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# **Report on Breedon on the Hill Neighbourhood Development Plan 2020 - 2040**

**An Examination undertaken for North West Leicestershire District Council with the support of Breedon on the Hill Parish Council on the May 2024 submission version of the Plan.**

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Date of Report: 4 December 2024

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## **Main Findings - Executive Summary**

From my examination of the Breedon on the Hill Neighbourhood Development Plan (the Plan/BoTHNP) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – Breedon on the Hill Parish Council;
- The Plan has been prepared for an area properly designated – the Parish of Breedon on the Hill, as shown on Map 1 (page 2) of the Neighbourhood Plan;
- The Plan specifies the period to which it is to take effect, 2020 to 2040; and
- The policies (as proposed to be modified) relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### **Breedon on the Hill Neighbourhood Development Plan 2020-2040**

- 1.1 The Neighbourhood Plan Area for Breedon on the Hill was approved by North West Leicestershire District Council (NWLDC) in October 2020. Consultation and preparation of the BoTHNP has been led by the Breedon on the Hill Parish Council (BoTHPC).
- 1.2 The Neighbourhood Plan Area comprises the Parish of Breedon on the Hill which covers some 1,717 hectares. The Parish had a population of some 1,100 on Census Day 2021 living in about 490 households.
- 1.3 Breedon on the Hill village is located north of the A42 some 6.5km to the south west of Castle Donington and some 8km to the north-east of Ashby de la Zouch. The village has around 400 dwellings and a population of approximately 615. There is a primary school, a convenience store and two public houses. Breedon Quarry is in active use and the Breedon Group has its headquarters in the village.
- 1.4 Other settlements within the Parish comprise Wilson and Tonge. Wilson is a hamlet of some 67 dwellings located about 2km to the north of Breedon on the Hill village and 2km to the east of Melbourne. It lies on the border

of Leicestershire with Derbyshire. The only facilities are a public house and a health club.

- 1.5 Tonge is a hamlet of about 45 dwellings located some 1.5km east of Breedon on the Hill village. Tonge has no facilities, but together with Breedon on the Hill, Tonge is served by Midland Classic bus service 125, which runs from Leicester via Coalville to Castle Donington. The service is infrequent operating weekdays and Saturday.
- 1.6 The BotHNP is required to be in general conformity with the strategic policies of the statutory Development Plan, which includes the North West Leicestershire District Local Plan 2011 - 2031 (NWLLP) adopted in 2017. A partial review of the Local Plan has been completed and was adopted in March 2021. A new Local Plan is now being prepared and consultation on the draft was carried out in February and March 2024. I address the matter of general conformity of the BotHNP with the Development Plan throughout my report as well as noting any relationship to the emerging draft new NWLLP.<sup>1</sup>

### The Independent Examiner

- 1.7 As the BotHNP has now reached the examination stage, I have been appointed as the examiner of the Plan by NWLDC, with the agreement of BotHPC.
- 1.8 I am a chartered town planner and retired government Planning Inspector, with more than 45 years of experience in the private and public sectors. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

### The Scope of the Examination

- 1.9 As the independent examiner I am required to produce this report and recommend either:
  - (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.10 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)('the 1990 Act'). The examiner must consider:
  - Whether the plan meets the Basic Conditions.

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<sup>1</sup> See the advice in the Planning Practice Guidance (PPG), Reference ID: 41-009-20190509.  
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- Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
  - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
  - it sets out policies in relation to the development and use of land;
  - it specifies the period during which it has effect;
  - it does not include provisions and policies for 'excluded development'; and
  - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended)('the 2012 Regulations').

1.11 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### The Basic Conditions

1.12 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>2</sup>; and
- Meet prescribed conditions and comply with prescribed matters.

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<sup>2</sup> The existing body of environmental regulation is retained in UK law.

- 1.13 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Development Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>3</sup>

## 2. Approach to the Examination

### Planning Policy Context

- 2.1 The current Development Plan for Breedon on the Hill, excluding policies relating to minerals and waste development, is the North West Leicestershire District Local Plan 2011–2031 (NWLLP) which was adopted in November 2017.
- 2.2 NWLDC is preparing a new draft NWLLP to cover the period 2020-2040. I note that the Planning Practice Guidance (PPG) advises that 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; and the adopted Development Plan, with appropriate regard to national policy and guidance.<sup>4</sup>
- 2.3 As noted in paragraph 1.6 above, a draft new Local Plan was subject to public consultation in February and March 2024 and NWLDC is currently working on the responses received and evidence base for the emerging Plan. Whilst I focus on the policies of the adopted NWLLP 2011-2031 in accordance with the Basic Conditions which require me to examine the Plan against the extant adopted strategic Development Plan policies, I have regard to the advice in relation to emerging Local Plan policies in accordance with the PPG.
- 2.4 Planning policy for England is set out principally in the National Planning Policy Framework (NPPF) and is accompanied by the PPG, which offers guidance on how this policy should be implemented. All references in this report are to the latest iteration of the NPPF dated December 2023 and the accompanying PPG.<sup>5</sup>

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<sup>3</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

<sup>4</sup> PPG Reference ID: 41-009-20190509.

