

## **Shearsby Neighbourhood Plan 2017 – 2031**

### **Shearsby Neighbourhood Plan Submission Version October 2017**

Final Report 25<sup>th</sup> September 2018 to Harborough District Council of the Examination into the Shearsby Development Plan 2017 – 2031.

By Independent Examiner, Martin S. Lee, MA MRTPI AMInstLM MTCPA NPIERS

**Martin S. Lee, MA MRTPI AMInstLM MTCPA NPIERS**  
**Martin S. Lee Associates Ltd.**

**25<sup>th</sup> September 2018**

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## **1.0 INTRODUCTION AND ROLE OF THE INDEPENDENT EXAMINER**

- 1.1** Neighbourhood Planning is an approach to planning which provides communities with the power to establish the priorities and policies to shape the future development of their local areas. This Report sets out the findings of the examination of the Shearsby Neighbourhood Plan Submission Version October 2018 (the Plan) which is intended to cover the period up to 2031.
- 1.2** The rural Parish of Shearsby, comprising the village of Shearsby and surrounding countryside, lies within the Harborough District Council's administrative area of Leicestershire, around nine miles due south of Leicester and north east of Lutterworth.
- 1.3** The Plan refers to noteworthy history associated with its development, designated Conservation Area, character, historic buildings and landscape setting, defining the composition of its population and housing stock (including escalating property values).
- 1.4** The Plan advises that the population of the Parish according to the 2011 Census was 240 persons in 95 households.
- 1.5** The Plan advises that the Parish Council applied to Harborough District Council on 12<sup>th</sup> November 2014 to seek designation as a Neighbourhood Area and the Statement of Basic Conditions confirms this was approved on 16<sup>th</sup> January 2015 by Harborough District Council (HDC). The Parish Council have with the assistance of local residents, consultants, Officers and Members of the District Council undertaken progressive and extensive consultation exercises, conducted a number of separate, progressive consultation events, produced a Housing Needs Report July 2016 and prepared both the initial Draft and (following the requisite six-week pre-submission consultation) the revised Submission versions of the Neighbourhood Plan.
- 1.6** My role as an Independent Examiner, when considering the content of a Neighbourhood Plan, is limited to assessing whether the submission version of the Neighbourhood Plan meets the 'basic conditions', and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The role is not to test the soundness of a Neighbourhood Plan or to examine other material considerations. Paragraph 8 of Schedule 4B to the Town & Country Planning Act 1990 (as amended) [excluding 2b, c, 3 to 5 as required by 38C (5) of the Planning and Compulsory Purchase Act 2004 (as amended)], states that the Plan must meet the following 'basic conditions':
- it must have appropriate regard for national policy;
  - it must contribute towards the achievement of sustainable development;
  - it must be in general conformity with the strategic policies of the development plan for the local area;
  - it must be compatible with human rights requirements and
  - it must be compatible with EU obligations.
- 1.7** In accordance with Schedule 4B, section 10 of the Town & Country Planning Act 1990 (as amended), the Examiner must make a report on the submission version of the plan containing recommendations and reaching one of the following three concluding recommendations:
- (a) that the submission version of the Plan is submitted to a referendum, on the basis it meets all the legal requirements, or

- (b) that subject to modifications specified in the Examiner's report being made to the submission version of the Plan and that the modified submission version of the plan proceeds to a referendum, or
- (c) that the submission version of the Plan does not proceed to referendum on the basis that it does not meet the legal requirements.

- 1.8** If recommending that the Plan proceeds to a referendum, I am also then required to consider whether the Referendum Area should extend beyond the Shearsby Neighbourhood Area, to which the Plan relates. I make my recommendations on this aspect at the end of this Report.
- 1.9** I am independent of the qualifying body, associated residents, business leaders and the local planning authority. I do not have any interest in any land that may be affected by the Plan and I possess the appropriate qualifications and experience required to undertake the Examination.

## **2.0 BASIC CONDITIONS**

- 2.1** I now consider the extent to which the Plan meets the "basic conditions". A Basic Conditions Statement was prepared in October 2017 by the Parish Council. This Statement explains requirements the Shearsby Neighbourhood Plan must meet under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 to satisfy the basic conditions tests, what these comprise and how the Plan meets these tests, including the contribution that the Plan makes towards the achievement of sustainable development and its general conformity with the strategic planning policies for the development of the area. This Statement has been supplied to me by Harborough District Council, together with the other examination documents including the Submission Version of the Plan, the Consultation Statement, the replies to the Regulation 16 consultation and Strategic Environmental Assessment Screening Opinion.
- 2.2** The Basic Conditions Statement demonstrates how the Neighbourhood Plan conforms with provision made under sections 61E (2), 61J and 61L of the Town & Country Planning Act 1990, as amended by s38C(5)(b). I am content that the Shearsby Neighbourhood Plan, has been submitted by a qualifying body, Shearsby Parish Council, in accordance with requirements and processes set out in the Town & Country Planning Act 1990 (as amended by the Localism Act 2011) and the Neighbourhood Planning Regulations 2012. Shearsby Parish Council as a qualifying body is thus entitled to prepare a Neighbourhood Plan for its area.
- 2.3** Shearsby Neighbourhood Plan covers the entire Parish of Shearsby. I am content that the Shearsby Neighbourhood Plan meets the requirements of The Town & Country Planning Act 1990, s61G in relation to the designation of the Plan area and that the proposed Neighbourhood Plan does not relate to more than one neighbourhood area and that there are no other Neighbourhood Development Plans in place within this neighbourhood area.
- 2.4** In relation to the Plan period it is essential that the Shearsby Neighbourhood Plan contains explicit reference to its starting point as well as its end point. The front cover page and text of the Plan contains clear reference to its starting point as 2017 and end point as 2031.
- 2.5** Section 1. "Why Neighbourhood Plans are Important" and Section 2. "Why we need a Neighbourhood Plan in Shearsby" of the Shearsby Neighbourhood Plan explain the primary

objectives of the Parish Council in commencing the preparation of the Plan in 2013 with an initial village questionnaire was to take *“direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need”* and grasp *“the opportunity to identify the best ways to deliver development, directing it towards what the local community needs and wants, while protecting our natural environment and cultural assets and ensuring a more sustainable future for ourselves and future generations”*. Section 5. *“What we want the Neighbourhood Plan to achieve”* specifically confirms that its intention is *“To improve the sustainability of Shearsby as a demographically mixed and balanced community, whilst seeking opportunities for landscape, recreational and ecological gain and minimising the environmental impact of new development”*.

**2.6** I note that the Harborough Local Plan (LP) was adopted in 2001 and a Core Strategy (CS) 2006 - 2028 was adopted in 2011 which either replaced or saved policies contained within the Local Plan. The Council advises on its own website that *“The Core Strategy is now considered out of date in terms of policies relating to housing and economic development following the publication of the National Planning Policy Framework.”* It also advises that the revised, intended timetable for adoption of a replacement Local Plan for the District is currently as follows:

- (a) March 2018: Submission of Local Plan to Secretary of State for public examination
- (b) October 2018: Examination hearings

No dates appear currently indicated/confirmed for anticipated receipt of the Inspector's Report, publication of potential modifications to the Local Plan and/or subsequent formal adoption of the Local Plan.

