

SILEBY NEIGHBOURHOOD PLAN REVIEW 2022 - 2037

**The Report of the Independent Examiner to Charnwood Borough Council on
the Sileby Neighbourhood Plan Review**

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9th November 2022**

Summary

I was appointed by Charnwood Borough Council, in agreement with the Sileby Parish Council, in August 2022 to undertake the Independent Examination of the Sileby 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 Borough of Charnwood Local Plan 2011 - 2028.

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

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Introduction

This report sets out the findings of the Independent Examination of the Sileby Neighbourhood Plan Review 2022-2037. The Plan was submitted to Charnwood Borough Council by Sileby 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 Sileby 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 by Charnwood Borough Council, in agreement with the Sileby Parish Council, to conduct the examination of the Sileby Neighbourhood Plan Review and to report my findings. I am independent of both the Charnwood Borough Council and the Sileby 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 Sileby Parish Council has considered this issue and taken the view that the proposed changes to the 'made' Plan fall into the third category: "material modifications which do change the nature of the plan or order would require examination and a referendum". Whilst I note that the Plan period is extended to coincide with the Local Plan now in Examination, the extension is just one year. And whilst I note that a housing site is now allocated, that site is within the made Neighbourhood Plan's Limits to Development where Policy G1 says "Development proposals will be supported" and part of the site was identified as Reserve Site 12 (Policy H1) where development "will be supported" should an evidenced need arise. I also note that there is an additional Policy INF1 (also referred to as IR1) but I cannot assess that as a substantial change.

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:

- revised policies largely update those in the 'made' Plan;
- where there are additional policies these do not change the nature of the Plan when considered alongside the made Plan; and
- modifications made within the review bring the Plan up to date to reflect changes in national and local planning policy.

It is therefore 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 recommendations then follow.

In undertaking this examination I have considered the following documents:

- Sileby Neighbourhood Plan Review as submitted
- Sileby Neighbourhood Plan Review Basic Conditions Statement (July 2022)
- Sileby Neighbourhood Plan Review Consultation Statement (July 2022)

- Strategic Environmental Assessment Screening Report & Habitats Regulation Assessment Screening Report Sileby Neighbourhood Plan Review 2022-37 (June 2022)
- Sileby Neighbourhood Plan Review Statement of Modifications/Updates (May 2022)
- Sileby Neighbourhood Plan 2018 - 2036
- Content at: www.charnwood.gov.uk/pages/sileby_neighbourhood_plan
- Content at: www.silebyparishcouncil.gov.uk/neighbourhood-plan1.html#Sileby%20Neighbourhood%20Plan
- Representations made to the Regulation 16 public consultation on the Sileby Neighbourhood Plan
- Charnwood Borough Local Plan 2011 – 2028 Core Strategy and Saved Policies of the Charnwood Local Plan (2004)
- Charnwood Borough Draft Local Plan 2021 - 2037
- National Planning Policy Framework (NPPF) (2021)
- Neighbourhood Planning Regulations (2012)
- Planning Practice Guidance (PPG) (March 2014 and subsequent updates)

I carried out an unaccompanied visit to the Neighbourhood Area on 4th November 2022 in particular to view the site now proposed for allocation.

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 Sileby Neighbourhood Plan Review could be examined without the need for a public hearing and I advised Charnwood 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 Charnwood Borough Council neighbourhood planning website for the Sileby Neighbourhood Plan.

Sileby Neighbourhood Area

A map showing the boundary of the Sileby Neighbourhood Area has been provided within the Neighbourhood Plan. Further to an application made by Sileby Parish Council, Charnwood Borough Council approved the designation of the Neighbourhood Area on February 10th 2017. 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)

I note that the decision to review the Neighbourhood Plan was taken in May 2021 and the Advisory Committee was formally reinstated. I also note that all landowners who had

applied to the Borough Council 'Call for Sites' were written to inviting 'expressions of interest' for future residential development. Subsequently these landowners were advised of the outcome from the site assessment process. An exhibition about the emerging Neighbourhood Plan Review was held in April 2022. The event was extensively publicised by leaflets distributed to each household and via social media. Feedback was invited from attendees. The formal six-week public consultation period on the Pre-Submission Sileby Neighbourhood Plan Review ran between 20th May and 1st July 2022. A summary report of the analysis of the responses and the recommendations relating to them was prepared and is included as an Appendix to the Consultation Statement.

I am therefore satisfied that the consultation process was proportionate to the scale of the review 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.

Representations Received

Consultation on the submitted Plan Review, in accordance with Neighbourhood Planning Regulation 16, was undertaken by Charnwood Borough Council from Tuesday July 26th until Friday September 9th 2022. I have been passed 18 representations in total. 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.

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 Charnwood Borough Local Plan 2011– 2028 Core Strategy and Saved Policies of the Charnwood Local Plan (2004).

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 Sileby's distinctive features and character. The Review has been approached with transparency and care, with input as required and support from Charnwood 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 my Report comment about the Plan Review 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 after review 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 Version".

