

# EXAMINER'S REPORT

## OXSPRING

### NEIGHBOURHOOD DEVELOPMENT PLAN

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## ABBREVIATIONS and ACRONYMS

The following are acronyms and abbreviations used in this examination:

BMBC - Barnsley Metropolitan Borough Council.  
HRA - Habitats Regulation Assessment.  
Local Plan - Barnsley Local Plan, adopted 3/1/19.  
NDP- Neighbourhood Development Plan  
NPPF - National Planning Policy Framework.  
NPPG - National Planning Practice Guidance.  
SEA - Strategic Environmental Assessment.  
SHLAA - Strategic Housing Land Availability Assessment.  
The Plan - the Neighbourhood Development Plan under examination.

## INTRODUCTION

1. This is an independent examination of a Neighbourhood Plan prepared by the Parish Council in consultation with the local community. The Localism Act 2011 provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans, which contain policies relating to the development and use of land.
2. If the plan is made, following a local referendum, which must receive the support of over 50% of those voting, it will form part of the statutory development plan. It will be an important consideration in the determination of planning applications as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.
3. I have been appointed by Barnsley Metropolitan Borough Council Council (BMBC) in consultation with the Parish Council to carry out this independent examination. I am a Chartered Town Planner with over 30 years experience working at a senior level in local government and as a private consultant. I am a member of the Royal Town Planning Institute
4. I confirm that I am independent of the Parish and the Council and have no interest in any land, which is affected by the Neighbourhood Development Plan (the Plan).
5. This report is the outcome of my examination of the submitted version of the Plan.
6. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the Council puts the plan forward to a referendum and it then receives the support of over 50% of those voting, then the Plan will be “made” by the Authority as the Local Planning Authority.

## BACKGROUND DOCUMENTS

7. I have considered the following documents as part of this examination:

### Documents submitted for the examination

Draft Oxspring Neighbourhood Development Plan, 2014-2033, Summer 2018,  
Consultation Statement, Summer 2018,  
Basic Conditions Statement, Summer 2018,  
Strategic Environmental Assessment and Habitats Regulation Assessment Report,  
Screening Report, Version-3, Updated February 2016, Kirkwells and letter of  
24.10.18 from BMBC to Parish Council relating to this submission,  
Regulation 16 Representations 2018.

### Local and National Policies and relevant evidence

National Planning Policy Framework (NPPF)<sup>1</sup>; National Planning Practice Guidance (NPPG).

Barnsley Local Plan, adopted 3/1/19.

BMBC Playing Pitch Strategy 2016-2019, November 2016, Final Report.

## THE EXAMINATION

8. The nature of the independent examination is set out in Section 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

9. The examiner has to make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and if the area for the referendum should extend beyond the plan area.

10. As a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case.

11. I visited the Plan area on the 22<sup>nd</sup> January 2019 and assessed the implications of the proposed Plan as part of the examination.

## PROCEDURAL MATTERS

12. It is necessary to determine that the Plan complies with the following procedural matters<sup>2</sup>:

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<sup>1</sup> The relevant version for this Plan is the NPPF, March 2012.

<sup>2</sup> Paragraph 8(1) of Schedule 4 B of the Town and Country Planning Act 1990 (as amended)

- The Plan has been prepared and submitted by a qualifying body
- The Plan has been prepared for an area that has been properly designated
- The Plan specifies the period to which it has effect, does not include provisions about excluded development and does not relate to more than one neighbourhood area
- The policies relate to the development and use of land for a designated neighbourhood area.

13. The Plan had been prepared and submitted by a qualifying body, Oxspring Parish Council. Initially it related to an area, which includes the Oxspring parish and was approved by BMBC in December 2014. A small part of the Hunshelf Parish Council was added to the plan area to accommodate a field adjacent to the community's sports field to allow policies designed to improve sports facilities and access to the Trans Pennine Trail. This was approved by BMBC in May 2015.

14. In accordance with the regulations<sup>3</sup>, the Plan sets out policies in relation to the development and use of land and does not refer to "excluded" development. It specifies the period for which it has effect (2014-2033). It does not relate to more than one neighbourhood area.

## CONSULTATION

15. The Consultation Statement explains in detail the manner in which the public, developers and statutory bodies were involved in the development of the Plan.

16. In June 2013 a steering group was formed to lead Plan preparation. The group kept the Parish Council informed throughout the process with monthly updates. The public were informed by minutes of meetings published on public notice boards and the dedicated neighbourhood Plan web site. Bi-annual updates appeared in the Parish Newsletter.