### **Appropriate Regard to National Policies and Guidance, including National Planning Policy Framework (NPPF)<sup>1</sup>**

**2.7** Presumption in favour of sustainable development: NPPF 2018 advises that all plans should be based upon the presumption favour of sustainable development, with clear policies that will guide how the presumption should be applied locally. Paragraph 13 of the NPPF 2018 acknowledges that the application of the presumption in favour of sustainable development will have implications for how communities engage in neighbourhood planning. Neighbourhoods are encouraged to develop plans that support the strategic development needs set out in Local Plans (including policies for housing and economic development) and plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. The Basic Conditions Statement asserts the Neighbourhood Plan is planning positively, enabling the delivery of new housing of high quality within the existing built-up area which respects the character, form and design of existing dwellings by defining a development limit for Shearsby, accepting that whilst (currently classified as 'open countryside' in the Core Strategy) the emerging Local Plan is updating the housing need and allocation across the District, it proposes a settlement hierarchy that places Shearsby within 'Other Villages and Rural Settlements' identifying it as one of the least sustainable locations for growth.

**2.8** The Basic Conditions Statement identifies within Table 1 how each of the Policies of the Neighbourhood Plan show regard to the NPPF. The NPPF 2018 explains at paragraph 29, that neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.

<sup>1</sup> Paragraph 214 of NPPF 2018 identifies the transitional arrangements in place to address circumstances where Neighbourhood and Local Development Plans are already in preparation prior to the replacement of NPPF 2012 with the current version NPPF 2018 that allow such plans to continue to be considered under NPPF 2012. It comments that plans submitted before 24 January 2019 will be examined on the basis of NPPF 2012.

- 2.9** The Shearsby Neighbourhood Plan includes a statement at the end of Section 5 establishing a clear Vision for the Parish that has been guided by extensive and progressive rounds of community consultation and engagement. In considering the overall reaction to the draft Pre-Submission version of the Plan the Consultation Statement indicates that of the responses received at that stage predominantly minor changes to the text of the Pre-Submission Draft Plan were required. The Parish Council has sought to translate the vision into a series of meaningful planning policies to plan for sustainable housing growth (bearing in mind the scale of and facilities within the village), protect the character of the area and to determine future planning applications as part of the Development Plan for the District.
- 2.10** Paragraph 29 of the NPPF 2018 requires that non-strategic policies within Neighbourhood Plans should not promote less development than the strategic policies of the Development Plan or undermine those policies and (at footnote 16 that Neighbourhood Plans must be in general conformity with the strategic policies of the Development Plan). Furthermore, neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Provided that neighbourhood plans do not promote less development than set out in the relevant Development Plans, or undermine the strategic policies, neighbourhood plans may shape and direct sustainable development in their area. It is clear from the Basic Condition Statement that the District and Parish Councils believe the Shearsby Neighbourhood Plan is in general conformity with the strategic policies of the 2011 Core Strategy, striking a positive balance between the physical and policy constraints of the Parish and the requirement to meet local housing demand. Helpfully, the Basic Conditions Statement sets out how each of the thematic policies supports relevant policies contained in the Core Strategy and Local Plan and conforms with the provisions of the Shearsby Neighbourhood Plan in Table 2. The Submission Version of the Plan also clarifies from the outset that its life span has been matched to that of the emerging Local Plan (i.e. to 2031) so that it may reasonably rely on the evidential background documentation used in its preparation. The Shearsby Neighbourhood Plan also references the more recent Strategic Housing Land Availability Assessment (SHLAA), its own Housing Needs Report 2016 and withdrawal of proposed housing allocation sites during the consultation process in its reasoning behind the decision to select a Limit of Development as a defined Settlement Development Boundary within which development proposals would not be judged against open countryside development policies but positively enabled as infilling, conversion or redevelopment of previously developed sites to support the strategic housing policies of the Core Strategy and the emerging Local Plan.
- 2.11** The Shearsby Neighbourhood Plan Basic Conditions Statement systematically sets out how the Submission Version of the Plan meets NPPF guidance based on the principal topic areas cross referenced to the Core Strategy and Local Plan policies. There is no qualification within the Basic Conditions Statement to confirm that it is the NPPF 2018 which is being referred to, unsurprisingly because it was prepared in October 2017. The Basic Conditions Statement may be updated to include a further column inserting references to the NPPF 2018 to assist future decision making. Although transitional arrangements exist for Plans in preparation to be judged under the NPPF 2012 the changes would be modest and make the Plan more up to date. Subject to my comments in section 5 of this report, in relation to various policies of the Plan, I am generally satisfied that the Plan has adequate regard to both national guidance and the Development Plan.

## Contribution towards Achievement of Sustainable Development

- 2.12** At Section 6 the Shearsby Neighbourhood Plan defines the three dimensions to sustainable development as being, economic, social and environmental; the Shearsby Neighbourhood Plan sets out the roles that the planning system is expected to perform in relation to each. The Shearsby Neighbourhood Plan contributes to the achievement of sustainable development as defined within the NPPF, as outlined in Section 6 and Appendix 3 of the Strategic Environmental Assessment Screening Opinion prepared by Harborough District Council in respect of the Submission Version of the Plan.
- 2.13** I consider that this approach offers a clear analytical framework to test the credentials of the Submission Version of the Plan and consider that the Plan would properly contribute to the objective of sustainable development, subject to various policy amendments that I have recommended below.

## General Conformity with Strategic Policies for Local Area

- 2.14** The statutory development plan currently relating to the Shearsby Neighbourhood Plan area currently comprises the Core Strategy adopted by Harborough District Council in 2011 which replaces/saves certain policies from the Local Plan adopted by the Council in 2001. The approach to the preparation of the Shearsby Neighbourhood Plan has been to ensure general conformity with both the saved policies of the adopted Local Plan and those new/replacement policies contained in the Core Strategy to ensure that the Plan remains relevant for the period of the Core Strategy prior to its replacement by a new, emerging Local Plan for the District. This is demonstrated within the Basic Conditions Statement, Section 4.1 with regard to the NPPF and Section 4.3 with regard to the strategic policies of the Local Plan, which sets out clearly how the Shearsby Neighbourhood Plan conforms with each of the relevant strategic policies of both the Core Strategy, referring to the considerable regard given to the evidence base of the emerging Local Plan, particularly in relation to housing provision. I am, therefore, satisfied that the Neighbourhood Plan is in general conformity with the strategic policies in the Harborough Core Strategy.