List of Contents

The Contents list, including Appendices, 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.

Foreword

It is appropriate for the Foreword to be updated to reflect the Review process. However, I queried the accuracy of some of the new content. Paragraph 3 suggests it relates to changes in Plan context "since the Neighbourhood Plan was Made". Whilst it is true that the UK is no longer a member of the EU, this had no immediate impact on the legislative context for neighbourhood planning. Whilst it is also true that the NPPF has been updated (and the Practice Guidance alongside this), only one such review has been undertaken since the Plan was 'made'. It was unclear to me where "These changes to the NPPF have strengthened the range of powers that Neighbourhood Plans have where they undertake residential site allocations", although I noted the related point about clarification through the Courts. The Qualifying Body explained that the sentence was "to highlight the introduction of paragraph 14 which outlines circumstances where NPs which include a residential allocation can remain up to date where the Local Plan is unable to offer protection. Although this was introduced in the 2019 NPPF and the original NP was Made after this date, the NP was prepared from 2014 following the guidance from the first NPPF in 2012 which did not include this provision." Accordingly, there are therefore a few points that need correction or updating.

Recommendation 3:

Under the heading "Foreword":

3.1 In paragraph 3 in the second sentence delete “and the UK has left the EU”.

3.2 In paragraph 4 replace “These changes to the NPPF have strengthened the range of powers that Neighbourhood Plans have where they undertake residential site allocations” with ‘Changes have benefitted Neighbourhood Plans that allocate land for housing where Local Plan policies are assessed as out-of-date’.

3.3 In paragraph 5:

3.3.1 In the fourth sentences replace “sites” with ‘a site’.

3.3.2 In the fifth sentence replace “control” with ‘influence’.

What changes have been made?

The content is helpful to the understanding of the way that the Plan has changed but needs further review for accuracy and clarity. From the Contents page this section would appear to be Section 1, but the numbering has been omitted from the title here; the Qualifying Body agree that a correction was required. I don't consider that the date that the original Neighbourhood Plan was made needs to be supported by an Appendix. In relation to Policy G1, no alteration was required to the red line “to incorporate the site allocation”. For clarity I suggest that in the sentence relating to Policy H1 the first reference to “Reserves Sites” is omitted. In relation to Policy H2: Windfall “define” should be replaced with ‘better define’. The Policy shown here as “IR1” is shown later within the Plan as “Policy INF1”; since these references are to the same Policy, for consistency I suggest the use of INF1. Through my enquiries it has been established that some of the Policies listed as “unchanged” have in fact been altered to some degree; this should be noted (and later references in this Report will be made to the alterations).

Recommendation 4:

Under the heading “What changes have been made:

4.1 Number this section as ‘1.’.

4.2 At the end of the first paragraph replace “(See Appendix 7):” with a full stop.

4.3 In the sentence relating to Policy G1 omit “, and to incorporate the site allocation”.

4.4 In the sentence relating to Policy H1 omit the first reference to “: Reserve Sites”.

4.5 In the sentence relating to Policy H2 replace “define” with ‘better define’.

4.6 In the sentence relating to Policy IR1 replace “IR1” with ‘INF1’.

4.7 Introduce immediately prior to the paragraph commencing “The vast majority of the policies ...” the following:

‘The coverage of some Policies has been amended or updated in minor ways:

Policy ENV3: Important Open Spaces

Policy ENV6: Biodiversity, Hedges and Habitat Connectivity

Policy ENV8: Biodiversity Protection in New Development.’

4.8 Alter the paragraph commencing “The vast majority of the policies ...” to remove reference to the Policies noted in 4.7 above.

2. Introduction

Paragraphs 6 & 7 need some amendment in view of the further progress made. In the absence of a Glossary the references in paragraph 5 on page 8 to “LCC” and “VAS” need some expansion. The update on Community Actions is helpful content illustrating progress.

Recommendation 5:

Under the heading “2. Introduction”:

5.1 In paragraphs 6 & 7 delete: “It is now ready to be submitted to Charnwood Borough Council who will consult on it further before arranging an Examination. After that it will be put forward to referendum, where those on the electoral register in Sileby Parish will be invited to vote on whether or not they support it. Over 50% of those voting must vote yes for it to become a ‘Made’ statutory planning document.”

5.2 In paragraph 5 on page 8 provide the full wording alongside the first use of acronyms “LCC” and “VAS”.

3. How the Neighbourhood Plan fits into the Planning System

I note that this section has been appropriately updated to acknowledge the 2021 revision of the NPPF. However, the middle of paragraph 6 suffers from some drafting issues which need resolution.

Recommendation 6:

Under the heading “3. How the Neighbourhood Plan fits into the Planning System” and within paragraph 6, correct the drafting error in the middle of the paragraph and toward the end of the paragraph replace “to be made available with” with ‘which accompanied’.

4. The Plan, its vision, objectives and what we want it to achieve

This section has been revised only to the extent that the differences in Policy content are acknowledged.