17. During 2014, various community engagement events were held including a household survey, interviews with key stakeholders, planning for real sessions, training events and workshops. There was an additional meeting with local residents, a meeting with BMBC Planning department and a letter was sent out inviting comments from local landowners. Seventeen key issues were identified and these were used to inform the NDP Vision Statement, and then later, the Draft Indicative Policy Areas and Proposals Document which was published for consultation in January 2015.

18. In January 2015 a questionnaire and copy of the document "Consultation Draft – Indicative Policy Areas and Proposals" was delivered to local households. The results of the questionnaire were published on the Plan website and were used to inform the first draft NDP. This draft Plan was published for informal public consultation for several weeks in December 2015. These comments were carefully

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<sup>3</sup> Neighbourhood Planning (General) Regulations 2012

considered and made available for viewing on the Plan web site together with the Parish Council's consideration and resultant changes to the Plan.

19. Formal Consultation, under the regulation 14 procedure on the draft Plan was carried out from 21 March 2016 to 5pm 2 May 2016. The draft Plan, Representation Forms and other background documents were made available for viewing and downloading from the Neighbourhood Development Plan website. An e-mail or letter was sent to all Consultation Bodies and other local groups and organisations on the contact database, providing information about the consultation dates, the web site address from where the draft Plan and accompanying documents could be viewed.

20. A number of local groups, statutory bodies and technical consultees responded. Unfortunately, only one developer and a local resident responded. I do not consider that this low response rate was due to any inadequacies of the Parishes consultation process. The Consultation Statement provides adequate evidence that the Parish Council complied with publicity requirements.

21. The Consultation statement analyses each comment and explains whether it merits an amendment to the draft Plan.

22. I am satisfied that the "Consultation Statement", demonstrates a good level of consultation, which has targeted all sections of the community and allowed technical consultees and developers to be effectively involved in the emerging Plan.

## BASIC CONDITIONS

23. It is necessary to decide whether the Neighbourhood Development Plan meets the "basic conditions" specified in the Act.<sup>4</sup> This element of the examination relates to the contents of the Plan.

24. This Plan meets the basic conditions if:

- a) It has regard to national policies and advice contained in guidance issued by the Secretary of State,
- b) The making of the plan contributes to sustainable development,
- c) The making of the plan is in general conformity with the strategic policies contained in the development plan for the area,
- d) The making of the plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements,
- e) Prescribed conditions are met in relation to the Plan and prescribed matters have been complied. The prescribed condition is that the 'making' of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012, as amended by the 2018 Regulations) either alone or in combination with other plans or projects.

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<sup>4</sup> Contained Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

25. The Parish has submitted a “Basic Conditions Statement”, to seek to demonstrate conformity. The analysis of conformity with the basic conditions is carried out below. Note this is not in the order specified above.

## SUSTAINABLE DEVELOPMENT

26. The Parish submits in the Basic Conditions Statement that the Plan complies with NPPF core policies, which ensure the Plan promotes sustainable development. The NPPF establishes that the three components of sustainability are economic, social and environmental and that these underpin all planning policy.

27. Table 1 of the Statement demonstrates that the Plan is firmly aligned with the core principles of the NPPF and the principles of sustainability, which underpin them.

28. The Statement demonstrates in general terms in table 2 the manner in which policies in the Plan meet the three components of sustainable development as referred to in the guidance in the NPPF.

29. Table 2 states that in economic terms, the Plan seeks to support appropriate local economic development in rural areas through supporting appropriate tourism and visitor related development.

30. In the social respect, it is submitted the Plan supports appropriately sited and designed new housing in the settlement boundary on small windfall sites to meet local needs. Also, the Plan encourages healthy lifestyles by protecting local green spaces and allotments, supporting proposals to improve access to a long distance route (the Trans Pennine Trail) which runs through the Parish and promoting future investment in local sports and leisure facilities.

31. In its environmental role it is stated the Plan seeks to protect and enhance local landscape character.

32. I accept that the policies in the Plan meet the claims referred to in the Statement. I am satisfied that the Plan contributes to sustainable development as defined by the NPPF.

## EU OBLIGATIONS, HUMAN RIGHTS REQUIREMENTS

33. A neighbourhood plan must be compatible with European Union Directives as incorporated into UK law, in order to be legally compliant. Key directives are the Strategic Environmental Assessment Directive<sup>5</sup> and the Habitats and Wild Birds Directives<sup>6</sup>. These require that consideration should be given to the need for a

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<sup>5</sup> Article 3(5) of Directive 2001/42/EC

<sup>6</sup> European Directives 92/43/EEC and 2007/147/EC transposed into the Conservation of Habitats and Species Regulations 2010.

