

**Appendix 1: Examiner's 'Report on Gotham  
Neighbourhood Plan 2017 – 2028'**



**Intelligent Plans**  
and examinations

# **Report on Gotham Neighbourhood Plan 2017 - 2028**

**An Examination undertaken for Rushcliffe Borough Council with the support of Gotham Parish Council on the submission draft of the Plan dated June 2018.**

Independent Examiner: Bob Yuille MSc DipTP MRTPI

Date of Report: 31 July 2019

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## **Main Findings** - Executive Summary

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

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – Gotham Parish Council;
- The Plan has been prepared for an area properly designated – the area shown on the map on page 8 of the Plan;
- As proposed to be modified the Plan specifies the period to which it is to take effect – 2017-2028; and
- The policies relate to the development and use of land for a designated neighbourhood area.

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

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

## **1. Introduction and Background**

### *Gotham Neighbourhood Plan 2017 - 2028*

- 1.1 The village of Gotham is located in the Green Belt to the south west of Nottingham. It is set in open countryside which includes both the high ground of the Gotham Hills and the flatlands of the Trent Valley. Public Transport enthusiasts will know that Gotham is the home of the South Notts Bus Company and Batman enthusiasts should note that the village is pronounced Goat-ham.
- 1.2 Work on the Plan has been co-ordinated by the Neighbourhood Plan Advisory Committee, a sub-committee of the Parish Council, assisted by a planning consultant.

### *The Independent Examiner*

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Plan by Rushcliffe Borough Council (the Council), with the agreement of Gotham Parish Council (the Parish Council).

- 1.4 I am a chartered town planner and former government Planning Inspector, with over 20 years' experience in conducting planning inquiries, planning hearings and development plan examinations. I am an independent examiner, and do not have an interest in any of the land that may be affected by the Plan.

*The Scope of the Examination*

- 1.5 As the independent examiner I am required to produce this report and recommend either:
- (a) that the Plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified Plan is submitted to a referendum; or
  - (c) that the Plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;
  - Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development';
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
    - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
  - Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended)('the 2012 Regulations').

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

### *The Basic Conditions*

- 1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the Plan must:
- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - Contribute to the achievement of sustainable development;
  - Be in general conformity with the strategic policies of the development plan for the area;
  - Be compatible with and not breach European Union (EU) obligations; and
  - Meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017<sup>1</sup>.

## **2. Approach to the Examination**

### *Planning Policy Context*

- 2.1 The Development Plan for the area covered by the Plan, not including documents relating to waste and minerals, is the Rushcliffe Local Plan Part 1: Core Strategy (the Local Plan) adopted in December 2014. The Borough Council is in the process of preparing the Local Plan Part 2: Land and Planning Policies (the emerging Local Plan). The emerging Local Plan has reached an advanced stage. The Examination has been held and consultations on the Proposed Modifications ended on 5 July 2019. While there is no requirement for the Plan to be in general conformity with any strategic policies in the emerging Local Plan, there is an expectation that

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<sup>1</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

the Borough Council and the Parish Council will work together to produce complementary plans<sup>2</sup>.

- 2.2 National planning policy for England is set out principally in the National Planning Policy Framework (the Framework). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published in July 2018, replacing the previous 2012 NPPF, and a further revised NPPF was published in February 2019. The transitional arrangements for local plans and neighbourhood plans are set out in paragraph 214 of the 2018 NPPF (and subsequent 2019 version), which provides 'The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019'. A footnote clarifies that for neighbourhood plans, 'submission' in this context means where a qualifying body submits a plan to the local planning authority under Regulation 15 of the 2012 Regulations. The Plan was submitted to the Council prior to the January 24th 2019 effective date. Thus, it is the policies in the previous NPPF that are applied to this examination and all references in this report are to the March 2012 NPPF and its accompanying PPG.

### *Submitted Documents*

- 2.3 I have considered all policy, guidance and other reference documents which I consider relevant to the examination, including the following:
- the Submission Draft of the Gotham Neighbourhood Plan dated June 2018;
  - The map on page 8 of the Plan which identifies the area to which it relates;
  - the Gotham Neighbourhood Plan Consultation Statement dated June 2018;
  - the Gotham Neighbourhood Plan Basic Conditions Statement dated June 2018;
  - all the representations that have been made in accordance with the Regulation 16 consultation;
  - Gotham Neighbourhood Plan SEA and HRA Screening Report, dated October 2018; and
  - The Parish Council's and the Borough Council's responses to my letters of 28 February 2019, 18 March 2019 and 21 March 2019.
- 2.4 I have also taken into account the written and oral evidence presented at the Hearing held on 13 June 2019<sup>3</sup>.

