

# **RIPON NEIGHBOURHOOD PLAN**

Ripon Neighbourhood Plan Examination,  
A Report to Harrogate Borough Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

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## **1. Summary**

- 1 Subject to the modifications recommended within this Report, made in respect of enabling the Neighbourhood Plan to meet the basic conditions, I confirm that:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.
  
- 2 Taking the above into account, I find that the Ripon Neighbourhood Plan meets the basic conditions<sup>1</sup> and I recommend to Harrogate Borough Council that, subject to modifications, it should proceed to Referendum.

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<sup>1</sup> It is confirmed in Chapter 3 of this Report that the Ripon Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

## 2. Introduction

### The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Ripon Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by a working group under the direction of a "*City Plan Committee*" on behalf of Ripon City Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. Were a Referendum to be held and were more than 50% of votes to be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Harrogate Borough Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Ripon Neighbourhood Area.
- 5 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.  
  
*"Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need."*  
(Paragraph 183, National Planning Policy Framework)
- 6 Ripon City Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan, as confirmed in Paragraph 1.1.4 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan.
- 7 The Neighbourhood Plan relates only to the designated Ripon Neighbourhood Area and there is no other neighbourhood plan in place in the Ripon Neighbourhood Area. This is confirmed in Paragraph 2.1.3 of the Basic Conditions Statement.
- 8 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012<sup>2</sup>) and Planning Practice Guidance (2014).

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<sup>2</sup> A replacement National Planning Policy Framework was published in July 2018. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans until the 25<sup>th</sup> January 2019.

Role of the Independent Examiner

- 9 I was appointed by Harrogate Borough Council, with the consent of the Qualifying Body, to conduct the examination of the Ripon Neighbourhood Plan and to provide this Report.
- 10 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 11 I am a chartered town planner and have more than five years' direct experience as an Independent Examiner of Neighbourhood Plans. I also have more than twenty five years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 12 As the Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 13 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Ripon Neighbourhood Area to which the Plan relates.
- 14 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 15 A neighbourhood plan must specify the period during which it is to have effect.
- 16 Paragraph 2.1.1 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan states that the:  
  
*"RCP is for the period 2015 - 2030."*
- 17 The front cover of the Neighbourhood Plan simply refers to the date the Submission Version was published. For clarity, I recommend:
  - **Neighbourhood Plan front cover, delete "SUBMISSION DRAFT PLAN March 2018" and replace with "Ripon Neighbourhood Plan to 2030"**
- 18 Taking all of the above into account, the Neighbourhood Plan specifies the plan period during which it is to have effect.

Public Hearing

- 19 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 20 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 21 Further to consideration of the information submitted, I confirmed to Harrogate Borough Council that I would not be holding a public hearing as part of the examination of the Ripon Neighbourhood Plan.

### **3. Basic Conditions and Development Plan Status**

#### **Basic Conditions**

- 22 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>3</sup> following the Localism Act 2011. Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>4</sup>
  - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>5</sup>
- 23 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 (PCPA) 2004;

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<sup>3</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

<sup>4</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

<sup>5</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.



## Ripon Neighbourhood Plan - Examiner's Report

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (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.

- 24 Subject to the content of this Report, I am satisfied that these three points have been met.
- 25 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.



European Convention on Human Rights (ECHR) Obligations

- 26 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 27 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and shows the outcome of comments.

European Union (EU) Obligations

- 28 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>6</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment (SEA).
- 29 In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*  
(Planning Practice Guidance<sup>7</sup>)
- 30 National advice then goes on to state<sup>8</sup> that the draft plan:
- “...must be assessed (screened) at an early stage of the plan’s preparation...”*
- 31 This process is often referred to as a screening report, opinion or determination. If the screening report identifies likely significant effects, then an environmental report must be prepared.

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<sup>6</sup> Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance.

<sup>7</sup> Paragraph 027, *ibid*.

<sup>8</sup> Planning Practice Guidance Reference ID: 11-028-20150209.

- 32 The Neighbourhood Plan was subject to a screening report and this was included as an Appendix to the Basic Conditions Statement submitted alongside the Neighbourhood Plan. The screening report concluded that:

*"...the Plan is not likely to have a significant effect on the environment."*

- 33 In addition to SEA, a Habitats Regulations Assessment is required if the implementation of the Neighbourhood Plan may lead to likely significant effects on European sites.

- 34 The screening report raised no issues in this regard. Further, Natural England, in response to consultation, stated

*"With regards to also applying the SEA screening for Habitats Regulations Assessment (HRA) screening, we agree that the Ripon City Plan alone is unlikely to pose a significant effect on the nearby North Pennine Moors Special Area of Conservation (SAC) and Special Protection Area (SPA)...and the Local Plan HRA is best placed to make this assessment."*

- 35 In addition to Natural England, the statutory consultees, Historic England and the Environment Agency, were also consulted and both concurred with the conclusions of the screening report.

- 36 Further to all of the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

*"It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations" (Planning Practice Guidance<sup>9</sup>).*

- 37 Harrogate Borough Council has not raised any concerns in respect of the Neighbourhood Plan's compatibility with EU obligations and states:

*"We have considered the draft plan and its policies against those environmental characteristics of the area that fall within our remit and area of interest."*

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<sup>9</sup> Planning Practice Guidance Reference ID: 11-031-20150209.

*Having considered the nature of the policies in the Plan, we consider that it is unlikely that significant negative impacts on the environmental characteristics that fall within our remit and interest will result through the implementation of the plan."*

- 38 Taking all of the above into account, I conclude that the Neighbourhood Plan meets the basic conditions in respect of European obligations.

#### **4. Background Documents and the Ripon Neighbourhood Area**

##### Background Documents

- 39 In undertaking this examination, I have considered various information in addition to the Ripon Neighbourhood Plan. I draw attention to the fact that a replacement version of the National Planning Policy Framework was published in July 2018, during the course of this examination. The previous National Planning Policy Framework was published in 2012 and the replacement version differs from it in a number of ways.
- 40 As noted above, Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans until the 25<sup>th</sup> January 2019. Whilst the timing of the publication of the replacement document was such that the Neighbourhood Plan was considered against both the original and the replacement versions of the National Planning Policy Framework, this is neither unusual nor inappropriate – Paragraph 214 of the replacement National Planning Policy Framework must be considered in order for it to apply !
- 41 Taking this into account, information considered as part of this examination has included (but is not limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as “the Framework”) (2012)
  - Planning Practice Guidance (2014)
  - Town and Country Planning Act 1990 (as amended)
  - The Localism Act (2011)
  - The Neighbourhood Plan Regulations (2012) (as amended)
  - Harrogate District Local Plan (2001) (saved in 2004 and 2007) (referred to in this Report as “the Local Plan”)
  - Harrogate District Core Strategy (2009)
  - Basic Conditions Statement
  - Consultation Statement
  - Environment Report and SEA Screening

Also:

- Representations received

- 42 In addition, I spent an unaccompanied day visiting the Ripon Neighbourhood Area.