Strategic Environmental Assessment to assess any significant environmental impacts and /or an appropriate Habitats Regulations Assessment to assess any impact on a site/habitat recognised as protected under European legislation<sup>7</sup>. A neighbourhood plan should also take account of the requirements to consider human rights.

34.The Parish Council submitted a report by Kirkwells, “Strategic Environmental Assessment and Habitats Regulation Assessment Report, Screening Report, Version-3, Updated February 2016” which concluded that neither an SEA nor HRA was required. BMBC, as the competent authority able to determine screening decisions in consultation with statutory bodies, Natural England, Historic England and the Environment Agency agreed with these findings.

35.BMBC considered the Plan proposals are in general conformity with the strategic policies, including the emerging (at the time) Local Plan. The emerging Local Plan was the subject of Sustainability Appraisals (SA) incorporating the SEA and HRA Assessment Regulations.

36.The neighbourhood plan does not propose any development sites beyond that in the adopted Local Plan. The Plan is seeking small-scale housing development within the settlement boundary to meet local needs and supports barn conversion subject to criteria, including a reflection of national Green Belt policy. Proposals to support the visitor economy in the village centre and to secure sport and leisure facilities are also supported subject to national and local planning policy.

37.Regarding the HRA it is pertinent that the Local Plan in its draft form was subject to appropriate assessment. This concluded that most policies would not result in significant environmental effects on the nearest European designated site to the Plan area i.e. South Pennine Moors Special Area of Conservation/Special Protection Area, except in the case of housing allocations within the 5km buffer zone. None of these housing allocations fall within the Oxspring Neighbourhood Plan area.

38.None of the statutory bodies objected to these conclusions. In the context of the Plan and the small scale of proposed development I do not consider the fact that there was no response from the Environment Agency is detrimental to the conclusions.

39.I am content that the screening opinions are valid.

40.I do not consider the Plan raises any issues under the European Convention and the Human Rights Act 1998. In terms of the Article 6 of the Act and the right to a “fair hearing” I consider the consultation process has been effective and proportionate in

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<sup>7</sup> Often referred to as Natura 2000 sites and include Ramsar sites - wetlands of international importance, Special Areas of Protection (SAP) - providing protection to bird habitats and Special Areas of conservation (SAC) - protect a variety of plants animals and habitats.

it's efforts to reach out to different group potentially affected. Neighbour responses have been taken into account in a satisfactory manner during the processing of the plan.

## CONFORMITY WITH NATIONAL AND LOCAL STRATEGIC POLICIES

41. The Parish states in the "Basic Conditions Statement" that the Plan takes into account national planning policies and guidance in the NPPF and is in general conformity with local strategic planning policies.

42. The Statement demonstrates in detail in Table 1 how the Plan conforms with the twelve core planning principles in the NPPF. There are appropriate references to the NPPF within the Plan. I note that these refer to the NPPF issued in March 2012 and comply with the transitional arrangements, as explained in paragraph 214 of the NPPF revised on 28.7.18. I accept the submissions in the Basic Conditions Statement but in some instances I have recommended modifications to ensure the Plan takes account of the NPPF and guidance in the National Planning Practice Guidance (NPPG).

43. Since the Plan was referred for examination, the Barnsley Local Plan was adopted by BMBC on 3.1.19 following conclusions from a public hearing and taking into account modifications made by an Inspector. The Basic Conditions Statement considers the conformity of the Plan with the emerging Local Plan (before adoption) at the relatively late stage in the emerging Plan's process and in accordance with the Inspector's suggested modifications made in March 2018. The final adopted Local Plan has further modifications but in summary I do not consider these impact in a significantly different manner on the proposed policies in this Neighbourhood Plan to those emerging policies referred to in the Basic Conditions Statement. The analysis in the Basic Conditions Statement in relation to emerging Local Plan policies is equally valid in relation to the final adopted Plan. There are, however, some amendments required to the supporting text and modifications to policies in order that the Plan can be in general conformity with the strategic policies in the Local Plan. I refer to these in detail below.

## RECOMMENDATIONS IN RELATION TO BASIC CONDITIONS

### General Matters

44. I have made recommendations below, which will allow the plan to conform to "basic conditions". Where I am suggesting modifications I have given reasons. In cases of minor grammatical or formatting issues, I have simply highlighted the need for correction without explanation.

