

RADFORD SEMELE NEIGHBOURHOOD PLAN 2020 - 2029

(Submission Version)

Report of the Examination into the
Radford Semele Neighbourhood Plan 2020 - 2029

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No 5 Chambers,
Birmingham - London - Bristol - Leicester

To Warwick District Council
And to Radford Semele Parish Council

16th November 2020.

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Report of the Examination into the Radford Semele Neighbourhood Plan 2020 - 2029

1. Introduction

Neighbourhood planning

1. The Localism Act 2011 Part 6 Chapter 3 introduced neighbourhood planning, including provision for neighbourhood development plans. A neighbourhood development plan should reflect the needs and priorities of the community concerned and should set out a positive vision for the future, setting planning policies to determine decisions on planning applications. If approved by a referendum and made by the local planning authority, such plans form part of the Development Plan for the neighbourhood concerned. Applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

2. This report concerns the Submission (Regulation 16) Version of the Radford Semele Neighbourhood Plan 2020 - 2029 (“the Draft NDP”).

Appointment and role

3. Warwick District Council (“WDC”), with the agreement of Radford Semele Parish Council (“RSPC”), has appointed me to examine the Draft NDP. I am a member of the planning bar and am independent of WDC, RSPC, and of those who have made representations in respect of the Draft NDP. I have been trained and approved by the Neighbourhood Planning Independent Examiner Referral Service and have extensive experience both as a planning barrister and as a neighbourhood plan examiner. I do not have an interest in any land that is or may be affected by the Draft NDP.

4. My examination has involved considering written submissions and an unaccompanied detailed site visit on Wednesday 7th October 2020. I have considered all the documents with which I have been provided.

5. My role may be summarised briefly as to consider whether certain statutory requirements have been met, to consider whether the Draft NDP meets the basic conditions, to consider human rights issues, to recommend which of the three options specified in paragraph 12 below applies and, if appropriate, to consider the referendum area. I must act proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive with costs being proportionate.

2. Preliminary Matters

Public consultation

6. Consultation and community involvement are important parts of the process of producing a neighbourhood plan. I have no hesitation in being satisfied that RSPC took public consultation seriously. I do not consider there has been any failure in consultation, let alone one that would have caused substantial prejudice. The consultation was sufficient and met the requirements of the Neighbourhood Planning (General) Regulations 2012 (“the General Regulations”).

Other statutory requirements

7. I am also satisfied of the following matters:

- (1) The Draft NDP area is the parish of Radford Semele. RSPC, a parish council, is authorised to act in respect of this area (Town and Country Planning Act 1990 (“TCPA”) s61F (1) as read with the Planning and Compulsory Purchase Act 2004 (“PCPA”) s38C (2)(a));
- (2) The Draft NDP does not include provision about development that is excluded development (as defined in TCPA s61K), and does not relate to more than one neighbourhood area (PCPA s38B (1));
- (3) No other neighbourhood development plan has been made for the neighbourhood area (PCPA s38B (2));
- (4) There is no conflict with PCPA s38A and s38B (TCPA Sch 4B para 8(1)(b) and PCPA s38C (5)(b)); and
- (5) The Draft NDP specifies the period for which it is to have effect, namely 2020 - 2029, as required by PCPA s38B(1)(a).

3. The Extent and Limits of an Examiner’s Role

8. I am required to consider whether the Draft NDP meets the basic conditions specified in TCPA Sch 4B para 8(2) as varied for neighbourhood development plans, namely:

- (a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;
- (d)¹ The making of the Plan contributes to the achievement of sustainable development;
- (e) The making of the 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);
- (f) The making of the Plan does not breach, and is otherwise compatible with, EU obligations; and

¹ The omission of (b) and (c) results from these clauses of para 8(2) not applying to neighbourhood development plans (PCPA s38C (5)(d)).

(g) Prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the Plan.

9. There is one prescribed basic condition:² *“The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.”* Chapter 8 comprises regulations 105 to 111.

10. The combined effect of TCPA Sch 4B para 8(6) and para 10(3)(b) and of the Human Rights Act 1998 means that I must consider whether the Draft NDP is compatible with Convention rights. ‘Convention rights’ are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights (“the Convention”), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention’s Article 6(1), 8 and 14 and under its First Protocol Article 1.

11. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified in the last three paragraphs. In particular I may not consider whether any other test, such as the soundness test provided for in respect of examinations under PCPA s20, is met.³ Rather, it is clear that Parliament has decided not to use the soundness test, but to use the, to some extent, less demanding tests in the basic conditions. It is important to avoid unduly onerous demands on qualifying bodies, particularly for communities like Radford Semele with small populations. It is not my role to rewrite a neighbourhood development plan to create the plan that I would have written for the area. It is not my role to impose a different vision on the community.

12. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. These are: (1) that the Draft NDP proceeds to a referendum as submitted; (2) that the Draft NDP is modified to meet basic conditions and then the modified version proceeds to a referendum; or (3) that the Draft NDP does not proceed to referendum. If I determine that either of the first two options is appropriate, I must also consider whether the referendum area should be extended. My power to recommend modifications is limited by statute in the following terms:

The only modifications that may be recommended are—

(a) modifications that the examiner considers need to be made to secure that the draft [NDP] meets the basic conditions mentioned in paragraph 8(2),

² Sch 2 of the General Regulations prescribes this.

³ Woodcock Holdings Ltd v Secretary of State for Communities and Local Government [2015] EWHC 1173 (Admin), Holgate J. paragraph 57; PPG Reference ID: 41-055-2018022.

- (b) modifications that the examiner considers need to be made to secure that the draft [NDP] is compatible with the Convention rights,*
- (c) modifications that the examiner considers need to be made to secure that the draft [NDP] complies with the provision made by or under sections 61E(2), 61J and 61L,*
- (d) modifications specifying a period under section 61L(2)(b) or (5), and*
- (e) modifications for the purpose of correcting errors.⁴*

13. The word “only” prevents me recommending any other modifications. The fact that a modification would be of benefit is not a sufficient ground in itself to recommend it. So, for example, a suggested modification which gives additional information cannot be justified simply because some would find that information helpful. The same applies to a representation that a statement might be better included in some other document or some other part of the draft NDP. It is not within my powers to recommend avoidance of repetition or other matters that some may consider unnecessary, unless it happens to come with one of the categories specified in the preceding paragraph. I cannot recommend the addition of non-planning matters. A representation that the draft NDP has not taken an opportunity would only be relevant if it related to my statutory role. I must not take an excessively restrictive view of the power to recommend modifications, but must bear in mind Lindblom LJ’s explanation of its extent in his judgment in Kebbell Developments Ltd v. Leeds City Council.⁵ I may not recommend a modification that would put the draft NDP in breach of a basic condition or of human rights. When I conclude that a modification is necessary, I must, in deciding its wording, bear in mind material considerations including government advice. This includes the importance of localism. Where I properly can, my suggested modifications seek to limit the extent to which the substance of the draft NDP is changed.

14. It is not my role to consider matters that are solely for the determination of other bodies such as WDC or Warwickshire County Council. Whether speed cameras should be installed is not a matter for me. Nor is it my role to consider matters that an NDP could consider, but which are not considered in the Draft NDP, unless this is necessary for my role as explained above. It is not my role to consider aspirations that do not purport to be policies.

4. Consideration of Representations

15. I have given all representations careful consideration, but have not felt it necessary to comment on most of them. Rather in accordance with the statutory requirement and bearing in mind the judgment of Lang J in R (Bewley Homes Plc) v. Waverley District Council,⁶ I have

⁴ TCPA Sch 4B, para 10(3). The provisions in (a), (c) and (d) are in the TCPA.

⁵ [2018] EWCA Civ 450, 14th March 2018, paras 34 and 35.

⁶ [2017] EWHC 1776 (Admin), Lang J, 18th July 2017.

mainly concentrated on giving reasons for my recommendations.⁷ Where I am required to consider the effect of the whole Draft NDP, I have borne it all in mind.

5. Public Hearing and Site Visit

16. The general rule is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However an examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure (1) adequate examination of the issue or (2) a person has a fair chance to put a case. Since neither applied in this case, I did not hold a public hearing.

17. After particularly careful consideration in the light of current circumstances, I concluded that an unaccompanied site visit was necessary and held an extensive one on Wednesday 7th October 2020. The site visit helped me to gain a sufficient impression of the nature of the area for the purpose of my role.