Ripon Neighbourhood Area

- 43 The boundary of the Ripon Neighbourhood Area is shown on page 4 of the Neighbourhood Plan.
- 44 Harrogate Borough Council formally designated the Ripon Neighbourhood Area on 12<sup>th</sup> December 2012. This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## 5. Public Consultation

### Introduction

- 45 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 46 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

### Ripon Neighbourhood Plan Consultation

- 47 A Consultation Statement was submitted to Harrogate Borough Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*<sup>10</sup>.
- 48 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Ripon Neighbourhood Area, having regard to Paragraph 183 of the National Planning Policy Framework ("*the Framework*").
- 49 Ripon City Council established a City Plan Team, comprising volunteers and Councillors as its plan-making body. Flyers were distributed across Ripon to gain interest and views. These were followed, during April to June 2013, by a newsletter/consultation document, incorporating a questionnaire covering six topics. The City Plan Team considered all responses and published documents summarising the results. The consultation also resulted in the creation of a Focus Group, comprising 70 members of the public, which first met in September 2013.

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<sup>10</sup>Neighbourhood Planning (General) Regulations 2012.

- 50 A Vision and Objectives document was produced and presented for consultation in December 2013. The Focus Group met again in April and July 2014, to consider emerging information and a preliminary draft plan was produced and consulted upon during September-October 2014. This consultation period informed the production of the Pre-Submission Draft plan.
- 51 The Pre-Submission Draft was consulted on during an extended period during September and December 2016. Consultation was supported by the wide distribution of a summary version, exhibitions in Ripon Town Hall, attendance at meetings of local groups and organisations, displays, pop-up stands, leaflets and talks. A breakfast was held with the Chamber of Trade and Commerce and a mock council session was held with local students.
- 52 Responses to consultation were assessed in detail during the first half of 2017. Of the 140 recorded responses received, around 120 were from individual members of the public. Comments were taken into account and the Submission version of the Neighbourhood Plan was produced.
- 53 The Consultation Statement provides detailed evidence to demonstrate that public consultation formed an important part of the overall plan-making process, that matters raised were taken into account and that the reporting process was transparent.
- 54 Public consultation was well-publicised. Information relating to the Neighbourhood Plan, including minutes of meetings, was provided on a dedicated website, maintained and updated throughout the plan-making process. In addition to flyers, information was published via press releases and articles.
- 55 Taking all of the above into account, I am satisfied that the consultation process was significant and robust.
- 56 Numerous representations received during the Submission stage consultation refer to differences between the Policies of the Neighbourhood Plan and those of the emerging District-wide Local Plan.
- 57 Planning Practice Guidance<sup>11</sup> recognises that the reasoning and evidence informing an emerging Local Plan may be likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.

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<sup>11</sup> Ref: 009 Reference ID: 41-009-20160211.



- 58 However, at the time of submission, the emerging Harrogate Local Plan 2018 was only at "*Draft Publication Stage.*" The emerging document had not reached Examination and even at the time of writing, it has not yet undergone rigorous examination. Consequently, the emerging policies of the Harrogate Local Plan 2018 remain at an early stage and are subject to change before being adopted.
- 59 As set out above, the basic conditions require a neighbourhood plan to be examined against the *adopted* strategic policies of the development plan

## 6. The Neighbourhood Plan – Introductory Section

60 There is no evidence to demonstrate that 30% of the nation's children are "*living in poverty*," placing some uncertainty over the figures provided on page 7 of the Neighbourhood Plan. I recommend:

- **Delete para 2.8.5**

61 The last sentence of paragraph 3.2.2 is not clear and I recommend:

- **Para 3.2.2, delete final sentence ("It would be...content.")**

62 As set out above, the basic conditions require neighbourhood plans to be in general conformity with the adopted strategic policies of the development plan. No detailed evidence is provided in support of Paragraph 3.2.7, whereby it is suggested that the fact that a new plan is emerging "*questioned the reliance that could be placed on the Core Strategy*." I recommend:

- **Page 10, para 3.2.7, delete second sentence ("HBC had...then on.")**

## **7. The Neighbourhood Plan – Neighbourhood Plan Policies**

### **Sustainable Ripon**

#### **Policy A.1 – Sustainable Development**

- 63 The purpose of the planning system is to contribute to the achievement of sustainable development and achieving this means that the system has three overarching objectives – economic, social and environmental.
- 64 The National Planning Policy Framework (referred to in this Report as “*the Framework*”) requires sustainable development to be pursued in a positive way. It establishes:
- “...a presumption in favour of sustainable development that is the basis for every plan and every decision.”*  
(Ministerial Foreword, the Framework)
- 65 The first part of Policy A.1 has regard to this.
- 66 However, despite setting out the presumption in favour of sustainable development, the Policy then goes on to set out what appears to be a much more restrictive approach to development. It only lends support to development that meets various criteria and it takes “*a precautionary approach*” – whatever that might be, as it is not clearly defined – to a range of things. No substantive evidence is provided to demonstrate that development that does not meet the various requirements set out would not be sustainable.
- 67 Essentially, the second part of Policy A.1 appears to conflict with the first part of the Policy, by placing a barrier in the way of sustainable development coming forward.

68 Taking the above into account, I recommend:

- **Policy A.1, retain opening sentence and delete the rest of the Policy**
- **Para 5.2.7, delete "The resulting approach is for the Plan to avoid development on greenfield sites." (NB, the whole of this paragraph is recommended for deletion on page 27 of this Report)**

**Policy A.2 – Landscape Character**

- 69 Policy C9 (“*Special Landscape Areas*”) of the Harrogate Local Plan 2001 (referred to in this Report as the “*Local Plan*”) affords protection to the District’s high quality landscape areas.
- 70 Also, Harrogate District Core Strategy 2009 (referred to in this Report as the “*Core Strategy*”) Policy EQ2 (“*The Natural and Built Environment and Green Belt*”) requires Harrogate’s landscape character to be protected and goes on to state that, where criteria-based planning policies cannot provide the necessary protection:

*“...local landscape designations will be provided.”*

- 71 The overriding purpose of Policy A.2, to afford protection to an identified Special Landscape Area, is in general conformity with adopted strategic District-wide policies. Whilst the boundaries of the Special Landscape Area referred to are different to those of the Skell and Laver Valleys SLA, referred to in the Local Plan, they are supported by the Neighbourhood Plan’s evidence base. Further, the alterations would appear to be in general conformity with Core Strategy Policy EQ2, above.
- 72 However, Policy A.2 requires the provision of a Landscape and Visual Impact Assessment “*when required.*” In the absence of any clear reference or supporting information, it is not apparent under what circumstances such an Assessment would be required, or who would make this judgement and on what basis. Policy A.2 is ambiguous in this regard. It does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework, which states that:

*“Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”*

- 73 Similarly, this part of Policy A.2 conflicts with national guidance<sup>12</sup>, which is explicit in requiring 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.”*

- 74 Taking all of the above into account, I recommend:

- **Policy A.2, retain first sentence and delete rest of first para (to “...measures.”)**
- **Policy A.2, Replace sentence beginning “The key elements...” with “Development should protect the landscape setting of Ripon and to help achieve this, proposals impacting upon the SLAs should have regard to:” (bullet points commencing “characteristics and...” to be retained)**
- **Para 5.2.10, delete last sentence (“By requiring...boundary.”)**

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<sup>12</sup> Planning Policy Guidance, Paragraph: 042 Reference ID: 41-042-20140306.

