

SHEEPY NEIGHBOURHOOD PLAN REVIEW 2018 - 2036

**The Report of the Independent Examiner to Hinckley & Bosworth Borough
Council on the Sheepy Neighbourhood Plan Review**

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8th April 2022**

Summary

I was appointed by Hinckley & Bosworth Borough Council, in agreement with the Sheepy Parish Council, in January 2022 to undertake the Independent Examination of the Sheepy Neighbourhood Plan Review.

The Examination has been undertaken by written representations.

The Neighbourhood Plan proposes modifications to the Policies in the 'made' Plan. It continues in its purpose to bring forward positive and sustainable development in the Neighbourhood Area. There is an evident focus on safeguarding the Area's distinctive character.

The Plan Review has been underpinned by community support and proportionate community engagement. The Plan adds appropriate local detail to sit alongside the Hinckley & Bosworth Borough Local Plan 2006 - 2026.

Subject to a series of recommended modifications set out in this Report I have concluded that the Sheepy Neighbourhood Development Plan Review meets all the necessary legal requirements and should proceed to be made by Hinckley & Bosworth Borough Council.

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Introduction

This report sets out the findings of the Independent Examination of the Sheepy Neighbourhood Plan Review 2018-2036. The Plan was submitted to Hinckley & Bosworth Borough Council by Sheepy Parish Council in their capacity as the 'qualifying body' responsible for preparing the Neighbourhood Plan.

Neighbourhood Plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently incorporated within the National Planning Policy Framework (NPPF) in 2012 and this continues to be the principal element of national planning policy. The NPPF was amended in 2021 and it is against that version of the NPPF that this Examination is conducted.

This report assesses whether the Sheepy Neighbourhood Plan Review is legally compliant and meets the 'basic conditions' and other statutory requirements that such plans are required to meet. It also considers the content of the Plan and, where necessary, recommends modifications to its policies and supporting text.

The Role of the Independent Examiner

The Examiner's role is to ensure that any submitted neighbourhood plan meets the legislative and procedural requirements. I was appointed in January 2022 by Hinckley & Bosworth Borough Council, in agreement with the Sheepy Parish Council, to conduct the examination of the Sheepy Neighbourhood Plan Review and to report my findings. I am independent of both the Hinckley & Bosworth Borough Council and the Sheepy Parish Council. I do not have any interest in any land that may be affected by the Plan.

I possess the appropriate qualifications and experience to undertake this role. I have over 40 years' experience in various local authorities and third sector bodies as well as with the professional body for planners in the United Kingdom. I am a Chartered Town Planner and a panel member for the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I am a Member of the Royal Town Planning Institute.

In examining the Plan, I am also required, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 Act (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

These are helpfully covered in the submitted Basic Conditions Statement and, subject to the contents of this Report, I can confirm that I am satisfied that each of the above points has been properly addressed and met.

The Plan Review

The Neighbourhood Planning Act 2017 identifies that Qualifying Bodies may seek to review 'made' neighbourhood plans. It introduces a proportionate process for the modification of Neighbourhood Plans where a Neighbourhood Development Plan has already been made in relation to that Neighbourhood Area.

There are three types of modification which can be made through a Neighbourhood Plan Review. The process depends on the degree of change which the modification involves:

- minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum; or
- material modifications which do not change the nature of the plan or order and which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan; or
- material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

The Sheepy Parish Council has considered this issue and taken the view that the proposed changes to the 'made' Plan fall into the second category: "material modifications which do not change the nature of the plan or order and which would require examination but not a referendum". Hinckley & Bosworth Borough Council take the same view on the nature of the modifications to the Policies in the 'made' Plan.

I have properly considered these assessments and have concluded that the Plan Review includes material modifications which do not change the nature of the Plan and which would require examination but not a referendum. I have reached this decision for the following reasons:

- the policies largely update those in the 'made' Plan; and
- the modifications in the review bring the Plan up to date to reflect changes in national and local planning policy.

In these circumstances it is appropriate for me to examine the Plan against Schedule A2 of the Planning and Compulsory Purchase Act 2004. The regulations identify that an Independent Examiner's report must recommend one of three outcomes:

- that the local planning authority should make the draft plan; or
- that the local planning authority should make the draft plan with the modifications specified in the report; or
- that the local planning authority should not make the draft plan.

I will later consider each Plan Policy in turn and identify any modifications required to ensure that they meet the Basic Conditions and my recommendation then follows.

In undertaking this examination I have considered the following documents:

- Sheepy Neighbourhood Plan Review as submitted
- Sheepy Neighbourhood Plan Review Basic Conditions Statement (October 2021)
- Sheepy Neighbourhood Plan Review Consultation Statement (October 2021)
- Sheepy Neighbourhood Plan Review Strategic Environmental Assessment Screening Statement (undated)
- Sheepy Neighbourhood Plan Review Habitat Regulations Assessment Determination (November 2021)
- Hinckley & Bosworth Borough Council Reg 15 Acceptance Letter November 2021
- Content at: www.hinckley-bosworth.gov.uk/info/200246/neighbourhood_planning/1172/sheepy_neighbourhood_development_plan
- Content at: <https://sheepparishneighbourhoodplan.com/>

- Representations made to the Regulation 16 public consultation on the Sheepy Neighbourhood Plan
- Hinckley & Bosworth Borough Local Plan 2006 – 2026
- Hinckley & Bosworth Borough Draft Local Plan 2020 - 2039
- National Planning Policy Framework (NPPF) (2021)
- Neighbourhood Planning Regulations (2012)
- Planning Practice Guidance (PPG) (March 2014 and subsequent updates)

As I had carried out an unaccompanied visit to the Neighbourhood Area in December 2018, as part of my Examination of the original Neighbourhood Plan, when I looked at Sheepy Magna, Sheepy Parva, Sibson, Wellsborough, Upton, Pinwall and their hinterland, I felt that a further visit was not warranted in view of the nature of the proposed modifications.