## Compatibility with European Union Obligations

- 2.15** In relation to the Shearsby Neighbourhood Plan, Harborough District Council provided a Screening Opinion which at 1.7 confirms *"It is the opinion of the Authority that there will not be any significant environmental impacts that would necessitate a full Strategic Environmental Assessment being completed."* This opinion is then clarified by the table at 4.2 showing the assessment undertaken in order to reach this conclusion. The Screening Opinion explains at 6.1 that as a result of that assessment *"it is unlikely there will be any significant detrimental environmental effects arising from the Shearsby Neighbourhood Plan Submission Draft as submitted to Harborough District Council, that were not covered by the Sustainability Appraisal of the Core Strategy. **As such, it is the determination of the Local Planning Authority that the Shearsby Neighbourhood Plan does not require a full SEA to be undertaken**"*, confirming the advice in the National Planning Policy Guidance (NPPG), February 2015, which clarifies where a SEA may be required for a neighbourhood plan.
- 2.16** Harborough District Council website advises that as part of the emerging replacement Local Plan they also undertook an interim Sustainability Appraisal in respect of nine

alternative sites considered for housing and employment allocation in the District. At 5.1 the Screening Opinion confirms *"Shearsby has not been assessed as part of the Sustainability Appraisal and SEA for the New Local Plan, as the Local Plan does not allocate a quantum of housing to this settlement."*

- 2.17** The Regulation 16 consultations did not indicate any parties were discontent with the methodology or finding of the Screening Opinion issued in respect of the Shearsby Neighbourhood Plan.
- 2.18** I therefore consider that a proportionate and focussed approach has been taken through the SEA process for the Shearsby Neighbourhood Plan and that the assessment has been completed in a timely fashion at the appropriate stage of the Plan preparation.
- 2.19** The NPPG advises, at paragraph 030, that it is for the local planning authority to ensure that the strategic environmental assessment requirements have been met and whether the neighbourhood plan proposal is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive).
- 2.20** I consider in relation to sustainability appraisal, including Strategic Environmental Assessment, the analysis undertaken is sufficient in a neighbourhood planning context and following on from the recent work undertaken in informing policy development for the emerging replacement Local Plan that the Basic Conditions have been met in contributing to sustainable development and meeting this component of EU regulation.

#### **Habitat Regulations Assessment**

- 2.21** A Habitats Regulations Assessment Screening Report has been incorporated within the SEA Determination Report to assess whether the Neighbourhood Plan was likely to impact on the integrity of European protected sites within and surrounding the Neighbourhood Plan Area and at Appendix 4 states *"The table below has demonstrated that in the opinion of the Local Planning Authority the policies of the Shearsby Neighbourhood Plan do not give potential for significant detrimental effects on local historic or environmental sites, Natura 2000 sites, or Habitat Regulations."*
- 2.22** Due to the lack of evidence of any relevant designated sites likely to be impacted upon, I agree that the neighbourhood development plan is unlikely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or any European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2007, either alone or in combination with other plans or projects).

#### **Compatibility with Human Rights Requirements**

- 2.23** Section 4.4 of the Basic Conditions Statement provides a clear Equalities Impact Assessment prepared in relation to the Plan which considers that the Plan's preparation has had due regard throughout to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and that requisite consultation complies with the requirements of Regulations 14 and 15(2) of the Neighbourhood Planning (General) Regulations 2012. I consider that assessment needs to be undertaken.



### **3.0 BACKGROUND DOCUMENTS**

**3.1** In examining the Shearsby Neighbourhood Plan, I have had particular regard to the following documents which include the Submission Version of the Plan:

- a) National Planning Policy Framework, 2012 (superseded)
- b) National Planning Policy Framework, 2018 (revised)
- c) National Planning Policy Framework, Planning Practice Guidance, 2015
- d) Town and Country Planning Act 1990 (as amended)
- e) The Planning and Compulsory Purchase Act 2004 (as amended)
- f) The Planning Act 2008
- g) The Localism Act (2011)
- h) The Neighbourhood Planning (General) Regulations (2012)
- i) The Housing & Planning Act (2016)
- j) Harborough Core Strategy
- k) Harborough Local Plan 2011-2031 Proposed Submission September 2017
- l) Shearsby Neighbourhood Plan Approved Designated Area Map, 2014
- m) Shearsby Parish Neighbourhood Plan Housing Needs Report, July 2016 – Appendix 5
- n) Shearsby Neighbourhood Plan Statement of Basic Conditions, October 2017 – Appendix 1
- o) Shearsby Neighbourhood Plan Strategic Environmental Assessment Determination, April 2018
- p) Shearsby Neighbourhood Plan Consultation Statement (undated)
- q) Shearsby Neighbourhood Plan Environmental Inventory (undated) – Appendix 3
- r) Shearsby Local Green Spaces (undated) – unnumbered Appendix
- s) Shearsby Neighbourhood Plan website description of Post Submission Process
- t) Shearsby Neighbourhood Plan Submission Version, October 2017
- u) Neighbourhood Plan Pre-Submission Consultation Response (undated) – unnumbered Appendix
- v) Shearsby Neighbourhood Plan Summary of representations submitted by Harborough District Council to the Independent examiner pursuant to Regulation 17 of Part 5 of The Neighbourhood Planning (General) Regulations 2015

### **4.0 PUBLIC CONSULTATION AND CONSULTATION STATEMENT**

**4.1** Part 5 of The Neighbourhood Planning (General) Regulations 2012, “the Regulations”, makes provision in relation to procedure for making neighbourhood development plans. To fulfil the legal requirements of Section 15(2) of Part 5 of the Neighbourhood Planning (General) Regulations 2012, the consultation statement should contain the following:

- details of people and organisations consulted about the proposed Neighbourhood Plan;
- details of how they were consulted;
- a summary of the main issues and concerns raised through the consultation process, &;
- descriptions of how these issues and concerns were considered and addressed in the proposed Neighbourhood Plan.

**4.2** The Consultation Statement should also demonstrate that there has been proper community engagement and that it has informed the content of the Plan. It should also make it clear and transparent that those producing the plan have sought to address the issues raised during the consultation process. Consultation and community engagement is a fundamental requirement of the Neighbourhood Planning Regulations, the process of plan-making being almost as important as the plan itself. Such engagement with the community during the plan-making process has raised awareness and encouraged the community in the Parish to understand/question both the proposed policies as well as the Plan's scope/limitations.

**4.3** The Consultation Statement sets out in some considerable detail the events that took place to secure public engagement in the Plan area and with statutory consultees, with the assistance of private consultants and officers of Harborough District Council. The Consultation Statement charts the progress and activities to the point where Harborough District Council finally indicated general satisfaction that the Policies contained within the Submission Version of the proposed Plan were in general accord with the Development Plan.

- 4.4** I note that the Pre-Submission Plan Regulation 14 Consultation Period ran for the requisite six-week time-period and that during that period a proportionate programme of information dissemination about the draft Plan was undertaken together with further meetings to explain the emerging proposals. At the end of the consultation period, the detailed responses were analysed. The Consultation Statement demonstrates that of the 53 total comments from 6 companies and organisations mainly commented on relatively minor details all of which were addressed by adjustments to the text of the Neighbourhood Plan prior to its finalisation and formal Submission to Harborough District Council in October 2017.
- 4.5** The Consultation Statement records the Regulation 14 responses to the draft policies and reflects the views from the statutory consultees, private consultants and Harborough District Council on draft policy formulation. Importantly, the Consultation Statement explains in a tabular form the actions taken in relation to the comments received with a view to responding to concerns with the intention of enhancing the quality of the Plan.
- 4.6** The Consultation Statement does not cover the Regulation 16 Consultation. However, the “Summary of representations submitted by Harborough District Council to the Independent Examiner pursuant to Regulation 17 of Part 5 of The Neighbourhood Planning (General) Regulations 2012” provide the responses from 7 parties received from this round of consultation. I have taken these details into consideration in the examination of the Plan and in making my observations on the proposed policies (see below).
- 4.7** I am satisfied that the Consultation Statement complies with Section 15(2) of part 5 of the 2012 Neighbourhood Planning Regulations and that the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act, in accordance with 15(1) of part 5 of the 2012 Neighbourhood Planning Regulations.