**Policy A.3 – Biodiversity and Geodiversity**

- 75 Core Strategy Policy EQ2 seeks to protect biodiversity; and Local Plan policies NC3 ("*Local Wildlife Sites*") and NC4 ("*Semi-Natural Habitats*") afford protection to local biodiversity.
- 76 National policy, as set out in Chapter 11 of the Framework ("*Conserving and enhancing the natural environment*") protects sites of biodiversity or geological value in a manner commensurate with their statutory status. This Chapter of the Framework establishes clear principles that should be applied when planning applications are determined and also provides references in respect of statutory requirements relating to biodiversity.
- 77 Policy A.3 is confusing and fails to have regard to national policy. As set out, it would, subject to stated criteria being met, support development that could result in direct harm to designated sites, including those afforded the highest levels of protection on an international scale. This would be contrary to statutory requirements and would bring the Neighbourhood Plan into direct conflict with the law.
- 78 In addition to the above, I also note the absence of any information in respect of how the movement of wildlife in Ripon's "*wider urban matrix*" might be assessed, on what basis or who by; and no detail is provided in respect of which species are "*rare within Ripon*" or why such species should receive particular protection.
- 79 Policy A.3 does not meet the basic conditions.
- 80 I recommend:
- **Delete Policy A.3**
  - **Delete Paras 5.2.4 and 5.2.11**

**Policy A.4 – Flood Risk and Sustainable Drainage**

81 Core Strategy Policy EQ1 (*“Reducing Risks to the Environment”*) requires development to seek to minimise flood risk. National policy addresses planning and flood risk in Paragraphs 100 to 104 of the Framework. It states that:

*“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.”*

(Paragraph 100)

82 Policy A.4 begins by stating that development *“will be permitted”* subject only to meeting *“requirements prescribed through Sequential Testing.”* This runs the risk of pre-determining the planning application process without taking relevant factors into account and does not provide relevant detail in respect of what the prescriptions referred to are, how they will be judged, or on what basis and the Policy lacks clarity in this respect. National policy provides significantly more detail and clarity.

83 The second paragraph of the Policy is reliant upon the requirements of national guidance, but does not provide any detail as to what these requirements are; and the third paragraph requires priority to be afforded to something, but does not provide any indication of how such prioritisation might take place. This part of the Policy is imprecise and does not provide a decision maker with clarity, having regard to Paragraph 154 of the Framework. In a similar vein, the final paragraph of the Policy refers to *“encouragement”* being given, but provides no indication of how, who by, or how this might apply in respect of a land use planning policy.

84 Policy A.4 does not have regard to national policy and advice and does not contribute to the achievement of sustainable development. I recommend:

- **Delete Policy A.4**
- **Delete Paras 5.2.12**



**Policy A.5 - Skyline**

85 Paragraph 58 of the Framework requires developments to:

*“...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation ...”*

86 Policy A.5 affords protection to Ripon's skyline. In so doing, the Policy has regard to national policy.

87 Policy A.5 meets the basic conditions.

88 I recommend:

- **Para 5.2.17, for clarity, add “...seeks to protect the *places named in paragraphs 5.2.15 and 5.2.16*, but not to...”**

**Policy A.6 – Unstable Land**

- 89 Policy A.6 goes beyond the powers of a neighbourhood planning policy. The Qualifying Body is not the Local Planning Authority. It does not determine planning applications or carry out "*development management procedures.*"
- 90 Notwithstanding the above, Policy A.6 is imprecise. It refers to development proposals on land "*suspected*" as being unstable. No clarity is provided in respect of who would judge this and on what basis.
- 91 The final sentence of the Policy refers to non-land use planning matters.
- 92 Policy A.6 does not have regard to planning guidance and does not contribute to the achievement of sustainable development.
- 93 I recommend:
- **Delete Policy A.6**
  - **Delete Paras 5.2.6, 5.2.7 and 5.2.18 – 5.2.20, inclusive**

Growth and Regenerating Key Parts of the City

**Policies B1 to B5: Bondgate Green; Ure Bank; Clotherholme; Clotherholme Development Strategy; and Mallorie Park Drive/Studley Road**

94 Whilst the Neighbourhood Plan does not allocate land for housing, Policies B1 to B5 seek to influence how future development in specific areas of Ripon might take place. This has created an awkward situation, whereby the respective Policies seek to impose design requirements without relevant, substantial evidence to demonstrate that the requirements set out are deliverable – for example, through the provision of information relating to viability. This results in conflict with Paragraph 173 of the Framework, which requires plans to be “*deliverable.*”

95 Much of the content of Policies B1 to B5 is very specific. For example, Policy B1 “*expects*” development proposals to provide walling with ornamental railings, manage avenue tree planting and provide new tree planting, introduce a new public space, and introduce a new signature building. There is no evidence in respect of how much money such things might cost or how they would be paid for. No detail is provided in respect of what type of development, where, would need to pay for, or contribute towards, the provision of such things, or whether such a contribution would meet the requirements of Paragraph 204 of the Framework in respect of planning obligations:

*“Planning obligations should only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.”*

96 The Policies are not supported by evidence to demonstrate that the aspirations set out are deliverable.

97 Further, whilst the Neighbourhood Plan states that it does not allocate land, Section B contains conflicting references, resulting in a lack of clarity and precision. For example,

*“...To contribute to meeting the need for homes by allocating sites for new open market homes and new affordable homes (5.3.8)...allocate the riverside for housing, taking the form of apartments (Policy B1)...allocation of a site for a primary school (Policy B3)”*

98 Notwithstanding all of the above, having regard to the evidence provided, Section B aims to provide a positive steer to development aimed at providing for sustainable growth, whilst protecting Ripon's character and appearance. Taking this into account, I do not recommend that Section B be deleted from the Neighbourhood Plan, but that, rather, its general intent is retained. To achieve this, I recommend:

- **Delete Policies B.1 to B.5, inclusive, but replace them as Community Actions B.1 to B.5. For example, the title of the first Community Action to comprise "*Community Action B.1 – Bondgate Green*" and so on**
- **Community Actions are not Policies. Remove the blue box from around the Community Actions/ensure that the presentation of the Community Actions is not the same as that of Policies**
- **Para 5.3.2, change to "*This Plan supports growth through redevelopment...*"**
- **Para 5.3.4, change to "*The City Council supports the comprehensive regeneration...estate) as it considers that this would contribute to the regeneration of the city. Each area has its own focus...*"**
- **Para 5.3.6, typo to second line, add "*to.*" Delete last sentence ("*Accordingly...principles.*")**
- **Para 5.3.7, penultimate line, change to "*...for the Plan to highlight the opportunity...*"**
- **Para 5.3.8, delete last sentence ("*Following...Plan.*") and delete the Objectives which follow (from title through to and including sentence ending "*...will apply.*")**
- **Add new Para before Community Action B.1, "*The indicative areas of each regeneration area are shown on the plan below.*" Provide a new plan showing the location of the areas referred to in the Community Actions B1 to B5. Delete reference/site boundaries from the Policies Map.**

