

# **BURNTWOOD NEIGHBOURHOOD PLAN 2019-2029**

Burntwood Neighbourhood Plan Examination  
A Report to Lichfield District Council

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## **1. Summary**

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

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<sup>1</sup> It is confirmed in Chapter 3 of this Report that the Burntwood Neighbourhood Plan meets the basic conditions as set out in Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990.

## **2. Introduction**

### **The Neighbourhood Plan**

- 3 This Report provides the findings of the examination into the Burntwood Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Burntwood Town Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Lichfield District Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Burntwood Neighbourhood Area.
- 5 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development.”*

(Paragraph 29, National Planning Policy Framework)

- 6 As confirmed in Section 1.0 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Burntwood Town Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 7 This first section of the Basic Conditions Statement also confirms that the Neighbourhood Plan relates only to the designated Burntwood Neighbourhood Area and that there is no other neighbourhood plan in place in the Burntwood Neighbourhood Area.

- 8 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2019<sup>2</sup>) and Planning Practice Guidance (2014).

### Role of the Independent Examiner

- 9 I was appointed by Lichfield District Council, with the consent of the Qualifying Body, to conduct the examination of the Burntwood Neighbourhood Plan and to provide this Report.
- 10 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 11 I am a chartered town planner and have eight years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 12 As the Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 13 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Burntwood Neighbourhood Area to which the Plan relates.

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<sup>2</sup> A replacement National Planning Policy Framework was published in July 2018 and amended in 2019. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans, where those plans are submitted on or before the 24<sup>th</sup> January 2019. The Burntwood Neighbourhood Plan was submitted to Lichfield District Council after this date and consequently, it is appropriate to examine the policies of the Neighbourhood Plan against the most recent version of the National Planning Policy Framework.

- 14 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

#### Neighbourhood Plan Period

- 15 A neighbourhood plan must specify the period during which it is to have effect.
- 16 The title page of the Neighbourhood Plan provides a clear reference to the plan period, 2019-2029.
- 17 There is a mistake in Section 1.0 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan, which refers to the plan period commencing in 2018
- 18 Taking the above into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

#### Public Hearing

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 21 Further to consideration of the information submitted, I determined not hold a public hearing as part of the examination of the Burntwood Neighbourhood Plan.
- 22 However, in order to clarify a number of points in respect of the examination, I wrote to the Qualifying Body and to Lichfield District Council and this examination has taken the responses received into account.

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

#### **Basic Conditions**

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions.*” These were *set out in law*<sup>3</sup> following the Localism Act 2011. Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 24 Regulations 23 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28<sup>th</sup> December 2018, applies to neighbourhood plans:
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations.<sup>4</sup>

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

<sup>4</sup> *ibid* (same as above).

- 25 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
  - has been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Town and Country Planning Act 1990 (as amended));
  - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that:
  - its policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 26 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>5</sup>
- 27 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

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



### European Convention on Human Rights (ECHR) Obligations

- 28 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 29 In the above regard, I also note that information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Various comments have been received in response to active community engagement during the plan-making process. The Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses to comments and to resulting changes to the Neighbourhood Plan.

### European Union (EU) Obligations

- 30 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*  
(Planning Practice Guidance<sup>6</sup>)
- 31 This process is often referred to as “*screening*”<sup>7</sup>. If likely environmental effects are identified, an environmental report must be prepared.

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

<sup>7</sup> The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 32 Lichfield District Council carried out a screening assessment of the Neighbourhood Plan, which reached the conclusion that it:

*"...is not likely to have significant environmental effects and therefore SEA will not be required."*

- 33 The statutory bodies, Historic England, Natural England and the Environment Agency were all consulted on the screening assessment. All three of the bodies agreed with its conclusions.

- 34 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information<sup>8</sup>. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.

