

**Appendix 1: Examiner's 'Report on Upper
Broughton Neighbourhood Plan 2011
– 2028'**



Intelligent Plans
and examinations

Report on Upper Broughton Neighbourhood Plan 2011 - 2028

An Examination undertaken for Rushcliffe Borough Council with the support of the Upper Broughton Parish Council on the Regulation 15 submission version of the Plan.

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Main Findings - Executive Summary

From my examination of the Upper Broughton Neighbourhood Plan (the Plan/UBNP) 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 – the Upper Broughton Parish Council (UBPC);
- the Plan has been prepared for an area properly designated – the whole of the Parish of Upper Broughton as shown on page 3 of the submitted Plan;
- the Plan indicates the period in which it is to take effect: 2011–2028; 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

Upper Broughton Neighbourhood Plan 2011-2028

- 1.1 Upper Broughton Parish, with a population of 327¹, is a parish in south eastern Nottinghamshire adjoining the boundary with Leicestershire, about 9 km north west of Melton Mowbray, about 22 km south east of Nottingham and through which runs the A606. It is a small rural parish with an agricultural landscape of very gently undulating countryside into which there are long views from within the village.
- 1.2 The formal process to commence preparation of the UBNP began in November 2016 when Upper Broughton Parish was designated as a Neighbourhood Area by Rushcliffe Borough Council (RBC). In February 2017, the UBPC circulated a flier to residents in order to create a Steering Group to help prepare the UBNP. The Steering Group also consisted of some members of the Parish Council. Amongst the various activities within the preparation process, a questionnaire was distributed, drop-in

¹ 2011 Census.

sessions were held and a working relationship was developed with RBC. The UBNP now represents over three years' work by those involved.

- 1.3 The vision for Upper Broughton is described in the Plan (page 8), the gist of which is to ensure that future development makes Upper Broughton a stronger and more vibrant community, with enhanced environmental impact, better provision for economic activities, whilst maintaining the "special feel" of a small semi-rural village.
- 1.4 The means to achieve the broader vision is then developed through subheadings which consider open spaces and views, traffic and parking, local services and facilities, heritage, the countryside, housing and business. These topics then form the logical basis of the Plan.

The Independent Examiner

- 1.5 As the Plan has now reached the examination stage, I have been appointed as the examiner of the UBNP by RBC, with the agreement of the UBPC.
- 1.6 I am a chartered town planner and former government Planning Inspector with previous experience of examining neighbourhood plans. I am an independent examiner and do not have an interest in any of the land that may be affected by the draft Plan.

The Scope of the Examination

- 1.7 As the independent examiner, I am required to produce this report and recommend either:
 - (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.8 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').

1.9 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

1.10 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 UBNP 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.

1.11 Regulation 32 and Schedule 2 to the 2012 Regulations prescribe a further Basic Condition for a neighbourhood plan. This requires that the making of the neighbourhood development plan does not breach the requirements of

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for RBC, not including documents relating to excluded minerals and waste development, is the Rushcliffe Local Plan (RLP) 2011 – 2028. The RLP Part 1: Core Strategy was adopted in December 2014. The RLP Part 2: Land and Planning Policies was adopted in October 2019, subsequent to the issue of the fact check version of this report (and during the period provided to UBPC and RBC for comment). I have therefore made a number of factual updates to reflect the adoption of the RLP Part 2, but none of my substantive recommendations have changed.
- 2.2 The UBNP must be in general conformity with the strategic policies of the Development Plan and which are included in the RLP Part 1: Core Strategy. Strategic policies are also included in RLP Part 2: Land and Planning Policies. In my conclusions in the report about whether the Basic Conditions are met, my references to strategic policies include both the Local Plan Part 1 and the Local Plan Part 2.
- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF) and the PPG offers guidance on how this policy should be implemented. The NPPF of July 2018, and the February 2019 revision, replaces the first NPPF published in March 2012. The UBNP was submitted to RBC in March 2019, so it is clear from paragraph 214 that this Plan is to be tested against the revised NPPF.