The legislation establishes that, as a general rule, neighbourhood plan examinations should be held without a public hearing, by written representations only. Having considered all the information before me, including the representations made to the submitted plan which I felt made their points with clarity, I was satisfied that the Sheepy Neighbourhood Plan Review could be examined without the need for a public hearing and I advised Hinckley & Bosworth Borough Council accordingly. The Qualifying Body and the local authority have helpfully responded to my enquiries so that I may have a thorough understanding of the context and thinking behind the Plan, and the correspondence has been shown on the Hinckley & Bosworth Borough Council neighbourhood planning website for the Sheepy Neighbourhood Plan.

Sheepy Neighbourhood Area

A map showing the boundary of the Sheepy Neighbourhood Area has been provided within the Neighbourhood Plan. Further to an application made by Sheepy Parish Council, Hinckley & Bosworth Borough Council approved the designation of the Neighbourhood Area on 22nd October 2015. This satisfied the requirement in line with the purposes of preparing a Neighbourhood Plan under section 61G(1) of the Town and Country Planning Act 1990 (as amended).

Consultation

In accordance with the Neighbourhood Planning (General) Regulations 2012, the qualifying body has prepared a Consultation Statement to accompany the Plan.

The Planning Practice Guidance says:

“A qualifying body should be inclusive and open in the preparation of its neighbourhood plan [or Order] and ensure that the wider community:

- is kept fully informed of what is being proposed
- is able to make their views known throughout the process
- has opportunities to be actively involved in shaping the emerging neighbourhood plan [or Order]
- is made aware of how their views have informed the draft neighbourhood plan [or Order].” (Reference ID: 41-047-20140306)

The six-week public consultation period on the Pre-Submission Sheepy Neighbourhood Plan Review ran from 20th April – 1st June 2021. Publicity flyers were distributed to every household in the Parish, the consultation was advertised on the Sheepy Parish Council and Neighbourhood Plan website and Parish Noticeboards and the documentation was made available at various locations throughout the Parish as well as at ‘drop-in sessions’; the statutory consultees and stakeholder contacts were informed. Special arrangements were made for those without access to the internet. A summary report of the analysis of the

responses and the recommendations relating to them was prepared and is included within the Consultation Statement.

I am therefore satisfied that the consultation process was proportionate and accords with the requirements of the Regulations and the Practice Guidance and that, in having regard to national policy and guidance, the Basic Conditions have been met. In reaching my own conclusions about the specifics of the content of the Plan I may later note points of agreement or disagreement with Regulation 16 representations, just as the Qualifying Body has already done for earlier consultations. That does not imply or suggest that consultation has been inadequate, merely that a test against the Basic Conditions is being applied.

Representations Received

Consultation on the submitted Plan Review, in accordance with Neighbourhood Planning Regulation 16, was undertaken by Hinckley & Bosworth Borough Council from Friday 3rd December 2021 to Friday 21st January 2022. I have been passed 12 representations in total.

The Neighbourhood Plan

Basic Conditions

The Independent Examiner is required to consider whether a neighbourhood plan meets the “Basic Conditions”, as set out in law following the Localism Act 2011. 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;
- 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 European Union (EU) and European Convention on Human Rights (ECHR) obligations.

The submitted Conditions Statement has very helpfully set out to address the issues in the same order as above and, where appropriate, has tabulated the relationship between the policy content of the Plan and its higher tier equivalents. I note that the Local Plan is the Hinckley & Bosworth Borough Local Plan 2006 – 2026 which includes the Core Strategy 2009 and the Site Allocations and Development Management Development Plan Document (DPD) 2016; Appendix 3 of the latter documents sets out the Strategic Policies of the Local Plan (2006-2026) which are defined as wide-ranging, usually with Borough-wide implications over the course of the plan period.

I have examined and will below consider the Neighbourhood Plan against all of the Basic Conditions above, utilising the supporting material provided in the Basic Conditions Statement and other available evidence as appropriate.

Having considered all the evidence and representations submitted as part of the Examination I am satisfied that the submitted Plan Review has had regard to national planning policies and guidance in general terms. The Plan continues to set out the community needs it will meet whilst identifying and safeguarding Sheepy’s distinctive features and character. The Review has been approached with transparency and care, with input as required and support from Hinckley & Bosworth Borough Council.

However, in the writing up of the work into the Plan document, it is sometimes the case that the phraseology is imprecise, not helpful, or it falls short in justifying aspects of the selected policy. Accordingly, I have been obliged to recommend modifications so as to ensure both clarity and meeting of the ‘Basic Conditions’.