<sup>5</sup> The government has recently consulted on further changes to the NPPF (albeit these are not likely to be published in final form until late 2024/early 2025): [Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system)

## Submitted Documents

2.5 I have considered all policy, guidance and other reference documents I consider relevant to the examination, alongside those submitted. These include the:

- Breedon on the Hill Neighbourhood Plan 2020 to 2040, May 2024;
- Breedon on the Hill Neighbourhood Plan Basic Conditions Statement, May 2024;
- Breedon on the Hill Neighbourhood Plan Consultation Statement, May 2024;
- Breedon on the Hill Neighbourhood Plan Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) Screening Report, September 2023;
- The Regulation 16 Responses;
- Procedural matters and questions letter from examiner 9 October 2024;
- Response from BothPC to examiner's questions with attachments 14 October 2024;
- Response from NWLDC to examiner's question 7;
- Examiner's additional questions 14 October 2024;
- BothPC response to examiner's additional questions 28 October 2024
- Examiner's further questions 28 October 2024;
- Response from BothPC to examiner's further questions 29 October 2024; and
- NWLDC response to examiner's further questions 1 November 2024.<sup>6</sup>

## Site Visit

2.6 I visited the Neighbourhood Plan Area unaccompanied by any interested party on the 15 October 2024. I carried out a general review of the area in terms of its setting and character in order to familiarise myself with it and visited relevant sites and areas referenced in the Plan and evidential documents.

## Written Representations with or without Public Hearing

2.7 This examination has been carried out on the basis of the written submissions (written representations). The Regulation 16 consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. In addition to the Regulation 16 responses, I have received further necessary clarifications through the exchange of correspondence during the examination. These include the responses from BothPC and from NWLDC to my procedural letters of the 9 October 2024, the 14 October 2024 and the 28 October (see paragraph 2.5 above). As a result,

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<sup>6</sup> View at: [https://www.nwleics.gov.uk/pages/breedon\\_on\\_the\\_hill\\_neighbourhood\\_plan](https://www.nwleics.gov.uk/pages/breedon_on_the_hill_neighbourhood_plan)

in terms of the appropriate level of scrutiny for the BotHNP, I consider that hearing sessions are not necessary.

## Modifications

- 2.8 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

## 3. Procedural Compliance and Human Rights

### Qualifying Body and Neighbourhood Plan Area

- 3.1 The Breedon on the Hill Neighbourhood Plan has been prepared and submitted for examination by BothPC, which is the qualifying body for an area that was designated by NWLDC on 14 October 2020.
- 3.2 It is the only Neighbourhood Plan for Breedon on the Hill Parish and does not relate to any land outside the designated Neighbourhood Plan Area.

### Plan Period

- 3.3 The Plan specifies the period to which it is to take effect on the front cover which is 2020 - 2040. The BotHNP covers a period which extends beyond that of the adopted NWLLP (2012-2031). The emerging NWLLP covers the period to 2040 and it is appropriate to be cognisant of its emerging policies in my examination. It may however be appropriate to review the BotHNP when the new NWLLP is adopted.

### Neighbourhood Plan Preparation and Consultation

- 3.4 Following the approval by NWLDC of the designation of the Breedon on the Hill Neighbourhood Plan Area, as shown on page 2 of the submitted BotHNP, BothPC is responsible for providing leadership and managing the process for the preparation of the BotHNP. A Neighbourhood Plan Working Group was set up which comprised Parish Councillors and local residents.
- 3.5 The BotHNP is based on evidence from surveys, expert reports and local consultations. A detailed record of the consultation process is set out in the Consultation Statement.
- 3.6 Plans for public consultation events in 2021 were disrupted by the COVID-19 pandemic, but throughout the preparation of the BotHNP the Parish Council website has been used to provide information and updates on the Plan's progress together with sources of material and updates. A Questionnaire Survey was distributed to all parishioners in the Neighbourhood Plan Area in June/July 2021. The feedback from 134

completed questionnaires then helped to inform the preparation of the pre-submission draft of the BotHNP.

