

# **FRADLEY NEIGHBOURHOOD PLAN**

Fradley Neighbourhood Plan Examination,  
A Report to Lichfield District Council

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## **1. Summary**

- 1 Subject to the modifications recommended within this Report, made in respect of enabling the 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 Fradley 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 Fradley Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

## 2. Introduction

### The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Fradley Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by a Steering Group on behalf of Fradley and Streethay Parish Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. Were a Referendum to be held and were more than 50% of votes to 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 Fradley 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 direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need."*  
(Paragraph 183, National Planning Policy Framework)
- 6 Fradley and Streethay Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan, further to the designation of the Fradley Neighbourhood Area by Lichfield District Council, as confirmed in Paragraph 1.5 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan.
- 7 The Neighbourhood Plan relates only to the designated Fradley Neighbourhood Area and there is no other neighbourhood plan in place in the Fradley Neighbourhood Area. This is confirmed in Paragraphs 1.7 and 1.8 of the Basic Conditions Statement.
- 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 (2012<sup>2</sup>) and Planning Practice Guidance (2014).

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<sup>2</sup> A replacement National Planning Policy Framework was published in July 2018. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans until the 25<sup>th</sup> January 2019.

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 Fradley 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 more than five years' direct experience as an Independent Examiner of Neighbourhood Plans. I also have more than twenty five 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 Fradley Neighbourhood Area to which the Plan relates.
- 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 front cover of the Neighbourhood Plan clearly identifies the plan period as "2017-2029." Paragraphs 1.1, 1.5 and 1.7 also refer to the plan period 2017-2029.
- 17 Consequently, the Neighbourhood Plan specifies the plan period during which it is to have effect.

Public Hearing

- 18 According to the legislation, *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.
- 19 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 Further to consideration of the information submitted, I confirmed to Lichfield District Council that I would not be holding a public hearing as part of the examination of the Fradley Neighbourhood Plan.

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

#### **Basic Conditions**

- 21 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
  - 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.<sup>4</sup>
  - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>5</sup>
- 22 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:
- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;

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

<sup>4</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

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

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

- 23 Subject to the content of this Report, I am satisfied that these three points have been met.
- 24 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.

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

- 25 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.
- 26 In the above regard, I 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. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and shows the outcome of comments.

### European Union (EU) Obligations

- 27 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>6</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment (SEA).
- 28 In this respect, 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>7</sup>)
- 29 National advice then goes on to state<sup>8</sup> that the draft plan:
- “...must be assessed (screened) at an early stage of the plan’s preparation...”*
- 30 This process is often referred to as a screening report, opinion or determination. If the screening report identifies likely significant effects, then an environmental report must be prepared.

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<sup>6</sup> Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance.

<sup>7</sup> Paragraph 027, *ibid.*

<sup>8</sup> Planning Practice Guidance Reference ID: 11-028-20150209.

31 Lichfield District Council produced a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment Screening Report in October 2017.

32 In respect of SEA, the Screening Report concluded that the plan:

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

33 The statutory consultees were consulted on the Screening Report and none disagreed with its conclusion. Natural England stated:

*"We welcome the production of this Screening Report. Natural England notes and concurs with the screening outcome i.e. that no SEA is required."*

34 A Habitats Regulations Assessment is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites.

35 The Habitats Regulations Assessment Screening Report identified the presence of three relevant Natura 2000 sites located within 15km of the Neighbourhood Area. These comprise Cannock Chase Special Area of Conservation (SAC), Cannock Extension Canal and River Mease SAC.

36 The HRA Screening Assessment concluded that:

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

37 Again, the statutory bodies were consulted and none raised any concerns with the conclusion reached. Natural England stated:

*"We agree with the Council's conclusion of no likely significant effect upon the named European designated sites."*

- 38 Further to all of 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” (Planning Practice Guidance<sup>9</sup>).*

- 39 In undertaking all of the work that it has, Lichfield District Council has considered the compatibility of the Neighbourhood Plan with European obligations and has not raised any concerns in this regard.
- 40 Taking the above and the contents of this Report into account, I conclude that the Neighbourhood Plan meets the basic conditions in respect of European obligations.