- **Community Action B.1, change to “*The City Council supports the regeneration of the area lying generally...Firs Avenue and would like to see this area become Bondgate Green Urban Village. The City Council considers the area suitable for a mix...coach parking and would lend support to proposals for comprehensive...of premises. The City Council would like to see proposals that: RETAIN THE LIST OF BULLET POINTS IN FULL (“protect, reveal...riverside tree planting, replacement and new tree planting.”) However, combine bullets four and five, which currently split a sentence, and begin bullets six and seven with “provide” and “manage” respectively.***
- **Page 22, delete “Justification for B.1:” Retain paras 5.3.9 and 5.3.10**
- **Para 5.3.11, delete from “Other policies of particular...H.1)”**
- **Community Action B.2, change to “*The City Council supports the regeneration...residential uses to be consolidated as the Ure...by-pass). The City Council will encourage proposals for more efficient...business premises as well as the development of the vacant site on Hutton Bank for business use.***

*The City Council will encourage the revitalisation of the former...cultural uses. The City Council supports the reuse...railway and would not like to see other development proposals constrain the separate reuse of these heritage assets.*

*...is considered, the City Council would be supportive of proposals for residential development, in part...property.*

*The inclusion...proposals is supported by the City Council owing to the lack...centre.*

*South of...Hotel are considered by the City Council to be suitable...parking.*

*The City Council would like to see development proposals in the area demonstrate that they meet the following principles:” RETAIN LIST OF BULLET POINTS*

- **Page 23, delete “Justification for B.2:”**
- **Delete Para 5.3.18**

- **Community Action B.3, change to *“The City Council supports the comprehensive...urban village to include a substantial...infrastructure.***

**Owing to...ownership, *the City Council would like to see a masterplan for the area be prepared, having regard to:”* RETAIN LIST OF BULLET POINTS HERE, but delete final sentence *“Proposals will be required...supported.”***

- **Page 24, delete *“Justification for B.3:”***
- **Para 5.3.24, delete from *“Other policies...H.6)”***
- **Community Action B.4, change to *“In the event of a phased release of the military estate, the City Council will seek to encourage development proposals to consider:”* RETAIN LIST OF BULLET POINTS HERE, but delete first bullet point (*“the masterplan...B.3”*)**
- **Page 25, delete *“Justification for B.4:”***
- **Para 5.3.26, retain first sentence, delete from *“In order to...G.1).”***
- **Community Action B.5, delete and replace with *“Should the development of the existing private sports pitches at Mallorie Park Drive or Studley Road be proposed, the City Council will seek to encourage any such development to include provision for a new highway joining Mallorie Park Drive and Studley Road.”***
- **Page 26, delete *“Justification for B.5:”***
- **Delete para 5.3.31**

**Policy B.6 – Development Limit**

- 99 Policy B.6 is reliant upon the policies of another document, beyond the control of the Neighbourhood Plan.
- 100 The “*Development Limit*” line in the Policies Map appears to be a different colour to that shown in the key. Notwithstanding this point, there is a national planning policy presumption in favour of sustainable development. Use of the phrase “*Development Limit*,” without further detail in respect of the kinds of development that may be appropriate outside the “*Development Limit*,” suggests that development will be limited only to that which takes place within a defined area. Such an approach would place a significant hurdle in the way of the achievement of sustainable development.
- 101 In the above regard, whilst only an emerging policy in a draft plan – and consequently, not something to examine Policy B.6 against - emerging Policy GS3 in the Submission Draft of the Harrogate Local Plan refers to “*Development Limits*,” but in doing so, provides clarity in respect of the kinds of development that might be appropriate outside such limits.
- 102 I recommend:
- **Delete Policy B.6 and related supporting text**
  - **Delete “*Development Limit*” reference/boundary in Policies Map**

Strengthening the City Centre

**Policies C.1 – C.5: City Centre Quarters; East of Market Place Improvements; Northern Quarter Improvements; Spa Quarter Improvements; Market Place, Westgate and west of Market Place Improvements**

- 103 Policies C.1 to C.5 support positive change across the City Centre. Generally, the Policies have regard to Chapter 2 of the Framework (*“Ensuring the vitality of town centres”*), which recognises the role that town centres play at the heart of local communities.
- 104 It is not clear how Policy C.1 will *“encourage”* things to happen and consequently how, in this case, encouragement is an appropriate land use planning term. Further, the Policy’s *“encouragement”* to development proposals to *“develop individual atmosphere”* is not something that is clearly defined and consequently, this part of the Policy fails to provide a decision maker with clarity in respect of how to react to a development proposal, having regard to Paragraph 154 of the Framework. These are matters addressed in the recommendations below.
- 105 The phrase *“Proposals for residential accommodation are suitable for all Quarters”* implies that any form of residential development would be suitable in the City Centre. In the absence of detailed evidence to the contrary, this could result in support for inappropriate forms of development and again, is a matter addressed in the recommendations below.
- 106 As referred to earlier in this Report, Paragraph 204 of the Framework sets out the tests that must be met in respect of planning obligations. Policy C.1 simply comprises a very general statement *“Planning obligations will be sought regarding the enhancement of the quarters...”* and does not have regard to the tests set out in national policy.
- 107 As presented, Policy C.1 does not appear to support business uses in the City Centre. In this respect, I concur with the point made by Harrogate District Council that this fails to recognise the City Centre’s important role as a business location. As a consequence, Policy C.1 runs the risk of placing a hurdle in the way of the achievement of sustainable development. It is also a matter addressed in the recommendations below.



108 Whilst Policy C.2 provides examples of how “*encouragement*” might work, there is no substantive evidence to demonstrate that the changes aspired to will take place. For example, it is not clear how the Neighbourhood Plan will deliver improvements to the capacity of car parks. No substantive evidence, for example, proof of funding, development schemes or viability statements, has been provided in this regard.

109 However, the general support for improvements set out does, to some degree, have regard to national policy, with respect to the aim of enhancing the vitality of town centres and this is taken into account in the recommendations below.

110 In a similar way to Policy C.2, Policies C.3, C.4 and C.5 refer to encouragement without substantive evidence to demonstrate that the changes aspired to will take place.

111 Policy C.4 seeks to impose specific requirements in respect of how Ripon Spa Baths, Ripon Hospital and other sites must be developed. These requirements are not supported by relevant information pertaining to deliverability and would, taken together, severely limit the options open to developers in respect of how development might reasonably come forward in these locations. This could have the impact of preventing the achievement of sustainable development and there is no substantive evidence to the contrary.