- 3.7 The Regulation 14 consultation was held from 30 October to 11 December 2023. A leaflet was delivered to all premises within the Parish and a consultation drop-in session was held to publicise the pre-submission draft of the Plan. For the purposes of this statutory consultation, the draft BotHNP was publicised to all that live, work or do business within the Parish with details of where and when the draft Plan could be inspected and how to make representations within the consultation time period. The bodies identified within Paragraph 1 of Schedule 1 of the 2012 Regulations were also consulted. Some 25 representations were received.
- 3.8 Changes were made to the draft BotHNP in response to the representations made, including to the proposed housing site in Breedon on the Hill and revisions to Local Green Space. The amended version of the BotHNP was submitted to NWLDC for consultation in accordance with Regulation 16 of the 2012 Regulations. The Regulation 16 consultation ran from 16 July to 27 August 2024. Some 20 responses were received which have been forwarded to me. I have had regard to all the comments made in those submissions as part of the examination process.
- 3.9 I am satisfied that a sufficiently transparent, fair and inclusive consultation process has been followed for the BotHNP. Due regard has been had to the advice in the PPG on plan preparation and engagement, and I consider that the BotHNP is procedurally compliant in accordance with the legal requirements.

### Development and Use of Land

- 3.10 With the modifications which I recommend, the Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

### Excluded Development

- 3.11 The Plan does not include provisions and policies for 'excluded development'.<sup>7</sup>

### Human Rights

- 3.12 No issues have been raised in relation to any potential breach of Human Rights (within the meaning of the Human Rights Act 1998). From my independent assessment, I see no reason to find otherwise.

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<sup>7</sup> See section 61K of the 1990 Act.

## 4. Compliance with the Basic Conditions

### EU Obligations

- 4.1 The BotHNP has been screened by NWLDC on behalf of BotHPC to determine whether or not the Plan requires Strategic Environmental and Habitats Regulations Assessments (SEA and HRA).<sup>8</sup>
- 4.2 The SEA screening report concludes that the BotHNP is unlikely to have significant environmental effects and that a SEA is not therefore required.
- 4.3 The HRA assessment screens the BotHNP as to whether further Appropriate Assessment may be required as a result of any potential for likely significant effects on any European site within the vicinity of Breedon on the Hill Parish. The screening assessment concludes that it is unlikely there will be any significant environmental effects arising from the BotHNP.
- 4.4 Historic England and Natural England agree with this conclusion. The Environment Agency raised no issue with regard to either of the screening reports but commented on the issue of flooding with regard to the proposed allocation of Brook Farm, Moor Lane, Tonge for housing development. I return to this matter later in my report.
- 4.5 Having reviewed the NWLDC SEA and HRA Screening Reports, I have no reason to disagree with the conclusion of the screening assessments.

### Main Issues

- 4.6 I have approached the assessment of compliance of the BotHNP with the remaining Basic Conditions as two main matters:
  - General issues of compliance of the Plan, as a whole; and
  - Specific issues of compliance of the Plan policies.

### General Issues of Compliance of the Plan

#### [Regard to National Policy and Advice](#)

- 4.7 The BotHNP sets out the background and context to its preparation and provides a broad description of the history, the character and the appearance of the Plan area, with its village rich in heritage and its rural setting. The vision statement for the BotHNP set out on Page 15 has been developed to reflect the priorities of the community and helps set the future of the Parish.

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<sup>8</sup> Breedon on the Hill Neighbourhood Plan Strategic Environmental Assessment and Habitat Regulation Assessment Screening Report September 2023.

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- 4.8 This vision was developed by the BotHNP following public consultation and makes it clear what the Plan is aiming to achieve. There are seven themes to the vision as follows:
- The unique character and heritage of the area is conserved;
  - Local services and facilities are protected and improved;
  - Important green spaces are protected;
  - The character and beauty of the countryside and its natural environment are safeguarded;
  - Important views and valued landscapes are protected;
  - Local housing needs are met; and
  - Improved local employment opportunities.
- 4.9 The Plan policies are founded in the themes identified in the vision and generally relate to the matters identified in NPPF Paragraph 28 as appropriate matters to be addressed through non-strategic policies in neighbourhood plans. The BotHNP is positively prepared, with an aspirational but deliverable approach to the development of the Parish, and it has been shaped through early, proportionate and effective engagement within the local community.
- 4.10 In general, the policies of the BotHNP are clearly written and unambiguous.<sup>9</sup> However, I raised a number of matters of clarification with regard to issues raised in responses to the Regulation 16 consultation and have received comments from BotHPC and from NWLDC. I have paid close regard to all the comments which I have received both in the Regulation 16 submissions and in response to my three letters.<sup>10</sup> As a result, I have concluded that recommendations for amendment or deletion are necessary to some policies in order to have due regard to national policy and advice<sup>11</sup> and to ensure general conformity with the strategic policies of the NWLLP in order that the Basic Conditions are met. I deal with matters of compliance in my commentary on each policy later in this report.
- 4.11 Having regard to the work which has been carried out and the range of policies which have been formulated to meet its vision and objectives, I am satisfied that the BotHNP demonstrates a positive approach to the implementation of the policies of the NWLLP (and note it has sought to minimise conflict with the emerging policies of the new NWLLP). Subject to the modifications which I recommend, the BotHNP has had regard to national policy and advice.