6. Basic conditions and human rights

Regard to national policies and advice

18. The first basic condition requires that I consider whether it is appropriate that the NDP should be made “*having regard to national policies and advice contained in guidance issued by the Secretary of State*”. A requirement to have regard to policies and advice does not require that such policy and advice must necessarily be followed, but they should only be departed from them only if there are clear reasons, which should be explained, for doing so.⁸

19. The principal document in which national planning policy is contained is the National Planning Policy Framework (February 2019) (“the NPPF”) and I have borne that in mind. Other policy and advice that I have borne in mind includes national Planning Practice Guidance (“PPG”).

20. The NPPF provides that neighbourhood plans should support the delivery of strategic policies contained in local plans and should shape and direct development that is outside of these strategic policies.⁹ Its paragraphs 28 and 29 state:

28. Non-strategic policies should be used by... communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating

⁷ TCPA Sch 4B, para 10(6). Where there is an obvious error, there is no need to say more.

⁸ R. (Lochailort Investments Limited) v. Mendip District Council [2020] EWCA Civ 1259, Lewison LJ, paragraphs 6, 31 and 33, 2nd October 2020.

⁹ Paragraph 13.

sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.

Contributing to the achievement of sustainable development

21. The second basic condition means that I must consider whether the making of the Plan contributes to the achievement of sustainable development. Unless the Draft NDP, or the Draft NDP as modified, contributes to sustainable development, it cannot proceed to a referendum. This condition relates to the making of the Plan as a whole. It does not require that each policy in it must contribute to sustainable development. It does require me to consider whether constraints might prevent sustainable development and, if they might, whether the evidence justifies them. That involves consideration of site-specific constraints, both existing and those proposed in the Draft NDP. The total effect of the constraints introduced by the Draft NDP when read with existing constraints should not prevent the achievement of sustainable development.

22. I welcome the draft NDP's support for pedestrians, cyclists, young people and disabled people. These contribute to the social element of sustainable development.

23. The draft NDP's support for the natural and the historic environment is amply merited, is consistent with the duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 and contributes to the environmental element of sustainable development. The natural and heritage assets that I was able to view impressed me.

General conformity with the development plan's strategic policies

24. The third basic condition means that I must consider whether the Draft NDP is in general conformity with the strategic policies contained in the development plan for the area of the authority.

25. The adjective 'general' allows a degree of (but by no means unlimited) flexibility and requires the exercise of planning judgement. The draft NDP "*need not slavishly adopt every detail*".¹⁰ This condition only applies to strategic policies - there is no conformity requirement in respect of non-strategic policies in the development plan or in respect of other local authority documents that do not form part of the development plan, although such documents may be

¹⁰ Wiltshire Council v Cooper Estates Strategic Land Ltd [2019] EWCA Civ 840 at paragraph 3.

relevant to other matters. In assessing general conformity and whether a policy is strategic, I have borne in mind helpful PPG advice.¹¹ I have also borne in mind the relevant part of the judgment in R (Swan Quay LLP) v Swale District Council.¹²

26. The development plan's relevant strategic policies are contained in the Warwick District Local Plan 2011 to 2029 ("the WDLP") which was adopted in September 2017.

EU obligations

27. The fourth basic condition requires me to consider whether the Draft NDP breaches, or is otherwise incompatible with, EU obligations. I have in particular considered the following, together with the UK statutory instruments implementing them: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); the Water Framework Directive (2000/60/EC); and the General Data Protection Regulation (2016/679/EU). I have also considered the judgment of the European Court of Justice in People Over Wind v Coillte Teoranta.¹³ I have borne in mind that proportionality is a concept of and underlies EU law and must avoid requirements that are disproportionate for a plan as relatively small of the Draft NDP.

28. I am satisfied that no issue arises in respect of equality under general principles of EU law or any EU equality directive. I am satisfied that the making of the NDP would not breach, and be otherwise incompatible with, EU obligations and that it is not necessary to consider the matter further in this report.

Conservation of Habitats and Species Regulations

29. I am satisfied that the making of the NDP would not be incompatible with the prescribed basic condition and that it is not necessary to consider the matter further in this report.

Human Rights

30. English planning law in general complies with the Convention. This matter can also be dealt with briefly in advance of detailed consideration of the contents of the Draft NDP. I have considered whether anything in the Draft NDP would cause a breach of any Convention right. In particular I have considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. Nothing in my examination of the Draft NDP indicates any breach of a Convention

¹¹ Paragraphs 074 to 077 of the section on neighbourhood planning.