112 Taking all of the above into account, I recommend:

- **Policy C.1, change to “*In addition to business and residential uses, the following types of development will be supported where they contribute to the vitality and viability of the city centre:*” LIST OF BULLET POINTS FOR FOUR QUARTERS HERE**
- **Second part of Policy C.1, delete “Proposals for additional...traffic measures.” Change to “*All proposals for development should demonstrate that they:*” LIST OF BULLET POINTS HERE**
- **Para 5.4.24, delete from “Other policies...H.3)” which comprises a general list and adds little in the way of clarity to Policy C.1**

- Policy C.2, change to “...Northern Quarters *will be supported, particularly where they achieve the following:*” LIST OF BULLET POINTS HERE
- Delete last sentence “Proposals will...C.1.” which is unnecessary as the Policies of the Development Plan must be taken together
- Para 5.4.27, delete last sentence. Policy C.2 does not require and cannot require, specific parties to work together
- Policy C.3, change to “...with the Market Place Quarter *will be supported, particularly where they achieve the following:*”
- Policy C.4, first sentence, change to “...and the Market Place Quarter will be supported.” Move the rest of the Policy into the new Community Action, below.
- Add “*Community Action C.4 – Spa Quarter Improvements*” (remove blue box/ensure presentation is different to that of Policies)
- Change text to “*The City Council would like to see a comprehensive approach to...Spa Baths. In this regard, in the event that...before the other, the City Council will seek to encourage development proposals to proceed on the following basis:*” BULLET POINTS (A) TO (C) HERE. Delete the last four bullet points and final sentence.
- Para 5.4.40, delete the last two sentences (“This policy...course.”)
- Delete Paras 5.4.42 to 5.4.44 inclusive
- Policy C.5, first sentence, change to “...car park *will be supported, particularly where they achieve the following:*” RETAIN REST OF POLICY BELOW, but delete final sentence “Proposals will...C.1”
- Delete Paras 5.4.52 and 5.4.53

### Policy C.6 – Shopping Improvements

- 113 Generally, Policy C.6 supports new retail development in two locations identified on the Policies Map. This has regard to the Framework's support for the promotion of town centre vitality and viability, as set out in Paragraph 23.
- 114 The wording of the first part of the Policy is unclear. It states that support will be given to enhancing vitality and viability through the provision of new shops. Policy C.6 does not provide any new shops, but provides a supportive policy context for the development of such.
- 115 The references to "A" and "B" do not correspond to the Policies Map, which includes no such references, but uses a colour wash to denote sites where the development of new shops would be supported. Notwithstanding this, these latter parts of the Policy include general statements rather than land use planning policy and the Policy appears incomplete. Furthermore, parts of the supporting text refer to "*the development,*" and go into levels of detail that do not relate directly to the Policy.
- 116 Given all of the above, I recommend:
- **Policy C.6, change first sentence to "...through the *development* of new shops..."**
  - **Delete rest of Policy. Add a new second sentence "*Proposals should demonstrate accessibility from Finkle Street and Moss Arcade and should respect the amenity of the occupiers of nearby dwellings on Victoria Grove and Finkle Close. Existing mature trees should be protected.*"**
  - **Para 5.4.55, delete second sentence**
  - **Delete Paras 5.4.56 and 5.4.57**
  - **Delete Para 5.4.59**

**Policy C.7 – Sequential Test Area, Impact Test Thresholds and Protected Shopping Frontage**

- 117 The Framework requires planning policies to define the extent of town centres and primary shopping areas and make clear the range of uses permitted in these locations (Paragraph 23).
- 118 Core Strategy Policy C.7 (*“Retail and town centre development”*) supports the expansion of retailing adjacent to the City's shopping area. Local Plan Policy S2 (*“Shopping Centres”*) supports retail development in, or as an extension to, shopping centres and Local Plan Policy S5 (*“Non-shopping uses in the main centres”*) seeks to protect primary shopping frontages.
- 119 Generally, Policy C.7 seeks to define areas and make clear the range of uses permitted within them, having regard to national policy.
- 120 The final part of the Policy goes beyond the powers of a Neighbourhood Plan, which cannot determine when planning permission will be *“granted.”*
- 121 Supporting text is precisely that and it is inappropriate for it be used to designate primary and secondary shopping areas.
- 122 I recommend:
- **Policy C.7, delete final paragraph (“Planning...supported.”)**
  - **Delete Paras 5.4.62 to 5.4.64, inclusive**
  - **Policies Map, delete “Protected Shopping Frontage” in key and on Map**

Supporting the Ripon Economy

**Policy D.1 – Protection and Enhancement of Existing Employment Areas**

123 National policy states that:

*“...significant weight should be placed on the need to support economic growth through the planning system.”*

(Paragraph 19, the Framework)

124 It goes on to require planning policies to:

*“...be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances.”*

(Paragraph 21, the Framework)

125 Policy D.1 applies to large areas of land where it seeks to prevent any form of development that does not fit within the B1, B2 and B8 use classes. This is a highly restrictive approach. Whilst, on the face of it, the Policy is aimed at protecting employment land, it does so in a manner that fails to have regard to Paragraphs 19 and 21 of the Framework. In so doing, it runs the risk of placing a barrier in the way of the achievement of sustainable development – for example, no substantive evidence has been provided to demonstrate that a non-B1, B2 or B8 use could not support economic growth or activity, or for example, help to intensify the employment-focused use of under-used land and premises.

126 In respect of “*other employment sites*,” Policy D.1 appears vague. No definition of “*other planning problems*” is provided and consequently, the Policy does not provide a decision maker with a clear indication of how to react to a planning proposal, having regard to Paragraph 154 of the Framework.

127 I recommend:

- **Delete Policy D.1 and supporting text**
- **Policies Map, delete reference to D.1/annotations**

### **Policy D.2 – Protection and Provision of Hotels**

- 128 Policy D.2 seeks to protect existing hotels from re-development. To some degree, the overriding aim of the Policy is in general conformity with that of Local Plan Policy TRX ("*Hotel Protection*"), which seeks to support tourism by protecting hotels from change of use.
- 129 However, the Local Plan Policy only affords protection to hotels with 30 or more lettable rooms, whereas Policy D.2 applies to hotels with 10 or more lettable rooms. This is a significant difference, as it "*widens the net*" to include many more buildings.
- 130 The wording of Policy D.2 appears very similar to part of the wording of an emerging Policy in the Submission Draft Local Plan. However, that emerging policy refers to hotels with 20 or more lettable rooms and again, this is significantly more than supported by Policy D.2.
- 131 Policy D.2 is based upon the evidence base supporting the emerging Local Plan. The only further "*evidence*" in the Neighbourhood Plan to support an approach that would be so different in its application to Policy TRX as not to be in general conformity with it, comprises anecdotal references, such as that in the supporting text, to hotels in Ripon being smaller than those in Harrogate. Whilst this may be the case, there is an absence of relevant, detailed evidence – for example, what would be the impact of Policy D.2, how many hotels would be "*captured*" by its provisions and so on – to justify its markedly different approach to that set out in the development plan. Consequently, the recommendations below reflect the evidence base that the Policy itself has emerged from.
- 132 In the absence of any explanation or information, it is not clear how applicants can demonstrate that a proposal will have "*no significant adverse impact on the supply or quality*" of Ripon's visitor accommodation.
- 133 It is not clear how, or why hotel "*quality rating*" is a land use planning matter. Notwithstanding this point, Policy D.2 would support any plans for expansion of a hotel subject only to this or to the proposal forming part of a masterplan. This approach fails to have regard to relevant planning matters and could result in support for unsustainable forms of development.
- 134 The final part of the Policy refers to "*sites*" for hotels. However, only one site is identified on the Policies Map, whereas others appear to relate to general areas.