## **5.0 SHEARSBY NEIGHBOURHOOD PLAN 2017–2031 – LAND USE PLANNING POLICIES**

- 5.1** I now turn to consider the land use planning policies of the Shearsby Neighbourhood Plan. It was established in R. (Maynard) v Chiltern District Council<sup>1</sup> that it is wrong to consider each policy within a neighbourhood development plan examination, in the context of compliance with the strategic policies of the development plan and the NPPF, in relation to Basic Conditions a) and e), but rather it is the Plan as whole that needs to be considered in the context of such policy guidance, in terms of “general conformity”. In Woodcock<sup>2</sup>, paragraph 8(2)(e) of Schedule 4B of 1990 Act only required the LPA to consider whether the draft Neighbourhood Plan, as a whole, is in general conformity with the adopted Development Plan. It is not appropriate to consider whether there is a tension between one policy of the Neighbourhood Plan and one element of the Local Plan or Core Strategy. I have used this approach in assessing whether the Plan meets the Basic Conditions.
- 5.2** However, I consider that it is still prudent from an implementation perspective, to briefly review each of the policies to ensure that they are genuine land use planning policies and that they will serve the Parish in future for development management purposes, should the Plan be made. Before doing so, I would recommend that each paragraph of the Plan is enumerated for greater ease of future reference and legibility by those endeavouring to make practical use of it for development management purposes in the future.

<sup>1</sup> [2015] EWHC 3817 (Admin), *Holgate J*, 16th November 2015

<sup>2</sup> *Woodcock Holdings Ltd v Secretary of State for Communities and Local Government*, [2015] EWHC 1173 (Admin), [2015] JPL 1151, *Holgate J*, 1st May 2015.

## **Sustainable Development**

### **5.3 Policy S1: Presumption in Favour of Sustainable Development**

*When considering development proposals, the Plan will take a positive approach that reflects the presumption in favour of sustainable development contained in national and District-wide plans and policies.*

5.4 This supportive principle policy sets solid ground for the manner in which the Plan is intended to encourage and facilitate proposals which represent sustainable development in support of both national and local plans and policies. There are no textual changes required in order to make it an effective policy for development management purposes.

5.5 Thus, I recommend that Policy S1 requires no amendment to be appropriate for development management purposes for the enabling/achievement of sustainable development and accordingly would suggest the original wording is retained as follows in an unamended form as robust and effective for development management purposes:

#### ***Policy S1: Presumption in Favour of Sustainable Development***

*When considering development proposals, the Plan will take a positive approach that reflects the presumption in favour of sustainable development contained in national and District-wide plans and policies.*

## **Housing**

5.6 Harborough District Council has confirmed that it can currently demonstrate a housing supply of 6.94 years<sup>1</sup>. This figure has only just been released after recalculations undertaken following the issue of NPPF 2018. There is, therefore, no essential requirement for the draft Shearsby Neighbourhood Plan to propose new sites for housing development.

### **5.7 Policy H1: Limits to Development**

*Within the defined Limits to Development as shown in Figure 2, development proposals for small scale infill development (up to 4 units) and the conversion of existing buildings will be looked on sympathetically where it:*

- *Is small scale, and reflects the size, character and level of service provision of Shearsby;*
- *Helps meet a clearly identified need for Shearsby or the wider Parish;*
- *Retains existing natural boundaries such as trees, hedges and streams which either contribute to visual amenity or are important for their ecological value;*
- *Preserves and, where possible, enhances the setting of any heritage asset, where the setting of that heritage asset would be affected by the proposal;*
- *Preserves and, where possible, enhances Shearsby Conservation area, where relevant;*
- *Provides suitable off-road parking in line with Leicestershire County Council Highways requirements;*
- *Does not reduce garden/green space to an extent where it adversely affects the special character of the area or the amenity of the proposed occupiers of the new development or adjacent properties/uses*

5.8 Policy H1 is clearly aimed at dealing with residential development proposals but is worded so generically that it could relate to other forms of development as well. Assuming that its apparent intention is its primary purpose then its wording requires adjustment to secure the necessary clarity for its future application. (If the policy were intended for general application across all forms of development, it should then be placed clearly into a separate section from that of 'Housing' dealing with general 'Development' removing the 'H' prefix.)

<sup>1</sup> [https://www.harborough.gov.uk/downloads/file/4613/31\\_march\\_2018\\_new\\_nppf\\_update\\_aug\\_2018](https://www.harborough.gov.uk/downloads/file/4613/31_march_2018_new_nppf_update_aug_2018)

- 5.9** Representations received identify a strong principal objection to the policy on the basis that it is perceived as seeking to enforce where development may not be permitted, i.e. outside the limit defined. Currently the whole of the Parish of Shearsby including the village is defined as 'open countryside' within the current adopted Core Strategy. Even the proposed, emerging Local Plan replacement places Shearsby in the least sustainable ranking. Accordingly, bearing in mind the general principle that development in the open countryside should only be considered on the basis of various exceptions, the proposed defined limit/boundary for Shearsby village actually represents an enabling tool for residential development that would otherwise not, necessarily have current policy support. I conclude, therefore, that the policy is positive in its intent and effect as reflected in the tone of its wording. Neither do I consider that defining a limit/boundary will prejudice consideration of other sustainable development outside that limit/boundary, as there is more planning policy support for development which whilst it may lie outside actually abuts or lies close to a defined settlement development limit/boundary.
- 5.10** The definition by number of small-scale does not reflect that generally employed within the development management system and thus should be adjusted. In addition, its placement after 'infilling' is confusing as the accepted definition of infilling relates to only one or two units. Other changes to wording are suggested to simplify the structure and provide greater clarity to enable easier interpretation of the policy to enable effective application for development management purposes. Minor changes would render the policy more robust and acceptable for development management purposes and I accordingly suggest the following alternative wording:

***Policy H1: Limits to Development***

***Within the defined Limits to Development as shown in Figure 2, development proposals for small scale (up to 5 units) or infill development (up to 2 units) and the conversion of existing buildings will be looked on sympathetically where it:***

- Is small scale, and reflects the size, character and level of service provision available within Shearsby;***
- Helps meet a clearly identified housing need for Shearsby or the wider Parish;***
- Retains existing natural boundaries such as trees, hedges and streams which either contribute to visual amenity or are important for their ecological value;***
- Preserves or enhances the setting of any heritage asset it may affect;***
- Preserves or enhances any setting or character of Shearsby Conservation area it may affect;***
- Provides proportionate off-road parking in line with Leicestershire County Council Highways requirements;***
- Does not reduce garden/green space creating substantial, adverse effect upon the special character of the area or the residential amenities of future occupiers of the proposed development or that of existing/future occupiers of adjacent properties.***

**5.11 *Policy H2: Housing Mix***

***New housing development proposals should provide a mixture of housing types specifically to meet identified local needs in Shearsby. Sites should deliver more than 50% of the units as 3-bed or fewer (which can include bungalows for older people which should be built to the recognised mobility/wheelchair standard).***