¹² [2017] EWHC 420 (Admin), para 29, Dove J, 27th January 2017.

¹³ Case C-323/17, 12th April 2018.

right, so that no modifications need to be made to secure that the Draft NDP is compatible with these rights. It is therefore not necessary to consider human rights in the parts of this report that deal with specific parts of the Draft NDP.

7. The nature of the area

31. In considering the contents of the Draft NDP I must consider the nature of the village of Radford Semele and of the parish as a whole. In the 2011 census the parish had a population of over 2,500 residents. Since then, the population has grown significantly. There are 11 Listed Buildings.

32. The village lies to the east of and close to Royal Leamington Spa. Not surprisingly and not unreasonably in principle, the community considers that *“the open land between Radford Semele and Royal Leamington Spa should be retained as open land to maintain the separate identity of the settlements and prevent coalescence”*.¹⁴

8. Housing

33. In his report the inspector examining the WDLP said:

“The level of housing growth which is already committed will result in a very substantial expansion of the built form of the village and subsequent increase in its population in a relatively short space of time. Significant sites on the edge of the village have recently been granted planning permission for housing to the north of site H38 (150 dwellings) and at Spring Lane (65 dwellings). There is very limited, if any, capacity at the school and no realistic prospect of it being expanded on site or a new school being provided in the village under current circumstances. There is no need to allocate further sites in order to ensure sufficient housing growth in the village or to meet the overall housing requirements for the District.”

34. The inspector had the advantage of considering the district as a whole, his report and the adoption of the WDLP are relatively recent and the period of both the WDLP and the draft NDP are both relatively short, running only until 2029. In the circumstances there is no sufficient reason for me to revisit this finding. The draft NDP is right not to allocate further sites for housing.

9. The contents of the Draft NDP

Page 1-3

35. The last four sentences of the Executive Summary were accurate when written, but will need to be updated. Figure 1 will also need to be updated.

¹⁴ Draft NDP paragraph 4.9. I deal with the extent of this in paragraph 39 and Appendix C below.

Recommended modification 1

Page 1-2

Update the last four sentences of the Executive Summary.

Page 3, paragraph 1.3

Update Figure 1.

Page 6

36. There is an obvious error in paragraph 2.5.

Recommended modification 2

Page 6, paragraph 2.5

Insert “Canal” after “Napton”.

Page 16

37. RPS have objected to the words “*These will remain unchanged and be used to manage any proposed housing growth to 2029*” in paragraph 4.4 on the basis that this “*has effectively closed the gates to any new development being brought through that Local Plan review process*”. I disagree. Should a review of the Local Plan lead to more land being allocated (whether as a result of changes to national policy or otherwise), the Planning and Compulsory Purchase Act 2004 s38(5)¹⁵ will apply. There is no need to modify page 16.

Page 19

38. There is an obvious error in Figure 10.

Recommended modification 3

Page 19, figure 10

Delete the second “*Burial ground -churchyard is full*”.

Pages 27

39. For the reasons given later in this report I recommend modification of Policies Map 1. The area of separation should be reduced by excluding by the fields (but not their western boundary) coloured red on the plan in Appendix C. This would narrow the width of the area of

¹⁵ “If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document[to become part of the development plan].”

separation by approximately 140 metres at its southern end to approximately 240 metres at widest point of the northernmost field being removed.¹⁶

Recommended modification 4

Page 27, Policy Map 1

Remove the easternmost fields (but not their western boundary hedges) as shown coloured red on the plan in Appendix C from the area of separation shown on the Map.

Page 28

40. Policy RS1. I note that Severn Trent is “supportive of policy RS1, in particular the inclusion of the comment that the new housing must meet WDC Climate Emergency Commitment” and consider this support justified. There is no objection in principle to an NDP incorporating guidance in non development-plan documents where this is justified.

Pages 31

41. The NPPF provides for LGSs in its chapter 8, which is headed “Promoting healthy and safe communities”. Under the sub-heading “Open Spaces and Recreation”, paragraphs 99, 100 and 101 state:

99. The designation of land as Local Green Space through... neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.

100. The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land.*

101. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.