Submitted Documents

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted, which comprise:
- The Upper Broughton Neighbourhood Plan 2011–2028;
 - The map on page 3 of the Plan, which identifies the area to which the proposed Neighbourhood Plan relates;
 - the Consultation Statement, February 2019;
 - the undated Basic Conditions Statement;
 - all the representations that have been made in accordance with the Regulation 16 consultation;

² 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 Strategic Environmental Assessment (SEA) Screening Statement, dated February 2019 and the Habitats Regulations Assessment (HRA) Screening Statement, dated April 2019; and
- the request for additional clarification sought in my letter of 23 August 2019 and the responses dated 13 September 2019 by the Parish Council and the Borough Council, which are available on the Borough Council's website³.

Site Visit

2.5 I made an unaccompanied site visit to the Neighbourhood Plan Area on 30 August 2019 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and Appendices.

Written Representations with or without Public Hearing

2.6 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. As noted in paragraph 2.4 above, UBPC and RBC helpfully answered in writing the questions which I put to them in my letter of 23 August 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 the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

3.1 The UBNP has been prepared and submitted for examination by the UBPC which is a qualifying body. It extends over the whole of Upper Broughton, which constitutes the area of the Plan designated by RBC on 15 November 2016.

³ View at:

<https://www.rushcliffe.gov.uk/planningpolicy/neighbourhoodplanning/#d.en.42681>

- 3.2 It is the only neighbourhood plan for Upper Broughton Parish and does not relate to land outside the designated Neighbourhood Plan Area.

Plan Period

- 3.3 Subject to my comment in paragraph 4.6 below, the Plan specifies clearly the period during which it takes effect, which is between 2011 and 2028. The date aligns with the end date of the RLP, which is also 2028.

Neighbourhood Plan Preparation and Consultation

- 3.4 The concise and comprehensive Consultation Statement dated February 2019 indicates that the Parish Council took the first steps in the preparation of the Plan in February 2016 with two drop-in sessions, with prior publicity by a leaflet distributed to each household, an article in the Parish Magazine and notices on Parish noticeboards and bus stops. An article in the April/May edition of the Magazine invited potential participants onto a Steering Group to assist in preparing the Plan. The Steering Group then addressed the issues, priorities and concerns raised at the drop-in session. The UBPC then applied to the RBC to have the Parish designated as a Neighbourhood Area in September 2016. The designation by RBC was dated 15 November 2016.
- 3.5 In October 2017, a questionnaire was circulated to households and businesses in the Parish, available to be viewed and submitted electronically or on paper. 100 responses were received, representing about 40% of those distributed. The results were publicised in the Parish Magazine in December 2017. The responses to the questionnaire were used in the preparation of the Pre-Submission Version of the Plan.
- 3.6 The formal consultation on the UBNP under Regulation 14 of the 2012 Regulations took place over a period of seven weeks between 11 June and 30 July 2018. A copy of the Plan and supporting information was available online. A printed copy was also available at the local church, the pub and the telephone box. In addition, a public drop-in session was held. Fifteen responses were received to the consultation. Two of those representations from RBC and Nottinghamshire County Council concerned references in the Plan to non-designated heritage assets. Consequently, a further consultation was held between 1 December 2018 and 4 January 2019 inviting comments on a list of 41 non-designated heritage assets. No comments were received.
- 3.7 The UBNP was then submitted to RBC in March 2019 and was subject to consultation under Regulation 16 between 26 April 2019 and 7 June 2019. Eight representations were received. Therefore, I am satisfied that a transparent, fair and inclusive consultation process has been followed for the UBNP that has had regard to advice in the PPG on plan preparation and is procedurally compliant in accordance with the legal requirements.

Development and Use of Land

3.8 I consider that 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

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

Human Rights

3.10 The Basic Conditions Statement (BCS) comments that the Plan has considered the impact of its policies on groups with protected characteristics: age, disability, gender reassignment, marriage and civil partnership, race, religion and belief, sex and sexual orientation. The BCS concluded that there are no negative impacts on any protected characteristic and that the duty of care prescribed in the Equalities Act 2010 is met. The UBNP has been prepared with extensive input from the community and stakeholders as set out in the Consultation Statement. The RBC has not raised any issues concerning a breach of, or incompatibility with Convention rights (within the meaning of the Human Rights Act 1998). I have considered the matter independently and I have found no reason to come to a different conclusion.