45. I have taken into account all aspects of the representations received during the Plan process. In some cases these do not require specific reference or highlight of particular issues as they do not in my view effectively raise a concern that the Plan does not conform to basic conditions.

46. In some cases due to the specific and detailed nature of a representation and its relevance to “basic conditions”, for ease of reference, I have referred to the author of the representation by name.

47. A recurring theme in the report is the need to update the references to the recently adopted Plan and delete reference to the superseded saved UDP policies and the Core Strategy.

48. A further issue is the need for policies to be drafted with appropriate clarity. The National Planning Practice Guidance (NPPG)<sup>8</sup> requires that *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence”*. I have therefore suggested some modifications in the interests of greater clarity and meeting this guidance.

49. I have explained my recommendations in accordance with the order and format of the Plan and expressed them in bold type at the end of the various sections

50. I recommend that a Glossary is added to the Plan in the interests of clarity and an aid to readers who may not be familiar with technical terms. This should cover all the acronyms used in the document. The NPPF and the Local Plan contain useful glossaries as a guide.

## **RECOMMENDATION 1**

**Insert a glossary as an appendix to the Plan.**

### INTRODUCTION and BACKGROUND

51. The map on page 7 would benefit from a key to clarify that the boundary is that of the Plan area.

52. The reference to the Core Strategy policy in paragraph 2.5 should be deleted as the Local Plan has superseded that Plan.

53. Paragraph 2.9 expressing a desire to review the Plan three years after the adoption of the Local Plan needs updating to account for the adoption of the Local Plan.

## **RECOMMENDATION 2**

**Introduce a key to the map on page 7 to explain the Plan boundary.**

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<sup>8</sup> NPPG Paragraph: 041 Reference ID: 41-041-20140306

**In paragraph 2.5 delete the following;**

**"Housing need in the west of the Borough will, in accordance with the adopted Barnsley Core Strategy, be met predominantly in Penistone; only small infill and windfall sites will come forward in Oxspring. This is because Penistone is considered to be a more sustainable settlement with a range of services and facilities."**

**Alter paragraph 2.9 as follows;**

**"The Parish Council are committed to review the Plan within three years."**

## **PLANNING POLICY CONTEXT**

54.This needs updating to reflect the adoption of the Local Plan on 3.1.19.

55.There is reference in paragraph 3.5 to the evidence document "Planning Policy Background and Evidence Base Review". This was not submitted as part of the regulation 16 submissions and technically therefore does not support the "Basic Conditions Statement" in relation to the need to conform generally to strategic policies. As it refers to the emerging Local Plan it could cause confusion and therefore I recommend that reference to it be deleted.

## **RECOMMENDATION 3**

**Delete paragraphs 3.1 and 3.2 and replace with the following;**

**"The current planning context is enshrined in the Barnsley Local Plan, January 2019, adopted on 3.1.19 during the examination into the neighbourhood plan. This superseded saved Barnsley Unitary Development Plan 2000 policies and the Barnsley Core Strategy, 2011.**

**This Neighbourhood Plan was prepared in tandem with the then emerging Local Plan and has taken the associated evidence and policies into account. Technically this Plan was prepared mainly at a time when it had to have general conformity with the saved UDP and Core Strategy policies. The examination into the Plan also had to consider whether it was in general conformity with the Local Plan, January 2019, adopted at the time of the examination. It was concluded that on the basis of the policies proposed with some modifications this Plan is in general conformity with the adopted Local Plan, January 2019."**

**Delete paragraph 3.5.**

## **KEY PLANNING ISSUES**

56.These do not take into account the adoption of the Local Plan and superseding of the saved UDP policies and Core Strategy. This section needs updating to be consistent with strategic policies.

57. Some of the reference documents require updating.

#### **RECOMMENDATION 4**

##### **Housing**

**Delete paragraphs 5.1.1, 5.1.2 and 5.1.3 and replace with the following;  
“ Oxspring is identified as a village in the Settlement Hierarchy specified in the Local Plan. The Local Plan policy LG2 Location of Growth directs development to Barnsley and principal towns. Villages are generally required to accept some modest development.**

**Oxpring is inset within the Green Belt and the Local Plan proposes a housing site allocation, Site HS89 land off Roughbirchworth Lane for 22 dwellings. Development is required to respect the trees, biodiversity and archaeological merits of the site.**

**In addition to this site, Policy H4 allows small sites, less than 0.4 hectares within the village and Policy H5 allows larger sites over 0.4 hectares provided they are within the village, located on previously developed land and close to services and public transport.**