42. These paragraphs are central to any consideration of whether land should be designated as an LGS. I have not found definitions of “open space” helpful. Policy in respect of LGSs that are neither in national policy nor the relevant development plan reflect how other bodies have

¹⁶ These are my estimations measuring from an OS base. My recommendation does not depend on their being very accurate.

approached LGS designation in their area and should be treated with caution. In particular there is no general exclusion of agricultural land from LGS designation.

43. In considering the proposed LGS designations, I have born in mind and found helpful the recent judgment Court of Appeal in R. (Lochailort Investments Ltd) v Mendip District Council.¹⁷ In the context of that case, the phrase in paragraph 99 “*capable of enduring beyond the end of the plan period*” was given specific consideration. On the one hand the NPPF paragraphs cited above are national policy that should be followed unless there is a good reason not to do so. On the other hand, that phrase in paragraph 99 is less demanding policy than applies to Green Belt designation where the stronger word “*permanently*” is used.

44. For centuries Church Fields (West and East)¹⁸ have been part of the setting of St Nicholas’ Church. They have been seen by both villagers and travellers through the village and are very much part of the character of the village. I have no hesitation in agreeing that they are “*intrinsic to the character and identity of the village*”¹⁹ and agreeing with the description in Table A1.a on page 69. The fields met the requirements of NPPF, including being demonstrably special to a local community and holding a particular local significance. I note the wish for more burial ground.²⁰ This would not prevent use of part of this land for a burial ground.

45. For the reasons given in the draft NDP, Leigh Foss²¹ and Angly Hole and Woods²² meet the requirements for LGS designation.

Pages 41 and 45

46. Policy RS6 begins “*Any new development must protect, conserve and enhance the area’s landscape character*”. This is unduly prescriptive and I share Tenneco’s view that “*it is difficult to understand how any development can comply with all three requirements*”. I recommend modification to: “*Any new development must protect, conserve or enhance the area’s landscape character*”.

47. With regard to the views RS6/2 (view of Church and Church Fields from corner of A425/Offchurch Lane) and RS6/3 (view east looking from St Nicholas Graveyard), my site visit confirmed that these particularly attractive views of a sort that are most likely to be of great value to a local community. In the light of my conclusion that the designation of Church

¹⁷ Footnote 8 above.

¹⁸ RS 2/1 on the policy maps 1 and 2.

¹⁹ Draft NDP paragraph 4.9.

²⁰ Draft NDP paragraph 4.10

²¹ RS 2/2 on the policy maps 1 and 2.

²² RS 2/3 on the policy maps 1 and 2.

Fields (West and East) as an LGS should be retained, protecting the essential character and quality of these views will not prevent the achievement of sustainable development.

48. With regard to view RS6/5 (view from footpath south of new Spring Lane development), I took particular care over this view on my site visit and share the concerns of Tenneco and A C Lloyd in respect of it. While I recognise that the copse viewed from the footpath is attractive, the view is not otherwise special. I have concluded that the retention of this view in the draft NDP is not justified.

Recommended modification 5

Page 41, Policy RS6

Replace the introductory words with “*Any new development must protect, conserve or enhance the area’s landscape character by*”

Delete “*RS6/5 – view from footpath south of new Spring Lane development;*” and renumber subsequent views.

Page 43, Policy Map 6

Make the corresponding changes to this map.

Page 48

49. I have no doubt that the principle of protecting undesignated heritage assets in policy RS7 is appropriate and note Historic England’s support for this.²³

Pages 61 and 62

50. I have no doubt that the principle of an area of separation in policy RS12 is appropriate and note Historic England’s support for this.²⁴ However the extent of the area should be limited to that reasonably necessary to maintain separation and that does not include all land to the west of the village envelope. The fields immediately to the west of the footpath to the south of Spring Lane (but not their western boundary hedges) do not play a valuable role in preventing coalescence and should be removed from the area of separation shown on policy maps 1 and 8.

Recommended modification 6

Page 61

Amend the second sentence of policy RS12 to read:

“This area lies to the west of Radford Semele and extends up to the Parish boundary.”

²³ Letter 20th August 2020.

²⁴ Letter 20th August 2020.

Amend policy Map 8 to exclude the fields coloured red in appendix C to this report.

Page 62

Amend the second of paragraph 6.55 to read: *“It is therefore appropriate to have an area of separation which bears in mind and in part uses the village envelope as determined for local planning purposes when the Local Plan was approved.”*

Page 66

51. Paragraphs 7.1 and 7.2 need to be updated.

Recommended modification 7

Page 66

Update paragraphs 7.1 and 7.2.