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<sup>9</sup> PPG Reference ID: 41-041-20140306.

<sup>10</sup> See paragraph 2.5 above with reference to these documents.

<sup>11</sup> In order to meet the Basic Conditions, the Plan must have regard to national policies and advice contained in guidance issued by the Secretary of State, as noted in paragraph 1.14 above.

### Contributes to the Achievement of Sustainable Development

- 4.12 The policies of the submitted BotHNP have regard to the economic, social and environmental needs of the local community. Furthermore, the Plan accords with Paragraph 29 of the NPPF since it generally complements and delivers the strategic policies for the area.
- 4.13 The three overarching objectives of sustainable development (economic, social and environmental) are integral to the core aims of the BotHNP. Together with the policies of the NWLLP 2011 - 2031, the policies and proposals of the BotHNP contribute to the achievement of sustainable development in accordance with national policies and advice.
- 4.14 Subject to the detailed comments and modifications which I set out below for individual policies, I am satisfied that the Plan makes a positive contribution to the achievement of the economic, social and environmental aspects of sustainable development.

### General Conformity with Strategic Policies in the Development Plan

- 4.15 I set out the planning policy context for the BotHNP in section 2 above. As part of the statutory Development Plan, the NWLLP 2011-2031 sets out the strategic policies to be taken into account in the BotHNP. The policies in the submitted BotHNP are required to be in general conformity with those that are strategic in the statutory Development Plan in order to meet the Basic Conditions.
- 4.16 Although a draft neighbourhood plan is not tested against the policies in an emerging Local Plan, the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the Basic Conditions against which a neighbourhood plan is tested.<sup>12</sup> In this case, I have noted that the draft policies and housing and employment site allocations for the emerging new NWLLP were published for public consultation in January/February 2024 with consultation on the publication NWLLP planned for the beginning of 2025.
- 4.17 In the adopted NWLLP, Policy S2 identifies the settlement of Breedon on the Hill as a Sustainable Village with a limited range of services and facilities where a limited amount of growth will take place within the defined Limits of Development or on brownfield land. Wilson and Tonge are listed as Small Villages with very limited services in which development is restricted to conversions of existing buildings, redevelopment of brownfield land or affordable housing on rural exception sites. In addition, the BotHNP at paragraph 9.11 states that the NWLDC has indicated a requirement figure of 13 dwellings to 2040 together with windfall development based on an annual requirement figure for the District of 686 dwellings in the emerging Local Plan.

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<sup>12</sup> PPG Reference ID: 41-009-20190509.

- 4.18 In response to my request for clarification of this figure, NWLDC has indicated that the figure should be 12 rather than 13 dwellings<sup>13</sup> (in this regard, see paragraph 4.43 and PM5 below) and results from calculations of housing requirements carried out for the emerging Local Plan. There is no requirement within the adopted NWLLP for the BotHNP to allocate any sites for residential or employment development in order for the BotHNP to be in conformity with the adopted Local Plan. However, the allocation of a site to meet an anticipated future requirement for housing of this scale in the emerging NWLLP would not be in conflict with national or current Development Plan policy.
- 4.19 Any significant change in the level of housing requirements when the new Local Plan is adopted could be dealt with through a review of the BotHNP.
- 4.20 The issue of providing for new housing development in Breedon on the Hill Parish to meet local housing needs is raised in the Regulation 16 representations. However, in this respect there is no conflict between the BotHNP as proposed to be modified and the strategic policies of the adopted NWLLP which I identify above. The strategic policies set out the conditions in which new housing may be permitted. Furthermore, notwithstanding the absence of any requirement for housing site allocations, the BotHNP does seek to allocate new land for housing development in the Neighbourhood Plan period.
- 4.21 The adopted Local Plan at paragraph 10.6 states that Local Green Spaces (LGS) will not be designated through the Local Plan but that they may be designated through Neighbourhood Plans. BotHNP designates 8 LGS in Policy BotH13 which I address later in my report.
- 4.22 The BotHNP has generally been developed with proper regard to the strategic direction and policies of the NWLDC Development Plan, which I identify in Section 2 above. NWLDC has been involved throughout the preparation of the BotHNP and is generally supportive of its policies. Subject to some detailed comments and the modifications which I recommend to the Plan's policies below, I am satisfied that the BotHNP is in general conformity with the strategic policies of the Development Plan.