5. How the Plan was prepared

I note that this section has been extended to accommodate the consultative process on the Review, although through an apparent editing error a paragraph relating to a 2018 event appears *after* the Review references. Given the significant step of including a site for housing development it is inappropriate that no specific reference is made to the site selection process.

Recommendation 7:

Under the heading “How the Plan was prepared”:

7.1 Correct the sequencing of paragraphs.

7.2 Add within the last paragraph: ‘Maps of the sites proposed to be allocated in the Review were provided and these were on display at the consultation event and comments sought.’

6. Our Parish

I note that this section has needed no alteration.

7. Meeting the requirement for sustainable development

Given that sustainability was at the heart of the site selection process it is inappropriate that no reference to it is made here.

Recommendation 8:

Under the heading “Meeting the requirement for sustainable development” add the following in the middle of the last paragraph:

‘The Site Sustainability Assessment (SSA) process adopted for the selection of sites for allocation is a methodology comparing housing land supply options to be used for plan making purposes. The aim of the SSA is that the least environmentally damaging and

therefore the most environmentally sustainable locations are supported for potential residential development.'

8. Neighbourhood Plan Policies

A General policies

Limits to Development

Policy G1: Limits to Development

I note that Limits to Development are a policy tool used by Charnwood Borough Council in the adopted Local Plan with which the Neighbourhood Plan needs to be in general conformity. I also note that the "Methodology" has not altered from that stated in the 'made' Neighbourhood Plan except for an updating and the addition of a clarification that "Sites with an intention to permit but without a planning consent have been excluded". It is important that the methodology is applied consistently. It has been confirmed to me that, since the Plan was submitted, no such sites have changed status. I note that the local authority has suggested that the proposed allocation in the yet-to-be adopted Local Plan should be included within the Limits, but this would be inconsistent with the Methodology and, as the Qualifying Body notes, could prejudice the assessment by the Planning Inspector. A related query arose from "consistency with the approach taken for the limit boundary for [Local Plan site allocation] HA53". The Qualifying Body has advised that "This is an error in drafting. HA53 and HA54 both have the status 'intention to grant permission' but neither have signed [Section] 106 agreements so both should be omitted as this prejudices the final [outcome]". Accordingly, a correction to the Limits to Development boundary needs to be made.

I cannot agree with the assertion within a representation that "If the settlement boundary is not to be redrawn, additional clarity is required within the policy wording itself to ensure that uses ancillary to committed development can be delivered outside of the defined Limits to Development". The Limits to Development are drawn to follow the built form of the settlement and uses more rural in form are specifically addressed; planning consent modifications to the boundary may be picked up retrospectively.

I note that the Policy wording matches that used in the 'made' Neighbourhood Plan.

Recommendation 9:

Remove from the Limits to Development boundary shown on Figure 2 the area of Charnwood Local Plan 2021-37 site HA53 Land off Barnards Drive, Sileby.

Policy G1, with its amended supporting map, meets the Basic Conditions.

Design Principles

Policy G2: Design

The importance of good design has been further emphasised within the latest NPPF and I agree with the Qualifying Body that there is no reason to revisit this Policy.

B. Housing and the Built Environment

Introduction

This section is an important pre-amble to Policies H1 and H3. The section "Setting a housing growth target for Sileby" appears to detail that the Parish housing requirement is $363 - 49 - 60 = 254$ dwellings. In contrast the Neighbourhood Plan allocates land for just 18 dwellings, and this is said to have "exceeded the agreed housing provision target required by Charnwood Borough Council" (page 29). The difference is the strategic housing allocation made in the emerging Local Plan of 345 dwellings.

I note that the Examination of the Local Plan is progressing in parallel with this Examination. Planning Guidance (Paragraph: 009 Reference ID: 41-009-20190509) is clear that Neighbourhood Plans "can be developed before or at the same time as the local planning

authority is producing its local plan". However, a number of further expectations are then noted:

"Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development" "Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination." I should further note here:

"Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need." (Planning Guidance Paragraph: 040 Reference ID: 41-040-20160211).

In response to my enquiries the local authority has stated: "The LPA has provided, in the absence of a strategic policy setting a formal neighbourhood plan area housing requirement, an indicative housing requirement of 18 dwellings in accordance with NPPF Para 67. The LPA considers that the indicative figure takes account of the up-to-date reasoning and evidence of housing need that informs the emerging local plan, given that it is effectively a 5% uplift on the figure proposed in the emerging Charnwood Local Plan 2021-37." I concur with the local authority's reasoning that distinguishes between the strategic and neighbourhood plan housing requirements. The local authority is evidently satisfied that the strategic housing requirement can and will be met – in fact the evidence presented suggests it may well be exceeded – so the obligation to ensure general conformity with strategic local policies is met. What is however required is greater clarity with the introductory paragraphs.