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<sup>2</sup> Paragraph 184 of the National Planning Policy Framework (2012) and PPG Reference ID: 41-009-20160211 (as was).

<sup>3</sup> Documents referred to in these paragraphs, including Hearing documents, are available at:

[www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/gotham/](http://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/gotham/)

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### *Site Visit*

- 2.5 I made an unaccompanied site visit to the Neighbourhood Plan Area on 13 June 2019 to familiarise myself with it, and visit relevant sites and areas referred in the Plan and in evidence.

### *Conduct of the Examination*

- 2.6 The majority of the issues raised during the examination were capable of being dealt with by written representations with the consultation responses clearly articulating the objections to the Plan, and presenting arguments for and against the Plan's suitability to proceed to a referendum. However, I considered that a Hearing was necessary to ensure an adequate examination of a number of issues as set out in the Hearing Agenda in Appendix 1. The Hearing was held on 13 June 2019.

### *Modifications*

- 2.7 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in Appendix 2.

## **3. Procedural Compliance and Human Rights**

### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The Plan has been prepared and submitted for examination by Gotham Parish Council, which is a qualifying body for an area that was designated by Rushcliffe Borough Council by way of a letter dated 6 April 2017.
- 3.2 It is the only Neighbourhood Plan for the area it covers and does not relate to land outside that area.

### *Plan Period*

- 3.3 The Plan specifies at paragraph 2.1 that it covers the period from 2017 to 2028. However, this is not stated in the title of the Plan. In the interests of clarity, it should be - as shown in **PM1**.

### *Neighbourhood Plan Preparation and Consultation*

- 3.4 Work on the Plan was co-ordinated by the Neighbourhood Plan Advisory Committee, a sub-committee of the Parish Council, assisted by a planning consultant. Local people were kept informed of progress on the Plan by various means including a newsletter delivered to every household in the

village; the village website and Facebook page; and the Parish Council newsletter. Community involvement in the preparation of the Plan was achieved through an informal consultation event, a public meeting and a meeting with local residents.

- 3.5 Regulation 14 consultations took place between 24 February and 6 April 2018 and elicited 21 responses which were considered by the Parish Council and, where it was deemed appropriate, the pre-submission version of the Plan was modified.
- 3.6 In its modified form the submission version of the Plan was the subject of Regulation 16 consultations between 16 November 2018 and 4 January 2019. All of the responses have been considered in the preparation of this report.
- 3.7 The question has arisen as to whether the owners of Local Green Spaces proposed in the Plan were properly consulted. In one instance, a site known as GOT5b, the Parish Council accepts that proper consultations were not carried out as the site in question was inadvertently left off the plans supplied at the Regulation 14 stage. The Parish Council has asked that the proposed Local Green Space designation be deleted from this site. This is a point I will return to later.
- 3.8 Other affected landowners also feel that they were not properly consulted on this matter. The Parish Council's response to this is that all landowners were consulted by way of leaflets and, where they had an email address, by email. The emails were flagged to ensure that they had been received. As to the leaflets, there is no way of proving whether they were delivered to every house and equally there is no way of proving that they were not. However, I note that the leaflets were delivered by Parish councillors who would be motivated to carry out this task with due diligence.
- 3.9 I note that a number of landowners affected by the proposed Local Green Space designation have no recollection of being contacted on this matter - and take their point that it would have been clearer had they been contacted specifically on this matter rather than simply being consulted on the Plan as a whole. But, on the other hand, it is not unreasonable to expect a landowner to pay close attention to an emerging plan that could affect his or her landholdings. I am satisfied that the Parish Council carried out reasonable endeavours to ensure that these landowners were properly consulted.
- 3.10 Bearing in mind these points, I am satisfied that the Plan has been publicised in a manner that is likely to bring it to the attention of people who live, work or carry on business in the parish of Gotham; that the consultation process has met the legal requirements and that it has had due regard to the advice on plan preparation and engagement in the PPG.

### *Development and Use of Land*

3.11 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

### *Excluded Development*

3.12 The Plan does not include provisions and policies for 'excluded development'.

### *Human Rights*

3.13 The Parish Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998) and, from my independent assessment, I see no reason to disagree.

## **4. Compliance with the Basic Conditions**

### *EU Obligations*

4.1 In a report dated October 2018, the Plan has been screened by the Parish Council to establish whether Strategic Environmental Assessment (SEA) or Habitat Regulation Assessment (HRA) is needed. The conclusion reached was that neither SEA nor HRA were needed. None of the statutory consultees dispute this conclusion and I have been given no reason to disagree.