**Policy H6 “Housing Mix and Efficient Use of Land” states that proposals will be expected to include a broad mix of house size, type and tenure to help create mixed and balanced communities.”**

##### **Environment/Energy**

**In paragraph 5.2.2 in the first sentence delete “Adopted Core Strategy and emerging”**

##### **Employment**

**In paragraph 5.3.1 delete “emerging new Local Plan Publication Draft 2016 Site P2” replace with “Local Plan, Site ES19...”**

**Delete “The emerging policy (Minor modifications v 1.5)”, insert “The Local Plan”.**

**After fourth bullet point insert the remainder of the policy as follows;  
“Archaeological remains may be present on this site therefore proposals must be accompanied by an appropriate archaeological assessment (including a field evaluation if necessary) that must include the following:**

- Information identifying the likely location and extent of the remains, and the nature of the remains;**
- An assessment of the significance of the remains; and**
- Consideration of how the remains would be affected by the proposed development”**

## **Sports and Leisure**

**Delete paragraph 5.4.2. and replace with the following;**

**“The Barnsley MBC Playing Pitch Strategy 2016-2019, November 2016, Final Report identifies various issues for playing pitch provision and maintenance. It is the Parish Council’s intention to carry out more feasibility work to provide changing rooms at Oxspring Recreation Ground.”**

## **NEIGHBOURHOOD DEVELOPMENT PLAN POLICIES**

58. Section 6 requires updating to take account of the adopted Local Plan.

59. The document “Planning Policy Assessment and Evidence Base Review” now refers to superseded strategic policies and is confusing and reference to it should be deleted.

60. Some information requires clarification.

## **RECOMMENDATION 5**

**In paragraph 6.0.2 in the second sentence after National Planning Policy Framework (NPPF) delete the rest of the sentence and insert “and adopted Local Plan policies.”**

**Delete paragraph 6.0.3.**

**At the start of paragraph 6.1.1 alter the first two sentences as follows;**

**“The Office for National Statistics reports that (then continue as per submitted Plan) *Lower Super Output Area (LSOA) etc....*”.**

**In the fourth sentence in paragraph 6.1.1 after “by the Council advised that...” insert “the average”.**

**Delete paragraph 6.1.2.**

**In paragraph 6.1.3 delete “emerging Local Plan Publication Draft (as amended by proposed Minor modifications v1.5), insert “Local Plan”.**

**In paragraph 6.1.3 after “*more growth than villages to accord with*”, delete “its”. Delete the rest of the paragraph and insert two new paragraphs as follows:**

**“Oxpring is inset within the Green Belt and the Local Plan proposes a housing site allocation, Site HS89 land off Roughbitchworth Lane for 22 dwellings. Development is required to respect the trees, biodiversity and archaeological merits of the site.**

**In addition to this site, Local Plan Policy H4 allows small sites, less than 0.4 hectares within the village and Policy H5 allows larger sites over 0.4 hectares provided they are within the village, located on previously developed land and close to services and public transport.”**

**In paragraph 6.1.4, delete “25%” insert “30%”, delete “H8”, insert “H7”, delete “which may be feasible on sites of 0.4ha”.**

## HOUSING

### Policy OH1 Meeting Local Housing Needs

61. This policy is a partial repeat of Local Plan policies H4 “Residential Development on Small Non-allocated Sites”, H5 “Residential Development on Large Non-allocated Sites”, H6 “Housing Mix and Efficient Use of Land” and H7 “Affordable Housing”. This repetition is as a result of the adoption of the Local Plan at a late stage during the examination. This is confusing and not clear as the repetition selects aspects of the individual policies.

62. The reference to local connection is unique to this Plan and is evidenced in the “Housing Needs Advice”, produced by URS. I consider this can be retained as it supports principles in the NPPF to establish strong sustainable communities, particularly in rural areas but the remainder of the policy, referred to above, should be deleted. My modifications in Recommendation 5, above, which refers to the relevant housing policies gives adequate cross-reference to the adopted Local Plan policies.

63. Paragraph 6.1.6 appears to be seeking to establish a presumption against large housing developments but is vague as to the scale of development to which it refers and could be in conflict with Local Plan policy, which in some circumstances allows development of over 0.4 hectares. The status of this text is as supporting information adds to the confusion. The design policy OEN4 in the Plan establishes some control to prevent incongruous large estates, which do not respect the local character. I therefore recommend the deletion of this paragraph.