- 35 A screening assessment was carried out by Lichfield District Council and this concluded that:

*"...there are no potential significant effects upon European Sites and further work as part of the compliance with Habitats regulations will be required."*

- 36 Further to this and with consideration to the effect of the Neighbourhood Plan on the Cannock Chase Special Area of Conservation, Lichfield Council carried out a subsequent "*Shadow Habitat Regulations Assessment*" which concluded that:

*"...the Burntwood Neighbourhood Development Plan is not likely to have a significant effect on...Cannock Chase SAC."*

- 37 The statutory bodies were consulted on the submitted Neighbourhood Plan and all supporting documents. None dissented from the conclusions reached by Lichfield District Council.

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<sup>8</sup> Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

- 38 In addition to the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

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

- 39 In carrying out the work that it has and in reaching the conclusions that it has, Lichfield District Council has not raised any concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.
- 40 I also note that, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta (“People over Wind”)*, the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.
- 41 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.
- 42 The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an *Appropriate Assessment* to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application. These changes came into force on 28<sup>th</sup> December 2018.
- 43 I am mindful that evidence has been submitted to demonstrate that Lichfield District Council has taken all of the above into account.
- 44 Taking everything into consideration, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

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<sup>9</sup> *ibid*, Paragraph 031 Reference ID: 11-031-20150209.

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

##### Background Documents

- 45 In undertaking this examination, I have considered various information in addition to the Burntwood Neighbourhood Plan.
- 46 Information considered as part of this examination has included (but has not been limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2019)
  - Planning Practice Guidance (2014, as updated)
  - Town and Country Planning Act 1990 (as amended)
  - The Localism Act (2011)
  - The Neighbourhood Plan Regulations (2012) (as amended)
  - Lichfield Local Plan Strategy 2008-2029 (2015) (referred to in this Report as the "*Local Plan Strategy*")
  - Lichfield Local Plan Allocations 2008-29 (2019) (referred to in this Report as the "*Local Plan Allocations*")
  - Basic Conditions Statement
  - Consultation Statement
  - Representations received
  - Burntwood Strategic Environmental Assessment and Habitat Regulations Assessments and Addendum
- 47 In addition, I spent an unaccompanied day visiting the Burntwood Neighbourhood Area.

Burntwood Neighbourhood Area

- 48 The boundary of the Burntwood Neighbourhood Area is identified on a plan provided on page 10 of the Neighbourhood Plan.
- 49 Lichfield District Council designated the Burntwood Neighbourhood Area on 8<sup>th</sup> April 2014.
- 50 This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## **5. Public Consultation**

### **Introduction**

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

### **Burntwood Neighbourhood Plan Consultation**

- 53 A Consultation Statement was submitted to Lichfield District Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*<sup>10</sup>.
- 54 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Burntwood Neighbourhood Area, having regard to Paragraph 29 of the National Planning Policy Framework ("*the Framework*").
- 55 Further to listening events held during 2014, a Neighbourhood Plan Committee began work on the production of the Neighbourhood Plan. A Draft Policies consultation document was produced and consulted upon during March and April 2016 and a consultation exercise with young people took place in May 2016.
- 56 Information received was considered and a draft Neighbourhood Plan was produced and consulted upon between April and June, 2018. Representations received were considered and informed the submission version of the Neighbourhood Plan.

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

- 57 As well as a dedicated page on the Burntwood Town Council website, public consultation was supported via posters and banners
- 58 The Consultation Statement provides evidence to demonstrate that public consultation formed part of the plan-making process. Consultation was publicised and matters raised were duly considered.
- 59 Taking all of the above into account, I am satisfied that the consultation process complied with the neighbourhood planning regulations referred to above.