### *Main Issues*

4.2 Having considered whether the Plan complies with the various legal and procedural requirements it is now necessary to deal with the question of whether it complies with the remaining Basic Conditions (see paragraph 1.8 of this report), particularly the regard it pays to national policy and guidance, whether it is in general conformity with strategic development plan policies and the contribution it makes to sustainable development.

4.3 I should say at this point that the purpose of the examination is not to delve into matters that do not fundamentally affect the Plan's ability to meet the Basic Conditions. I do not, therefore, deal with representations which, in effect, seek to improve the Plan but which are not necessary to meet the Basic Conditions. It should also be noted that it is open to the Parish Council to make minor modifications to the Plan such as correcting factual or typographical errors.

- 4.4 From my reading of the Plan, the consultation responses and other evidence, I consider that in this examination there are two main issues relating to the Basic Conditions. These are:
- General issues of compliance of the Plan as a whole; and
  - Specific issues of compliance of the Plan's policies.

### *General Issues of Compliance*

#### Regard to National Policy and Guidance

- 4.5 The Plan contains policies which seek to protect and enhance a Green Network of spaces in and around the village (Policy GS1); to identify opportunities for new housing, including affordable housing, and to ensure a high quality of design (Policies H1 to H3); to make provision for employment development, particularly for local people (Policy E1); to ensure the provision of traffic calming measures, to limit traffic congestion, and to support sustainable transport (Policies T1 and T2); to regenerate the centre of the village (Policy VC1); to reduce the risk of flooding and sewage overflow (Policies FL1 and FL2); and to ensure that funds derived from Community Infrastructure Levy (CIL) and section 106 agreements or undertakings go towards the implementation of policies in the Plan (Policy F1).
- 4.6 These policies are broadly consistent with the Framework insofar as it seeks to conserve and enhance the natural environment (section 11); to ensure the delivery of a wide choice of high quality homes and require good design (sections 6 and 7); to build a strong and competitive economy (section 1); to promote sustainable transport (section 4); support a prosperous rural economy (section 3) and to meet the challenge of climate change and flooding (section 10).
- 4.7 I am satisfied, therefore, that, with the modifications I propose later in this report, the policies of the Plan have regard to national policies and advice and meet the Basic Conditions in this respect.

#### General Conformity with Strategic Development Plan Policies

- 4.8 The Local Plan takes a similar approach to the Plan insofar as it seeks to deliver, protect and enhance green infrastructure (Policy 16); it seeks to make provision for employment and economic development but does not allocate any employment sites in Gotham (Policy 5); it promotes sustainable transport (Policy 14); seeks to reduce the risk of flooding (Policy 2); and seeks to ensure that appropriate developer contributions are made (Policy 19). Furthermore, I see nothing in the strategic policies of the Local Plan which is incompatible with the aim expressed in the Plan of regenerating the centre of Gotham.

- 4.9 The principal difference between the approach taken in the Local Plan and that taken in the Plan is on the matter of housing and this is something I will deal with subsequently. With that in mind and having regard to the points made above I am satisfied that the Plan, with the modifications I propose later in this report, is in general conformity with the strategic policies in the Local Plan.

#### Contribution to Sustainable Development

- 4.10 The most clearly defined assessment of what amounts to sustainable development in Gotham is contained in the Local Plan and in the emerging Local Plan. For the reasons set out above it is clear that the Plan makes an appropriate contribution to most aspects of the economic, environmental and social aspects of sustainability as set out in the Local Plan and for the most part, the same is true for the emerging Local Plan. There is, however, one important aspect on which the Local Plan and the emerging Local Plan diverge and this relates to housing provision for settlements such as Gotham.
- 4.11 Local Plan Policy 3 states, in effect, that in villages such as Gotham housing development will be for local needs only. The emerging Local Plan seeks to depart from that approach and, in order to meet 5-year housing land supply requirements, proposes the allocation of a site for around 70 homes on land East of Gypsum Way/The Orchards Gotham. All the indications are that the Inspector examining the emerging Local Plan accepts that approach and there is a reasonable prospect, therefore, that this site will be allocated.
- 4.12 It is clear from the supporting text to the Plan that the Parish Council disagrees with the allocation of this site and indeed Policy H1 of the Plan recommends the allocation of other sites for housing, while Policy GS1c) of the Plan proposes that the land East of Gypsum Way/The Orchards be allocated as a Local Green Space – a designation that would preclude the site from being developed. However, the Parish Council now accepts that the Local Green Space designation should be removed from this site.
- 4.13 As to the housing sites recommended in the Plan, these are no more than recommendations. They are not proposed allocations because it is not within the remit of the Plan to make such allocations. Gotham is at present washed over by Green Belt and under the terms of the 2012 version of the Framework it is not within the power of a neighbourhood plan to alter Green Belt boundaries. Nothing in the Plan, as proposed to be amended, will, therefore, preclude or frustrate the development of the site East of Gypsum Way/The Orchards Gotham.
- 4.14 With these points in mind, I am satisfied that the Plan makes an appropriate contribution to sustainable development.