Page 83

52. For the reasons given in paragraph 48, the entry and photograph in respect of view RS6/5 should be deleted and subsequent views renumbered.

Recommended modification 8

Page 83

Remove the entry and photograph in respect of view RS6/5 and renumber subsequent views.

10. Updating

53. It may be that certain passages need updating. Nothing in this report should deter appropriate updating prior to the referendum in respect of incontrovertible issues of primary fact.

11. The Referendum Area

54. I have considered whether the referendum area should be extended beyond the designated plan area. However, I can see no sufficient reason to extend the area and therefore recommend that the referendum area be limited to the parish.

12. Summary of Main Findings

55. I commend the Draft NDP for being clear, intelligible and well written and for the considerable effort that has gone into its creation.

56. I recommend that the Draft NDP be modified in the terms specified in Appendix A to this report in order to meet basic conditions and to correct errors. I am satisfied with all parts of the Draft NDP to which I am not recommending modifications.

57. With those modifications the Draft NDP will meet all the basic conditions and human rights obligations. Specifically

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the NDP;
- The making of the NDP contributes to the achievement of sustainable development;
- The making of the NDP is in general conformity with the strategic policies contained in the development plan for the parish of Radford Semele (or any part of that area);
- The making of the NDP does not breach, and is not otherwise incompatible with, EU obligations;
- The making of the NDP does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- The modified Draft NDP is in all respects fully compatible with Convention rights contained in the Human Rights Act 1998.

58. I recommend that the modified NDP proceed to a referendum, the referendum area being the area of the Draft NDP, namely the parish of Radford Semele.

Timothy Jones, Barrister, FCI Arb,

Independent Examiner,

No 5 Chambers

16th November 2020.

Appendix A: Recommended Modifications

Recommended modification 1

Page 1-2

Update the last four sentences of the Executive Summary.

Page 3, paragraph 1.3

Update Figure 1.

Recommended modification 2

Page 6, paragraph 2.5

Insert “Canal” after “Napton”.

Recommended modification 3

Page 19, figure 10

Delete the second “Burial ground -churchyard is full”.

Recommended modification 4

Page 27, Policy Map 1

Remove the easternmost fields (but not their western boundary hedges) as shown coloured red on the plan in Appendix C from the area of separation shown on the Map.

Recommended modification 5

Page 41, Policy RS6

Replace the introductory words with “Any new development must protect, conserve or enhance the area’s landscape character by”

Delete “RS6/5 – view from footpath south of new Spring Lane development;” and references to it and renumber subsequent views where references to them occur.

Page 43, Policy Map 6

Make the corresponding changes to this map.

Recommended modification 6

Page 61

Amend the second sentence of policy RS12 to read:

“This area lies to the west of Radford Semele and extends up to the Parish boundary.”

Amend policy Map 8 to exclude the fields coloured red on the plan in Appendix C to this report.

Page 62

Amend the second of paragraph 6.55 to read: “It is therefore appropriate to have an area of separation which bears in mind and in part uses the village envelope as determined for local planning purposes when the Local Plan was approved.”

Recommended modification 7

Page 66

Update paragraphs 7.1 and 7.2.

Recommended modification 8

Page 83

Remove the entry and photograph in respect of view RS6/5 and renumber subsequent views.

Appendix B: Abbreviations

The following abbreviations are used in this report:

Convention	European Convention on Human Rights
Draft NDP	The Submission version of the Radford Semele Neighbourhood Plan 2020 - 2029
EU	European Union
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
WDC	Warwick District Council
LGS	Local Green Space
NDP	Neighbourhood Development Plan
NPPF	National Planning Policy Framework (2019)
p	page
para	paragraph
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PPG	national Planning Practice Guidance
RSPC	Radford Semele Parish Council
s	section
Sch	Schedule
TCPA	Town and Country Planning Act 1990 (as amended)

Where I use the verb '*include*', I am not using it to mean '*comprise*'. The words that follow are not necessarily exclusive.

Appendix C: Map showing land recommended for removed from the Area of Separation

It is recommended that the area of separation should be reduced by excluding by the three fields (but not their western boundaries) in the southeast of the draft NDP's proposed area of separation shown coloured red on the plan below.