135 I recommend:

- **Policy D.2, first sentence, change to “...hotel with 20 or more lettable bedrooms will be supported where...”**
- **Policy D2, delete “Applicants will...masterplan proposals.”**
- **Policy D2, delete rest of Policy and add new sentence, “A site is shown at Victoria Grove on the Policies Map as being suitable for the development of a new hotel.”**
- **Delete reference to hotel at North Road from Policies Map.**
- **Para 5.5.15, delete second sentence**
- **Delete rest of supporting text (Para 5.5.16 onwards)**

Providing for new homes

**Policy E.1**

- 136 There is a presumption in favour of sustainable development. The phrase "*explicitly avoid greenfield development for housing*" in the introduction to this Section is not supported by substantive evidence to demonstrate that any residential development on greenfield land cannot comprise sustainable development. In this regard, I am also mindful that the Neighbourhood Plan does not allocate land for housing and that, as a consequence, the "*explicit*" avoidance of greenfield housing appears premature.
- 137 Paragraph 5.6.5, under the heading "*Objectives,*" refers to "*allocating sites.*" The Neighbourhood Plan does not allocate sites. The Introduction becomes more confusing through its use of the terms "*Local Plan*" and "*the Plan*" – whereby it is not entirely clear which document is being referred to. For example, Paragraph 5.6.9 states that "*the Plan is proposing a fair share of the district's housing requirement.*" It can only be assumed that this sentence refers to the Neighbourhood Plan, as the emerging Local Plan seeks to address all of Harrogate's housing requirement, whilst the Neighbourhood Plan does not allocate any land.
- 138 The inclusion of various tables in relation to housing land provision in Ripon is confusing, as the Neighbourhood Plan does not allocate any land. In this regard, I am mindful that the emerging Local Plan has not even reached the stage whereby housing requirements and land allocations will be rigorously examined. Consequently, the tables provided are subject to considerable change. Taken this and the content of much of the introductory text into account, the Introduction to Section E appears more confusing than enlightening and appears to detract from the clarity of the Neighbourhood Plan.
- 139 Policy E.1 states that priority will be given to the redevelopment of sites and conversion of buildings within a "*Windfall Housing Priority Area.*" This Area is shown on the Policies Map, but appears as a somewhat vague, indicative area, without precise boundaries. This imprecise approach fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.



140 Further to the above, it is not clear why, in all circumstances, it will be appropriate to prioritise residential use. The Area denoted includes the whole of the city centre and the area around it – within which there are a wide range of uses and are likely, therefore, to be a correspondingly wide range of development demands. No detailed evidence is provided to demonstrate that, in every case, residential development will be more appropriate – or even appropriate - to the relevant site/building than any other use in this area. Consequently, the Policy runs the risk of preventing the achievement of sustainable development and/or supporting inappropriate development.

141 I recommend:

- **Delete Policy E.1 and supporting text**
- **Para 5.6.1, delete second sentence**
- **Delete Paras 5.6.3 to 5.6.10, inclusive and inclusive of Objectives, Tables and Notes**
- **Para 5.6.11, delete first two sentences (begin Para “It will be important not to...”)**

**Policy E.2 – Density and Size of New Market Homes**

- 142 Policy E.2 sets out density requirements and in so doing, it provides for different densities, having regard to different circumstances. However, as set out, the Policy suggests that justification for different densities at the urban edge would simply be based on ensuring “*accommodation*” for tree canopies, which is not something that is supported by evidence.
- 143 It is not clear, in the absence of substantive evidence, why it would be appropriate and deliverable for all new developments of 10 dwellings or more to provide “*an equivalent number of dwellings*” smaller than 3 bedrooms to the number of dwellings comprising more than 3 bedrooms. No information is provided to establish why the 10 dwelling threshold is appropriate to the Neighbourhood Area, or what the impact of this part of the Policy would be.
- 144 Consequently, it is not clear whether this element of the Policy would contribute to the achievement of sustainable development, or serve to prevent sustainable development from coming forward.
- 145 I recommend:
- **Policy E.2, delete last paragraph (“In order...bedrooms.”)**
  - **Policy E.2, change reference in first paragraph to “...by the outer boundary of “*Higher Density*” area on the Policies Map.” Change the relevant annotation on the key of the Policies Map to “*Higher Density*” area**
  - **Para 5.6.15, delete second part of last sentence, from “...and the size...development”**

**Policy E.3 – Support for Self-Build and Custom Housebuilding**

146 Policy E.3 supports self-build housing and has regard to Paragraph 50 of the Framework, which promotes the delivery of a wide choice of high quality homes, including those for:

*“...people wishing to build their own homes).”*

147 The Local Planning Authority makes the point that, as worded, Policy E.3 fails to take local demand into account. This is a significant omission. If there were no demand for such housing, it would potentially be a significant barrier to the achievement of sustainable development to prevent or delay the development of land in order to provide for a use for which there was little or no demand. A self-build register can help to indicate demand and such a register has already been introduced in Harrogate.

148 The Neighbourhood Plan cannot place requirements upon the Local Planning Authority and this is something taken into account in the recommendations below.

149 I recommend:

- **Policy E.3, add “...for disposal to self-builders, *subject to appropriate demand being identified*. These plots....not being *unreasonable*.” (delete rest of last sentence)**
- **Para 5.6.18, delete text after “...of the Plan.”**

Enjoying open space and providing community facilities

**Policy F.1 – Amenity Open Space and Other Land**

150 Policy F.2 protects green space recognised as important to the local community. Policy F.1 seeks to afford protection to various other areas of open land, having regard to Paragraph 74 of the Framework, which affords protection to existing open space. The Policy states that development of this land will not be supported where “*disproportionate or unacceptable harm*” arises. However, it fails to identify what such harm would comprise, or who would be the arbiter of it, and on what basis.

151 Similarly, the Policy goes on to refer to harm to “*the value of the open space for informal recreation.*” The Neighbourhood Plan does not define what this value comprises, nor what such harm to value might be, or how it might be measured.

152 The final part of the Policy refers to “*harm to wildlife including the linkage of sites performing as wildlife corridors.*” No information is provided in respect of what wildlife exists nor are the corridors identified. Consequently, this part of the Policy appears vague.

153 I recommend:

- **Change wording of Policy F.1 to “*...Inset and which make a significant contribution to the visual amenity and character of the city, must demonstrate that the development respects local character and protects biodiversity and does not reduce opportunities for informal recreation.*”**
- **Delete Para 5.7.5, which reads as a Policy, which it is not**

**Policy F.2 – Local Green Space**

154 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 76 of the Framework states that:

*“By designating land as a Local Green Space local communities will be able to rule out new development other than in very special circumstances.”*

155 The Framework requires policies for managing of development within a Local Green Space to be consistent with those for Green Belts (Paragraph 78, the Framework). A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.

156 Given the importance of the designation, it is appropriate that areas of Local Green Space are clearly identified in the Neighbourhood Plan itself and I make a recommendation in this regard, below.

157 The designation of land for Local Green Space must meet the tests set out in Paragraph 77 of the Framework.

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

159 Policy F.2 seeks to designate seven areas of Local Green Space. The areas are not clearly identified. Rather, the Policies Map only includes four areas labelled “G” for Local Green Space, rather than eight and it is not entirely clear which boundary relates to which Local Green Space. This is addressed in the recommendations below.

160 *“Submission Draft Plan Supporting Document F” (“Open Space and Community Facilities”)*, together with supporting information contained in an Appendix to that document, contains evidence to demonstrate that each of the areas of Local Green Space meet the required tests.