The local authority has further stated: "In order to meet the requirements of NPPF Para 14 [relating to the impact of allowing development that conflicts with the neighbourhood plan] the [Neighbourhood Plan] has to meet criteria 14a-d. 14a, 14c and 14d can be clearly determined by future decision makers. 14b requires policies that meet the neighbourhood plan area housing requirement (not also the Local Plan's requirement) which in this case the LPA has specified as 18. Allocations to meet this need are proposed. It is therefore the LPA's view that NPPF para 14b would be satisfied and, if the examiner agrees, stating this within the neighbourhood plan would address any ambiguity for decision makers." Therefore, again, greater clarity in the text is required to explain the context for the Neighbourhood Plan Policies.

Recommendation 10:

Under the sub-heading "Setting a housing growth target for Sileby" replace the second paragraph with:

'Following an approach by Sileby Parish Council, a figure of 18 additional dwellings was identified by Charnwood Borough Council as the indicative housing requirement for Sileby Neighbourhood Plan 2022 - 2037. This figure reflects the total allocations for the Neighbourhood Area in the Local Plan currently in Examination. A 5% buffer above the Local Plan allocations of 345 dwellings was suggested, equating to a figure of 18 dwellings. Against this total housing requirement it should be noted that a total of 49 dwellings have already received planning consents at the time of this Plan submission. Further, it is reasonable to assume that there will be additional 'windfall' housing sites within the Limits to Development - 42 completions on such sites of 9 dwellings or fewer are recorded as having been delivered between 2011 and 2021. The Sileby Neighbourhood Plan Review therefore supports sustainable development by containing policies and allocations to meet or exceed

housing requirement identified by the local authority, thus meeting the expectation of NPPF (2021) Paragraph 14(b).'

Policy H1: Residential Allocation

Planning Practice Guidance says that “A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria” (Paragraph: 042 Reference ID: 41-042-20170728). I note from the content of Appendix 3e that such an appraisal has been carried out by independent consultants. It is evident that many of the potential sites have been discounted because they are either beyond the required scale and/or they do not meet the preference for reusing brownfield land. Several representations either directly or indirectly challenge the approach. However, I consider it is legitimate for the approach to be guided by the local authority’s indicative housing requirement and the NPPF’s expectation of “substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs” (para 120(c)). Whilst I assess the process adopted for the selection of a suitable and sustainable site to allocate as appropriate and proportionate, I noted:

- It is unclear whether Appendix 3e contains the final report since at a few points “REWORD” appears in the text, which might indicate either that a rewording is required or has been made. I have been supplied with replacement content for a part of the report which, whilst not significantly altering its reasoning and conclusions, should be incorporated into the final Appendix, which should itself be attached at the rear of the Plan.
- The document refers to a two-stage process, the second being “an active dialogue with the landowners, NBBC (*sic*) and possibly other agencies, the aim is to consider the complex issues involved in a potential allocation of a residential site in the NDP that is both developable and deliverable”. I was unable to identify any details of this second stage and this has not helped the transparency of the conclusions reached. As the local authority has noted, “it is the responsibility of the Qualifying Body to demonstrate that relevant consultees and landowners agree with the allocation”, thus evidencing that the sites are deliverable (Planning Practice Guidance Paragraph: 005 Reference ID: 41-005-20190509). Through correspondence I have established that the parallel progressing of the Local Plan preparation, with its own search for sites, seems to have been a source of confusion for landowners. But the owners of the single site to be allocated have now indicated a firm commitment to work with the Qualifying Body to deliver its development. My site visit indicated that the delivery of the small but complicated site will have significant challenges, but probably no more than delivering brownfield land in general. The local authority has confirmed: “The proposed residential allocation has no known constraints and therefore no objection is raised”.
- Little detail is provided about input from community consultation, for instance whether maps were provided to indicate the location of sites. Whilst the Qualifying Body has noted that the Plan is accompanied by the required Consultation Statement, that provides very little detail on the site selection process element. However, it has been confirmed to me that “maps were provided of the sites that were allocated in the NP Review and these were on display at the consultation event and comments sought”. This therefore ought to be confirmed within the Plan text.

The Policy wording should be compatible with but not repeat the content of the earlier preamble text. The local authority has suggested additional wording for Policy criteria (e) to clarify that the open space provision should be in line with Local Plan requirements.

Recommendation 11:

11.1 Under the heading “Housing Allocations” (page 28) in the second paragraph:

11.1.1 Replace “the housing provision target required” with ‘the indicative housing requirement assessed’.

11.1.2 Insert a new second sentence as follows:
‘The sites proposed for allocation and their locations were put on display at the public consultation event and comments sought.’

11.2 Within Policy H1:

11.2.1 Delete the first paragraph and reword the opening of the second as:
‘Development of a minimum of 18 dwellings at the site to the rear of 107 Cossington Road identified on Figure 4a will be supported subject to:’.

11.2.2 Expand element (e) to read:
‘An area of open space to meet the Local Plan requirements will be made available for recreation and natural boundaries will be retained wherever possible.’

11.3 Within Appendix 3 – now renumbered as Appendix 1 and attached to the Plan:

11.3.1 Insert the replacement pages submitted on behalf of the Qualifying Body via the local authority email dated 12/10/22.