## Specific Issues of Compliance of the Plan Policies

### [Natural Environment](#)

- 4.23 Policy BotH1 seeks to protect the rural area of Breedon Hill Parish and introduces the new Settlement Boundary for the hamlet of Wilson. This is intended to better define the area in which the NWLLP Policy S2 applies to the "Small Village" of Wilson. The Policy raises no issues of compliance with the Basic Conditions.

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<sup>13</sup> NWLDC response to Q7 of my letter dated 9 October 2024.

- 4.24 Policy Both2 introduces the designation of Locally Important Views in order to protect views to and from the primary landmark of Breedon on the Hill and the locally important views from publicly accessible locations that are regarded as highly characteristic of the area. I note the issue raised by NWLDC regarding Views 1 and 2 and that the areas covered by these views are protected under Policy S3 - Countryside of the NWLLP. However, it is clear that a high value is placed by local people on the landscape and natural environment. The setting of the village within an open rural landscape and the close connection between village and countryside is of particular importance.
- 4.25 Although there has been no technical analysis of the views, the policy does not seek to prevent development within the views, but to ensure that development has no significant adverse impact on their visual quality and amenity. Where such an impact is identified, it will be for the applicant to provide a technical analysis to demonstrate the degree of impact and how any adverse impacts may be avoided or mitigated. In these circumstances I find that the policy is not unreasonable and the identified views provide a local dimension to the relevant part of NWLLP Policy S3. In these circumstances I find that the Policy raises no issues of compliance with the Basic Conditions.
- 4.26 Areas of Separation are proposed for designation in Policy Both3. I note the view of the NWLDC that this is a strategic matter, and that NWLLP Policy S3 (ii) addresses the importance of a physical and perceived separation between nearby settlements. Nevertheless, the gap between Tonge and the outskirts of the village of Breedon on the Hill is limited and designation of this area would serve to reinforce the special function of this space and provide a local function to Policy S3 (ii).
- 4.27 Policy Both3 also proposes that its requirements apply to a Provisional Area of Separation to the north of Tonge, as defined on Map 5. I raised the issue of how a provisional designation could be made in a Plan which was intended to form a part of the statutory Development Plan in my first and second round of questions. Whilst I understand the reasons why BothPC are seeking this designation, no clarification has been given as to the statutory basis for a provisional designation and I am not aware of any examples of such a designation.
- 4.28 In the absence of any certainty as to the designation of a new settlement and the limits of that settlement in the emerging Local Plan, it would be premature for the BothNHP to include the designation of an Area of Separation to the north of Tonge. This is a matter which would more appropriately be pursued through the emerging policies of the new Local Plan alongside the consideration of the new settlement proposals. Since there is no statutory provision that I am aware of to allow for a provisional designation in a Development Plan Document, I propose a modification to delete the Provisional Area of Separation to the north of Tonge. **[PM1]** With this modification Policy Both3 meets the Basic Conditions

- 4.29 Policy Both4 Countryside Access raises no issues of compliance with the Basic Conditions.
- 4.30 Policy Both5 sets out the requirements for new development to address Ecology and Biodiversity. To ensure that the Policy relates to the most up to date policy position, I recommend a modification to the second clause in the Policy. **[PM2]** With the modification the Policy does not raise any issues of compliance with the Basic Conditions.
- 4.31 The protection of Trees and Hedgerows is sought through Policy Both6 which raises no issues of compliance with the Basic Conditions.
- 4.32 I note the comments of the Environment Agency in regard to Policy Both7. However, the requirements regarding fluvial flooding are set out in national and Local Plan policies. It is not necessary for them to be repeated in the BothNP. I find that the Policy raises no issues of compliance with the Basic Conditions.

### Services and Facilities

- 4.33 Policy Both8 seeks to protect community services and facilities; Both9 deals with ultrafast connectivity and Both10 relates to the provision of infrastructure. These Policies raise no issues of compliance with the Basic Conditions.

### Heritage and Design

- 4.34 Policy Both11 deals with and lists "Locally Valued" Heritage Assets. To ensure consistency with the terminology adopted in national and Development Plan policies, I recommend that the term "Non-designated" Heritage Assets be used. **[PM3]** Clarification of the background to the identification of the features listed in the Policy has been presented in the response to my first questions. I am satisfied that with the modification, the Policy complies with the Basic Conditions.
- 4.35 Policy Both12: Design raises no issues of compliance with the Basic Conditions.