- 5.12** The policy provides a useful qualifier to the nature of new housing provision justified/required within the village on the basis of the recent Housing Needs Survey. I recommend that Policy H2 requires amendment to be appropriate for development management to provide greater clarity of phrasing to support development which provides for local need and an aging population. Accordingly, I would suggest the following amended wording to render the policy more robust and acceptable for development management purposes:

**Policy H2: Housing Mix**

*New housing development proposals should provide a mixture of housing forms and sizes specifically designed to meet identified local housing needs in Shearsby. Proposals should deliver more than 50% of the units as three to one bedroom units (which may include single storey units for older people, provided they are designed and constructed to meet current mobility/wheelchair access standards).*

**5.13 POLICY H3: Building Design Principles**

*All new development proposals of one or more houses, replacement dwellings and extensions will need to satisfy the following building design principles:*

- a) Care should be taken to ensure that the development does not disrupt the visual amenities of the street scene and impact negatively on any significant wider landscape views;*
- b) New buildings should follow a consistent design approach in the use of materials, fenestration and the roofline to the building. Materials should be chosen to complement the design of the development and add to the quality or character of the surrounding environment and of the Conservation Area;*
- c) All new housing should reflect the character and historic context of existing developments within the Parish. However, contemporary and innovative materials and design will be supported where positive improvement can be robustly demonstrated without detracting from the historic context;*
- d) Development should enhance biodiversity and relate well to the topography of the area, with existing trees and hedges preserved whenever possible; and*
- e) Development should incorporate sustainable design and construction techniques to meet high standards for energy and water efficiency, including the use of renewable and low carbon energy technology, as appropriate.*

- 5.14** The policy aims to support high quality development which respects existing historic character and ecology, employing energy efficient technology and intelligent modern design. (This policy could be made more generic applying to all forms of development, not just residential, but as with Policy H1 this would then require placement in a new section and removal of the 'H' prefix.) The policy wording would have greater strength by making it a requirement that all new development proposals meet the various criteria (i.e. replacing 'should' with 'shall'). In addition, wording requires revision to make the requirements clearer particularly in reference to respecting the existing built environment and character of Shearsby Conservation Area. Accordingly, I suggest the following amended wording is employed to provide a more robust policy for application in development management.

**POLICY H3: Building Design Principles**

*All new development proposals for new houses, replacement dwellings and/or extensions to existing dwellings will be required to satisfy the following building design principles:*

- a) development shall not disrupt the visual quality of the street scene to the point where it impacts negatively on this and any significant, wider landscape views;*
- b) a consistent design approach shall be followed in the use of materials, fenestration and roofline, with external materials complementing design and adding positively to the quality and character of the surrounding built environment and Shearsby Conservation Area;*
- c) character and historic context of existing development within the Parish shall be reflected in new development, but the use of contemporary/innovative materials/design will be supported where positive improvement in visual character can be robustly demonstrated without detracting from historic built context;*
- d) Development shall enhance biodiversity, seeking to preserve existing trees and hedges, and relate well to local topography; and*
- e) Development shall incorporate sustainable design and construction techniques to meet high standards for energy and water efficiency, including the use of renewable and low carbon energy technology.*

**5.15 Policy H4: Tandem and Backland Development**

*in gardens of existing properties will not be supported where the development would cause harm to the local area.*

- 5.16** The policy wording is incomplete with the title having been merged with the wording of the policy, instead of with all other policies the title being separate. The purpose of this policy is already achieved in the final criterion of my suggested rewording for Policy H1. This policy would only serve to unnecessarily duplicate provisions already contained in another more robust policy. I recommend, therefore, Policy H4 and all supporting text be deleted.

## **Community Facilities**

### **5.17 Policy CF1: The Retention of Community Facilities and Amenities**

*Development leading to the loss of an existing community facility (including the village hall, village green, children's play area, Chandlers Arms and Shearsby Bath) will not be supported unless it can be demonstrated that:*

- a) There is no longer any need or demand for the existing community facility; or*
- b) The existing community facility is no longer economically viable; or*
- c) The proposal makes alternative provision for the relocation of the existing community facility to an equally or more appropriate and accessible location within the Parish which complies with the other general policies of the Neighbourhood Plan.*

**5.18** The policy aims to protect those community facilities for which there is demonstrable need, sustainable demand and an economically viable future in the interests of maintaining a sustainable community. The negative initial phrasing of the policy runs contrary to the enabling principles of the Plan and requires change to a positive form. The current wording of the three criteria is unwieldy, and simplification will make it a more robust development management tool. Reference to 'within the Parish' is unnecessary as 'equally or more appropriate and accessible location' addresses this requirement. Equally compliance with other policies of the Plan is an unnecessary reference as this is a given requirement for all development proposals and could equally apply to the policies of the District Plan. I consider adjustment is needed to enhance effectiveness of the policy for development management purposes and accordingly suggest the following amended wording:

#### ***Policy CF1: The Retention of Community Facilities and Amenities***

*Development leading to the loss of an existing community facility (including the village hall, village green, children's play area, Chandlers Arms and Shearsby Bath) will be supported provided it can be demonstrated that either:*

- a) There is no longer any demonstrable need or sustainable demand for it;*
- b) It is no longer economically viable; or*
- c) Relocation to an equally or more appropriate and accessible location is achieved prior to its loss.*

### **5.19 Policy CF2: New or Improved Community Facilities**

*Proposals that improve the quality and/or range of community facilities, will be supported provided that the development:*

- a) Will not generate a need for parking that cannot be adequately catered for; and*
- b) Is of a scale appropriate to the needs of the locality and conveniently accessible for residents of the village wishing to walk or cycle.*

**5.20** New and improved community facilities are the target of this policy. I consider modest adjustment is necessary to enhance the clarity and thus effectiveness of the policy for development management purposes and accordingly suggest the following amended wording:

#### ***Policy CF2: New or Improved Community Facilities***

*Proposals that improve the quality and/or range of community facilities will be supported, provided that the proposed development will not:*

- (a) generate a need for additional parking that cannot be accommodated within the site or the adjacent highway without undue risk to highway safety; and*
- (b) be of a scale in excess of assessed community needs*
- (c) be inaccessible for pedestrians or cyclists.*

## **Employment**

### **5.21 Policy E1: Support for Existing Employment Opportunities**

*There will be a strong presumption against the loss of commercial premises or land (B-class) on the Saddington Road employment site, which provides employment and future potential employment opportunities Applications for a change of use to an activity that does not provide employment opportunities will only be permitted if it can be demonstrated that:*

- a) The commercial premises or land in question has not been in active use for at least 12 months; and*
  - b) The commercial premises or land in question has no potential for either reoccupation or redevelopment for employment generating uses and as demonstrated through the results both of a full valuation report and a marketing campaign lasting for a continuous period of at least six months*
- The small-scale expansion of existing employment premises across the Parish will be supported.*

**5.22** The policy seeks to ensure employment opportunities within the Parish are not lost. Restructuring and rewording will enable the policy to perform more effectively as a robust development management tool. Accordingly, I suggest the following amended wording:

***E1: Support for Existing Employment Opportunities***

*The small-scale expansion of existing employment premises across the Parish will be supported. There will be a strong presumption against the loss of Class B1 commercial premises or land on the Saddington Road employment site, to protect current and future employment opportunities. Proposals for any change of use that does not provide employment opportunities will only be permitted provided it can be demonstrated that the commercial premises or land in question has:*

- (a) not been in active use for at least 12 months; and*
- (b) no realistic potential for reoccupation or redevelopment for employment generating uses, and;*
- (c) been subject to a full valuation report and subsequent marketing campaign over a continuous period of at least six months.*

**5.23 Policy E2: Support for New Employment Opportunities**

*In supporting additional employment opportunities, Class B1 Light Industrial purposes will be supported at existing or the proposed sites (figures 4 and 5) at Saddington Rd provided:*

- a) it relates to small scale leisure or tourism activities or other forms of commercial/employment related development appropriate to a countryside location or there are proven exceptional circumstances; and*
  - b) where it can be demonstrated that there would be no adverse impact or conflict on surrounding residential and community amenity and uses; and*
  - c) that the impact on the road network of any additional business development is mitigated.*
- Proposals for General Industrial use (B2) and large scale B1 uses will not be permitted except in exceptional circumstances; large scale B1 and B2 uses being directed towards higher order settlements in the settlement hierarchy and suitable locations on the edge of the built framework of Leicester, as they are likely to have existing infrastructure and facilities to deliver and sustain such employment proposals.*

**5.24** The purpose of the policy in encouraging new employment opportunity appropriate to a 'quiet' rural location is positive. Strategic proposals relating to large scale development location do not need to and cannot legitimately be included in the policy (as ultra vires by merit of reference to locations outside of the Plan area) but may be moved to the supporting text as commentary. The phrasing and wording of the policy requires modification to secure same. Accordingly, the following amended wording is suggested.

***Policy E2: Support for New Employment Opportunities***

*Proposed development which provides additional employment opportunities will be supported (for example, Class B1 Use - Light Industrial) at existing and proposed employment sites identified in Figure 4 and Figure 5, provided it:*

- (a) relates to small scale leisure or tourism activities or other commercial/employment development suited to a countryside location;*
- (b) can be demonstrated that there would be no unmitigable adverse impact or conflict on surrounding residential/community amenity/uses or highway safety, and;*
- (c) does not relate to Class B2 - General Industrial or large scale Class B1 – Light Industrial uses.*

**5.25 Policy E3: Re-Use of Agricultural and Commercial Buildings**

*The re-use, conversion and adaptation of rural buildings for small businesses, recreation, or tourism purposes will be supported where:*

- a) The use proposed is appropriate to the rural location;*
- b) The conversion/adaptation works respect the local character of the surrounding area*
- c) The development will not have an adverse impact on any archaeological, architectural, historic or environmental features*
- d) The local road system is capable of accommodating the traffic generated by the proposed new use and adequate parking can be accommodated within the site.*
- e) There is no significant adverse impact on neighbours through noise, light pollution, increased traffic levels or increased flood risk.*

**5.26** The policy seeks to encourage sensitive re-use and conversion of existing agri-commercial buildings to positive new uses. Adjustments are required to ensure the policy is an effective development management tool and the following is suggested as amended wording:

***Policy E3: Re-Use of Agricultural and Commercial Buildings***

*The re-use, conversion and adaptation of rural buildings for small businesses, recreation, or tourism purposes will be supported where the proposed:*

- (a) use is compatible with a rural location;*
- (b) conversion/adaptation works respect local built character;*
- (c) development will not have an adverse impact on any archaeological, architectural, historic or environmental feature incapable of effective mitigation;*
- (d) development is unlikely to generate additional traffic/parking to the detriment of highway safety, and;*
- (e) use is likely to have no significant adverse impact on local amenity (e.g. noise, light pollution or flood risk).*

**5.27 Policy E4: Broadband Infrastructure**

*Proposals to provide increased access to a super-fast broadband service (of at least 30Mbps) and improve the mobile telecommunication network that will serve businesses and other properties within the Parish will be supported. This may require above ground network installations, which must be sympathetically located and designed to integrate into the landscape and not be located in or near to open landscapes.*

**5.28** The policy aims of supporting well-designed infrastructure would be compromised by poor structure and wording. Accordingly, the following amended form is suggested:

***Policy E4: Broadband Infrastructure***

*Proposals to provide increased access to a super-fast broadband service (of 30Mbps and above) and improve the mobile telecommunication network will be supported. Where this requires above ground installations, these shall be discreetly located and designed to integrate into the landscape.*

**5.29 Policy E5: Working from Home**

*Proposals for the use of part of a dwelling for office and/or light industrial uses, and for small scale free standing buildings within its curtilage, extensions to the dwelling or conversion of outbuildings for those uses, will be supported where:*

- a) No significant and adverse impact arises to nearby residents or other sensitive land uses from noise, fumes, odour or other nuisance associated with the work activity;*
- b) Does not generate unacceptable levels of traffic movement or additional on-street parking; and*
- c) Any extension or free-standing building shall be designed having regard to policies in this Plan and should not detract from the quality and character of the building to which they are subservient by reason of height, scale, massing, location or the facing materials used in their construction.*

**5.30** The supportive nature of the policy for home working is compromised by poor phrasing and wording which may be readily remedied. Accordingly, to make the policy more



effective for development management purposes the following amended wording is suggested:

***Policy E5: Working from Home***

***Proposals for change of use of part of a dwelling, extensions, or conversion/erection of outbuildings for office and/or light industrial uses, will be supported where:***

- a) No significant and adverse impact would arise from noise, fumes, odour or vibration;***
- b) It would not be likely to generate excessive traffic movement or on-street parking; and***
- c) Any extension or free-standing building would not detract unacceptably from the quality and character of the main residence, by reason of height, scale, massing, location or external materials.***

**Environment**

**5.31 Policy ENV 1: Local Green Spaces**

***Development proposals that would result in the loss of, or have an adverse effect on, any of the following identified Local Green Spaces (map above) will not be supported, other than in very special circumstances.***

***Thorpehill Farm Spinney west (map reference 1)***

***Thorpehill Farm Spinney east (02)***

***Back Lane verges and green areas (03)***

***Fenny Lane – Bear's Hole and field (04)***

***Welford Road bungalows triangle (05)***

***Old Turnpike road (06)***

**5.32** This policy's current phrasing is negative and thus contrary to the promotional/enabling nature of the Plan. Rephrasing, rewording and proper enumeration will allow the policy to function as a practical development management tool. In addition, in order to meet the very high threshold of qualitative assessment required to justify designation of Local Green Spaces the special qualities of each site proposed for inclusion within the designation must be subject to rigorous examination and robust evaluation. Early discussion with relevant landowners is actively encouraged in order to enable common aims for each site to be agreed, effectively securing assurance that the landowner supports the proposed designation and thus the retention of the site's special qualities (including community benefit) is likely to be achieved beyond the plan period. As agents acting on behalf of relevant landowners have made clear the site owner's objection to the basic principle of such designation being imposed and/or their potential community recreational use for two of the sites proposed for inclusion, it would be unreasonable to pursue a 'Local Green Space' designation which includes those sites. In addition, highway land/roadside verges are not necessarily suitable for designation and should be removed from any nominated space because (whilst national guidance states that the space must be capable of enduring beyond the plan period) land adjoining an existing highway is the subject of 'Permitted Development' rights, which could be used to bring forward development that may be contrary to a Local Green Space designation, but would not require planning permission to be granted. Highway land may also be utilised in bringing forward future highway/transport schemes. Blanket designation of all/most green areas or open space within an area is not appropriate and each space must be proven to be demonstrably 'special' by meeting at least one of six criteria based on the value the local community places on that space with regards to its beauty, history, recreational use, tranquillity, wildlife offer or for some other justifiable reason. It is clear that there are shortcomings in the depth and thus rigour of assessment undertaken for each of the spaces, representing more of a brief, superficial description rather than professional examination and evaluation against robust criteria. If the emphasis and terminology of