11.3.2 To avoid confusion I suggest that it would also be appropriate to replace “NBBC” with ‘CBC’ throughout.

As amended Policy H1 meets the Basic Conditions.

Reserve Sites

Policy H2: Reserve Sites

Whilst the identification of additional sites with housing potential evidently makes a positive contribution, the Local authority has noted that the present housing supply position is such that the Policy criteria are already met and therefore the sites are, in effect, allocated at the point that the Plan is ‘made’. The Qualifying Body indicated acceptance of this position, albeit a position that may change when the emerging Local Plan is adopted. Since the sites are within the Limits to Development the sites are already acceptable in principle – I note that the previous Examination addressed potential conflict with Policy E1. As noted by the Qualifying Body “The two reserve sites in the Review NP were also included in the Made NP as reserve sites, so in this case this is not a newly identified policy”. As noted by the local authority: “Although the sites do not conflict with a current strategic Local Plan policy, their allocation will result in discrepancies between the Local Plan and the Neighbourhood Plan” The local authority adds: “The policy should note that the ‘de-designation’ of these sites as protected employment sites will be in accordance with the Local Plan policy”, entailing an additional Policy element

Recommendation 12:

Within Policy H2 add a new element (a) as follows, and amend subsequent elements to (b) - (d):

‘The de-designation of these sites as protected employment sites, where appropriate, must accord with Local Plan policy.’

As amended Policy H2 meets the Basic Conditions.

Windfall development

Policy H3: Windfall Development

I note that this Policy has been altered in order to better define the scale of development that is acceptable. I note that the Examiner of the now ‘made’ Neighbourhood Plan commented: “No justification is given for the limitation of such developments to 9 dwellings. While it is

likely that most such developments would be relatively small scale, and the reserve sites that have been identified in Policy H1 could accommodate more dwellings, in terms of sustainable development, I can see no clear reason why, if a site which could accommodate a larger development and met the other criteria in the policy came forward it should not be accepted. The limitation to sites of 9 or less dwellings could also prevent the provision of affordable housing which can only be required on sites of more than 10 dwellings. Sileby is a relatively large village where developments of more than 9 dwellings are unlikely to appear out of place provided, they meet the required design standards.” The Plan Review now allocates a site within the Limits to Development assessed as being able to accommodate 18 dwellings. The local authority has noted that “Policy H3 of the neighbourhood plan should acknowledge that Local Plan allocations within the Limits to Development boundary will not be applicable to the 9-dwelling threshold”; by definition allocated sites are not “windfalls” but clarification should be noted in the text.

I am not presented with any persuasive evidence that the 9-dwelling limit should now be reintroduced; I am simply told how the figure of 9 has been derived. My conclusion is that the Policy can do no more than express a preference for a 9-dwelling limit within the context of each site setting.

Recommendation 13:

13.1 Under the heading “Windfall Development”:

13.1.1 At the end of the first sentence add:

‘, such as this Plan or the emerging Charnwood Local Plan 2021 -2037’.

13.1.2 At the beginning of the third paragraph replace “requires” with ‘encourages’ and insert ‘be’ between “to” and “9”.

13.2 Within Policy H3:

13.2.1 In the opening sentence delete “of up to nine dwellings”.

13.2.2 Add to element (b) after the semi-colon:

‘whilst appropriate consideration should be given to the size of an available site and its setting, there is a preference for developments of up to 9 new units;’

As amended Policy H3 meets the Basic Conditions.

Housing Mix

Policy H4: Housing Mix

Unaltered.

Affordable Housing

Policy H5: Affordable Housing

I note that the amendment to refer to “clusters” of social housing is supported by the local authority. As the Qualifying Body notes, the Policy is expressed as a “should” rather than a “must” and, in response to a representation, I cannot see that the expressed preference for clusters could inhibit the successful delivery of mixed housing.

Unamended Policy H5 meets the Basic Conditions.

C. The Natural and Historic Environment

Policy ENV1: Protection of Local Green Space

Unaltered. I don’t consider it appropriate to open this part of the Plan on the basis of the input from Severn Trent that is not particular to the Neighbourhood Area.

Policy ENV2: Protection of Sites of Environmental Significance

Unaltered.

Policy ENV3: Important Open Spaces

The local authority has pointed out that the amendment to this Policy has not been noted in the summary. It would appear that the amendment does not significantly alter the intended operation of the Policy but I invited the Qualifying Body to comment on whether the omission from the summary may have been misleading within the context of the public consultation. The Qualifying Body responded: “The change from the Made NP is not considered sufficiently significant to require further consultation as it reflects the updated [Local Plan] evidence base” and the local authority concurred. I am accordingly satisfied that the update is factual.

Policy ENV4: Built Environment: Non-designated Heritage Assets

Unaltered.

Policy ENV5: Ridge and Furrow

Unaltered.