4. Compliance with the Basic Conditions

EU Obligations

4.1 The UBNP was screened for SEA by UBPC. The Screening Statement is available on the web site of RBC⁴. The Council found that it was unnecessary to undertake SEA. When consulted, neither Historic England (HE), Natural England (NE) nor the Environment Agency (EA) disagreed with that assessment. Having read the very thorough SEA Screening Statement, and considered the matter independently, I agree with that conclusion.

4.2 The UBNP was further screened by RBC for HRA, which concluded that HRA was not required. NE agreed with that conclusion and had no further comments in its Regulation 16 consultation response. Based on my independent consideration on the information provided, I support the above conclusions.

⁴ View at:

<https://www.rushcliffe.gov.uk/planningpolicy/neighbourhoodplanning/#d.en.42681>

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Main Issues

- 4.3 Following the consideration of whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the Basic Conditions; particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance with all the Plan's policies.
- 4.4 As part of that assessment, I consider whether the policies in the UBNP are sufficiently clear and unambiguous, having regard to advice in the PPG. A policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence⁵.
- 4.5 Accordingly, having regard to the UBNP, the consultation responses, written evidence⁶ and the site visit, I consider that the main issues for this examination are whether the Plan policies (i) have regard to national policy and guidance, (ii) are in general conformity with the adopted strategic planning policies and (iii) would contribute to the achievement of sustainable development? I shall assess these issues on the basis of broadly grouping the themes which have been identified in the UBNP into: (a) Housing, Employment and Community Facilities; (b) Green Areas, Views and Rural Character; and (c) Heritage and Design.
- 4.6 However, before considering the policies of the Plan, there are two matters which I shall deal with. The first is the identification of the period of the Plan. Although the period is stated as 2011 to 2028, it does not become apparent until page 2 of the document and, in order to be clear, I recommend that the period is included on the front cover. **(PM1)**
- 4.7 Secondly, paragraph 1.26 states that the Neighbourhood Plan will form the basis for planning decisions in Upper Broughton. This is incorrect. The Regulation 16 representation from RBC is accurate in describing how the Neighbourhood Plan will form part of the Development Plan together with the Local Plan. I recommend that paragraph 1.26 of the Plan is modified by the text suggested by RBC. **(PM2)**

⁵ PPG Reference ID: 41-041-20140306.

⁶ The other evidence includes my letter of 23 August 2019 to the Upper Broughton Parish and Rushcliffe Borough Councils seeking clarification and the replies of 13 September 2019.

Topic (a): Housing, Employment and Community Facilities (Policies UB10, UB11, UB12, UB13, UB14, UB15, UB16, UB17 and UB3)

- 4.8 Policy 3 of the adopted Local Plan Part 1: Core Strategy indicates that a minimum of 13,150 houses will be provided in Rushcliffe Borough, just over half adjoining the built-up area of Nottingham and the remainder in settlements named in the policy. Upper Broughton is not a named settlement in the Local Plan and therefore, under Policy 3 2. b) viii), it is a village in which only local needs will be met. This is confirmed in the Local Plan Part 2: Land and Planning Policies.
- 4.9 Policy 11 of the Local Plan Part 2 indicates that planning permission will be granted for development on unallocated sites within the built-up area of a settlement, subject to certain environmental provisos. The policy then states that development outside the built-up area will be confined to that for which a countryside location is required, would meet an essential local need or would support rural diversification. Policy 22 of the Local Plan Part 2 defines the land beyond the physical edge of settlements as countryside which the policy seeks to protect.
- 4.10 The Local Plan: Part 2 does not identify the settlement boundaries within which Policy 11 and outside which Policy 22 will apply. The Local Plan states that the location of the proposal and its relationship to neighbouring buildings and the physical edge of the settlement will determine whether the application is within the settlement or within the open countryside. For example, developments that do not extend beyond the identifiable settlement boundary are considered within the settlement.
- 4.11 Nevertheless, Policy UB10 of the Plan defines Limits to Development (LTD) for Upper Broughton and states that applications for housing development within the LTD of the village will be supported. The LTD boundary is shown on a plan on page 34 of the UBNP. Although the Local Plan Part 2 does not identify settlement boundaries, there is no evident reason why they should not be defined in the Neighbourhood Plan, so enabling the built-up area to be clearly understood for development management purposes in administering Local Plan Part 2 Policies 11 and 22.
- 4.12 The other elements of Policy UB10 restrict housing development outside the LTD to the re-use and adaption of rural buildings in accordance with Policy UB11 and replacement dwellings in accordance with Policy UB12. Policy UB11 and Policy UB12 generally conform with Local Plan Part 2 Policy 22 2. b) and Policy 22 3. and have regard to national guidance with one exception. Policy UB11 A. states that the rural building to be redeveloped should be of architectural and historical interest which is not