The Plan in Detail

General Comments

The review of the Plan has been prepared appropriately. In combination, the submitted documents help to identify the aspects of the Plan which have been updated. The review of the Plan responds appropriately to national guidance and good practice. The Plan continues to provide a clear vision for the Neighbourhood Area.

The following sections of the report comment about the review of the Plan on a policy-by-policy basis. They set out the proposed changes to the Plan and assess them against the basic conditions. For completeness they identify the policies which remain unreviewed. I will address the aspects of the Neighbourhood Plan content that are relevant to the Examination in the same sequence as the Plan. Recommendations are identified with a bold heading and italics and I have brought them together as a list at the end of the Report.

Front cover

A neighbourhood plan must specify the period during which it is to have effect. I note that the Plan period has not changed and is shown prominently on the front cover, the 'version' of the Plan must, however, now be updated.

Recommendation 1:

Delete from the front cover "Submission Draft (October 2021)".

List of Contents

The Contents list will need to be reviewed once the text has been amended to accommodate the recommendations from this Report.

Recommendation 2:

Review the "Contents" pages once the text has been amended to accommodate the recommendations from this Report.

1. Introduction

This section continues to provides a helpful and thorough context for the Plan. There are a few points that need correction or updating.

Recommendation 3:

Under the heading "1. Introduction":

4.1 Replace the final sentence of paragraph 1.14 as follows:

'We have decided to review and update the Plan, primarily to:

- Take account of the latest National Planning Policy Framework which was updated in 2021; and*
- Introduce more detailed design guidance.'*

4.2 Delete the second sentence of paragraph 1.17.

4.3 Delete the sub-heading "Next Steps" and update paragraph 1.21 as follows:

'The draft revised Neighbourhood Plan was submitted to Hinckley and Bosworth Borough Council for publication and a further six-week public consultation prior to being submitted to an Independent Examiner'.

4.4 In paragraph 1.23 replace "adopted" with 'made' and "current" with 'original'.

2. Rural Character

Policy S1: Countryside

No fundamental change is proposed for Policy S1 though some wording has been revised. I am advised by the Qualifying Body that the changes are to refine the wording for clarity and the local authority “supports the proposed modifications which clarify the intentions and application of this policy”. The modifications therefore accord with the expectation in the NPPF (paragraph 16) that Plans should “contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”.

As amended Policy S1 meets the Basic Conditions.

Policy S2: Public Rights of Way Network

Not reviewed.

Policy S3: Locally Important Views

I note that whilst the Policy wording is unaltered the accompanying map has been improved by the addition of vectors, although the key rather confusingly says “no directional arrows”. The Qualifying Body agreed that this was an error and that the key should be amended.

Recommendation 4:

Under the heading “Important Views” on the map referenced within Policy S3 amend the key to delete “no directional arrows”.

Policy S4: Renewable Energy

Not reviewed.

Policy S5: Ecology and Biodiversity

I note that the map related to this Policy has been improved through simplification and a reference to Appendix 7 added in paragraph 2.29. These modifications aid the understanding and application of Policy S5, but the Policy itself has not been altered.

A representation made comments in relation to co-operation with Witherley Parish Council and HBBC’s Biodiversity Improvement Area, HBBC Adopted Core Strategy 2009, Western GI Zone, area 7 River Sence Corridor. The Qualifying Body responded that “The River Sence and its tributaries, as well as watercourses more generally, are protected by Policy S5: Ecology and Biodiversity. Local Wildlife Sites (LWS) are areas identified and selected locally for their great wildlife value. The LWS identified by the Draft Neighbourhood Plan have all been collated, standardised and validated by the Leicestershire and Rutland Environment Records Centre (LRERC) from sources including: the County Recorders’ Network and local naturalists; LRERC staff, partners and contractors; the NBN, iRecord and national recording schemes; members of the public and community surveys; ecology consultants; and the local online recording site NatureSpot. Neither Sheepy Parish Council nor Witherley Parish Council are able to unilaterally declare a LWS.

Sheepy Parish Council has identified a range of non-planning issues and community projects in Draft Neighbourhood Plan Appendix 1. Of course, Appendix 1 does not form part of the statutory Neighbourhood Plan, so is not subject to the independent examination. Nonetheless, in principle the Parish Council is prepared to include the possibility of extending the LWS to include more of the River Sence and River Tweed in consultation with Witherley Parish Council.” As this sits outside of the matters for the Examination no modifications are proposed here.

Policy S6: Water Management

The Qualifying Body has explained that “The current Policy S6 requirement is ambiguous and it is not evident how a decision maker should react to development proposals.

Consequently, the policy has not been applied as intended which has resulted in potential adverse consequences for the flooding of properties in the Parish.

Revised Policy S6 provides greater clarity as to when the requirement to manage surface water run off is triggered. It also provides a link to Appendix 5: Design Code which contains, at page 162 further design advice.”

However, I note the reintroduction of a “five square metres” of “surface covering” threshold for the use of SuDS within Policy S6 without any additional evidence to support that very particular metric. The NPPF (paragraph 31) requires that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence which is “adequate and proportionate, focused tightly on supporting and justifying the policies concerned”. Whilst I appreciate that there is evidence of flooding within the Neighbourhood Area, no evidence has been provided to justify the displacement of national policy even assuming that was practical in application across all scales of development. National policy on the use of SuDS is significantly more nuanced, for instance distinguishing between permeable and impermeable surfaces. Reference to local design guidance is however helpful.