### Local Green Space

- 4.36 Designating land as LGS should also be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services and be capable of enduring beyond the end of the Plan period (NPPF Paragraph 105). I find no such inconsistency in the designation of LGS in the BothNP and I consider the sites as proposed to be modified to be capable of enduring beyond the end of the Plan period.
- 4.37 NPPF (Paragraph 106) sets out that the LGS designation should only be used where the green space is:

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- (a) in reasonably close proximity to the community it serves;
- (b) demonstrably special to the 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.

- 4.38 Policy Both13 designates 8 new areas of LGS. Each of these areas has been the subject of a detailed appraisal against the criteria set out in the NPPF.<sup>14</sup> Having read the appraisals and visited the sites, I am satisfied that all the sites apart from part of site 4 are justified for designation as LGS.
- 4.39 Site 4 includes a strip of land fronting Ashby Road. There is a path which runs through the first part of the strip before it makes a 90' turn away from the road frontage. The short strip of frontage which incorporates the path forms a link between the site of the balancing pond and the path which heads away from the frontage. This part of the frontage strip is clearly of importance to the local community as an attractive area for recreation alongside the brook. However, there is little recreational value to be enjoyed from the brook south of footpath M1A as there is no path alongside it. The strip adjoins Ashby Road which is a busy public highway. The road frontage is densely planted with trees and bushes such that any views into this part of the proposed LGS are heavily restricted. In these circumstances, I recommend that LGS 4 be modified on Map 13 to remove the area beyond the route of the footpath. **[PM4]**
- 4.40 The area of LGS 3 on Map 13 also requires modification to accord with the area shown on the BothNPP Policies Map.<sup>15</sup> **[PM4]**
- 4.41 Policies for managing development within LGS are required to be consistent with those for Green Belts. I recommend a modification to the final clause of Policy Both13 to accord with the policies for the management of development in the Green Belt. **[PM4]**

## Transport

- 4.42 There are no policies proposed under Transport but the text highlights localised transport issues to be addressed when development proposals are considered. There are no issues of compliance with the Basic Conditions.

## Housing

- 4.43 In paragraph 9.11 reference is made to a housing requirement for Breedon on the Hill of 13 dwellings. NWLDC has clarified that this figure

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<sup>14</sup> Response from BothPC to examiner's questions with attachments 14 October 2024.

<sup>15</sup> Response from BothPC to examiner's further questions 29 October 2024.

should be 12.<sup>16</sup> Since the figure relates to a calculation for the housing provision to be made in the emerging Local Plan, it is advisory at this stage. In the interests of clarity I recommend a modification to update the figure and to reflect its status. **[PM5]**

- 4.44 Policy Both16 identifies the site north of Southworth Road for development and I understand that NWLDC has passed a resolution to grant planning permission for 18 new homes, 100% of which will be affordable, subject to a s106 agreement. As raised in my first questions, with regard to clause D. of the policy, I recommend a modification to reflect the wording in Paragraphs 170b) and 173c) of the NPPF “to ensure that flood risk is not increased elsewhere”. **[PM6]**
- 4.45 Policy Both17 raises no issues of compliance.
- 4.46 Policy Both18 allocates land at Brook Farm, Tonge for housing development. NWLDC has maintained an objection to the allocation of the site for redevelopment as proposed in the Policy. The site has also been the subject of an unsuccessful appeal (APP/G2435/W/18/3219446). I note the support of local residents for the allocation in order to tidy up the site. However, in their response to my further questions<sup>17</sup>, NWLDC provides examples of alternative approaches which could be taken to the site which could result in an improvement to its condition.
- 4.47 As proposed in Policy Both18, the allocation does not meet the criteria set out in Policy S2 for development in Small Villages since, apart from the farmhouse, it is not in accordance with the definition of previously developed land in Annex 2 to the NPPF. Whilst I note the reference to a potential change to the definition, I must apply the NPPF as published. In these circumstances, the development proposed in Policy Both18 is not in general conformity with the NWLLP and I recommend the deletion of the Policy. **[PM7]**
- 4.48 Policy Both19 is informed and justified by the evidence base study Breedon on the Hill Housing Needs Assessment (May 2021). As a result, I consider it meets the Basic Conditions.
- 4.49 Policy Both20 deals with Affordable Housing. NWLDC objects to the final clause of the Policy in so far as it seeks to control the allocation of the affordable housing.
- 4.50 I note that BothHPC relies on PPG Reference ID:70-008-20210524 to support the provision in Policy BothH20 to give priority to people with a local connection to Breedon on the Hill Neighbourhood Plan Area. However, this paragraph is under the heading of “First Homes” in the PPG. There is no indication that it is intended to apply to the broader category

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<sup>16</sup> Response to examiner question 7 - NWLDC Supplementary Note on Housing requirement for Breedon on the Hill Neighbourhood Plan.