a criterion in either the NPPF or the Local Plan Part 2⁷. Therefore, I shall modify Policy UB11 by the deletion of criterion A. **(PM3)** Subject to the modification to Policy UB11, Policy UB10 would conform generally with the strategic policies of the development plan and have regard to national guidance for housing in rural areas.⁸

- 4.13 Policy UB13 seeks to implement an appropriate mix of housing for people living locally, which I consider is justified by the evidence in the Plan. The policy has regard to national guidance and generally conforms with the strategic policies for the area⁹.
- 4.14 Policy UB14 deals with the re-use of rural buildings for business use subject to seven criteria: A - G. Subject to one exception, I consider that the policy has regard to national guidance in paragraph 83 a) of the NPPF and generally conforms with strategic policies RLP Part 1: Policy 5 6. and RLP Part 2: Policy 22 2. e) and f). The exception is criterion F which is significantly more restrictive about traffic generation and requirements than national guidance in paragraph 109 of the NPPF in which development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Therefore, I shall modify Policy UB14 to incorporate that phraseology. **(PM4)**
- 4.15 Policies UB15 and UB16 consider the A46 Business Area which is shown on the map on page 41 of the Plan. Both policies generally conform with the strategic policies in the Local Plan and have regard to national guidance for building and strong competitive economy¹⁰.
- 4.16 Nottingham Heliport is based at Broughton Lodge Farm on the eastern side of the A46, north of the A46 Business Area. Policy UB17 seeks to reduce the impact of noise from the helicopters on the numbers of residents and the wider landscape, including local public rights of way. The Plan notes that planning permission was granted for the heliport in 2012 subject to conditions restricting the number of flights, the flight pattern and hours of operation. Although people who live near the Heliport and use the local footpaths and bridleways may be adversely affected by noise, there are no suggestions about how Policy UB17 could be implemented and I agree with the representations from RBC that it does not have regard to national guidance about necessary clarity for effective

⁷ NPPF: paragraph 79 b) refers to gaining the optimal viable use of a heritage asset, but this does not represent the only criterion for the development of an isolated dwelling in the countryside. c) refers to the re-use of redundant or disused buildings but does not require them to be of architectural and/or historic interest.

⁸ NPPF: paragraphs 77 – 79.

⁹ NPPF: “Section 5 Delivering a sufficient supply of homes” & RLP Part 1: Policy 8.

¹⁰ RLP Part 1: Policy 5 & NPPF paragraphs 80 – 84.

development management¹¹. Therefore, with regret, I shall recommend that the policy should be deleted. **(PM5)**

- 4.17 Policy UB3 aims to safeguard the community facilities in the village, is in general conformity with Policies 12 and 13 of the RLP Part 1 and has regard to national guidance¹². RBC suggested that, because the cricket club was used at weekends by a team outside the village without its own pitch, it could be interpreted that there was not a requirement from the local community. However, the evidence indicates that it is used for weekday evening league games by the club and so I consider that it is a community facility which should be safeguarded by the policy.
- 4.18 Therefore, overall, on the evidence before me, with the recommended modifications PM1, PM2, PM3, PM4 and PM5, I consider that the policies for housing, employment and safeguarding community facilities in the UBNP are in general conformity with the strategic policies of the RLP Part 1 and the RLP Part 2, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Topic (b) Green Areas, Views and Rural Character (Policies UB1, UB2, UB6, UB7, UB8 and UB9)