the policy were to be changed then the very high qualitative assessment threshold required for Local Green Space designation would not apply. A more rigorous assessment would need to be undertaken of each site in order to determine whether they met the relevant criteria required to justify such designation. Even then it is clear that a number of the sites currently included in the proposed policy would be unlikely to do so, requiring their removal from the text of the policy. An alternative option to such further work or deletion of the policy could be to consider a change of terminology (perhaps identifying these areas as 'locally significant open areas') to enable the policy to be considered for retention in a format similar to that proposed and become more effective as a development management tool. Accordingly, the following revision to the title and wording of the current policy is suggested, accepting that supporting text would also require revision to accord with same:

**Policy ENV 1: Locally Significant Open Areas**

*Development proposals that would not result in the loss, or have an unacceptably adverse effect on the open character, of any of the following areas, shown in Figure 6, will be supported:*

<u>Map Reference:</u>	<u>Site Name:</u>
01	Thorpehill Farm Spinney west
02	Thorpehill Farm Spinney east
03	Back Lane verges and green areas
04	Fenny Lane – Bear's Hole and field
05	Welford Road bungalows triangle
06	Old Turnpike road

**5.33 Policy Env 2: Protection of Other Sites of Natural Environment Significance**

*The following sites identified in this Plan (figure 7) are of local significance for their wildlife and/or landscape features. They are important in their own right and are locally valued. Development proposals that affect them will be expected to protect and/or enhance their identified features.*

*Willow Brook Farm meadows and riparian corridor (map reference 07)*

*Mill Lane (13)*

*New Inn Farm spinney north (15)*

*New Inn Farm spinney and pond (16)*

**5.34** This policy aims to provide further protection to locally significant wildlife sites and protect/enhance the biodiversity of the Plan area. The policy's structure and the lack of specific reference to the title of the map (Figure 7) which they are shown on, together with failure to enumerate the list of features within the policy, means that in itself it would be likely to be ineffective as a development management tool. However, these failings are compounded by the failure to reproduce the map (Figure 7) within the Plan at a sufficiently large size to make it clearly legible to any potential reader. Accordingly, to be effective for development management purposes (a) the map (Figure 7) requires to be reproduced at a sufficiently large scale as to make it, the sites it represents, the annotation of the sites and the legend, all clearly legible to the naked eye and (b) the following, suggested, amended wording to the policy itself should be considered:

**Policy Env 2: Protection of Other Sites of Natural Environment Significance**

*Development proposals shall protect/enhance the following list of sites, shown in Figure 7, which are considered to be of local significance for their wildlife and/or landscape features:*

<u>Map Reference:</u>	<u>Site Name:</u>
07	Willow Brook Farm meadows and riparian corridor
13	Mill Lane
15	New Inn Farm spinney north
16	New Inn Farm spinney and pond

**5.35 Policy Env 3: Protection of Other Sites of Historical Environment Significance**

*The following sites (map below) are formally identified in this Plan as non-designated heritage assets for their extant and visible historical and/or archaeological features. They are important in their own right and are locally valued. Development proposals that affect them will be expected to protect the identified features.*

*Medieval village earthworks, Meadowcroft (Leicestershire & Rutland Historic Environment Record MLE21831, map reference 08)*

*Medieval village earthworks, west of church (MLE2347, map ref 09)*

*Medieval village earthworks, north of church (MLE2346, map ref 10)*

*St Mary Magdalene Church burial ground and mound (MLE21833, map ref 11)*

*Medieval village earthworks, east of Mill Lane (MLE21832, map ref 14)*

*Shearsby windmill field (MLE2351, map ref 12)*

**5.36** The policy clearly aims to provide added protection to heritage assets which, although contained in the County record, are considered not to have a sufficiently high Development Plan level profile/protection, given their importance to the local community. The policy’s structure and the lack of specific reference to the title of the map (Figure 7) which they are shown on, together with failure to enumerate the list of features within the policy, means that in itself it would be likely to be ineffective as a development management tool. However, these failings are compounded by the failure to reproduce the map (Figure 7) within the Plan at a sufficiently large size to make it clearly legible to any potential reader. **Accordingly, to be effective for development management purposes (a) the map (Figure 7) requires to be reproduced at a sufficiently large scale as to make it, the sites it represents, the annotation of the sites and the legend, all clearly legible to the naked eye and (b) the following, suggested, amended wording to the policy itself should be considered:**

***Policy Env 3: Protection of Other Sites of Historical Environment Significance***

*Development proposals shall avoid any adverse impact or damage to the following list of sites identified in Figure 7 are considered locally valued, ‘non-designated heritage assets’ (registered in the Leicestershire & Rutland Historic Environment Record) by merit of their extant, visible, historical/archaeological nature:*

<u>Map Reference:</u>	<u>Site Name:</u>	<u>L&amp;RHER Reference:</u>
08	Medieval village earthworks, Meadowcroft	MLE21831
09	Medieval village earthworks, west of church	MLE2347
10	Medieval village earthworks, north of church	MLE2346
11	St Mary Magdalene Church burial ground and mound	MLE21833
14	Medieval village earthworks, east of Mill Lane	MLE21832
12	Shearsby windmill field	MLE2351

**5.37 Policy Env 4: Ridge and Furrow Fields**

*Development proposals that adversely affect or damage an identified surviving area of ridge and furrow earthworks (figure 8) will be resisted. Development should only take place in exceptional circumstances and a full archaeological survey will be required. They sites are identified in the Plan as non-designated heritage assets.*

**5.38** The policy aims to provide local protection to non-designated heritage assets from unjustified damage. The phrasing and structure of the policy together with minor misspelling means that the policy is currently negatively worded against new development, rather than providing caveats to safeguard historic features, and does not provide the positive and precise phrasing required to be an effective development management tool. In addition, the scale of reproduction of the map (Figure 8) is so small that its annotation

and legend are not legible to the naked eye. **Accordingly, reproduction of the map (Figure 8) to a reasonably legible size is essential** and the following amended wording is suggested:

***Policy Env 4: Ridge and Furrow Fields***

***Development proposals shall avoid adversely affecting or damaging any surviving area of ridge and furrow earthworks identified in Figure 8 as 'non-designated heritage assets', unless a full archaeological appraisal is conducted which justifies such impact and where necessary provides an effective mitigation strategy.***

**5.39 Policy Env 5: Important Trees and Woodland**

**Development should have regard to the trees and woodland present on the site. Where possible all trees and woodland should be preserved, where it is not possible additional planting must be included to compensate for any unavoidable loss.**