161 The wording of the Policy text does not have regard to national policy and taking this and the above into account, I recommend:

- **Policy F.2, change to “*The areas listed below and identified on the Policies Maps, are designated as areas of Local Green Space, which will be protected in a manner consistent with the protection of land within Green Belts: LIST LOCAL GREEN SPACE HERE*”**
- **Ensure that each individual area of Local Green Space is clearly identified – by name – on the Policies Maps. All Local Green Space boundaries must be clearly identifiable**

**Policy F.3 – Protection and Replacement of Recreation Open Space**

162 National policy states that:

*“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.*

*Existing open space, sports and recreational buildings and land, including playing fields, should not be built on...”*

(Paragraphs 73 and 74, the Framework)

163 Policy F.3 seeks to protect outdoor recreational facilities and has regard to the Framework.

164 However, much of the Policy is worded such that it appears unclear, confusing and ambiguous. The Policy refers to “*allocations*” made in the Neighbourhood Plan. The Neighbourhood Plan does not allocate land for development. It is not clear, in the absence of substantial evidence, what the “*potential recreational needs of the local population*” are. No definition is provided for the terms “*usefulness*” and “*attractiveness.*” These are subjective terms. It is not clear why, or how, recreational land might be “*incapable of appropriate recreational use.*” It is not clear how, or why, a development related to the function of an open space would be located elsewhere.

165 I recommend:

- **Policy F.3, change fourth line to “...will not be *supported* unless:”**
- **Policy F.3, first bullet point, delete “...and potential..., making allowance for the likely demand generated by allocations in this Plan;”**
- **Policy F.3, delete third and fifth bullet points and last sentence**

**Policy F.4 - Allotments**

166 Paragraphs 69 and 70 of the Framework promote healthy communities and the provision of community facilities.

167 Policy F.4 supports the creation of new allotments and has regard to national policy.

168 The Policy refers to the Policies Map. The Policies Map indicates that a very large swathe of green space would be suitable for allotments. There is no substantive evidence to demonstrate that the whole of the area within which the Policies Map reference "A" is located would, in all circumstances, comprise an appropriate location for allotments. In this respect, it is not clear that the Policy contributes towards the achievement of sustainable development.

169 I recommend:

- **Policy F.4, change to "*...allotments, subject to respecting local character and residential amenity.*"**
- **Delete Policies Map reference/annotation**



**Policy F.5 – Education Facilities**

- 170 The Neighbourhood Plan does not allocate land for development.
- 171 In the absence of substantive evidence, including that related to need, it is unclear on what basis land is identified for the provision of a school on “*protected open land*.” The Neighbourhood Plan does not determine the location and need for schools. That is the role of the Education Authority and representation has been submitted by North Yorkshire County Council in this regard.
- 172 Notwithstanding the above, Policy F.5 does not define the difference between “*unacceptable overcrowding*” and “*overcrowding*” and it is unclear why land might be set aside to deal with unacceptable overcrowding, but not overcrowding. The Policy is unclear in this regard.
- 173 Policy F.5 refers to “*a site allocated within the Clotherholme urban village*” but does not allocate any such site. This is confusing.
- 174 I recommend:
- **Delete Policy F.5 and supporting text**

**Policy F.6 – Community Facilities Priority Area**

- 175 Policy F.6 supports the creation of community facilities to support the south of the Neighbourhood Area. In general, this has regard to Paragraph 70 of the Framework, which supports the provision of community facilities.
- 176 However, rather than support the provision of community facilities in any appropriate location to serve the southern part of the Neighbourhood Area, the Policy seeks to limit provision to within an employment area.
- 177 No evidence is provided in respect of how the Community Facility might support employment use or provision and there is no substantive evidence to demonstrate that there is no other possible location for a Community Facility to serve this area. Consequently, the Policy may result in the unnecessary loss of employment space and thus fail to contribute to the achievement of sustainable development.
- 178 I recommend:
- **Policy F.6, replace “...within the Harrogate Road employment area” with “*subject to such development respecting local character and residential amenity, and not resulting in harm to highway safety.*”**
  - **Delete Para 5.7.13**

**Policy F.7 – Ripon Leisure Centre**

179 Policy F.7 supports improvements to Ripon Leisure Centre, having regard to Paragraph 73 of the Framework, which supports the provision of sports facilities that contribute to healthy lifestyles.

180 I recommend:

- **Para 5.7.15, correct the spacing of this paragraph and delete from “Other policies...”**

Connecting Ripon

**Policy G.1 – Possible New Highways**

181 Policy G.1 does not comprise a land use planning policy. It comprises a request.

182 I recommend:

- **Delete Policy G.1**
- **Retain Policy text and create “Community Action G.1 – Possible New Highways.” Change text to “The City Council will request the Highway Authority to investigate the feasibility, practicality...public realm improvement. In particular, the City Council are interested in investigating scope for...cycling circulation.” Delete remainder of text.**
- **Change Para 5.8.10 to “...responsibility. However, the City Council would like to suggest how...city and sustainable development.”**
- **Delete all other supporting text**

**Policy G.2 – Footpaths and public rights of way**

183 Paragraph 75 of the Framework states that:

*“Planning policies should protect and enhance public rights of way.”*

184 Policy G.2 seeks to protect and enhance public rights of way and has regard to national policy.

185 No changes recommended.

**Policy G.3 – Cycling**

186 In general terms, support for the provision of cycling facilities, as per Policy G.3, has regard to Paragraph 35 of the Framework, which promotes safe cycling.

187 However, it is not clear how the Neighbourhood Plan might seek the provision of facilities and cycle paths within development or seek financial contributions. The Policy does not have regard to Paragraph 204 of the Framework in respect of planning obligations, referred to earlier in this Report. Also, the Neighbourhood Plan cannot impose requirements on the Local Planning Authority.

188 I recommend:

- **Policy G.3, change to “*The provision of facilities for...cycle paths, will be supported.*” (delete rest of Policy)**
- **Move second para of Policy to a new supporting text para, below Para 5.8.16 and change to “*The City Council will encourage the provision of financial contributions towards the preparation...This strategy should identify...*”**

**Policy G.4 – Mobility**

189 As with Policy G.3, Policy G.4 does not set out how facilities “*will be sought.*” However, in general terms, Policy G.4’s support for the provision of facilities with mobility impairment has regard to Paragraph 35 of the Framework, which requires development to consider the needs of people with disabilities.

190 I recommend:

- **Change Policy G.4 to “*The provision of facilities for people with mobility impairment will be supported.*”**

**Policy G.5 – Railway Reinstatement**

191 Policy G.5 supports the creation of a new railway, on a new route, with a new station, car park and interchange facilities in Ripon. This is not a land use planning policy, but a City Council aspiration.

192 I recommend:

- **Delete Policy G.5**
- **Create a “*Community Action G.5 – Railway Reinstatement.*”**
- **Move Policy text to Community Action and change to “*The City Council will encourage the opening of a railway through Ripon...hinterland.*”**
- **Delete title “Justification for G.5”**
- **Para 5.8.21, line 2, change to “...matter that *the City Council considers should be pursued.*” Delete rest of Para.**



Protecting the Environment and Our Heritage

**Policy H.1 – River Corridors**

193 This Policy requires all development adjacent to rivers to *“demonstrate environmental impact and measures...to...enhance the river’s natural quality and habitat, atmosphere and public access.”*

194 There is no substantive evidence to demonstrate that Policy H.1 is deliverable – for example, how might all development enhance public access. Further, it is not clear why the requirements of Policy H.1 are relevant to all development proposals that border rivers, or why all development, regardless of type or nature, must demonstrate impacts and measures. Policy H.1 does not have regard to Paragraph 16 in respect of deliverability, nor to Paragraph 44, which requires information requirements for applications for planning permission to:

*“...be kept to the minimum needed to make decisions...Local planning authorities should only request information that is relevant, necessary and material to the application in question.”*

195 In addition to the above, it is unclear, in the absence of any definition, what might be meant by the enhancement of a river’s *“atmosphere.”* The Policy is ambiguous in this regard.