- 4.19 Policy UB1 designates seven Local Green Spaces (LGS). Paragraph 100 of the NPPF states that LGS designation should only be used where the green space is (a) reasonably close to the community it serves and holds a particular local significance; (b) demonstrably special to a local community and (c) is local in character and not an extensive tract of land. I agree that each LGS in the Plan is close to the community it would serve, is local in character and not an extensive tract of land. Appendix 2 of the Plan lists the criteria which have been used to justify why each LGS holds a particular local significance and, with the clarification of 13 September provided by UBPC, made in response to my question of 23 August 2019, I agree that the designations have regard to national guidance and do not conflict with Policy 33 of the RLP: Part 2. Therefore, the seven sites proposed should be designated as LGS.
- 4.20 Policy UB2 identifies eleven locally important views and vistas and seeks to safeguard them. Appendix 3 summarises the views and provides useful accompanying photographs. The vistas and some views cover large tracts of countryside and I consider that the aim to safeguard them implies a blanket restriction on development within their scope. This would be in conflict with the overall aim of national guidance to enable development which would otherwise be sustainable. Therefore, I shall modify the policy

¹¹ PPG Reference ID: 41-041-20140306.

¹² NPPF: paragraph 92.

to create a more balanced approach and to introduce significance into any detrimental impact that might occur. The policy would then generally conform with the RLP Part 2 Policy 11 1. c) and e) and have regard to national advice¹³. **(PM6)** However, viewpoints 10 and 11 in Policy UB2 are outside the area of the Plan. Defining a policy on land outside the Plan area is not legally compliant in relation to the statutory scope of a neighbourhood plan¹⁴. Accordingly, I shall delete viewpoints 10 and 11 from the policy. **(PM7)**

- 4.21 Policy UB6 states that land outside the Upper Broughton LTD as shown on the Policies Map is classified as countryside for the purposes of implementing Policy 22 of the RLP Part 2. I consider the policy would generally conform with the spatial objectives of the RLP Part 1 and with Policies 11 and 22 of the RLP Part 2. The policy has regard to national guidance to recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it¹⁵.
- 4.22 Policy UB7 describes four criteria to be met in order to gain support for ground mounted solar photovoltaic farms, one of which is that they are on previously developed or non-agricultural land. This criterion does not have regard to national guidance in that there is no such restriction on the siting of renewable energy development¹⁶. For the same reason, the criterion is in conflict with RLP Part 2 Policy 16. Therefore, I shall delete Policy UB7 A. **(PM8)**
- 4.23 Policy UB7 also states that wind turbines will not be supported. Neither NPPF (paragraph 154) nor PPG (Reference ID: 5-014-20150618) preclude wind turbines. Indeed, PPG describes in detail how planning applications for wind turbines should be assessed. Moreover, RLP Part 1 Policy 2 5. and RLP Part 2 Policy 16 2. provide for the development of wind turbines in certain circumstances. Therefore, this part of Policy UB7 does not have regard to national guidance and is not in general conformity with a strategic local plan policy. Accordingly, I shall modify the policy by deleting the relevant sentence and substituting the criteria which have been described in the representations from RBC, together with the addition of the references to the landscape sensitivity assessment to the justification. **(PM9)**
- 4.24 Policy UB8 seeks to safeguard the network of local ecological features and habitats. The policy includes a reference to the eight Local Wildlife Sites in the Plan area. The RLP Part 2 Policy 36 refers to the balanced judgement which is required where the benefits of the proposed development are

¹³ NPPF: paragraph 170.

¹⁴ See Town and Country Planning Act 1990 (as amended) Section 38A (2).

¹⁵ NPPF: Core planning principles: paragraph 17 bullet point 5.