This policy seeks to protect landscape character and biodiversity from adverse impacts of new development. 'Development' also includes existing development, over which the Plan would have no development control, and thus needs qualifying by the addition of 'proposals'. 'Should' is insufficiently strong enough to make it an enforceable requirement and its replacement with 'shall' is required to achieve this end. The phrasing of the policy requires tightening in order to be more effective and robust for development management purposes and so the following amended wording is suggested:

***Policy Env 5: Important Trees and Woodland***

***Development proposals shall ensure the conservation of existing trees and woodland present within or immediately adjacent a site, ensuring all healthy examples are retained or new planting is provided to compensate for any unavoidable loss.***

**5.40 Policy Env 6: Footpaths and Bridleways**

***Development must preserve existing footpaths and where appropriate, should contribute to increased connectivity and promote sustainable travel choices, or similar. The maintenance or improvement of public rights of way, including the footpath joining Shearsby with Arnesby, will be supported.***

**5.41** This policy clearly aims to ensure proposed development preserves and, where practicable, secures improvements to Public Rights of Way within the Parish. However, the terminology is imprecise. For example, 'Development' includes existing and proposed development, yet the intent is clearly for a policy which provides protection/enhancement as part of new proposals for development. Additionally, 'footpaths' does not cover 'bridleways' and footpaths and bridleways are not the complete range of Public Rights of Way, e.g. 'RUPPs'. Accordingly, the policy needs renaming and reframing to have the desired clarity and be more effective for development management purposes and so the following amended wording is suggested:

***Policy ENV 6: Public Rights of Way***

***Development proposals shall preserve existing Public Rights of Way and where possible provide for the improved maintenance and connectivity of the existing Public Rights of Way network, supporting sustainable modes of transport and travel choices, including the Public Right of Way between Shearsby and Arnesby.***

## 6.0 SUMMARY

- 6.1 In accordance with Schedule 4B to the Town and Country Planning Act 1990, paragraph 10(6), b), I set out the summary of my findings below.
- 6.2 I am satisfied that Shearsby Parish Council is the qualifying body and accordingly entitled to submit a Neighbourhood Development Plan for the designated plan area and that this area is one which is appropriate for designation as a Neighbourhood Area. Formal designation was confirmed by Harborough District Council on 16<sup>th</sup> January 2015.
- 6.3 The policies proposed within the Shearsby Neighbourhood Plan relate to development and use of land within the designated Neighbourhood Area.
- 6.4 The plan period of the Neighbourhood Development Plan is 2016 to 2031 and it does not contain policies relating to “excluded development” as defined s61K of the Town & Country Planning Act 1990 (as amended).
- 6.5 I am also satisfied that the Shearsby Neighbourhood Plan 2017 – 2031 does not relate to more than one neighbourhood area and that there is no other NDP in place within this neighbourhood area.
- 6.6 The Plan has been examined against current national and adopted local planning policy.
- 6.7 The Plan has also been subject to an Assessment in compliance with EU Directive 2001/42 on Strategic Environmental Assessment to inform the consideration of the Submission Version of the plan. The policies within the Submission Version of the Shearsby Neighbourhood Plan appraised well against the sustainability framework. This gives confidence that the Plan, if made, should make a positive contribution to sustainable development within the Plan area.

### ***Habitat Regulations Assessment***

- 6.8 A Habitats Regulations Assessment Screening Report has been undertaken by Harborough District Council officers to determine whether the Neighbourhood Plan was likely to impact on the integrity of European protected sites within and surrounding the district. The lack of any evident protected sites likely to be affected by the allocation proposals contained within the Plan means it appears evident no further screening or further assessment was required. I agree therefore that the neighbourhood development plan is unlikely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2007, either alone or in combination with other plans or projects).
- 6.9 As to public consultation, the process and management of the community consultation appears thorough and I am confident that the Consultation Statement outlining the terms of reference and actions of the Parish Council, the supporting evidence from the workshops, consultation correspondence and feedback leading to the formulation of draft policies, subsequent pre-submission and submission plan consultation on the Plan policies adequately fulfils Section 15 (2), Part 5 of the Neighbourhood Planning (General) Regulations 2012.

### ***Compatibility with Human Rights Requirements***

- 6.10 The Basic Conditions Statement provides confirmation at 4.4 that the Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the requirements of Regulations 14 and 15(2) of the Neighbourhood Planning (General) Regulations 2012. I am satisfied the Plan is otherwise compatible with EU obligations and will contribute to achieving sustainable development within the Shearsby Neighbourhood Plan area.

### ***Textual, Policy & Map/Figure Revisions***

- 6.11 I am satisfied that subject to the recommended policy revisions being accepted, that the draft Shearsby Neighbourhood Plan 2017-2031, has given adequate regard to the policies in the National Planning Policy Framework (NDPPF) and other relevant national planning guidance and would be in conformity with the strategic policies of the adopted Harborough District Local Plan 2001 and Core Strategy adopted in 2011. If these recommended changes are accepted (and the necessary associated modifications are made to the supporting text and map/figures by the Parish Council to ensure consistency and legibility within the document) I believe that the Shearsby Neighbourhood Plan 2017-2031 will make a positive contribution to sustainable development, promoting economic growth, supporting social wellbeing, whilst conserving the natural and historic environment within the designated area.

## **7.0 RECOMMENDATIONS**

### ***Modifications to meet the basic conditions***

- 7.1 For the reasons set out above and subject to the modifications indicated in the preceding sections of this examination report being accepted and incorporated into a revised version of the Plan which includes a clear statement of its compliance with Human Rights legislation, I consider that the Plan would meet the basic conditions in terms of:

- having appropriate regard to national planning policy;
- contributing to the achievement of sustainable development;
- being in general conformity with the strategic policies in the development plans for the local area;
- being compatible with human rights requirements; and
- being compatible with European Union obligations.

- 7.2 I therefore recommend that in accordance with Schedule 4B to the Town and Country Planning Act 1990, paragraph 10 (2), b) that the modifications specified in this report are made to the Shearsby Neighbourhood Plan 2017-2031 and that the Submission Version of the Plan as modified may be submitted to a referendum.

### ***Referendum Area***

- 7.3 It is the Independent Examiner's role to consider the referendum area appropriate should event that the Parish Council wishes to proceed to the referendum stage.
- 7.4 In the event that the Parish Council wishes to proceed to the referendum stage with this Plan, I consider that the referendum area should extend to the full extent of the originally designated Plan Area, as confirmed in 2015 and as identified edged red on Figure 1 on page 11 of the Shearsby Neighbourhood Plan 2017–2031.

## **8.0 CONCLUSIONS**

- 8.1 I conclude that, subject to the recommendations in this report being accepted, the Plan would meet the basic conditions as defined in the Localism Act 2011, Schedule 10 and Schedule 4B, 8 (2) of the Town and Country Planning Act 1990.
- 8.2 In accordance with the Town and Country Planning Act 1990, Schedule 4B 10 (2) (b), I recommend that the modifications specified in this report are made to the draft Neighbourhood Plan and if accepted, the Shearsby Neighbourhood Plan 2017 – 2031 is submitted to a referendum.

**Martin S. Lee**

**MA MRTPI AMInstLM MTCPA NPIERS**

**25<sup>th</sup> September 2018**