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<sup>9</sup> Planning Practice Guidance Reference ID: 11-031-20150209.

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

##### Background Documents

- 41 In undertaking this examination, I have considered various information in addition to the Fradley Neighbourhood Plan. I draw attention to the fact that a replacement version of the National Planning Policy Framework was published in July 2018, during the course of this examination. The previous National Planning Policy Framework was published in 2012 and the replacement version differs from it in a number of ways.
- 42 However, as noted above, Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans until the 25<sup>th</sup> January 2019.
- 43 Taking this into account, information considered as part of this examination has included (but is not limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as “the Framework”) (2012)
  - Planning Practice Guidance (2014)
  - Town and Country Planning Act 1990 (as amended)
  - The Localism Act (2011)
  - The Neighbourhood Plan Regulations (2012) (as amended)
  - Lichfield District Local Plan Strategy (2015) (referred to in this Report as “*the Local Plan*”)
  - Basic Conditions Statement
  - Consultation Statement
  - Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment Screening Report
- Also:
- Representations received
- 44 In addition, I spent an unaccompanied day visiting the Fradley Neighbourhood Area.

Fradley Neighbourhood Area

- 45 The boundary of the Fradley Neighbourhood Area is shown on page of the Neighbourhood Plan.
- 46 Lichfield District Council formally designated the Fradley Neighbourhood Area on 9<sup>th</sup> December 2014. 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

- 47 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.
- 48 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.

### Fradley Neighbourhood Plan Consultation

- 49 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>.
- 50 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Fradley Neighbourhood Area, having regard to Paragraph 183 of the National Planning Policy Framework ("*the Framework*").
- 51 Further to the creation of a Steering Group, comprising volunteers from the local community and members of the Parish Council, to lead plan-making on behalf of Fradley and Streethay Parish Council, and early meetings, a large public meeting, attended by 140 people, was held in Fradley Village Hall. This was followed by further public meetings during 2015 and in December of that year, the distribution of questionnaires to all residents of the Neighbourhood Area.
- 52 During 2016 and 2017, the Steering Group held meetings with District Council officers, developers, consultants and other groups and

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

organisations, and also produced, disseminated and analysed the results of a second public questionnaire.

- 53 All of the above helped to inform the production of the draft plan, which underwent a public consultation which ran from November 2017 to January 2018.
- 54 Consultation was supported by a dedicated website, which provided access to information associated with the plan-making process, including minutes of all of Neighbourhood Plan Steering Committee meetings, of which there were 46 between 2014 and 2017.
- 55 Consultation was also supported by reports in the Village News section of the local Lichfield Mercury newspaper and on social media. Posters and banners were used to provide notice of public meetings and engagement was also supported by the distribution of leaflets, handouts and displays.
- 56 The Consultation Statement provides detailed evidence to demonstrate that public consultation formed an important part of the overall plan-making process, that matters raised were taken into account and that the reporting process was transparent.
- 57 Taking all of the above into account, I am satisfied that the consultation process was significant and robust.

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

58 The Local Planning Authority is responsible for determining planning applications in accordance with the development plan and it is a requirement that the plan is taken as a whole. This in mind and to avoid confusion, I recommend:

- **Para 1.3, delete second and third sentences and replace with *“Once made, the policies of the Plan form part of the development plan. Development should be carried out in accordance with the development plan, the policies of which should be taken as a whole.”***

59 Paragraph 1.13 refers to an emerging document and consequently, provides information that can quickly become out of date. The document referred to had not been submitted at the time the Neighbourhood Plan was drafted and has not yet emerged through examination. The Neighbourhood Plan itself is not examined against emerging policies. I recommend:

- **Delete Para 1.13 and replace with *“It is noted that the Lichfield Local Plan Allocations Document is emerging through the planning system. Plan-makers have considered this document and the information supporting it, during the drafting of the Plan.”***

60 Paragraph 1.14 refers to an expectation by the Parish Council that the Neighbourhood Plan will be reviewed within three years of being made. This takes into account the upcoming review of the Local Plan. In this regard, a representation has been submitted, effectively *demanding* that such a review is formally committed to.