Recommendation 5:

Reword the second paragraph of Policy S6 as follows:

‘Appropriately to their scale and subject to viability considerations, developments should incorporate Sustainable Drainage Systems (SuDS), designed to mimic natural drainage routes, with attenuation, storage and treatment capacities to manage surface water run-off with a goal of no net increase above the ‘surface water run off for greenfield sites rate’; related design considerations are set out in Appendix 5.’

As amended Policy S6 meets the Basic Conditions.

3 Heritage and Design

Policy S7: Features of Local Heritage Interest

This Policy has not been reviewed but the Qualifying Body has advised: “It has been brought to our attention that during the process of meeting document accessibility requirements, the following [Policy] text has been hidden:

iii The non-designated heritage assets in the remainder of the Neighbourhood Area, as identified on the adjacent map which is cross-referenced to the schedule within Appendix 3.”

Recommendation 6:

Reinstate within Policy S7 the following as a third element in the list commencing “The following are regarded as local heritage assets:”:

‘iii The non-designated heritage assets in the remainder of the Neighbourhood Area, as identified on the adjacent map which is cross-referenced to the schedule within Appendix 3.’

Policy S8: Design

I have been advised that “HBBC is supportive of the modifications to insert Appendix 5 and reword Policy S8 to expect development proposals to respond positively to the character of the area in which it is located. The material in Appendix 5 will help reinforce the application of design policy to ensure that new development is sympathetic and appropriate to its setting.” The expanded pre-amble text is helpful to setting a context for Policy S8. I note that the strengthening of the NPPF design content with the 2021 version also provides direct support for the revised content.

The related Appendix 5 is a well presented and illustrated guide, detailed in depth with architectural terms helpfully explained in pictures. However, I understand and support HBBC’s concern about the misleading title to the Appendix. The term “Design Code” is defined in the NPPF Glossary and the Appendix document falls short of: “A set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area”. In the Policy preamble it is said that Appendix 5 provides “design guidance

and objectives”; accordingly, that would seem to provide a more appropriate title for the content. The Qualifying Body has agreed that ‘Design Guide’ would be appropriate.

If the guidance is to be trusted and followed then the content must be appropriately worded and be consistent. The local authority expressed a concern: “Is there inconsistency between objectives on P.86 [now page 88] advising against ribbon development and objectives on P.100 preferring development to be “linear” rather than “in depth”?” However, the Qualifying Body pointed out that the guidance is consistent with the character of the particular areas to which it relates.

On matters of wording in the Appendix, I noted that design “guidance” cannot of itself “prevent” (page 88) anything, the more appropriate word probably being ‘discourage’, nor can it require, as with “must” (page 163), where ‘should’ is more appropriate. The Qualifying Body responded: “The design guidance does not contain statements of policy. Neighbourhood Plan Policy S8 expects new development to ‘respond positively to the character of the area in which it is located as set out in the Design Code in Appendix 5’. It is within this context that terms such as ‘prevent’ and ‘must’ should be understood. Terms such as ‘prevent’ and ‘must’ are therefore appropriate and less ambiguous.” But such wording is evidently not appropriate to responding “positively” and providing a practical route to achieve the desired outcomes.

Sometimes the stated ‘objectives’ are difficult to interpret in context; on page 94 an objective is to ‘protect building line’ whilst the picture shows properties immediately off the footpath; on page 95 objectives are both to “retain open frontages” and “encourage hedgerows”. The phrase “Discourage loss of garage space and parking on frontages and verges” is ambiguous: the “loss” can relate to all three elements or just the first. Another phrase used is “Where possible, reinstate front gardens and remove frontage parking”; but this is unachievable within the present planning system. The Qualifying Body responded as follows:

- The strong building line at The Paddocks has, unfortunately been broken by garages but that should not detract from the ‘protect building line’ message.
- The Qualifying Body’s preference is for hedgerow planting/screening over the retention of ‘open frontages’.
- Perhaps a better phrase would be: ‘Encourage retention of garage spaces to avoid frontage parking’.
- We appreciate that the guide will be used principally in connection with planning applications, but we also want to encourage householders to use the guidance when undertaking works which do not require planning permission. As set out in the introduction to Appendix 5, ‘the guidance will also help householders and others who are planning alterations, modifications or other permitted development to ensure that new buildings or alterations to existing properties reflect local characteristics.’

I noted that on page 140 there is a typographical error: “look to reflect *tradition* design features of village”. I also noted that, assuming the illustration on page 161 was not drawn specially for the Plan, its source needs to be declared.

Recommendation 7:

7.1 Within Policy S8 (and its supporting text) and in the title of Appendix 5 (and the content as required) replace all references to “Design Code” with ‘Design Guide’.

7.2 Within Appendix 5 under “Key objectives”:

7.2.1 On p88 replace “Prevent” with ‘Discourage’.

7.2.2 On p93 replace “Discourage loss of garage space and parking on frontages” with ‘Encourage retention of garage spaces to avoid frontage parking’.

7.2.3 On p95 delete “Retain open frontage”.

7.2.4 On p96 replace “Discourage loss of garage space and parking on frontages” with ‘Encourage retention of garage spaces to avoid frontage parking’.