## **6. The Neighbourhood Plan – Introductory Section**

60 Paragraphs “1.6 and 3.7” on page 8 and Paragraph 2.3 on page 11 have been overtaken by events and I recommend:

- **Page 8, delete Paras 1.6 and 3.7 and replace with “1.6 *The made Neighbourhood Plan forms part of the development plan for the Neighbourhood Area and as such, it will be used to help determine planning applications alongside the Local Plan Strategy, Local Plan Allocations document and other material considerations, including the National Planning Policy Framework (NPPF).*”**
- **Page 11, change Paragraph 2.3 to “...2009-29 (adopted 2015) and Lichfield Local Plan Allocations 2009-29 (adopted 2019). The Local Plan Allocations document includes a number of policies that relate directly to the Neighbourhood Area – Policy Burntwood 3: Burntwood Economy; Policy B1: Burntwood Housing Land Allocations; and Policy B2: Burntwood Mixed Use Allocations.”**
- **Delete Paras 2.5 and 2.6 on page 12 and Para 2.6 on page 14**

61 For clarity, I recommend:

- **Page 20, Para 3.12, change to “...Thus, only one *Strategic Development Allocation (SDA)* has been...nearing completion. *Additionally, the Local Plan Allocations identifies fifteen smaller residential allocations within the Neighbourhood Area.*”**

62 The Policy section of the Neighbourhood Plan includes subjective, limited and occasionally long lists of various Policies from other documents thought to be relevant to each Neighbourhood Plan Policy. Whilst this might have provided some useful context in a draft version of the Neighbourhood Plan, its inclusion is unnecessary and detracts from the clarity and concise nature of the Neighbourhood Plan.

63 I recommend:

- **Delete each “Relevant Local Planning Policies” list after the “Background/Justification” text for each Policy in the Policy section of the Neighbourhood Plan**



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

### **Burntwood Town Centre**

#### **Policy B1: Burntwood Town Centre**

64 Paragraph 85 of the Framework states that planning policies:

*“...should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.”*

65 Local Plan Strategy Core Policy 8 (“*Our Centres*”) sets out a positive framework for development within Burntwood town centre and Local Plan Allocations Policy Burntwood 3 (“*Burntwood Economy*”) states that:

*“In Burntwood, the focus will be on the creation of a vibrant and diverse town centre, through regeneration...more diverse economic activity, to include new retail, employment, leisure, residential, recreational, health, educational resources and improvements to its environmental quality and public realm.”*

66 The Neighbourhood Plan recognises that Burntwood Town Centre has failed to attract investment and that there is considerable scope for regeneration. In the light of this, the overall objective of Policy B1 is to redevelop and regenerate Burntwood Town Centre “*to create a key focal point for the area.*” In this way, the Policy has regard to national policy and is in general conformity with the strategic policies of the development plan.

67 However, as presented, Policy B1 appears prescriptive. In part, its approach appears inflexible, such that the Policy seeks to limit the range of uses within specific parts of Burntwood Town Centre.

68 Burntwood Town Centre is not currently thriving. Substantive evidence has been provided through consultation to demonstrate that the prescriptive approach of Policy B1 would frustrate, rather than support redevelopment and regeneration. This is a significant concern that has been echoed by Lichfield District Council.

69 Local Plan Allocations Policy Burntwood 3 is clear in supporting the provision of a wide mix of uses to promote "*more diverse economic activity.*" Amongst other things, the adopted development plan supports residential development in Burntwood Town Centre. This chimes with national planning policy, which requires planning policies to:

*"...recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites."*

(Paragraph 85, the Framework)

70 Further, national policy recognises the need for planning policies relating to town centres to be flexible:

*"...by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters."*

(Paragraph 85, the Framework)

71 The Policy goes on to "*prioritise*" development. However, no clarity or direction is provided in respect of either how such prioritisation might be considered by a decision maker, contrary to Paragraph 16 of the Framework, which requires plans to provide clarity in respect of how a decision maker should react to development proposals. Neither is the Policy supported by any substantive evidence in respect of the delivery or deliverability of the development to be prioritised. This is also contrary to that part of Paragraph 16 of the Framework which states:

*"...plans should be prepared positively, in a way that is aspirational but deliverable."*

72 Part of the supporting text reads as though it comprises a Policy requirement, which it does not. I also note earlier in this Report that the Local Plan Allocations document was adopted in 2019. The recommendations below take account of these factors.