61 Whilst neighbourhood planning has been around for many years, it is still apparently necessary to point out that a neighbourhood plan is largely created by a group of local volunteers. These volunteers commit, in aggregate, thousands of hours of their spare time in order to produce something aimed at enhancing community life.

- 62 There is no statutory requirement for a community to produce a neighbourhood plan, let alone commit to a timetable to review one.

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

### Spatial Strategy

#### **Policy FRANP1: FRADLEY VILLAGE SETTLEMENT BOUNDARIES**

- 63 There is no requirement for the Neighbourhood Plan to allocate land for development and it does not seek to do so.
- 64 Rather than allocate land, Policy FRANP1 seeks to establish a spatial strategy for the Neighbourhood Area. It aims to do this by supporting development within the already established Local Plan settlement boundaries. At the same time, the Policy seeks to largely prevent development elsewhere in the Neighbourhood Area.
- 65 The National Planning Policy Framework (referred to in this Report as “*the Framework*”) requires sustainable development to be pursued in a positive way. The Ministerial Foreword to the Framework establishes:
- “...a presumption in favour of sustainable development.”*
- 66 As set out, Policy FRANP1 states that development outside the settlement boundaries “*will not be permitted*” unless several specific criteria are met. Such an approach runs the risk of pre-determining the planning application process by failing to allow for the balanced consideration of all relevant issues. Rather, it seeks to limit any development to such a severe extent that it is in direct conflict with national and local policy.

- 67 The policy would not permit any development other than that adjacent to settlement boundaries. Notwithstanding that “*adjacent*” is not defined, this would prevent say, an extension to, or the conversion of, a building anywhere outside the settlement boundaries, contrary to – amongst many other things - Paragraph 28 of the Framework, which states that:

*“...neighbourhood plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings...promote the development and diversification of agricultural and other land-based rural businesses...”*

- 68 The Policy would require all forms of development outside the settlement boundary to prove “*a demonstrable need.*” No indication of what this need must relate to, how it must be demonstrable, who will judge this and on what basis is provided. In this regard, the Policy is vague and does not have regard to national guidance<sup>11</sup>, which states that:

*“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.”*

- 69 The Policy also serves to place a burden upon any applicant, regardless of the relevance, need or materiality of the information required, contrary to Paragraph 193 of the Framework, which states:

*“Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.”*

- 70 Criteria iii), v) and vi) of Policy FRANP1 are entirely reliant upon another document, not within the control of the Neighbourhood Plan and in any case, the development plan needs to be taken as a whole – as pointed out in the introduction to the Neighbourhood Plan.

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

- 71 The Policy requires all development outside the settlement boundary to deliver additional community facilities or to meet the requirements of the criteria referred to in Paragraph 70 of this Report. There is no evidence to demonstrate that this requirement would be viable or deliverable, having regard to Paragraph 173 of the Framework, which states:

*“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable.”*

- 72 Criteria vii) of the Policy would only allow essential infrastructure to be delivered *“where no reasonable alternative location is available.”* By definition, if infrastructure is essential then it needs to take place. No evidence has been provided to demonstrate that essential infrastructure delivery should be burdened by a requirement to demonstrate no other possible reasonable alternative location is available. The Policy fails to have regard to Paragraph 193 of the Framework in this regard.
- 73 Policy FRANP1 goes on to state that brownfield development will be *“encouraged, particularly”* outside the village settlement boundaries. This appears to be in direct conflict with earlier parts of the Policy, which seeks to severely impede development outside settlement boundaries. Furthermore, it is not clear why the regeneration of brownfield land outside settlement boundaries would effectively be prioritised over that within settlement boundaries. National policy simply supports the *“effective use of previously developed land.”*
- 74 Notwithstanding the above, the final part of Policy FRANP1 is vague and ambiguous. No indication of how development might be *“encouraged”* is provided and there is no detail to show how the word *“particularly”* might be implemented in land use planning policy terms.
- 75 No plan has been provided to show where the settlement boundaries referred to actually are and this is a significant omission, as it makes it difficult to interpret where the Policy might apply.
- 76 The supporting text to the Policy is confusing. Notwithstanding that the Policy does not seek to allocate housing land, the numbers provided do not add up to *“well in excess”* of Fradley's housing requirement, but amount to 101 dwellings less than the minimum housing number required. Taking allocations, permissions and delivery over the whole of the Local Plan period into account, Lichfield District Council has no concerns in respect of Fradley providing for at least 1250 dwellings, but this does not mean that the introduction to Policy FRANP should be of limited relevance or confusing.

77 Taking all of the above into account, I recommend:

- Delete Policy FRANP1 and replace with a new FRANP1, *“Development within the settlement boundaries, as shown on Figure X below, will be supported.”*
- Provide a new Figure, showing the settlement boundaries (as per the Local Plan)
- Delete Paras 4.1 to 4.4. Replace with *“Para 4.1 Fradley is designated in the Lichfield District Local Plan as a Key Rural Settlement. As such, development within Fradley will be supported, not least as this will help the settlement to continue to provide for the services and facilities required by a growing community.”*
- Delete Figure 4.1, which has been overtaken by events and which does not relate to Policy FRANP1

Community Infrastructure

**Policy FRANP2: Existing Community Facilities**

- 78 In the Framework's "Promoting healthy communities" Chapter (Chapter 8), Paragraph 70 establishes that:

*To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs..."*

- 79 Policy FRANP2 seeks to prevent the loss of existing community facilities and in this respect, it has regard to national policy.
- 80 However, the Policy sets out an overly-detailed and confused approach that would be likely to place a significant barrier in the way of the provision of new, fit-for-purpose community facilities. As a consequence, as worded, the Policy does not contribute to the achievement of sustainable development and does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework, which states that:

*"Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan."*

- 81 The Policy requires any replacement community facility to be of an equivalent "scale" as that lost. In the absence of any detailed information, it is not entirely clear why the "scale" of a community facility is a key factor. It may be that a community facility is struggling to survive because it is too inflexible a space to use efficiently, to manage, to heat, to maintain etc and that a replacement facility might be more appropriate if constructed at a different scale so as to provide for, for example, more flexibility, more on-site car parking, more outdoor play-space, etc.

- 82 Further to the above, “*scale*” is undefined and could be interpreted in a number of ways – scale of building, scale of operations, scale of membership, scale of aspirations. This part of the Policy is vague and does not provide a decision maker with clarity, having regard to Paragraph 154 of the Framework.
- 83 It is not clear what the difference between a “*generally accessible*” location and an “*accessible*” location might be. In the context of the Policy, the word “*generally*” adds to the ambiguity of the Policy and suggests a watering-down, or reduced importance, of accessibility, which does not appear to be the objective of the Policy.
- 84 “*A reasonable and demonstrable prospect of*” does not mean the same as “*will be*” and as such, appears as a somewhat vague and meaningless phrase in the context of the Policy.
- 85 It is not clear why any replacement community facility needs to demonstrate that it “*can be secured*” by a unilateral undertaking or Section 106 Agreement. Community facilities can come forward in any number of ways. The need to demonstrate such a requirement may prevent the simple replacement of a community facility and there is no substantive evidence to the contrary.
- 86 No information is provided as to who would be the arbiter of whether a community facility is “*of a quality fit for modern use,*” or how this would be determined and on what basis. This part of the policy is open to interpretation and fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 87 Part of the supporting text reads as though it comprises a Policy, which it does not.
- 88 I recommend:
- **Policy FRANP2, change first line to “...facilities *will only be supported where they are replaced by equivalent or better provision in terms of quantity and quality in a suitable location.*”**