## *Specific Issues of Compliance*

### Policy GS1 Protective and Enhancement Measures for a Green Network

- 4.15 **Policy GS1** seeks to identify, protect and enhance a green network of spaces linked by existing and proposed footpaths in and around the village. In broad terms, this policy is consistent with national policy (section 11 of the Framework) and with the Local Plan (Policy 16) which seek to conserve and enhance the natural environment. In the interests of clarity, the Parish Council accept that policies GS1a) and GS1b) should be reworded as shown in **PM2** and **PM3**.
- 4.16 Policy GS1c) identifies a number of Local Green Spaces. The Parish Council now accepts that two of these spaces should be deleted. The first of these is the housing site proposed in the emerging Local Plan on land East of Gypsum Way/The Orchards. There is an expectation that neighbourhood plans will align with emerging local plans and clearly this would not be the case if the one plan proposed a policy restricting development on land which the other plan was proposing for development. The proposed designation of this site as Local Green space should, therefore, be deleted as shown in **PM4**.
- 4.17 It has been established earlier in this report (paragraph 3.7) that the landowners of the proposed Local Green Space at GOT5b were not properly consulted. In this respect, the Plan fails to have regard to national advice<sup>4</sup> which is that landowners should be contacted at an early stage about the proposed designation. The proposed designation of this land as Local Green Space should, therefore, be deleted as shown in **PM5**.
- 4.18 As to the other proposed Local Green Spaces, the Framework acknowledges that local communities should be able identify these but advises<sup>5</sup> that, amongst other things, this designation should only be used where; firstly, the green space is in reasonably close proximity to the community it serves; secondly, where the green space is demonstrably special to a local community and holds particular local significance; and thirdly, where it is local in character and not an extensive tract of land.
- 4.19 I will deal at the outset with the first and third of these criteria. It is not disputed that all of the proposed Local Green Spaces are within reasonably close proximity to the village and that none of them amounts to an extensive tract of land.
- 4.20 This leaves the matter of whether each of the proposed Local Green Spaces is demonstrably special to the community and holds particular

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<sup>4</sup> PPG Reference ID: 37-019-20140306.

<sup>5</sup> Paragraph 77 of the Framework.

local significance. In most instances, it is not disputed that they are and having visited the village and its surroundings I see no reason to disagree.

- 4.21 However, the question of whether the proposed Local Green Space known as GOT4 is demonstrably special and holds particular significance has been raised. The Parish Council confirmed at the Hearing that its principal reasons for designating this site were because it contained an area of ridge and furrow and because of its biodiversity value.
- 4.22 It is not disputed that ridge and furrow is a declining feature in the historic environment but the point was made at the Hearing that the particular area in question is not the best example in the Borough; that the best example in the Borough is not as good as the best example in the County; and that the best example in the County is not as good as the best examples elsewhere.
- 4.23 However, as the Parish Council pointed out, it does not have to be among the best examples of ridge and furrow in the Borough, the County or elsewhere in order to be of particular local significance and that is the test to be applied in designating a Local Green Space. I accept this point and agree that the ridge and furrow on GOT4 is a visible feature that is of particular local historical significance.
- 4.24 In doing so I acknowledge that the Local Green Space designation would not prevent the ridge and furrow being lost as a result of deep ploughing but this site is managed pasture land where such ploughing would not typically take place regularly or frequently.
- 4.25 Turning to the question of biodiversity, GOT4 forms part of the Gotham Hills, West Leake and Bunny Hills Ridge Line which is identified as what is termed a Rushcliffe Focal Area (Ecological Networks). This is an area of woodland and grassland which should be buffered and enhanced and where there is the potential to create important links between existing habitats<sup>6</sup>.
- 4.26 It was pointed out at the Hearing that this Focal Area is broadly defined, it does not refer to individual sites such as GOT4 and it does not preclude development, which is, in effect, what a Local Green Space designation would do. There are, it was stated, no known protected species on GOT4, that no detailed survey of the biodiversity of the site has been carried out and to the extent that it has biodiversity value it is no different to the adjoining site on land East of Gypsum Way/The Orchards which is proposed as a housing allocation in the emerging Local Plan.

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<sup>6</sup> Rushcliffe Local Plan Part 2, Fig. E1 and Table E1.