73 I recommend:

- **Change Policy B1 to *"In order to create and grow a vibrant and diverse Town Centre, mixed use development proposals within Burntwood Town Centre (see Policies Map 3) will be supported. Acceptable uses include new, redeveloped or enhanced retail, employment, community, leisure, residential, recreational, health, educational, car parking and a transport hub.***

***The development of large format retail and leisure uses will be supported at Sites A and B, although mixed use development at these Sites is not limited to such uses.***

***The creation of a new Town Square at Sankey's Corner will be supported, as will proposals that bring vacant upper floors into use.***

***All development in the Town Centre should be of good design and contribute towards an attractive and distinctive environment.***

***The creation of new green corridors with footpath and cycle links connecting with the Town Centre will be supported, as will improvements to the Town Centre's environmental quality and public realm." (delete rest of Policy)***

- **Para 7.1, change to *"...Strategy and Allocations 2008..."***
- **Para 7.4, change to *"...residential uses. Flexible and adaptable accommodation can help to meet future..."***
- **Para 7.5, change to *"...allocated in the Local Plan Allocations document for a mix of retail and residential uses and provides an opportunity to complement...new Town Square can contribute to the overall redevelopment of the area to create a common identity..."***
- **Para 7.6, change to *"...office provision can be encouraged to locate on sites within the Town Centre boundary. The Town Council will encourage movements to, from and around the Town Centre by foot, cycle and by sustainable forms of transport."***

- **Para 7.9, replace with “Delivery of a town centre in Burntwood is a key aim within the adopted Lichfield District Local Plan.”**
- **Para 7.10, add to end “Given the changing nature of town centres and high streets nationally, it is considered that a mixture of retail, residential, leisure, employment and community uses is appropriate. Policy B1 supports the sustainable development of Burntwood Town Centre.”**
- **Change title of Map 3 to “Policies Map 3”**
- **Remove “Improved links” notation from Map 3 and key**
- **Remove “Town centre redevelopment” notation from Map 3 and key**
- **Remove “Gateway improvements” notation from Map 3 and key**
- **Change Site A and B reference in Map 3 Key to “Potential for (but not limited to) new large format retail and leisure”**

**Policy B2: Improving the Environment of Burntwood Centre**

74 Policy B2 seeks to identify specific locations where environmental improvements will be supported and to some degree is in general conformity with Local Plan Strategy Core Policy 14 (*"Our Built and Historic Environment"*), which supports the improvement of Burntwood Town Centre and environmental improvement schemes.

75 The Policy is vague in respect of what *"temporary uses"* might be appropriate on vacant sites and no substantive delivery evidence of the is provided in this respect. The Policy is not supported by any information in respect of it might improve roads and signage, the responsibility of the highways authority.

76 Further, there is an element of confusion and lack of clarity in the way that the Policy supports development in specific locations but then goes on to refer to different locations. Consequently, part of the Policy fails to have regard to national planning guidance, which requires planning policies to be clear and unambiguous<sup>11</sup>:

*"A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared."*

77 Part of the supporting text reads as though it comprises a policy requirement, which it does not.

78 I recommend:

- **Change Policy B2 to *"Development of the following along Key Road and Pedestrian Approaches to the Town Centre (see Policies Map 3) will be supported:***
  - a) Public realm and landscaping improvements;***
  - b) Improvements to public rights of way, including pedestrian and cycle links;***
  - c) Public Art.***

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<sup>11</sup> Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

- **Map 3, change key to state “*Key Road and Pedestrian Approaches for Environmental Improvements*”**
- **Delete Para 7.12**
- **Change Para 7.13 to “...approach is *in line with Local Plan Strategy Core Policy*...”**
- **Delete Para 7.15**
- **Para 7.16, delete “and in policy in emerging Allocations Plan.”**