¹⁶ NPPF: paragraphs 154, 170; PPG Reference ID: 5-013-20150327.

weighed against the nature conservation value of the site and the method of assessing the impact of the development on such sites. In order to enable Policy UB8 to generally conform with the RLP Part 2, I shall modify it by introducing the balanced judgment and, rather than repeating the whole of RLP Part 2 Policy 36, merely refer to it in the UBNP. **(PM10)** Policy UB8 would then also have regard to national guidance in the NPPF¹⁷.

- 4.25 RBC submitted representations that Policy UB8 should include references to further examples of where net biodiversity gains could be provided. However, the policy as modified would satisfy the Basic Conditions without those amendments and, in any event, the list merely provides examples and so would not exclude those features being considered.
- 4.26 Policy UB9 aims to protect ancient trees and hedgerows and trees of good arboricultural and amenity value and seeks replanting, where it would be appropriate. The policy would have regard to national guidance, subject to the inclusion of replanting with native species in Policy UB9.¹⁸ **(PM11)** It would also then generally conform with Policy 37 3. of the RLP Part 2.
- 4.27 Therefore, overall, on the evidence before me, with the recommended modifications PM6, PM7, PM8, PM9, PM10 and PM11, I consider that the policies of the UBNP for green areas, views and rural character are in general conformity with the strategic policies of the adopted RLP Part 1 and the RLP Part 2, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Topic (c) Heritage and Design (Policies UB4 and UB5)

- 4.28 Policy UB4 is entitled Local Heritage Assets. The text of the policy refers to "local heritage assets". A heritage asset may include, a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing)¹⁹.
- 4.29 The policy is confusing because it could be read as being aimed at all heritage assets, both designated and non-designated, which are local i.e. within the Plan area. Alternatively, the policy may be aimed solely at locally defined non-designated heritage assets (NDHA). The confusion is exacerbated by the use of the phrase "public benefit" in the policy, which

¹⁷ NPPF: paragraph 175 (a).

¹⁸ NPPF: Section 15 Conserving and enhancing the natural environment & PPG Reference ID: 8-034-20190721.

¹⁹ NPPF: Glossary.

is used in the balancing exercise in relation to the impact of development on designated heritage assets²⁰.

- 4.30 In their letter of 13 September, the UBPC helpfully clarified what the policy seeks to achieve. I agree that the designated heritage assets have their own specific protection through the RLP Part 1 Policy 11 and the RLP Part 2 Policy 28. Therefore, I shall modify Policy UB4 of the Plan so that it considers exclusively NDHA and which will then have regard to the national guidance in NPPF paragraph 197. **(PM12)** The policy will also generally conform with RLP Part 1 Policy 11.
- 4.31 The heritage assets in the Plan area are shown on three maps; the Policies Map: Village (page 98), the Policies Map: Parish (page 99) and Heritage Assets (page 19). Appendix 4 lists the Non-designated Heritage Features and describes the criteria which should be met in order to be defined as a NDHA. At first sight, the analysis in Appendix 4 appears thorough and the criteria used are those taken from the RLP Part 2. However, bearing in mind that PPG Reference ID: 18a-039-20190723 states that a substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets.
- 4.32 Moreover, RBC has expressed some reservations about the accuracy of some descriptions and, though PPG Reference ID: 18a-040-20190723 makes it clear that neighbourhood plans can identify NDHA, it is equally clear that it is important that the decisions to identify them as NDHA are based on sound evidence.²¹ This is especially so because, although the qualifying body, the UBPC, may identify NDHA, it is the local planning authority, RBC, who have the duty to administer the development management of them.
- 4.33 Accordingly, I recommend that UBPC and RBC work together to agree a list of NDHA which could be formally identified in a separate document or placed in the Local List (if the Borough Council decides to develop one of these in the future) which would identify the structures to which Policy UB4 would apply. Therefore, I recommend that the list of local heritage assets is deleted from the two Policies Maps and the map of Heritage Assets. **(PM13)**
- 4.34 Policy UB4 considers local design and amenity. The policy generally conforms with the RPL Part 1 Policy 10 and has regard to national guidance in NPPF²².

²⁰ NPPF: paragraphs 195 & 196.