## **RECOMMENDATION 6**

**Add the following sentence to the end of paragraph 6.1.5;  
“ The following policy requires the application of a local connection as a priority in the allocation of affordable housing in the Plan area.”**

**Delete the first two paragraphs in Policy OH1. In the third paragraph of the policy after “or more”, insert “in accordance with Local Plan Policy H7 Affordable Housing”**

**In the italicized text after the policy after “Berneslai Homes” delete “Strategic Housing”, insert “Housing and Energy”.**

## **Delete paragraph 6.1.6.**

### Yorkshire Land Objection to the Plan

64.P B Planning has submitted an objection to the Plan on the basis that the development of its Oxspring Fields site at the eastern end of the village is the only way that housing and physical and community infrastructure to meet the village needs can be delivered. A large part of the Oxspring Fields site is just outside the eastern boundary of the Plan area. The playing field which forms part of the potential upgrade as part of the residential development of Oxspring Fields was however included within the Plan area as part of the amendment to it, which was approved by BMBC on 20<sup>th</sup> May 2015. It is therefore necessary for me to consider the objection relating to the site.

65.A substantive part of the objection is based on a response to the then emerging Local Plan. It was submitted that the draft Local Plan had not allocated enough land to meet housing needs in the village and the site should be released from the Green Belt. The objection stated that the Neighbourhood Plan, in advance of the Local Plan, should allocate the site to meet local housing needs and also generate funds via planning obligations to provide community infrastructure to meet the vision in the Plan. The Local Plan process considered these issues and has not allocated the Oxsprings field site, which remains in the Green Belt. The allocation of the site for residential development would be clearly contrary to national and local strategic policies relating to the Green Belt. I do not consider the vision of the Plan cannot be achieved without allocating this site, particularly bearing in mind the Local Plan allocations referred to above. There are no identified very special circumstances in my view. The adopted Local Plan allocates sufficient land, including safeguarded land, to provide for the housing needs of the area. Other policies are concerned to provide for community infrastructure and ensure the sustainability of the village.

66. The allocation of the part of the site in the Plan area would also be contrary to its designation as protected local green space in Plan Policy OEN2.

67. The residential allocation of this site is therefore contrary strategic policies and contrary to another policy in this Plan.

### Policy OH2 Windfall Housing and Residential Conversion of Agricultural Buildings

68.This policy is not in accordance with Local Plan Housing Policy H5 “Residential Development on Large Non-allocated Sites”, which allows development of over 0.4 hectares. It is also a partial repeat of Local Plan Policy GB2 “Replacement, extension and alteration of existing buildings in the Green Belt”. The policy should, therefore, be deleted and a reference to policy GB2 inserted into the supporting text.

## **RECOMMENDATION 7**

**Delete policy OH2.**

**Insert the following paragraph after paragraph 6.1.6 as follows:**

**“ Local Plan Policy GB2 Replacement, extension and alteration of existing buildings in the Green Belt allows the conversion of buildings to dwellings in certain circumstances and sets out parameters for alterations and extensions.”**

## **PROTECTING THE LOCAL ENVIRONMENT AND PROMOTING SUSTAINABLE ENERGY**

69.This section provides a useful overview of the biodiversity issues, green infrastructure assets and the need for sustainable forms of energy.

70.In paragraph 6.2.5 the reference to the River Don offers the opportunity to cross-reference Local Plan policy G11 Green Infrastructure which seeks to maintain, enhance and create an integrated network of connected and multi-functional Green Infrastructure assets and the Don corridor is identified as an asset.

71.Paragraph 6.2.6 refers to superseded polices and should be updated.

## **RECOMMENDATION 8**

**In paragraph 6.2.5 at the end of the bullet point on the River Don insert the following sentence:**

**“Local Plan Policy G11 Green Infrastructure seeks to maintain, enhance and create an integrated network of connected and multifunctional Green Infrastructure assets and the Don corridor is identified as a particular asset.”**

**Delete all paragraph 6.2.6 apart from the last two sentences, after “Barnsley Local Plan” delete “Publication Draft 2016”. Add to the last sentence “and Policy LC1 protects the Landscape Character”.**

### Policy OEN1 protecting and Enhancing Natural Biodiversity Assets and Green Infrastructure

72.This policy provides an acceptable supplement to the Local Plan policies relating to biodiversity and green infrastructure.

## LOCAL GREEN SPACES

### Policy OEN2 Protecting Local Green Spaces

73.The sites proposed for protection as green spaces are properly documented and justified in terms of the NPPF criteria. On my site visit I inspected each of the sites and agree with that the proposed sites are in accordance with national guidance and basic conditions.