7.2.5 On p140 replace “tradition” with ‘traditional’.

7.3 On p161 provide a source reference for the illustration.

7.4 On p162 replace the heading “SuDs” with ‘SuDS’ and within that section replace “must” with ‘should’.

As amended and with its related Appendix 5, Policy S8 meets the Basic Conditions.

4 Local Green Spaces

Not reviewed.

5. Housing

It was initially unclear, indeed contested, whether the Housing section had or had not been reviewed. Evidently some supporting text had been updated to provide figures appropriate to a 2021 Review but no additional site allocation was proposed. The local authority has commented: “HBBC views the submitted Sheepy Review plan as leaving the substantive housing requirement unaltered from the made plan of 2019, so the inconsistency with the borough’s interim methodology and emerging local plan is not a matter for examination” and “[pre-amble] paragraphs update the housing supply position of Sheepy to 2020, but given that the neighbourhood plan review is not updating the housing requirement these updates are not considered to be of significance”. The Qualifying Body’s position advised to me was: “The Pre-Submission version of the draft Neighbourhood Plan incorporated an updated assessment of housing need using the methodology favoured by the first Sheepy Parish Neighbourhood Plan Examiner. Using the same methodology, the notional housing need for Sheepy Parish for the period 2006 to 2039 was 35 dwellings (note revised plan period). However, Hinckley and Bosworth Borough Council recommended that the assessment should revert to that set out in the ‘made’ Neighbourhood Plan. This was done in the submission version of the Plan which retained the notional requirement of 32 dwellings for the period 2006 to 2036. Irrespective, the minimum housing requirement has been exceeded. Notwithstanding, the relevant policy position remains the same now as it did when the first Neighbourhood Plan was examined in 2019. The Borough’s local housing need assessment conducted using the standard method remains the same. Meanwhile, the Local Plan Review has not yet reached a stage where it is a significant consideration and, in any event, the latest version does not provide an indicative housing [requirement] for Sheepy Neighbourhood Area. It follows that the requirement of 32 dwellings for the period 2006 to 2036 continues to be based on the latest and up-to-date evidence of housing need.”

I have noted the following matters of evidence:

- The draft Local Plan, presently the subject of public consultation and its evaluation prior to submission for Examination, shows an annual housing requirement for the Borough of 480 dwellings whereas the figure from which the notional housing requirement for Sheepy Neighbourhood Plan was derived was 471 dwellings ie proportionately, an increase of less than a single dwelling at the Sheepy scale. It appears that, at the time of preparing the Plan Review, the equivalent figure was 444. At a strategic level therefore, there is no indication of significant change.
- The draft Local Plan (Table 4) continues to suggest that Sheepy Magna will to be classed as a Rural Village and “Limited growth is proposed in Rural Villages to

support key services and facilities in those settlements and to provide primarily for local needs.” This was also the case within the Core Strategy.

- The “interim methodology” advised to Parish Councils by the Borough in their “Neighbourhood Plan Updates – Housing Requirements” (undated but I am advised that it was issued in November 2020) using the new Local Plan period of 2020-39 was explicitly said to be an “option”: “The emerging local plan will set out new figures for parishes however the plan is not sufficiently advanced to do this yet. In the meantime we have encouraged groups to explore options to set their own figures. One option we have previously highlighted is a simple approach of apportioning the overall borough housing need to parishes based on the share of population in those parishes.” and “It is worth noting that the local plan will consider these [housing requirement] issues in much more detail and will set out a strategy for growth which could differ considerably from an approach based just on existing population patterns.” I should observe that an unmodified application of a population-determined requirement would not seem to have proper regard for other parts of the Core Strategy relating to the hierarchy of settlements. It was legitimate therefore for other “options” to be taken.
- The Council’s “Rural Housing Numbers Methodology Statement” (September 2021) indicated very ‘round number’ housing requirements, the reality of which is acknowledged in paragraph 2.7 of that Report: “in reality the locations of new development will be driven more by land availability and market supply/demand than a LHN [Local Housing Need] at a localised level”.
- This “reality” has indeed come to pass since the draft Local Plan allocates two sites at Sheepy Magna to provide a total of 77 dwellings ie more than the ‘round number’ of the Rural Housing Numbers Methodology Statement but less than the simple Neighbourhood Plan Updates approach of apportioning the overall borough housing need to parishes based on the share of population in those parishes.
- Against a notional requirement figure of 32 new dwellings for Sheepy for the Neighbourhood Plan period, by 2020 the Qualifying Body and the local authority are agreed that 44 homes had been built 1 April 2018 to 31 March 2020 and a further 28 dwellings had planning permission at 1 April 2020 that are likely to come forward ie the calculated notional requirement will almost certainly be exceeded by over 100%, assuring the “flexibility” that the local authority had been urging with its 2020 interim methodology.
- In wording agreed with the local authority the Parish Council committed to the following: “The emerging Hinckley and Bosworth Local Plan will set an updated housing and employment land requirement for the Neighbourhood Plan Area. If necessary, the Sheepy Parish Neighbourhood Plan will be reviewed to include new allocations to meet this requirement.”