<sup>17</sup> NWLDC response to examiner's further questions 1 November 2024.

of Affordable Housing. The application of this requirement in the BotHNP to the allocation of Affordable Housing would set an onerous test which could result in people in housing need who come from places with no or limited new development not having their needs met. Such a local connection requirement could also constrain Registered Providers' ability to secure funding for new affordable housing schemes and would constrain the allocation of housing by the District Council's Housing officers.

- 4.51 Policy H4 of the NWLLP requires that affordable housing provision should include a mix of types and tenure that reflects the type and nature of any need at the time the application is determined. This policy allows for flexibility in the future provision of affordable housing which may include the meeting of a need for people with a local connection. The flexibility in Policy H4 also ensures that Development Plan policy accords with the affordable housing eligibility criteria applied by the NWLDC Housing team. I conclude that the final clause of Policy BotH20 would be unduly restrictive and is not in general conformity with the policies of the NWLLP and recommend that it be deleted. **[PM8]**
- 4.52 Policy BotH21 raises no issues of compliance.
- 4.53 Policy BotH22: Residential Conversion of Rural Buildings sets out a list of criteria for the re-use and adaptation of redundant or disused buildings for housing. The criteria are listed in such a way as to indicate that they must all be met for a proposal to be supported.
- 4.54 In the text prior to Policy BotH22 reference is made to Class Q permitted development rights. Not all rural buildings benefit from these rights and the Policy is intended to identify further opportunities for the conversion of rural buildings to housing.
- 4.55 However, NPPF Paragraph 84c) allows for the conversion to housing of buildings which do not fall within Class Q and simply requires that "the development would re-use redundant or disused buildings and enhance its immediate setting". In the NWLLP, Policy S3 carries forward the policy in the NPPF and sets out criteria to be met when considering such proposals.
- 4.56 Policy BotH22 places restrictions on such conversions which are far more onerous than the requirements in the NPPF or in Policy S3. In particular, it implies that a proposal will not be supported if a building is not of architectural and historic interest and it requires the maintenance of the character of the building and retention of important features which may not be appropriate in all cases and is not required in national or Local Plan policies.<sup>18</sup>

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<sup>18</sup> Clearly where a building is of architectural or historic interest, the maintenance of its character and appearance would be protected by other policies or in the case of listed buildings, by statute.

- 4.57 In the absence of any significant local justification I find that criterion A. of Policy BotH22 is unduly onerous and unreasonable. It is not in general conformity with national or Local Plan policies and I recommend its deletion. With regard to criterion C., redundant or disused buildings are not required to have any special character or features to qualify for conversion in national or Local Plan policy. In the interests of consistency, I recommend a modification to this criterion to reflect this position. Furthermore, to be consistent with national and Local Plan policies which do not exclude the conversion of modern buildings, I recommend that the first sentence of paragraph 9.47 be deleted. **[PM9]**
- 4.58 Policy BotH23 sets out the criteria to be applied to proposals for Rural Worker Accommodation. Criteria A and B are appropriate for the assessment of proposals for new accommodation related to an existing rural enterprise. However, the Policy makes no provision for temporary worker accommodation for new rural enterprises. The PPG states that in the case of new enterprises, considerations should be taken into account as to whether it is appropriate to consider granting permission for a temporary dwelling for a trial period. To ensure that BotH23 has regard to national policy and does not preclude the possibility of supporting temporary accommodation for a new rural enterprise, I propose modifications to the Policy. **[PM10]**
- 4.59 Policy BotH24 sets out the criteria to be applied in the consideration of proposals for Replacement Dwellings. In the NWLLP, Policy S3h) allows for the extension and replacement of dwellings in the countryside which implies that the number of bedrooms in a rural dwelling may be increased. In Policy BotH24 criterion C. seeks to manage the overall scale of a new dwelling which is reasonable. However, criterion D. requires that the replacement of a dwelling does not result in the loss of two or three bedroomed accommodation. NWLDC identifies the potential harmful consequences of such a restriction which would be inconsistent with and more onerous than Local Plan Policy S3h). In these circumstances, I recommend the deletion of criterion D to ensure the Policy is in general conformity with the Development Plan. **[PM11]**
- 4.60 With the modifications which I propose, the housing policies meet the Basic Conditions.

### [Employment and Business](#)

- 4.61 Policy BotH25: Business Conversion of Rural Buildings and Policy BotH26: Working from Home raise no issues of compliance and meet the Basic Conditions.