Neighbourhood Centres and Local Shops

**Policy B3: Chasetown, Swan Island, Ryecroft Shopping Centre and Morley Road Neighbourhood Centres**

- 79 Policy B3 seeks to protect neighbourhood centres. To some degree, the Policy has regard to national policy, which states that planning policies should:
- “...promote social interaction...through...strong neighbourhood centres” and “...ensure that established shops...are able to develop and modernise, and are retained for the benefit of the community.”*  
(Paragraphs 91 and 92, the Framework)
- 80 As presented, much of the Policy appears vague. References to *“appropriate to the size and function...not undermine the health and vitality...where appropriate”* are not supported by any substantive information in the Neighbourhood Plan to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.
- 81 Also, the plans referred to include large, mixed use areas including housing and yet the Policy seeks to impose a highly restrictive approach upon future development – excluding residential use and limiting other uses to those listed. As a consequence, the Policy could serve to prevent sustainable development from coming forward and there is no substantive evidence to the contrary.
- 82 The Policy goes on to refer to a prioritised approach to development. There is no substantive evidence to demonstrate that the approach set out is deliverable and this part of the Policy does not have regard to Paragraph 16 of the Framework, referred to earlier in this Report.
- 83 Maps 4, 5 and 7 identify different local centre boundaries to the Policies Maps of the adopted development plan. No substantive evidence is provided to justify this different approach and this is a matter addressed in the recommendations below.

84 I recommend:

- **Change Policy B3 to *“Development that enhances or does not undermine the vitality and viability of the Neighbourhood Centres identified on Policies Maps 4, 5, 6 and 7 will be supported. Retail uses within the protected retail frontages should be retained unless the loss can be demonstrated not to undermine the vitality and viability of the Neighbourhood Centre.”* (delete rest of Policy)**
- **Delete Para 8.5**
- **Para 8.6, delete *“The retail uses within...B3 can be met.”***
- **Para 8.6 delete last sentence (*“Current...centres.”*)**
- **Amend Maps 4, 5 and 7 to accurately reflect the neighbourhood centre boundaries shown on the adopted development plan maps**
- **Key to Maps, delete references to Environmental improvements, Retained car parking and Improved links and remove these annotations from Maps**



**Policy B4: Local Shops**

- 85 Generally, Policy B4 seeks to protect local shops, having regard to Paragraph 92 of the Framework, referred to above.
- 86 The wording of the first six lines of the Policy is neither concise or precise and this is a matter addressed below. Also, as set out, Policy B4 appears to actively encourage shops to be vacant whilst being marketed as part of a viability exercise and to some degree, rewards a “*poor state of repair*” with a change of use away from retail. This is an unusual approach which fails to contribute to the achievement of sustainable development and is also unnecessary if it can, in any case, be demonstrated further to marketing that retail use is unviable.
- 87 I recommend:
- **Change Policy B4 to “...centres, *development to retain and/or improve local shops and retail premises will be supported, subject to it respecting local character, residential amenity and highway safety. Development resulting in the loss of local shops and retail premises will be supported where it can be demonstrated that retail use is no longer viable, further to a minimum 12 month active and open marketing period.*” (delete rest of Policy)**
  - **Para 8.9, delete everything (much of which just repeats the Policy) after “...back in to retail *uses.*”**

A Healthy Burntwood Community that Retains Local identities

**Policy B5: Enhancing the Identity and Distinctiveness of Local Neighbourhoods**

88 National planning policy recognises that:

*“Good design is a key aspect of sustainable development, creating better places in which to live and work and helps make development acceptable to communities.”*

(Paragraph 124, the Framework)

89 Local Plan Policy BE1 (*“High Quality Development”*) requires all development to ensure that a high quality sustainable built environment can be achieved.

90 Generally, Policy B5 seeks to encourage good design and in this way is in general conformity with the development plan and has regard to national policy.