I note that the Qualifying Body has argued “Just because the [housing] requirement is unchanged, it does not mean it has not been the subject of substantive review.” After careful consideration I have concluded that the Qualifying Body’s position is justified, albeit to be acknowledged it needs to be briefly explained in the Plan text. The result of a review can be that notional housing figures are reconfirmed, pending firmer or further guidance from the evidence behind the Local Plan Review. I have taken this view primarily because it is reasonable to conclude that the Qualifying Body has shown regard for the signals “of latest and up-to-date evidence of housing need” (Planning Guidance Paragraph: 040 Reference ID: 41-040-20160211) whilst having to acknowledge that Local Plan Review policy signals have been heavily caveated pending final drafting of the Local Plan. I conclude that this is, by its nature, a material modification which does not change the nature of the plan or order and which would require examination but not a referendum. It is understandable that the significant step of extending the Neighbourhood Plan period to 2039 could not be justified at the time of the Plan revision. However, it is also important to note that, immediately the new

Local Plan is adopted, the “the more recent plan policy takes precedence” (Planning Guidance Paragraph: 084 Reference ID: 41-084-20190509). As a post-script I note that the draft Local Plan site allocations for Sheepy (published after the Neighbourhood Plan Review had been submitted) are shown as spread across 3 years, and those years could just as readily be 2036 – 2039 ie the years to which the Sheepy Neighbourhood Plan would be expected to be extended at its next review.

Recommendation 8:

Under the sub-heading “Housing Requirement” replace paragraph 5.7 as follows: ‘Having regard to the latest evidence of housing needs coming from the preparatory work for the new Local Plan, it was apparent that the indicative annual requirement figure at the Borough level was broadly unchanged since the Examination of the first Sheepy Neighbourhood Plan. The local authority’s interim housing requirement methodology was noted as liable to significant change and therefore did not provide a confident basis for the substantial work of site identification and allocation with the issuing of a draft Local Plan imminent. The roll out of the site allocated in the Neighbourhood Plan at Hornsey Rise was continuing and the notional housing requirement to 2036 was already significantly exceeded. Therefore, the option was taken to retain the reasoned, interim assessment approach of the original Neighbourhood Plan. The outcome was no unmet housing requirement for the period to 2036. It was agreed with the local authority that there should be an accompanying commitment to commence a further review should the finalised Local Plan indicate additional requirements.’

Policy S10: Housing Development

The local authority has noted: “The only changes to Policy S10 proposed are the addition of parts E and F which provide exception for dwellings outside of settlement boundaries in line with national planning policy on dwellings of exceptional design quality and subdivision of existing dwellings. As such HBBC is supportive of these changes.” I presume that these changes are for clarity and completeness since the new elements derive directly from the NPPF. As the local authority has also noted, it is unclear why element (b) of the same NPPF paragraph 80 has been omitted. I observed that, rather than attempt to repeat verbatim the NPPF content, Policy S10 might simply reference the NPPF. The Qualifying Body was concerned that this would miss the references to the related Local Plan policies so that has guided my recommendation.

Through another acknowledged formatting error, paragraph 5.12 has been truncated compared to the original Plan and as a consequence it omits a reference to Appendix 6.

Recommendation 9:

9.1 Under the heading “Housing Development” complete the last sentence of paragraph 5.12 to read: ‘The methodology for defining the settlement boundaries and its application for Sheepy Magna and Sibson is set out in Appendix 6.’

9.2 Within Policy S10:

9.2.1 Replace elements E & F with ‘Other circumstances as set out in NPPF paragraph 80;’

9.2.2 Change element G to element F.

As reworded Policy S10 meets the Basic Conditions.

Policy S11: Neighbourhood Plan Review

I note this inserted additional Policy but it is not a Policy that meets the requirement that Neighbourhood Plan policies “relate to development and use of land” (Section 38A of the Planning and Compulsory Purchase Act 2004). I have been challenged by the Qualifying

Body regarding this judgement because they note that it may ultimately lead to allocations of land for development; but, as worded and at this time, Policy S11 is a process-related commitment by the Parish Council, akin to the commitments listed in Appendix 1. Evidently it would be helpful to retain the commitment at the current location but it is not open to the Parish Council to suggest when policies “will be considered out of date”. My recommendation merges paragraph 5.17 and the first two sentences of the Policy box into a suitably highlighted (but not Policy coloured) paragraph.

Recommendation 10:

Under the heading “Local Plan Review 2020 to 2039”:

10.1 Reword paragraph 5.15 as follows:

‘The emerging Local Plan (June 2021) continues to identify Sheepy Magna as a ‘Rural Village’ where there will be “A presumption of a minimum of 50 dwellings in each rural village to help maintain services in those settlements. The final minimum housing provision for each settlement will consider other planning policy priorities, constraints on land supply and other wider strategic planning issues.”’

10.2 Replace paragraph 5.17 and Policy S11 with a non-coloured text box as follows:

‘Parish Council Commitment:

Rather than wait for the new Local Plan to complete its consultation and examination processes through to adoption, the Parish Council has been keen to press ahead with its Neighbourhood Plan Review. The emerging Hinckley and Bosworth Local Plan will set updated housing and employment land requirements for the Neighbourhood Plan Area. To meet any such requirements, a further review of the Sheepy Parish Neighbourhood Plan will commence immediately upon adoption of the Local Plan and will include extending the Plan period to 2039.’

10.3 Renumber the Policies that follow this deletion.

Policy S12: Housing Mix

Not reviewed.