- 4.27 While I accept that these are valid points, they do not preclude the local community from coming to the decision that this is a green area of particular importance to the community<sup>7</sup>. It would have been impractical on a limited budget for the Parish Council to commission ecological surveys and it is not unreasonable to rely on the knowledge of local people in this respect – particularly where it is acknowledged that GOT4 has some biodiversity value. While that value may be no greater than that of the proposed housing site on adjoining land, it may be that the prospect of the development of that site has sharpened the local community’s appreciation of the biodiversity value of GOT4.
- 4.28 I also note that consultations to date have revealed no widespread opposition to this proposed designation among the local community. I conclude, therefore, that there is sufficient evidence to indicate that this land is demonstrably special and of local significance to the local community, and that the designation of GOT4 as Local Green Space meets the Basic Conditions.
- 4.29 On a more general point, I note that all of the proposed Local Green Spaces are in Green Belt and for the most part would remain so if the Green Belt inset proposed in the emerging Local Plan were to be adopted. National Guidance makes clear that land in Green Belt can be designated as Local Green Space where some additional local benefit would be gained. The Parish Council accepts that protection from development is the norm in Green Belt but points out that exceptions have been made in the area particularly when it comes to housing development. A Local Green Space designation would help to identify areas that are of particular importance to the local community. Such an approach has regard to national guidance<sup>8</sup> and, given the presence of other potential housing sites in and around the village, would not undermine the aim of identifying sufficient land in suitable locations to meet identified development needs<sup>9</sup>. The proposed Local Green Space designations apart from the exceptions noted above, meet the Basic Conditions therefore in this respect.
- 4.30 In the interests of clarity the Parish Council consider that Policy GS1c) should be reworded in the manner shown in **PM6**. I agree.

#### Housing Policies

- 4.31 It is important to note that the purpose of Policy H1 is not to allocate housing sites but to recommend the allocation of certain sites for housing if in any future review of the Development Plan this is deemed

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<sup>7</sup> The definition of a Local Green Space as given in PPG Reference ID:37-005-20140306.

<sup>8</sup> PPG Reference ID: 37-010-20140306.

<sup>9</sup> PPG Reference ID: 37-007-20140306.

necessary<sup>10</sup>. However, this is not made sufficiently clear in Policy H1 or the supporting text as currently worded. It should therefore be modified as proposed in **PM7**.

- 4.32 Given that Policy H1 only makes recommendations that will not be binding on any future plan making authority, and that the recommended sites will no doubt be the subject of further assessment, I consider that the Housing Site Assessment<sup>11</sup> which led to their selection is a reasonably clear and robust document. Inevitably such an exercise involves subjective judgements and different conclusions may have been drawn from other similar exercises but I see no fundamental flaws in this particular assessment.
- 4.33 Policy H2 requires the provision of Design Briefs for these housing sites. It is not the practice of the Borough Council to require the provision of Design Briefs on such sites but I see nothing in either national policy or the strategic policies of the Local Plan that precludes such a requirement. Policy H2 meets the Basic Conditions in that it seeks to boost the supply of housing land in accordance with the requirements of the Framework and the Local Plan<sup>12</sup>.
- 4.34 Policy H3 seeks to influence the size and type of affordable housing provision and to give priority to local people when these houses are allocated. However, the Parish Council accepted at the Hearing that this Policy would not bind the Borough Council which is the body responsible for the allocation of such housing. The Policy is, therefore, merely a recommendation and should be re-worded to reflect this as shown in **PM8**. In its modified form Policy H2 meets the Basic Conditions as it seeks to ensure the provision of affordable housing in line with the requirements of the Framework and the Local Plan<sup>13</sup>.

#### Employment Policy

- 4.35 For the reasons set out in paragraph 4.33 above I see no reason to delete the reference to Design Briefs in Policy E1. As to the remainder of the policy, this seeks to support B1 uses on a site owned by British Gypsum to the south of the village. It does so by stating, in effect, that if proposals come forward for non B1 uses then it must be demonstrated that these are directly related to the operation of the much larger British Gypsum site nearby at East Leake and that there are not more sustainable sites at

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<sup>10</sup> This is because under the terms of the 2012 version of the Framework (paragraph 83) it is not within the remit of a neighbourhood plan to alter Green Belt boundaries.

<sup>11</sup> Background Paper 7 Housing Site Assessments.

<sup>12</sup> Paragraph 47 of the Framework and Policy and Policy 3 of the Local Plan.

<sup>13</sup> Paragraph 47 of the Framework and Local Plan Policy 8.

that larger site. B1 uses are to be supported because of their potential to provide employment for local people.