91 As presented, the introductory sentence of the Policy appears ambiguous. It requires *“appropriate use”* to be made of the criteria listed in the Policy without setting out what would be appropriate or when. The second criterion of the Policy could be read as condoning the demolition of historic buildings, without justification. Also, as public highways are the responsibility of the highways authority it is not clear, in the absence of detailed information, when or how the final criterion of the Policy might be delivered.

92 Lichfield District Council has suggested an addition to the Policy that contributes to the achievement of sustainable development. Its inclusion as part of the Policy is recommended below.

93 I recommend:

- **Policy B5, change to “...within Burntwood. To help achieve this, *development proposals should give consideration to: a) Traditional...lines; b) The incorporation of historical and architectural local characteristic features, such as datestones, ornamentation and mouldings; c) The site’s relationship to the street and road pattern; d) The strengthening of existing links, both physical and visual, to the surrounding area and the creation of new linkages to and from the proposed development.*”**

## Housing

### **Policy B6: Promoting Good Quality Design in New Housing Development**

- 94 There is no requirement for the Neighbourhood Plan to allocate land for housing. Whilst I note that a number of objectors with land interests would like to see land released from Lichfield's Green Belt for new housing development, there is no requirement for the Neighbourhood Plan to address such matters.
- 95 Rather than allocate new housing sites, the Neighbourhood Plan, through Policy B6, seeks to ensure that new residential development is of good quality design. As noted earlier in this Report, good design is promoted by the development plan and recognised by national policy as a key aspect of sustainable development.
- 96 I also note earlier that national planning guidance states that planning policies should be concise. Policy B6 introduces a number of unnecessary headings, which add nothing of substance but which do detract from the concise nature of the Policy.
- 97 The Neighbourhood Plan cannot direct the decision making authority, in this case, Lichfield District Council. Rather than set out how the Local Planning Authority will assess a development proposal, Policy B6 should focus on the direction set out by the land use planning policy itself. Lichfield District Council has suggested a change to the fourth section of the Policy, which I consider adds to the Policy's clarity, having regard to national planning policy and guidance.
- 98 In the absence of clarity in respect of what "*frontage*" comprises, the frontage section of the Policy is ambiguous and consequently fails to meet the basic conditions.
- 99 I recommend:
- **Policy B6, delete the sub-headings within the Policy**

- **Policy B6, change to “New residential development should be of a good quality design. Development proposals should take account of the following:**

***The visibility...break the skyline. (delete vague LVIA reference)***

***New development should integrate with and make a positive addition to the public realm. In doing this, the development should be...***

***Larger developments should...area.***

***Layouts should incorporate...enclosure.***

***New vehicle and...established.***

***Public transport...local shops.***

***The aspect of the site should be considered and the ways in which the site contours and the remaining features are likely to produce areas of extensive shade or shelter. Advantage should be taken of sunny slopes in orientation of gardens and/ or main elevations. Exposed areas should be protected from wind, noise or intrusive views.***

***All trees, internal boundaries, water courses, structures and other features on the site should be identified and, wherever possible, incorporated into the new development. Where they are present, site boundaries formed of local stone, traditional brick, cast iron or hedge planting should be retained and repaired. Any proposed openings in such existing boundaries should be kept to a minimum and salvageable materials used elsewhere on site.***

***Proposals should be designed...new designs.” (delete last sentence, which is reliant on another document not part of the Neighbourhood Plan)***

Local Heritage

**Policy B7: Conserving and Enhancing Local, Non-Designated Heritage Assets**

100 Chapter 16 of the Framework, "*Conserving and enhancing the historic environment*" recognises heritage assets as an irreplaceable resource and requires their conservation in a manner appropriate to their significance. Chapter 16 goes on to set out a clear approach to the conservation of non-designated heritage assets:

*"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that 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."*  
(Paragraph 197)

101 With the exception of the first part of the Policy (subject to minor clarification as per the recommendations below), Policy B7 does not have regard to national policy, but sets out a different approach to the conservation of non-designated heritage assets. Whilst this results from an attempt to provide further detail to "*a balanced judgement*," it results in a conflicting and confusing approach, unjustified by substantive evidence.