Policy ENV6: Biodiversity, Hedges and Habitat Connectivity

The local authority has pointed out that the amendment to this Policy has not been noted in the summary. It would appear that the amendment does not significantly alter the intended operation of the Policy but I invited the Qualifying Body to comment on whether the omission from the summary may have been misleading within the context of the public consultation. The Qualifying Body responded: “The change only relates to an updating of the policy to include the new requirement to provide biodiversity net gain of at least 10%. As this is a statutory requirement there are no consultation responses that could have required a change to the policy” and the local authority concurred. I am accordingly satisfied that the update is factual.

Policy ENV7: Protection of Important Views

Unaltered.

Policy ENV8: Biodiversity Protection in New Development

The local authority has pointed out that the amendment to this Policy has not been noted in the summary. It would appear that the amendment does not significantly alter the intended operation of the Policy but I invited the Qualifying Body to comment on whether the omission from the summary may have been misleading within the context of the public consultation. The Qualifying Body responded: “The change only relates to an updating of the policy to include the new requirement to provide biodiversity net gain of at least 10%. As this is a statutory requirement there are no consultation responses that could have required a change to the policy” and the local authority concurred. I am accordingly satisfied that the update is factual.

I can't conclude that the Policy needs strengthening on the basis of comments from the Environment Agency that are not particular to the Neighbourhood Area.

Policy ENV9: Footpaths and Bridleways

Unaltered.

Policy ENV10: Flood Risk and Brownfield Sites

Unaltered. I don't consider it appropriate to open this part of the Plan for review on the basis of the input from Severn Trent which is not particular to the Neighbourhood Area.

Policy ENV11: Renewable Energy Generation Infrastructure

Unaltered.

D. Community Facilities and Amenities

Unaltered. The local authority has noted that a minor change to presentation has an error – misses section ‘c’.

E Transport and Road Safety

Parking

Unaltered. I don't consider it appropriate to open this part of the Plan for review on the basis of the input from Severn Trent which is not particular to the Neighbourhood Area.

Sileby Roads and Traffic issues

Policy T2: Highway Issues

Whilst I note that this Policy is said to have now been written with a local focus it is not, on the basis of the Policy wording, “evident how a decision maker should react to development proposals” (NPPF paragraph 16). I asked the Qualifying Body in what ways a development scheme might be “designed to minimise additional traffic generation and movement through the Village”. The Qualifying Body responded that “This may include directional signs or requirements to turn away from the village”; but these are not matters addressed through planning. The Qualifying Body also commented that “This policy wording has passed examination in [other] neighbourhood plans”; however, where I found that to be the case, the particular words are generally within multi-criteria policies which may, in combination, provide a more evident local context. Location rather than design more clearly plays a significant part in determining traffic impacts and therefore a small rewording is required. Mitigation measures cannot be used to address existing shortcomings in the road network – as the local authority comments, these are Highway Authority matters – and therefore the concern for traffic controls might become a Community Action.

Recommendation 14:

14.1 Under the heading “Sileby Roads and Traffic issues” remove one of the two uses of “There are several other locations with significant capacity issues”.

14.2 Within Policy T2 replace “designed” with ‘located so as’ and delete the second sentence.

14.3 The concern for new traffic controls might be picked up within the Community Actions.

As amended Policy T2 meets the Basic Conditions.

Rail

Policy T3: Sileby Railway Station

Unaltered

Bus Service

Policy T4: Bus Transport

Unaltered

Walking and Cycling

Policy T5: Walking and Cycling

Unaltered.

Canal

Policy T6: Canal

Unaltered.

F Business and Employment

Unaltered

9. Infrastructure Requirements

Policy INF1: Developer Contributions

It was unclear to me why this Policy had been given a section of its own, rather than just another Policy within Section 8. However, neither the Qualifying Body nor the local authority considered an alteration was essential.

The preamble to the Policy explains the source of funds, albeit only a portion of any funds is likely to be passed to the Parish Council for spending. The preamble need not be repeated in the Policy.

Recommendation 15:

Within Policy INF1 delete the sentence beginning “Where policies in this Plan require contributions ...”.

As amended Policy INF1 meets the Basic Conditions.

10. Monitoring and Review

Updated only.

Appendices

I agree with the local authority that Appendices that are referred to in the interpretation of policies should be attached to the final document, rather than lost in the generality of supporting documents. Accordingly, I have listed in my recommendation here the relevant Appendices for inclusion.

Recommendation 16:

16.1 Add at the end of the Plan document the following Appendices (and ensure they are renumbered accordingly within the text):

Appendix 1: Sustainable Site Assessment Report

Appendix 2: Environmental Inventory

Appendix 3: Buildings and Structures of Local Significance

16.2 Related amendments are required as follows:

Page 5: remove reference to “Appendix 7” since that is not required.

Page 32: remove the reference to Appendix 3 which is now a different Appendix.

Page 45: remove reference to Appendix 5 since that doesn’t detail the Important Open Spaces.

Pages 47 & 48: amend the reference to “Appendix 6” to read ‘Appendix 3’.