- 4.36 It is suggested that this policy goes beyond the remit of the Plan because it seeks to direct development towards East Leake. I do not agree. The Policy simply seeks to set out criteria to be considered when determining a planning application. It does not seek to prejudge the outcome of such an application. It is reasonable for the Parish Council to conclude that B1 uses would provide the greatest support for the local rural economy and in this respect Policy E1 chimes well with the Framework and Local Plan<sup>14</sup>. I note the point that there is little land available in East Leake, in which case Policy E1 would not preclude other industrial uses on the site in question. I also note that the Local Plan allows for the expansion of the site at East Leake<sup>15</sup>. Policy E1 meets the Basic Conditions.

#### Transport Policies

- 4.37 Policy T1 seeks to ensure the safe and convenient flow of traffic in the village, an aim which accords with the advice on sustainable transport contained in the Framework and the Local Plan<sup>16</sup>. However, the policy goes beyond the remit of the Plan by referring to developments outside the Plan area. These references should be deleted as shown in **PM9**. In its modified form, Policy T1 meets the Basic Conditions.
- 4.38 Policy T2 supports developments that provide improved sustainable access. In this respect, it pays due regard to both the Framework and the Local Plan which seek to achieve the same end<sup>17</sup>. Policy T2 meets the Basic Conditions.

#### The Village Centre

- 4.39 Policy VC1 seeks to ensure that a high quality of design is achieved in any schemes for the regeneration of the village centre. This is in accord with both the Framework and the Local Plan, each of which require good design<sup>18</sup>. The wording of the policy lacks clarity, however, in that it refers to 'strict design policies' but does not specify what they are. It would be clearer simply to require a high quality of design as shown in **PM10**.
- 4.40 Policy FL1 refers to the issue of flood risk in the context of deciding where housing will be allocated. However, as has already been established, the

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<sup>14</sup> Paragraph 28 of the Framework and Policy 5(6) of the Local Plan.

<sup>15</sup> Local Plan Policy 5(5).

<sup>16</sup> Section 4 of the Framework and Local Plan Policy 15.

<sup>17</sup> Section 4 of the Framework and Policy 14 of the Local Plan.

<sup>18</sup> Paragraph 57 of the Framework and Policy 10 of the Local Plan

Plan does not allocate housing sites. Policy FL1 is, therefore unnecessary and should be deleted as shown in **PM11**.

- 4.41 Policy FL2 seeks to ensure the provision of adequate sewerage facilities. However, its wording is misleading in that it implies that the Parish Council determines planning applications, which it does not, and pays no regard to Severn Trent's obligation to provide water and sewerage to new development. The Parish Council accepts that the wording suggested by the Borough Council, as set out in **PM12**, is clearer.

#### Finance

- 4.42 Policy F1 states that funds derived from the CIL or equivalent should, in effect, be spent in the Plan area. While this is an understandable aim, I agree with the Borough Council that such a policy goes beyond the scope of a neighbourhood plan. To quote from the Borough Council; "*There are specific legal requirements when it comes to the allocation of funding the Community Infrastructure Levy (CIL). Where a neighbourhood plan is in place then 25% of the funding can be claimed by parish councils for infrastructure to support new development, whilst the remaining funding is required to go towards strategic infrastructure as defined by a Regulation 123 list which is set by the Borough Council.*" It follows, therefore, that Policy F1 cannot simply direct the Borough Council to spend all CIL monies in the parish. This Policy should, therefore, be deleted as shown in **PM13**.

## **5. Conclusions**

### *Summary*

- 5.1 The Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, the evidence documents submitted with it and the written and oral evidence presented at the Hearing held on 13 June 2019.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### *The Referendum and its Area*

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Plan as

modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

#### *Overview*

- 5.4 It was pointed out to me at the Hearing, the preparation of a Neighbourhood Plan involves the Parish Council in expending considerable sums of money and much effort. This is undoubtedly true. In this instance, however, the Parish Council can take comfort from the fact that they and their professional adviser have produced a clear and focussed document that will provide a valuable tool in managing development in the area.

*R J Yuille*

Examiner

## **Appendix 1: Hearing Agenda**

### **GOTHAM NEIGHBOURHOOD PLAN PUBLIC HEARING – THURSDAY 13<sup>TH</sup> JUNE 2019**

TO BE HELD BETWEEN 10.00 A.M. AND 16.00 P.M. AT THE MOONRAKERS ROOM, GOTHAM MEMORIAL HALL, NOTTINGHAM ROAD, GOTHAM, NOTTINGHAM, NG11 0HE.