102 For example, there is no justification for the assertion that any form of development will be supported where it conserves and enhances a non-designated heritage asset. The last sentence on page 67 of the Policy conflicts with the first sentence on page 68. Part a) of the Policy is vague and ambiguous. Part b) of the Policy relies on public benefit, without regard to national policy. The sentence of the Policy is a subjective statement, not a land use policy.

103 Whilst I am mindful that Historic England undertakes a seemingly thankless task in seeking to protect our shared heritage and that the body's resources are under significant pressure, I note that it is unfortunate for the Qualifying Body that the statutory consultee's submission at both draft and submission stage was "*no adverse comments*."

104 I recommend:

- **Policy B7, change Policy to “*Development proposals should identify and assess any potential impact on local non-designated heritage assets. Non-designated heritage assets include buildings, structures, parks and landscapes that have a degree of local architectural or historic significance meriting consideration in planning decisions. The conservation and/or enhancement of non-designated heritage assets will be supported.*” (Delete rest of Policy)**
- **Para 11.3, delete first sentence (“Policy...lost”)**
- **Add new Para below Para 11.3 “*There are a number of ways in which non-designated heritage assets may be identified. Generally they are identified by their inclusion on a Councils local list or by being identified on the Historic Environment Record.*”**

Improving Accessibility

**Policy B8: Improving Local Accessibility Outside the Defined Centres**

- 105 National policy recognises the important role a high quality public rights of way network has to play in the health and well-being of communities. Paragraph 98 of the Framework states:

*“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users...”*

- 106 In general terms, Policy B8 supports the enhancement of Burntwood public rights of way network, although as presented, the Policy seeks to impose obligations on all development, without having regard to the relevant tests set out in Paragraph 56 of the Framework:

*“Planning obligations must...(be) necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.”*

- 107 No substantive evidence is provided to demonstrate that the requirements of the second part of Policy B8 are deliverable and as such, they could serve to prevent sustainable development from coming forward.

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

- **Change Policy B8 to “*The protection, enhancement and creation of new public rights of way, including walking and cycling routes, will be supported.*”**



Recreation, Open Spaces and Community Facilities

**Policy B9: Protecting and Enhancing Local Sport and Recreation Facilities**

109 Paragraph 97 of the Framework states that:

*“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”*

110 Policy B9 seeks to protect local sports and recreation facilities and in this way, has regard to national policy.

111 As set out, the first part of the Policy appears inflexible, contrary to its latter section, which provides for flexibility having regard to the Framework. The Policy does not fully reflect national Policy and does not provide justification for its differences.

112 I recommend:

- **Change Policy B9 to “The improvement of the local recreational facilities listed below will be supported: LIST OF FIVE FACILITIES HERE. Development resulting in the loss of any of these facilities will not be supported unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”**

**Policy B10: Local Green Spaces**

113 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 99 of the Framework states that:

*“The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”*

114 The Framework requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts (Paragraph 101, the Framework). A Local Green Space designation therefore provides for development management in a manner that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.

115 Given the importance of the designation, it is appropriate that areas of Local Green Space are clearly identified in the Neighbourhood Plan itself. The Figures identifying each Local Green Space are small and provided on a poor quality map base. This makes the detailed identification of boundaries difficult and I make a recommendation in this regard, below.

116 The designation of land for Local Green Space must meet the tests set out in Paragraph 100 of the Framework.

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

118 Policy B10 designates five areas of Local Green Space. Supporting evidence has been submitted to demonstrate that each proposed Local Green Space meets the relevant national policy tests and is therefore appropriate for designation. I also note earlier in this Report that the Neighbourhood Plan has emerged through robust public consultation.