196 I recommend:

- **Delete Policy H.1 and supporting text**
- **Para 5.9.1, line 5, change to *“...HBC has put in place a number of relevant supplementary and advisory documents. This section provides policies relating to local character, public art and external lighting.”* Delete rest of Para and *“Accordingly...apply.”***

## **Policy H2 – Built Heritage**

- 197 The nation's heritage assets are an irreplaceable resource. Chapter 12 of the Framework "*Conserving and enhancing the historic environment*" sets out a clear approach to ensuring that heritage assets are conserved in a manner appropriate to their significance. The protection of heritage assets is an important matter of law.
- 198 Rather than have regard to the Framework, Policy H.2 sets out a completely different approach to land use planning policy in Conservation Areas, such that development simply needs to have a "*clear regard*" to various things and be of the "*highest architectural quality.*" Such quality is not defined and the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal in this regard.
- 199 The Policy goes on to require all development in Conservation Areas to comprise "*the best*" of innovative or creative design. This subjective requirement does not have regard to national policy as set out in Chapter 12 of the Framework.
- 200 Policy H2 does not meet the basic conditions, but comprises a confused policy approach at odds with the requirements of national policy.
- 201 I recommend:
- **Delete Policy H.2 and supporting text**

**Policy H.3 - Landmark Building in Need of Revitalisation**

202 The first part of Policy H.3 states that proposals for the revitalisation of identified landmark buildings will be encouraged. No indication is provided of what form such encouragement might take, precisely what "*revitalisation*" actually means in land use planning terms, or why this part of the Policy is deliverable, having regard to Paragraph 173 of the Framework.

203 The second part of Policy H.3 comprises a general statement and is vague in respect of the term "*appropriate action*." It does not comprise a land use planning policy.

204 I recommend:

- **Delete Policy H.3 and supporting text**
- **Policies Maps, delete reference/annotations relating to H.3**

**Policy H.4 – Ripon Sewage Treatment Works**

205 Whilst Policy H.4 seeks to establish a land use planning policy that provides for improvements to local character, having regard to Chapter 7 of the Framework, "*Requiring good design,*" it does so in a vague manner that fails to have regard to deliverability.

206 The Policy requires "*Landscaping and other visual improvement measures,*" but does not specify what these should comprise. There is no indication of whether future development could deliver these unknown measures.

- **Policy H.4, change to "*Where possible, development proposals to improve the Ripon Sewage Treatment Works facility should incorporate measures to help screen and/or soften the appearance of the Works.*"**
- **Para 5.9.7, line 7, change to, "...and this *may provide an opportunity to address matters relating to visual impact.*" Delete remainder of paragraph**

**Policy H.5 – Public Art**

207 Whilst the provision of Public Art can make a positive contribution to well-designed places, having regard to Chapter 12 of the Framework, in the absence of any detailed supporting information, it is not clear how, why, or when development proposals must include public art, or a financial contribution towards it. Such an obligation may not be relevant or appropriate for many forms of development. As set out, Policy H.5 fails to have regard to Paragraph 204 of the Framework, in respect of planning obligations.

208 I recommend:

- **Policy H.5, change to “*The provision of Public Art, or financial contributions towards its provision, will be supported.*”**
- **Delete Para 5.9.9**

**Policy H.6 – External Lighting**

209 Whilst Policy H.6 seeks to protect local character, having regard to Paragraph 58 of the Framework, not all external lighting requires planning permission. Also, the Policy fails to provide any indication of the detailed basis on which lighting will be assessed, or who by.

210 Taking the above into account, I recommend.

- **Change Policy H.6 to “*Proposals for external lighting requiring planning permission must demonstrate how they respect local character, residential amenity and biodiversity.*”**
- **Delete the last paragraph of Para 5.9.10, which is incorrect**

**Policy H.7 – Temporary Screening of Sites and Buildings**

211 Policy H.7 appears to stray into matters related to building control, rather than land use planning.

212 It is not clear why a planning application for development should provide for screening to all perimeters and to building openings in every case. Such a requirement may not be relevant and there is no substantive evidence to the contrary. As such, Policy H.7 runs the risk of placing a hurdle in the way of the achievement of sustainable development and does not have regard to Paragraph 44 in respect of information requirements being relevant, necessary and material.

213 I recommend:

- **Delete Policy H.7 and supporting text**

**Policy H.8 – Building Use**

214 Policy H.8 requires development not to cause “*unacceptable planning impacts.*” This is a vague and ambiguous phrase, which may give rise to a wide range of subjective interpretations and which fails to provide a decision maker with a clear indication of how to react to a development proposal.

215 Further to the above, it may be that a property is in a single ownership, in which case it is not clear how Policy H.8 might seek to control the impact of ground floor development on the current or future use of upper floors or rear courtyards in all cases. No substantive detail is provided in this regard and consequently, it cannot be concluded that policy H.8 is deliverable, having regard to Paragraph 173 of the Framework. Further, the term “*compromise,*” as it applies to Policy H.8, is undefined and adds to the ambiguity of the Policy.

216 I recommend:

- **Delete Policy H.8 and supporting text**



Planning Obligations

**Policy J.1 – Planning Obligations**

217 Policy J.1 refers to something that may, or may not happen in the future and which may, or may not be of relevance in respect of development proposals. It does not comprise a land use planning policy.

218 I recommend:

- **Delete Policy J.1**
- **Create a “*Community Action J.1 – Planning Obligations. The City Council will seek to encourage planning obligations to mitigate the wider impacts of development and to provide for public benefits.*”**
- **Para 5.10.6, delete third bullet point, which refers to site allocations**
- **Delete sentence “Accordingly...apply” at end of list of bullet points**
- **Delete title “Justification for J.1”**
- **Para 5.10.7, delete first paragraph and replace with “*The City Council would like to see agreements address the following measures:*” RETAIN FOUR BULLET POINTS HERE**
- **Delete Paras 5.10.9 and 5.10.10**

## **8. The Neighbourhood Plan: Other Matters**

219 The recommendations made in this Report will have a subsequent impact on Contents, Policy numbering, Paragraph and page numbering.

220 I recommend:

- **Update the Contents and page numbering, taking into account the recommendations contained in this Report.**

## **9. Referendum**

221 I recommend to Harrogate Borough Council that, subject to the modifications proposed, **the Ripon Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

222 I am required to consider whether the Referendum Area should be extended beyond the Ripon Neighbourhood Area.

223 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

224 Consequently, I recommend that the Plan should proceed to a Referendum based on the Ripon Neighbourhood Area approved by Harrogate Borough Council and confirmed by public notice on the 12<sup>th</sup> December 2012.

**Nigel McGurk**  
**October 2018**  
**Erimax – Land, Planning and Communities**



EST. 2011