### [Future Review](#)

- 4.62 The Plan Period for the BotHNP covers the period to 2040 to align with the emerging new NWLLP and the BotHNP has been produced with close reference to the emerging policies of the new Local Plan. However, the

Local Plan is at a stage where there could be substantive changes to its policies and proposals which the BotHPC may wish to reflect in a review of the BotHNP.

- 4.63 There is no statutory requirement for a neighbourhood plan to be reviewed, although Local Plans are required to be reviewed at least every five years.<sup>19</sup> Nevertheless it would be appropriate for a review of the BotHNP to be carried out in response to changes in relevant national and Local Plan policies. This would enable the BotHNP to remain relevant and complementary to national and Local Plan policies.

#### Factual and Minor Amendments and Updates

- 4.64 I have not identified any typographical errors in the text of the BotHNP that would affect the Basic Conditions. Minor amendments to the text can be made consequential to the recommended modifications, alongside any other minor non-material changes or updates, in agreement between BotHPC and NWLDC.<sup>20</sup>

## 5. Conclusions

### Summary

- 5.1 The Breedon on the Hill Neighbourhood Development Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the Neighbourhood Plan, together with the evidence documents submitted with the Plan and in the course of my examination.
- 5.2 I have made recommendations to modify some of the policies to ensure that the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates.
- 5.4 The Breedon on the Hill Neighbourhood Development Plan, as modified, has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary and which would require the referendum to extend to areas beyond the Plan boundary. I therefore recommend that the boundary for the purposes of

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<sup>19</sup> Regulation 10A Town and Country Planning (Local Planning) (England) Regulations 2012.

<sup>20</sup> PPG Reference ID: 41-106-20190509.

any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

## Overview

- 5.5 The production of the BotHNP has undoubtedly required a high level of commitment and hard work by the Parish Council and other volunteers from the local community. This task has no doubt been made more difficult by the abnormal conditions arising from COVID-19. I commend the Parish Council and the Neighbourhood Plan Working Group for their hard work and application in producing a well written and effective Neighbourhood Plan.
- 5.6 I am satisfied that BotHPC has consulted with and taken into account the views of the local community, whilst seeking to protect the character and setting of the settlements within Breedon on the Hill Parish as an attractive and historic neighbourhood within the countryside. As a result, the BotHNP, with the recommended modifications appended to my report, meets the Basic Conditions. The modified BotHNP has the potential to provide an effective Plan for the management of the future planning of Breedon on the Hill.

*Wendy J Burden*

Examiner

## Appendix: Modifications

Note: Some consequential renumbering, amendment to alphabetical listings etc within the Plan will be necessary as a consequence of the PMs set out below.

<b>Proposed modification number (PM)</b>	<b>Page no./ other reference</b>	<b>Modification</b>
PM1	Map 5 page 23; Policy BothH3 page 25	Delete Provisional Area of Separation.  Delete final clause of the Policy.
PM2	Policy BothH5 page 32	Delete clause 2 and insert: "New development will be expected to provide a net gain in biodiversity consistent with any national policy prevailing at the time that a planning application is determined."
PM3	Policy BothH11 page 61	Delete "Locally Valued" in the title and in the first line of the policy and replace with "Non-designated".
PM4	Map 13 page 67	Amend the site of LGS 3 to accord with the area shown on the Policies Map.  Amend the site of LGS 4 to delete the area to the South West of the public footpath.  Delete the final clause of the policy and insert: "The construction of new buildings would be inappropriate and should not be approved except in very special circumstances."
PM5	Paragraph 9.11 page 79	In the second line delete "the housing requirement" and insert "an appropriate housing figure".
PM6	Policy BothH16 D page 82	Delete from "to" to "overall" and replace with "to ensure that flood risk is not increased elsewhere"
PM7	Policy BothH18 page 86-87	Delete Policy BothH18.
PM8	Policy BothH20 page 93-94	Delete the final clause of the Policy.

PM9	Policy BotH22 and paragraph 9.47 page 95-96	Delete criterion A.  In criterion C. insert before "The" "Where appropriate".  Delete the first sentence of paragraph 9.47.
PM10	Policy BotH23 page 97	In the first clause after "accommodation" insert:  "which will be temporary in the case of a new rural enterprise,".  Criterion A: after "existing" insert "or a new".  Rewrite Criterion B as follows:  "In the case of an existing rural enterprise, it has been economically sustainable for a period of at least three years and has a clear prospect of remaining so. In the case of temporary worker accommodation for a new rural enterprise, evidence will be required to demonstrate ongoing viability and economic sustainability;".  In the final clause after "basis." add:  "In the case of temporary rural worker accommodation any permission will also be subject to a time limit.".
PM11	Policy BotH24 page 98	Delete criterion D.