## PLANNING for CLIMATE CHANGE

### Policy OEN3 Planning for Climate Change

74. This policy is in conformity with the policies in the Local Plan “CC1 Climate Change” and “CC2 Sustainable Design and Construction”. It adds a local dimension with reference to specific measures to combat climate change including locational criteria, landscape management and the use of green infrastructure.

75. The policy is too prescriptive in its use of the absolute term “must” and requiring “all” developments to conform to the policy requirements. Whilst policies have to be clear the NPPF they should also not be too prescriptive<sup>9</sup>. The requirement for all development to respond to the policy requirements is confusing as it may not always be possible for a variety of reasons. It is more appropriate to state that development will be assessed in relation to these factors and should comply when possible.

76. The requirement to “avoid and protect” areas in Flood Zones 3a and 3b is vague and not in conformity with the NPPF, which in some circumstances allows development under the sequential and exception tests in flood zones 3a and b. The national guidance and Local Plan policy CC3 “Flood Risk” provides adequate protection of these areas. This element of the policy should be deleted.

77. In the interests of clarity I consider it important to cross-refer to the relevant Local Plan policies in the supporting text.

### **RECOMMENDATION 9**

**Introduce the following new paragraph after paragraph 6.2.12:**

**“ The Local Plan contains policies CC1 Climate Change and CC2 Sustainable Design and Construction which aim to combat climate change by influencing the design of developments.”**

**In the policy text in the first sentence delete “All new development must be designed” and insert “ Development proposals will be considered in relation to the need”.**

**In the penultimate paragraph of the policy text delete “are required” and insert “will be considered in relation to the need”.**

**Delete the last paragraph in the policy and replace with the following:**

**“ Where possible development shall contribute to new or improvement to existing green infrastructure.**

## PROTECTION of LANDSCAPE CHARACTER

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<sup>9</sup> paragraphs 59 and 60 of the NPPF

78.This provides a useful outline of the landscape character and the BMBC “Landscape Character Assessment 2002”.

### BUILT HERITAGE ASSETS

79.This provides a useful summary analysis of built heritage assets.

### Policy OEN4 Landscape and Building Design Guidelines for New Development

80.Criterion 1 in the policy relating to flood risk is a partial repetition of NPPF guidance and Local Plan policy CC3 “Flood Risk” and omits certain policy elements. It should be deleted.

81.The policy is in accordance with the fundamental principles in the NPPF to encourage local distinctiveness.

82.The policy needs clarification and precision in some cases.

83.Criterion 5 refers to “any views” which is vague in the absence of the identification of specific views. The policy should relate generally to the need to resist intrusive development, which is detrimental to the landscape character.

84.Criterion 6 uses the absolute term “obstruct” which is inflexible and could cause confusion.

### **RECOMMENDATION 10**

**Delete criterion 1.**

**In criterion 2 after “natural landform” insert “of demonstrable interest”.**

**In criterion 5 delete “Designs should take into consideration any views across the valley”, insert “ Proposals should be designed and located in order not to be unduly intrusive in the landscape and reduce its natural character”**

**In criterion 6 delete “obstruct them” and insert “be unduly intrusive”.**

### EMPLOYMENT and RENEWABLE ENERGY

#### Local Employment Site

85.Large parts of the text are superseded following the adoption of the Local Plan. The text needs to be modified to reflect this.

86.It is not possible for the Plan to alter the Local Plan policy, E3 to prevent general industrial and storage uses. This would not be in general conformity with the strategic policy in the Local Plan.

#### **RECOMMENDATION 11**

**In paragraph 6.3.3 alter as follows;**

**Delete “emerging new Local Plan publication Draft 2016” insert “Local Plan”,**

**Delete “P2”, insert “ES19”,**

**Delete (as amended in the proposed Minor modificationsv1.5),**

**Delete “E5”,insert “E3”,**

**Delete paragraphs 6.3.4 to 6.3.7.**

#### Tourism and the Visitor Economy

87.The policy complements the Local plan Policy E6 “Rural Economy” but there should be explicit reference to that policy in order that it reads as a part of the application of that strategic policy.