Page 74: replace the reference to “Appendix 7” with the page link to the Neighbourhood Plan evidence page.

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

A further Basic Condition, which the Sileby 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 Sileby 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, Charnwood Borough Council determined in their Report dated May 2022 (updated in June 2022) that an environmental assessment of the Sileby Neighbourhood Plan Review was not required as it is unlikely to have significant environmental effects. The report concluded: “the Neighbourhood Plan is required to be in conformity with the Core Strategy. Given this requirement and the limited scale of development proposed in the Neighbourhood Plan, it is not considered that the Neighbourhood Plan will further affect any European site in addition to the impacts identified in the HRA Screening Report undertaken in 2013 for the Core Strategy.” The Council has also concluded: “Given the consultation responses [from the Statutory Bodies], this SEA/ HRA screening report has determined that there is no requirement for a full Strategic Environmental Assessment or Habitats Regulations Assessment on the regulation 14 version of the plan. No substantive changes have been made between the regulation 14 and regulation 16 plan, therefore no further screening is required.”. 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 Statement on Basic Conditions, the Sileby Neighbourhood Plan Review “has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR). The Neighbourhood Plan has been prepared with extensive input from the community and stakeholders as set out in the accompanying Statement of Consultation. Considerable care has been taken throughout the preparation and drafting of this Plan to ensure that the views of the whole community were embraced to avoid any unintentional negative impacts on particular groups.” 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 Sileby 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' Sileby Neighbourhood Plan sets out some modified and new policies to guide and direct development proposals in the period up to 2037. 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 assessment is that the Plan Review includes material modifications which do not change the nature of the Plan and which require examination but not a referendum.

My Independent Examination of the Plan concludes that the Sileby 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 Charnwood 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 Version".	For accuracy
2	Review the "Contents" pages once the text has been amended to accommodate the recommendations from this Report.	For clarity and accuracy
3	<p>Under the heading "Foreword":</p> <p>3.1 In paragraph 3 in the second sentence delete "and the UK has left the EU".</p> <p>3.2 In paragraph 4 replace "These changes to the NPPF have strengthened the range of powers that Neighbourhood Plans have where they undertake residential site allocations" with 'Changes have benefitted Neighbourhood Plans that allocate land for housing where Local Plan policies are assessed as out-of-date'.</p> <p>3.3 In paragraph 5:</p> <p>3.3.1 In the fourth sentences replace "sites" with 'a site'.</p> <p>3.3.2 In the fifth sentence replace "control" with 'influence'.</p>	For clarity and accuracy
4	<p>Under the heading "What changes have been made:</p> <p>4.1 Number this section as '1.'</p> <p>4.2 At the end of the first paragraph replace "(See Appendix 7):" with a full stop.</p> <p>4.3 In the sentence relating to Policy G1 omit ", and to incorporate the site allocation".</p> <p>4.4 In the sentence relating to Policy H1 omit the first reference to ": Reserve Sites".</p> <p>4.5 In the sentence relating to Policy H2 replace "define" with 'better define'.</p>	For clarity and accuracy

	<p>4.6 In the sentence relating to Policy IR1 replace “IR1” with ‘INF1’.</p> <p>4.7 Introduce immediately prior to the paragraph commencing “The vast majority of the policies ...” the following: ‘The coverage of some Policies has been amended or updated in minor ways: Policy ENV3: Important Open Spaces Policy ENV6: Biodiversity, Hedges and Habitat Connectivity Policy ENV8: Biodiversity Protection in New Development.’</p> <p>4.8 Alter the paragraph commencing “The vast majority of the policies ...” to remove reference to the Policies noted in 4.7 above.</p>	
5	<p>Under the heading “2. Introduction”: 5.1 In paragraphs 6 & 7 delete: “It is now ready to be submitted to Charnwood Borough Council who will consult on it further before arranging an Examination. After that it will be put forward to referendum, where those on the electoral register in Sileby Parish will be invited to vote on whether or not they support it. Over 50% of those voting must vote yes for it to become a ‘Made’ statutory planning document.”</p> <p>5.2 In paragraph 5 on page 8 provide the full wording alongside the first use of acronyms “LCC” and “VAS”.</p>	For clarity and accuracy
6	<p>Under the heading “3. How the Neighbourhood Plan fits into the Planning System” and within paragraph 6, correct the drafting error in the middle of the paragraph and toward the end of the paragraph replace “to be made available with” with ‘which accompanied’.</p>	For clarity and accuracy
7	<p>Under the heading “How the Plan was prepared”: 7.1 Correct the sequencing of paragraphs.</p> <p>7.2 Add within the last paragraph: ‘Maps of the sites proposed to be allocated in the Review were provided and these were on display at the consultation event and comments sought.’</p>	For clarity and accuracy