²¹ Response dated 13 September 2019 to Q5.PPG Reference ID: 18a-040-20190723.

²² NPPF: Section 12 Achieving well-designed places.

4.35 Accordingly, on the evidence before me, with the recommended modifications PM12 and PM13, I consider that the policies of the UBNP for heritage and design are in general conformity with the strategic policies of the RLP Part 1 and with the RLP Part 2, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Other Comments

4.36 The Plan considers Traffic and Parking in Section 3. No planning policies for inclusion in the Plan are derived from the evidence. However, Appendix 1: (Non-planning issues) sets out several opportunities for further community action. As noted in paragraph 1.18 of the Plan, these do not form part of the statutory plan and are not the subject of this examination. Nevertheless, together, they demonstrate the positive consequences of the involvement of the community in the neighbourhood planning process and some wider aspects of life in Upper Broughton Parish.

4.37 The representations from RBC include some factual corrections which do not cause the Plan to fail a Basic Condition. Nevertheless, to improve accuracy, the Parish Council may wish to incorporate them when finalising the version of the Plan to be the subject of any future referendum. In addition, the adoption of the Local Plan Part 2 in October 2019 means that paragraphs 1.13 and 1.14 of the UBNP are now out of date and the Parish Council may wish to correct them.

5. Conclusions

Summary

5.1 The Upper Broughton Neighbourhood 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 to all the responses made following consultation on the Neighbourhood Plan, and the evidence documents submitted with it.

5.2 I have made recommendations to modify a number of policies 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 Upper

Broughton Neighbourhood Plan, as modified, has no policy which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the boundary of the Plan.

- 5.4 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

- 5.5 In conducting the examination, I enjoyed reading the Plan and visiting Upper Broughton and the countryside around it. The Plan is concise, comprehensive and well-illustrated, with commendably thorough Appendices. The Consultation Statement and Basic Conditions Statement were extremely helpful. The Parish Council, the supporting Steering Group and other volunteers are to be congratulated for their efforts in producing the document which, incorporating the modifications I have recommended, will make a positive contribution to the Development Plan for Upper Broughton and will assist in creating sustainable development.

Andrew Mead

Examiner

Appendix: Modifications

Proposed modification number (PM)	Plan reference	Modification
PM1	Front cover	Insert 2011 – 2028.
PM2	Paragraph 1.26	Delete the paragraph and substitute ²³ : “When the Plan is made it will form part of the Statutory Development Plan for Upper Broughton alongside the Borough Council’s Local Plan. Rushcliffe Borough Council will continue to be responsible for determining planning applications in the parish and will base decisions on policies contained within both the Local Plan and the Neighbourhood Plan. In accordance with planning legislation, planning decisions will be taken in accordance with the Development Plan unless material considerations indicate otherwise.”
PM3	Policy UB11	Delete criterion A.
PM4	Policy UB14	Delete the text of criterion F and substitute: “The proposed development would not have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”
PM5	Policy UB17	Delete the policy.
PM6	Policy UB2	Rephrase the first section of the policy: “Development proposals should respect the open views and vistas as shown on the Policies Map and set out in Appendix 3. Proposals which would have a significantly

²³ Text suggested by RBC in their Regulation 16 consultation response.

PM10	Policy UB8	<p>Delete: "Development should not harm.... Policies Map)".</p> <p>Substitute: "The following Local Wildlife Sites are defined on the Policies Map"</p> <p>Add the following sentence after the list of sites:</p> <p>"Development likely to have a significant adverse effect on the Local Wildlife Sites and other valuable local ecological features and habitats will be considered by the methodology expressed in Policy 36 of the Local Plan Part 2."</p>
PM11	Policy UB9	<p>Add a final sentence as follows:</p> <p>"Replanting should be with native species of local origin and provenance."</p>
PM12	Policy UB4	<p>Delete policy, replace with:</p> <p>"In considering planning applications which directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."</p>
PM13	<p>Policies Maps and Heritage Asset Map</p> <p>Appendix 4.</p>	<p>Delete references to local heritage assets.</p> <p>Delete Appendix 4.</p>