- 119 Map 7 illustrates the general locations of each Local Green Space at a relatively small scale. However, as important designations, it is essential that the precise boundaries of each Local Green Space can be clearly identified and this is a matter addressed in the recommendations below.
- 120 With respect to the management of development in areas of Local Green Space, national policy is clear in stating that this should be consistent with that for Green Belts. There is thus a nuanced difference to "*development proposals being consistent with Green Belt policy.*" from development, but provides for appropriate forms of development, whilst preventing inappropriate development. This is also addressed in the recommendations below.
- 121 For clarity, I recommend:
- **Policy B10, change first sentence to "...shown on Map 7 and accompanying plans are..."**
  - **Change last sentence to "*Local Green Space will be protected in a manner consistent with the protection of land within the Green Belt.*"**
  - **Provide new plans below Map 7 that clearly identify the precise boundaries of each Local Green Space**
  - **Para 13.6, delete "These spaces will be given...circumstances."**

**Policy B11: Protected and New Open Spaces**

122 Policy B11 seeks to protect areas of open space. However, Local Plan Strategy Core Policy 10 ("*Healthy and Safe Lifestyles*") already protects open space and supports the creation of new open space. Policy B11 therefore largely repeats the provisions an existing Policy in the development plan.

123 Policy B11 is unnecessary. I also note that the adopted development plan provides for a clear evidence based approach and applies to areas of open space having regard to national policy.

124 I recommend:

- **Delete Policy B11**
- **Delete pages 80-84, inclusive**

**Policy B12: Retaining and Enhancing Existing Community Facilities**

125 Chapter 8 of the Framework, "*Promoting healthy and safe communities,*" recognises the importance of social, recreational and cultural facilities. It states that:

*"...planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities...guard against the unnecessary loss of valued facilities and services..."*

(Paragraph 92, the Framework)

126 Generally, Policy B12 seeks to protect community facilities and supports development that would enhance them.

127 Responsibility for schools lies with the Education Authority and it is not the role of the Neighbourhood Plan to seek to control their provision.

128 It is not clear, in the absence of information, why private car parks and private health centres comprise community facilities.

129 No information is provided in respect of how the final part of the Policy, in respect of viability, might be judged, who by, or on what basis.

130 I recommend:

- **Policy B12, change to "*The enhancement of community facilities, including those referred to below, will be supported:***

***pubs; churches; church halls; scout and guide halls; public health centres, public car parks; Burntwood Library; Burntwood Leisure Centre; Old Mining College Centre; Burntwood Memorial Institution and grounds.***

***Development requiring planning permission that would result in the loss of a community facility will only be supported when it will be replaced with an easily accessible equal or better facility; or it can be demonstrated, further to an active and open 12 month marketing period, that the community use of the facility is no longer viable."***

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

131 Page 88 has been overtaken by events. The Neighbourhood Plan cannot impose a requirement on the Local Planning Authority and there is no scope to simply update and amend the Neighbourhood Plan without going through the due statutory process.

132 I recommend:

- **Delete page 88**
- **Para 15.2, change to “...identified the Town Council will consider revisions to the Neighbourhood Plan, following the appropriate consultation and related statutory neighbourhood planning process.”**

133 The recommendations made in this Report will also have a subsequent impact on Contents, including Policy, paragraph and page numbering.

134 I recommend:

- **Update the Contents and where necessary, Policy, paragraph and page numbering, to take into account the recommendations contained in this Report**

## **9. Referendum**

135 I recommend to Lichfield District Council that, subject to the recommended modifications, **the Burntwood Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

- 136 I am required to consider whether the Referendum Area should be extended beyond the Burntwood Neighbourhood Area.
- 137 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 138 Consequently, I recommend that the Plan should proceed to a Referendum based on the Burntwood Neighbourhood Area approved by Lichfield District Council on the 8<sup>th</sup> April 2014.

**Nigel McGurk, February 2020**  
**Erimax – Land, Planning and Communities**