8	<p>Under the heading “Meeting the requirement for sustainable development” add the following in the middle of the last paragraph: ‘The Site Sustainability Assessment (SSA) process adopted for the selection of sites for allocation is a methodology comparing housing land supply options to be used for plan making purposes. The aim of the SSA is that the least environmentally damaging and therefore the most environmentally sustainable locations are supported for potential residential development.’</p>	For clarity and accuracy
9	<p>Remove from the Limits to Development boundary shown on Figure 2 the area of Charnwood Local Plan 2021-37 site HA53 Land off Barnards Drive, Sileby.</p>	For correction
10	<p>Under the sub-heading “Setting a housing growth target for Sileby” replace the second paragraph with: ‘Following an approach by Sileby Parish Council, a figure of 18 additional dwellings was identified by Charnwood Borough Council as the indicative housing requirement for Sileby Neighbourhood Plan 2022 - 2037. This figure reflects the total allocations for the Neighbourhood Area in the Local Plan currently in Examination. A 5% buffer above the Local Plan allocations of 345 dwellings was suggested, equating to a figure of 18 dwellings. Against this total housing requirement it should be noted that a total of 49 dwellings have already received planning consents at the time of this Plan submission. Further, it is reasonable to assume that there will be additional ‘windfall’ housing sites within the Limits to Development - 42 completions on such sites of 9 dwellings or fewer are recorded as having been delivered between 2011 and 2021. The Sileby Neighbourhood Plan Review therefore supports sustainable development by containing policies and allocations to meet or exceed housing requirement identified by the local authority, thus meeting the expectation of NPPF (2021) Paragraph 14(b).’</p>	For clarity and accuracy and to meet Basic Conditions 1 & 3

11	<p>11.1 Under the heading “Housing Allocations” (page 28) in the second paragraph:</p> <p>11.1.1 Replace “the housing provision target required” with ‘the indicative housing requirement assessed’.</p> <p>11.1.2 Insert a new second sentence as follows: ‘The sites proposed for allocation and their locations were put on display at the public consultation event and comments sought.’</p> <p>11.2 Within Policy H1:</p> <p>11.2.1 Delete the first paragraph and reword the opening of the second as: ‘Development of a minimum of 18 dwellings at the site to the rear of 107 Cossington Road identified on Figure 4a will be supported subject to:’.</p> <p>11.2.2 Expand element (e) to read: ‘An area of open space to meet the Local Plan requirements will be made available for recreation and natural boundaries will be retained wherever possible.’</p> <p>11.3 Within Appendix 3 – now renumbered as Appendix 1 and attached to the Plan:</p> <p>11.3.1 Insert the replacement pages submitted on behalf of the Qualifying Body via the local authority email dated 12/10/22.</p> <p>11.3.2 To avoid confusion I suggest that it would also be appropriate to replace “NBBC” with ‘CBC’ throughout.</p>	For clarity and accuracy and to meet Basic Condition 1
12	<p>Within Policy H2 add a new element (a) as follows, and amend subsequent elements to (b) - (d): ‘The de-designation of these sites as protected employment sites, where appropriate, must accord with Local Plan policy.’</p>	For clarity and accuracy and to meet Basic Condition 3
13	13.1 Under the heading “Windfall Development”:	For clarity and accuracy and to meet Basic Conditions 1 & 3

	<p>13.1.1 At the end of the first sentence add: ' , such as this Plan or the emerging Charnwood Local Plan 2021 - 2037'.</p> <p>13.1.2 At the beginning of the third paragraph replace "requires" with 'encourages' and insert 'be' between "to" and "9".</p> <p>13.2 Within Policy H3: 13.2.1 In the opening sentence delete "of up to nine dwellings".</p> <p>13.2.2 Add to element (b) after the semi-colon: 'whilst appropriate consideration should be given to the size of an available site and its setting, there is a preference for developments of up to 9 new units;'</p>	
14	<p>14.1 Under the heading "Sileby Roads and Traffic issues" remove one of the two uses of "There are several other locations with significant capacity issues".</p> <p>14.2 Within Policy T2 replace "designed" with 'located so as' and delete the second sentence.</p> <p>14.3 The concern for new traffic controls might be picked up within the Community Actions.</p>	For clarity and accuracy and to meet Basic Condition 1
15	Within Policy INF1 delete the sentence beginning "Where policies in this Plan require contributions ...".	For clarity and accuracy and to meet Basic Condition 1
16	<p>16.1 Add at the end of the Plan document the following Appendices (and ensure they are renumbered accordingly within the text): Appendix 1: Sustainable Site Assessment Report Appendix 2: Environmental Inventory Appendix 3: Buildings and Structures of Local Significance</p> <p>16.2 Related amendments are required as follows: Page 5: remove reference to "Appendix 7" since that is not required.</p>	For clarity and accuracy and to meet Basic Condition 1

	<p>Page 32: remove the reference to Appendix 3 which is now a different Appendix.</p> <p>Page 45: remove reference to Appendix 5 since that doesn't detail the Important Open Spaces.</p> <p>Pages 47 & 48: amend the reference to "Appendix 6" to read 'Appendix 3'.</p> <p>Page 74: replace the reference to "Appendix 7" with the page link to the Neighbourhood Plan evidence page.</p>	
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