Policy S13: Affordable Housing

Not reviewed.

Hornsey Rise Memorial Home

Policy S14: Hornsey Rise Memorial Home

I note that, after initial reservations, the local authority has agreed that “As the development at Hornsey Rise is not yet completed it makes sense to retain the policy.” Plan paragraph 5.32 explains “Although development has commenced, Policy S14 has been retained to ensure that any variations to the development stick to key guiding principles”. The remainder of that paragraph should be deleted since the matter of the housing requirement has been addressed earlier.

Recommendation 11:

Under the heading “Hornsey Rise Memorial Home” delete the second sentence of paragraph 5.32.

6. Services, Facilities and Infrastructure

Policy S15: Community Services and Facilities

Not reviewed.

Policy S16: Car Parking and New Housing Development

Not reviewed.

Policy S17: Communications Infrastructure

Not reviewed.

7. Employment

Policy S18: Rural Economy

Not reviewed.

Appendices

In Appendix 1 a few uncorrected typographical errors have been identified by the local authority and the opportunity should be taken to correct these. The new Appendix 5 has been addressed above. Apart from slight renumbering to accommodate the new Appendix, the Appendices are not reviewed.

Recommendation 12:

Within Appendix 1:

12.1 In the Section “Public Rights of Way”, paragraph beginning “Ongoing activities...”, insert ‘by’ before “Sheepy Parish Council”.

12.2 In the Sections “Transport” and “Services and facilities”, paragraphs beginning “Ongoing activities ...”, “support with” has been replaced by ‘address’ in the Transport Section but this should also be applied in the Services and Facilities section.

Other matters raised in representations

I have not mentioned every representation individually but this is not because they have not been thoroughly read and considered in relation to my Examiner role, rather their detail may not add to the pressing of my related recommendations which must ensure that the Basic Conditions are met.

European Union (EU) and European Convention on Human Rights (ECHR) Obligations

A further Basic Condition, which the Sheepy Neighbourhood Plan Review must meet, is compatibility with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal. A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion for the Sheepy Neighbourhood Plan Review has been used to determine whether or not the content of the Plan requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plan and Programmes Regulations 2004. In accordance with Regulation 9 of the SEA Regulations 2004, the Hinckley & Bosworth Borough Council determined on 25th November 2021 that an environmental assessment of the Sheepy Neighbourhood Plan Review was not required as it is unlikely to have significant environmental effects. The report concluded: “Hinckley and Bosworth Borough Council, following consultation with the Environment Agency, Natural England and Historic England, has determined that the Sheepy Neighbourhood Plan Review is unlikely to have significant environmental effects.” The Council has also concluded: “It is the opinion of Hinckley & Bosworth Borough Council that a full Habitats Regulations Appropriate Assessment of the Sheepy Neighbourhood Plan Review is not required, as it is unlikely to have a significant effect on any designated sites. The justification for this is contained within the Sheepy Neighbourhood Plan Strategic Environmental Assessment Screening Statement 2021”. In making this determination, the Borough Council had regard to Schedule 1 of the Regulations and carried out consultation with the consultation bodies who concurred with the screening opinion. Particularly in the

absence of any adverse comments from the statutory bodies or the Local Planning Authority, I can confirm that the Screening undertaken was appropriate and proportionate and confirm that the Plan has sustainability at its heart.

As indicated in the Equalities Impact Assessment, the Sheepy Neighbourhood Plan Review has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. No evidence has been put forward to demonstrate that this is not the case.

Taking all of the above into account, I am satisfied that the Sheepy Neighbourhood Plan Review is compatible with EU obligations and that it does not breach, nor is in any way incompatible with, the ECHR.

Conclusions

The Review of the 'made' Sheepy Neighbourhood Plan sets out some modified policies to guide and direct development proposals in the period up to 2036. It has been properly prepared to improve the Plan and to address changes in national and local planning policy which have arisen since the initial Plan was 'made'.

My Independent Examination of the Plan concludes that the Sheepy Neighbourhood Plan Review meets the basic conditions for the preparation of a Neighbourhood Plan subject to a number of recommended modifications. Modifications have been recommended to effect corrections, to ensure clarity and in order to ensure that the Basic Conditions are met but the Plan Review remains fundamentally unchanged in its role and direction set for it by the Qualifying Body.

Accordingly, I recommend that Hinckley & Bosworth Borough Council should 'make' the draft Plan as reviewed, subject to the modifications set out in this Report.

Recommendations: (this is a listing of the recommendations exactly as they are included in the Report)