#### **RECOMMENDATION 12**

**In paragraph 6.3.11 delete the first sentence. Alter the second sentence as follows;**

**“The Local Plan supports a viable rural economy in policies E5 “Promoting Tourism and encouraging Cultural Provision” and E6 “Rural Economy”.**

**In the policy delete the first sentence and replace with the following;**

**“Proposals which support a viable rural economy are encouraged subject to compliance with Local Plan Policy E6 “Rural Economy.”**

**In the second paragraph of the policy, delete “where planning permission is required”.**

#### Sports and Leisure

##### Policy OS1 Sport and Leisure Community Infrastructure

88.The policy supports and extends the Local Plan policies aimed at protecting and promoting sports and leisure community infrastructure. The references to the Local Plan need to be corrected to take account of its adoption during the examination.

89.The encouragement of development on the Sheffield Road Playing Field (site G2 on Map2) needs to be cross–referenced to the Plan policy OEN2 “Protecting Local Green Spaces”.

90. The reference to an “improved playing field” is clearly desirable but it is difficult to define with the requisite precision. This could lead to confusion in applying the policy.

91. The need to site buildings adjacent to the existing built-up area is justified to protect openness but needs to be worded more flexibly.

### **RECOMMENDATION 13**

**Delete the last sentence in paragraph 6.4.4. Insert the following new sentence; “ The Local Plan states in paragraph 25.9 *“Buildings and space for community use are important if we are to create sustainable communities where people want to live.”*The opportunity to take part in community life can help to engender community pride and spirit. Therefore community facilities will be protected where possible.” The policies Policy I1 Infrastructure and Planning Obligations and Policy I2 Educational and Community Facilities seek to promote community infrastructure.”**

**At the end of the first paragraph of the policy insert the following: “ subject to compliance with Plan policy OEN2 “Protecting Local Green Spaces”.**

**Delete the second paragraph of the policy.**

**Insert the following as an extra sentence to the first paragraph; “This shall include proposals for new club facilities/sports pavilion including changing rooms and other facilities for wider community use.”**

**At the end of the third paragraph insert “when possible.”**

### Movement

#### Policy OM1 Improving Accessibility to the Trans Pennine Trail (TPT) and other Routes

92. This policy is in general conformity with Local Plan policies T3 “New Development and Sustainable Travel” aimed at promoting sustainable travel and Policy GS2 “Green Ways and Public Rights of Way” concerned to encourage links to these routes.

93. The references to the UDP need to be removed and the relevant adopted Local Plan policies highlighted. The BMBC position regarding the Community Infrastructure Levy (CIL) needs to be clarified in accordance with BMBC’s advice.

### **RECOMMENDATION 14**

**Delete paragraph 6.5.4 and replace it with the following; “ The Local Plan Policy T3 “New Development and Sustainable Travel” is**

aimed at promoting sustainable travel and Policy GS2 “Green Ways and Public Rights of Way” is concerned to encourage links to routes like the TPT.”

Delete paragraph 6.5.5 and replace with the following:

“The Council’s decision to adopt CIL will be taken having regard to the result of a national level review and following the preparation of adopted Supplementary Planning Documents detailing various requirements to support plan implementation. In the interim, developer contributions will continue to be sought in accordance with Local Plan Policy I1”.

In the second paragraph of the policy delete “proposed” and insert “employment site allocated in the Local Plan on land to the north of Sheffield Road.”

#### Next Steps

94.This should be deleted in the final version of the Plan as it describes the process, which will have been completed.

#### **RECOMMENDATION 15**

**Delete the Next Steps section including the reference in the “Contents”.**

#### SUMMARY

95.I have completed an independent examination of the Neighbourhood Development Plan.

96.The Parish Council has carried out an appropriate level of consultation and shown how it has responded to the comments it has received. I have taken into account the further comments received as part of the consultation under Regulations 14 and 16 on the Neighbourhood Planning Regulations 2012.

97.I have recommended modifications to the policies in order to satisfy the basic conditions particularly to ensure that they provide a clear basis for decision-making in accordance with the NPPF and local development plan policies.

98.Subject to these modifications, I am satisfied that the plan meets the Basic Conditions, as follows:

- a) has regard to national policies and advice contained in guidance issued by the Secretary of State,
- b) the making of the plan contributes to sustainable development,
- c) the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority,

- d) the making of the plan does not breach, and is otherwise compatible with EU obligations and human rights requirements,
- e) the making of the plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012, as amended by the 2018 Regulations)

99. I am also satisfied that the Plan meets the procedural requirements of Schedule 4B of the Town and Country Planning Act 1990.

100. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if it is to be extended, the nature of that extension.

101. There is no evidence to suggest that the referendum area should extend beyond the boundaries of the plan area, as they are currently defined.

102. I am therefore pleased to recommend that the Oxspring Neighbourhood Development Plan, as modified by my recommendations, should proceed to a referendum.