#### **AGENDA**

1. INTRODUCTIONS
2. CONDUCT AND PURPOSE OF THE PUBLIC HEARING
3. STATEMENT OF COMMON GROUND (SOCG)
  - Policy GS1a). The Parish Council in its response say that the rewording of Policy GS1a) proposed by the Borough Council is not acceptable but in the SOCG it is agreed that it is acceptable. Which is correct?
  - It is agreed within the SOCG that the Local Green Space designations to the 'South' and 'East' are appropriate. Where will I find 'East' on map 2B of the Neighbourhood Plan?
  - In the SOCG it is agreed that the proposed Local Green Space designation should be removed from the site known as GOT5a. In its response, the Parish Council is somewhat more equivocal. What is the agreed position?
4. POLICY GS1c). Local Green Spaces.
  - Were landowners contacted at an early stage about proposals to designate their land as a Local Green Space?
  - What additional local benefits would be gained by designating land in Green Belt as Local Green Space?
  - Would the Local Green Space designation give additional weight to Green Belt policies?
  - What is the justification for proposing to designate the site known as GOT04 as Local Green Space?
5. POLICY H1. Housing Sites.
  - Is the wording of Policy H1 sufficiently clear?
  - Should the recommended housing sites be included in the policy or in an appendix?
6. STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA) and HABITATS REGULATION ASSESSMENT (HRA) SCREENING REPORT.
  - This document concludes that SEA and HRA are not required. One of the statutory consultees, Historic England, does not agree and advises that SEA is required. Would the Borough Council and Parish Council please comment on this?

7. OTHER MATTERS

8. ACCOMPANIED SITE VISIT

Robert Yuille  
Independent Examiner  
May 2019

## Appendix 2: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Title Page	Gotham Neighbourhood Plan <u>2017 – 2028</u> .
PM2	Page 16 Policy GS1a)	Delete the final part of the last sentence of the existing policy:  <b><i>Planning applications which will result in the closure and diversion of a public right of way will not be permitted unless it can be demonstrated that satisfactory alternative provision can be made <del>and that they would result in net gains in terms of amenity and convenience.</del></i></b>
PM3	Page 16 Policy GS1b)	Delete existing policy. Replace with:  <b><i><u>Developments which harm designated wildlife sites and ancient woodlands in the Plan area will not be supported. Other developments which include provision for, or contribute to, the establishment and retention of a network of green infrastructure within the parish will be looked on favourably. Proposals which contribute towards new links and/or enhancement of the existing green infrastructure network will be supported. Proposals should consider opportunities to retain, enhance and incorporate features which are beneficial for wildlife and habitat creation through their landscape proposals and design.</u></i></b>
PM4	Page 17	Delete the land East of Gypsum Way/The Orchards from Map 2b of the Plan.
PM5	Page 17	Delete GOT5b from Map 2b of the Plan.
PM6	Page 16	Amend Policy as follows:

	Policy GS1c)	<p><b><i>Within designated <u>local green-spaces</u> the protective policies set out in Green Belt policies will be given <u>additional weight applied and to the effect that very special exceptional circumstances would need to be demonstrated for non-Green-Belt inappropriate uses to be allowed. In the case of any form of housing development it would need to be shown that no alternative sites are or will become available within Rushcliffe and/or the Greater Nottingham Housing Market Area and even where this is the case it will need to be shown that the harm from very marginal under provision of land for housing would be a greater harm than the development of the green space concerned.</u></i></b></p>
PM7	Page 26 Policy H1	<p>Amend Policy as follows:</p> <p><b>The Neighbourhood Plan will recommend the allocation of land for housing made up of parts or the whole of sites as shown in Map 4. <u>The sites listed in Appendix One are those to which priority should be given in any review of the Part Two Rushcliffe Local Plan or any review of the Neighbourhood Plan.</u></b></p> <p><b>Brownfield</b>  <del>The former Royal British Legion Building up to 11 dws (Any development must include provision to create viable access to GOT1 and GOT3)</del>  <b>Possible brownfield sites depending on owners future business plans</b>  <del>NCT Bus Depot (included in the plan) up to 19 dws</del></p> <p><b>Greenfield</b>  <del>Got 1 Land behind the Royal British Legion Building up to 20 dws</del></p>