Rec.	Text	Reason
1	Delete from the front cover "Submission Draft (October 2021)".	For accuracy
2	Review the "Contents" pages once the text has been amended to accommodate the recommendations from this Report.	For clarity and correction
3	<p>Under the heading "1. Introduction":</p> <p>4.1 Replace the final sentence of paragraph 1.14 as follows: 'We have decided to review and update the Plan, primarily to:</p> <ul style="list-style-type: none"> • Take account of the latest National Planning Policy Framework which was updated in 2021; and • Introduce more detailed design guidance.' <p>4.2 Delete the second sentence of paragraph 1.17.</p> <p>4.3 Delete the sub-heading "Next Steps" and update paragraph 1.21 as follows: 'The draft revised Neighbourhood Plan was submitted to Hinckley and Bosworth Borough Council for publication and a further six-week public consultation prior to being submitted to an Independent Examiner'.</p> <p>4.4 In paragraph 1.23 replace "adopted" with 'made' and "current" with 'original'.</p>	For clarity and correction
4	Under the heading "Important Views" on the map referenced within Policy S3 amend the key to delete "no directional arrows".	For accuracy
5	<p>Reword the second paragraph of Policy S6 as follows: 'Appropriately to their scale and subject to viability considerations, developments should incorporate Sustainable Drainage Systems (SuDS), designed to mimic natural drainage routes, with attenuation, storage and treatment capacities to manage surface water run-off with a goal of no net increase above the 'surface water run off for greenfield sites rate';</p>	For clarity and correction and to meet Basic Condition 1

	related design considerations are set out in Appendix 5.'	
6	Reinstate within Policy S7 the following as a third element in the list commencing "The following are regarded as local heritage assets": 'iii The non-designated heritage assets in the remainder of the Neighbourhood Area, as identified on the adjacent map which is cross-referenced to the schedule within Appendix 3.'	For clarity and correction
7	7.1 Within Policy S8 (and its supporting text) and in the title of Appendix 5 (and the content as required) replace all references to "Design Code" with 'Design Guide'. 7.2 Within Appendix 5 under "Key objectives": 7.2.1 On p88 replace "Prevent" with 'Discourage'. 7.2.2 On p93 replace "Discourage loss of garage space and parking on frontages" with 'Encourage retention of garage spaces to avoid frontage parking'. 7.2.3 On p95 delete "Retain open frontage". 7.2.4 On p96 replace "Discourage loss of garage space and parking on frontages" with 'Encourage retention of garage spaces to avoid frontage parking'. 7.2.5 On p140 replace "tradition" with 'traditional'. 7.3 On p161 provide a source reference for the illustration. 7.4 On p162 replace the heading "SuDs" with 'SuDS' and within that section replace "must" with 'should'.	For clarity and correction and to meet Basic Condition 1
8	Under the sub-heading "Housing Requirement" replace paragraph 5.7 as follows: 'Having regard to the latest evidence of housing needs coming from the preparatory work for the new Local Plan, it was apparent that the indicative annual requirement figure at the Borough	For clarity and correction and to meet Basic Conditions 1 & 3

	<p>level was broadly unchanged since the Examination of the first Sheepy Neighbourhood Plan. The local authority's interim housing requirement methodology was noted as liable to significant change and therefore did not provide a confident basis for the substantial work of site identification and allocation with the issuing of a draft Local Plan imminent. The roll out of the site allocated in the Neighbourhood Plan at Hornsey Rise was continuing and the notional housing requirement to 2036 was already significantly exceeded. Therefore, the option was taken to retain the reasoned, interim assessment approach of the original Neighbourhood Plan. The outcome was no unmet housing requirement for the period to 2036. It was agreed with the local authority that there should be an accompanying commitment to commence a further review should the finalised Local Plan indicate additional requirements.'</p>	
9	<p>9.1 Under the heading "Housing Development" complete the last sentence of paragraph 5.12 to read: 'The methodology for defining the settlement boundaries and its application for Sheepy Magna and Sibson is set out in Appendix 6.'</p> <p>9.2 Within Policy S10:</p> <p>9.2.1 Replace elements E & F with 'Other circumstances as set out in NPPF paragraph 80;'</p> <p>9.2.2 Change element G to element F.</p>	For clarity and correction and to meet Basic Condition 1
10	<p>Under the heading "Local Plan Review 2020 to 2039":</p> <p>10.1 Reword paragraph 5.15 as follows: 'The emerging Local Plan (June 2021) continues to identify Sheepy Magna as a 'Rural Village' where there will be "A presumption of a minimum of 50 dwellings in each rural village to help maintain services in those settlements. The final minimum housing provision for each settlement will consider other planning policy priorities, constraints on land supply and other wider strategic planning issues."</p>	For clarity and correction and to meet Basic Conditions 1 & 3

	<p>10.2 Replace paragraph 5.17 and Policy S11 with a non-coloured text box as follows: 'Parish Council Commitment: Rather than wait for the new Local Plan to complete its consultation and examination processes through to adoption, the Parish Council has been keen to press ahead with its Neighbourhood Plan Review. The emerging Hinckley and Bosworth Local Plan will set updated housing and employment land requirements for the Neighbourhood Plan Area. To meet any such requirements, a further review of the Sheepy Parish Neighbourhood Plan will commence immediately upon adoption of the Local Plan and will include extending the Plan period to 2039.'</p> <p>10.3 Renumber the Policies that follow this deletion.</p>	
11	Under the heading "Hornsey Rise Memorial Home" delete the second sentence of paragraph 5.32.	For clarity and correction and to meet Basic Condition 1
12	<p>Within Appendix 1:</p> <p>12.1 In the Section "Public Rights of Way", paragraph beginning "Ongoing activities...", insert 'by' before "Sheepy Parish Council".</p> <p>12.2 In the Sections "Transport" and "Services and facilities", paragraphs beginning "Ongoing activities ...", "support with" has been replaced by 'address' in the Transport Section but this should also be applied in the Services and Facilities section.</p>	For clarity and correction