be modified so that it aligns precisely with paragraph 32 of the NPPF. As submitted the policy does not have regard to this paragraph. Short of incorporating the paragraph from the NPPF directly into the policy itself there is no satisfactory way in which this can be achieved. In any event neighbourhood plans are not expected to repeat national or local policies. On this basis I recommend that the criterion is deleted. Plainly the principles of national policy would remain unaffected and would be applied to planning applications in the neighbourhood area in any event. I also recommend the deletion of the opening sentence of this part of the policy. It relates to the second rather than the first part of the policy.
- 7.50 The second part of the policy identifies that new development will be required to support proposals for improved traffic management facilities in the neighbourhood area. The Clarification Note process confirmed that the purpose of this policy is to identify priorities for the use of the local element of community infrastructure levy (CIL) funding. WDC adopted a CIL in December 2017. I recommend a modification to

the policy so that it adopts this approach. This part of the policy would adopt the same format as that recommended for Policy BNDP4. Whilst it might have been desirable to have listed all the proposed uses of the local element of the CIL in one policy the natural flow of the Plan would otherwise be detrimentally affected.

- 7.51 The third part of the policy is not a land use policy. In addition, it is not capable of being recommended for modification to achieve that approach. Nevertheless, I acknowledge that it is a natural outcome of the development of a neighbourhood plan and is supported by Planning Practice Guidance. On this basis I recommend that it is deleted and repositioned into a separate part of the Plan as a Community Action

In the first part of the policy:

Delete the first sentence

Delete criterion (b)

Replace the second part of the submitted policy with:

‘Community Infrastructure Levy contributions from development in the neighbourhood area will be used for the benefit of the local community with priority being given to the following proposals:

[Include at this point existing list (1-4) in the submitted policy]’

Delete the third part of the policy

Reposition the deleted third part of the policy into a non-land use part of the Plan addressed as ‘Community Actions’.

Policy BNDP10 – Sustainable Transport Measures

- 7.52 This policy sets out the community’s aspirations for the delivery of sustainable transport measures. It identifies that development proposals should make provision for sustainable travel as appropriate. These include a range of facilities such as pavements/cycle paths/new pedestrian and cycle routes.
- 7.53 I recommend a series of modifications to the policy. The first is that the example of a foot/cycle bridge over the A46 to Warwick is deleted. Whilst its development would have significant benefits there are no delivery arrangements proposed and it would present a challenging series of technical and safety considerations. The deletion as an example would not in itself prevent the implementation of such a project if funding was forthcoming and the technical challenges were overcome. The second deletes the fourth criterion on car share schemes or car clubs. It is not a land use policy and is not capable of being recommended for modification to achieve that status. Nevertheless, I acknowledge that it is a natural outcome of the development of a neighbourhood plan and is supported by Planning Practice Guidance. On this basis I recommend that it is deleted and repositioned into a separate part of the Plan as a Community Action.

In criterion (b) delete the example details after the semi-colon

Delete the fourth criterion of the policy

Reposition the deleted fourth criterion of the policy into a non-land use part of the Plan addressed as 'Community Actions'.

Policy BNDP11 – Supporting and enhancing existing small scale local employment

- 7.54 This policy has two related parts. The first seeks to safeguard existing employment uses. The second sets out to encourage and support new employment uses. In relation to the former two specific instances are identified where the change of use of existing employment uses would be supported. In relation to the latter the neighbourhood area's location in the Green Belt is properly recognised.
- 7.55 The thrust of the policy meets the basic conditions. I recommend modifications to bring the clarity required by the NPPF and to remove unnecessary repetition in the policy. In relation to the second part of the policy I recommend a modification that recognises that the majority of homeworking projects are unlikely to require planning permission.

Delete the first paragraph of the policy

Insert 'Insofar as planning permission is required' at the start of the third paragraph of the policy
In criterion (i) delete 'in accordance with NPP'

Other matters

- 7.56 This report has recommended a series of modifications both to the policies and to the supporting text in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modification to the policy concerned I have highlighted them in this report. However other changes to the general text may be required elsewhere in the Plan as a result of the recommended modifications to the policies. It will be appropriate for WDC and the Parish Council to have the flexibility to make any necessary consequential changes to the general text. This will particularly be the case where recommended modifications will affect the criteria numbers in various policies. I recommend accordingly.

Modification of general text (where necessary) to achieve consistency with the modified policies.

- 7.57 There are various instances where the submitted Plan refers to policy numbers in what was then the emerging Local Plan. These have been helpfully addressed by WDC in its representations to the Plan. I recommend that these matters are corrected/updated throughout the Plan as required.

Make the necessary modifications throughout the Plan to Local Plan policies and policy numbers to reflect the adoption of the Local Plan.

Other detailed factual updates/corrections

In paragraph 2.8 replace the final sentence to read:

'Therefore, our Plan has been prepared to be in general conformity with the strategic policies in the adopted Warwick District Local Plan (2011-2029)'

In paragraph 2.11 replace '763' with '968'

In paragraph 2.14 insert 'including the strategic policies of the Warwick District Local Plan (2011-2029)' between 'policies' and 'is included'.

8 Summary and Conclusions

Summary

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2029. It is distinctive in addressing a specific set of issues that have been identified and refined by the wider community.
- 8.2 Following my independent examination of the Plan I have concluded that the Budbrooke Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.
- 8.3 This report has recommended modifications to the policies in the Plan. Nevertheless, it remains fundamentally unchanged in its role and purpose.

Conclusion

- 8.4 On the basis of the findings in this report I recommend to Warwick District Council that subject to the incorporation of the modifications set out in this report the Budbrooke Neighbourhood Development Plan should proceed to referendum.

Referendum Area

- 8.5 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as approved by the District Council on 5 November 2014.
- 8.6 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth and efficient manner. I am particular grateful to Tony Ward at WDC for his support throughout the examination period and to the Parish Council for its full and helpful response to my Clarification Note.

Andrew Ashcroft
Independent Examiner
3 April 2018

Budbrooke Neighbourhood Plan – Examiner's Report