		<p><del>Got 3 Land north of Kegworth Road/Home Farm (east) up to 20 dws</del>  <del>Got 9 Land at Gladstone Av. (extant planning permission) 3 dws</del>  <del>Got 10 Glebe land at Nottingham Road (part thereof) up to 12 dws</del>  <del>Got 12 Ashcroft Moor Lane (self-build)</del></p> <p>Deleted sites to be put in Appendix One.</p>
	Page 6	<p>New section of paragraph 2.1 to be added as follows:</p> <p><u>The Plan includes recommended allocations which are supported by the local community. These recommended sites are set out in Appendix One. It should be noted that, unlike the rest of the Neighbourhood Plan, Appendix One does not form part of the development plan, as defined by Section 38 of the Planning and Compulsory Purchase Act 2004. These sites are identified on Maps 1 and 4 and in Chapter 6. It will be for either the Parish Council or Borough Council and the review of either the Neighbourhood Plan or Local Plan to determine which, if any, of the recommended sites at Appendix One are ultimately allocated for development.</u></p>
	Page 19	<p>New paragraph 6.5 to read as follows:</p> <p><u>In accordance with planning legislation, the Plan recommends housing sites which may be allocated within future reviews of the Neighbourhood Plan or Local Plan. These do not form part of the development plan as defined by Section 38 of the Planning and Compulsory Purchase Act 2004, but are identified in this chapter and in Appendix One.</u></p>
	Page 22	<p>New paragraph 6.14 to read as follows:</p>

	Page 23	<p><u>As set out in paragraph 6.5, this Neighbourhood Plan only recommends housing sites which will be allocated through the future review of either this Neighbourhood Plan or the Local Plan. Therefore, until they are allocated they do not form part of the development plan.</u></p> <p>New paragraph 6.16 to read as follows:</p> <p>In the past, sites tended to be suggested for allocation through the Strategic Housing Land Availability Assessment (SHLAA) as entire fields or aggregations of entire fields. This is sometimes called planning by field boundaries. These are carried through into local plans and eventually developed on the ground. The boundaries thus formed then make no real sense in planning or design terms. The Neighbourhood Plan <del>will take</del> <u>recommends</u> a different approach. Given the context for numbers and type of housing, the Green Space Network and the structure of the village we see parts of the <del>following</del> <u>recommended housing sites in Appendix One</u> having <del>the</del> potential for housing (numbers refer to the Rushcliffe Further Options document). A Plan extract from the Rushcliffe BC document is included in Background Paper Seven. We see a real advantage in having a number of small sites in terms of choice and steady delivery through the Plan period.</p>
	Page 23	<p>New paragraph 6.18 to read as follows:</p> <p>To supplement this resource the 'Further Option' sites have been looked at in detail to see if they are appropriate for allocation in the Rushcliffe Local Plan. The results of the exercise are set out in Background Paper Seven. There are two main greenfield sites GOT 01 and GOT 03, supplemented by known infill sites GOT 09 and GOT12. All sites are vacant,</p>

		available (in the SHLAA) and can be delivered in the next 5 years. The following sites should be allocated a <u>priority for housing allocation for development in any future review of the Rushcliffe Location Neighbourhood Plan or Local Plan.</u>
PM8	Page 26 Policy H3	Amend Policy as follows:  <b><i>The priorities for affordable housing to meet the needs of Gotham are the provision of bungalows and one bed room flats. In the light of the likely mismatch between demand and supply in Gotham, priority for allocation of affordable housing in Gotham should be given to Gotham residents <u>where this is possible, for instance within exception sites.</u></i></b>
PM9	Page 30 Policy T1	Amend Policy as follows:  <b><i>The priority within the village is the safety and convenience of residents. Traffic speed will be restricted to defined limits by traffic calming at such sites as the entrance to the village at Nottingham Road, the Curzon St/Kegworth Rd junction, the Square and the entrance to the village from East Leake.</i></b>  <b><i>The amount of traffic passing through the village and the existing issues with parking will be a consideration in assessing development proposals <del>within Gotham, but also elsewhere such as Clifton South and East Leake.</del> <u>and will take into account wider cumulative impacts.</u></i></b>  <b><i>Traffic Regulation Orders and other means may be used to deal with congestion and parking on Leake Road and Kegworth Road/Hall Drive at school arrival and departure times.</i></b>

PM10	Page 31 Policy VC1	Amend Policy as follows:  <b><i>Within the whole Village Centre Regeneration Area shown on Map 6 <del>strict design policies will apply a high standard of design will be required including landscaping schemes that will make a positive contribution to the village.</del></i></b>
PM11	Page 33 Policy FL1	Delete Policy FL1.
PM12	Page 33 Policy FL2	Delete existing Policy FL2 and replace with  <b><i><u>Where required, applications for development shall be accompanied with documentation demonstrating that there will be no adverse impact on the existing sewage capacity of the village or specify the measures that will be undertaken to ensure that its impacts can be adequately addressed.</u></i></b>
PM13	Page 34 Policy F1	Delete Policy F1.