- Delete rest of Policy
- Para 5.3, change second line to “...resisted by the Parish Council. The Parish Council would support the re-provision of community facilities so long as such re-provision would result in at least an equivalent, but preferably, a better new facility.” Delete rest of Paragraph

**Policy FRANP3: Provision of New/Expanded Sports Facilities**

89 As noted above, Paragraph 70 of the Framework supports positive planning for the provision of community facilities. Further, in respect of sports and recreation provision, Paragraph 73 of the Framework states that:

*“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.*

90 Policy FRANP3 seeks to provide for new and expanded sports facilities and in this regard, it has regard to national policy.

91 However, as set out, the Policy lists criteria that are ambiguous and which fail to provide for a balanced consideration of the benefits and possible harm arising from development proposals.

92 Policy FRANP3 would prevent any new sports facilities that would have “unacceptable” or “harmful” impacts in respect of the amenities of residents, the amenities of “other uses,” the local environment and the local road network. This leaves the Policy open to extremely wide and subjective interpretation. No indication is provided of what might be “significant” or “unacceptable,” or of how this might be judged, or who by.

93 Similarly, it is not clear, in the absence of any information, what “appropriate” car parking facilities might comprise.

94 The second part of Policy FRANP3 sets out detailed aspirations, but does not provide any information to demonstrate that it is viable and deliverable. Whilst it is acknowledged that the local community would like to see great new sports facilities, a list of local aspirations does not form a land use planning policy but rather, appears as a “wish list.”

95 I recommend:

- **Policy FRANP3, change section A of the Policy to “Proposals for new and/or improved community facilities within, or adjacent to village settlement boundaries, that respect local character and residential amenity, and which do not result in harm to highway safety, will be supported.”**

- Delete sections B and C of the Policy
- Para 5.12, change to *“Along with the additional pitch provision, the Parish Council would like to see a new 600m2 sports and...pitches; and an additional circa 750m2 of car parking.”*
- Para 5.13, change to *“The Parish Council would also like to see the provision of a new cricket pitch, pavilion and appropriate changing facilities.”*

**Policy FRANP4: Provision of a Community Hub**

96 Similarly to the previous Policy, Policy FRANP4 provides a detailed description of something that the community would like to see, but provides nothing to demonstrate deliverability or viability. As such, the Policy appears as a general wish-list, rather than a land use planning policy.

97 I recommend:

- **Policy FRANP4, change to *“Proposals for a new community hub within, or adjacent to village settlement boundaries, will be supported.”***

**Policy FRANP5: Provision of Play and Youth Facilities**

98 Similarly to previous Policies, Policy FRANP5 includes vague references to “*significant*” and “*unacceptable*.” Part B of the Policy comprises a local aspiration not supported by evidence relating to deliverability and viability; and part C contradicts part A of the Policy, by introducing an ambiguous approach to prioritisation.

99 As worded, Policy FRANP5 is imprecise, does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework and does not have regard to national policy.

100 I recommend:

- **Delete Policy FRANP5 and replace with a new Policy FRANP5, “Proposals for new and/or improved play and youth facilities within, or adjacent to village settlement boundaries, that respect local character and residential amenity, and which do not result in harm to highway safety, will be supported.”**

Character and Environment

**Policy FRANP6: Character and Design**

101 Good design is recognised by the Framework as comprising:

*“a key aspect of sustainable development...indivisible from good planning.”*  
(Paragraph 56)

102 National policy also requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Paragraph 58 of the Framework goes on to require development to:

*“...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation...”*

103 In addition, Local Plan Policy BE1 *“High Quality Development,”* promotes high quality, inclusive design.

104 Section A of Policy FRANP6 promotes good design and is in general conformity with Local Plan Policy BE1.

105 Section B of Policy FRANP6 fails to provide for a balanced consideration of development proposals, such that benefits can be weighed against any harm arising. As such, it places an obstacle in the way of the achievement of sustainable development. It is not clear, in the absence of any detailed justification, why all development must reflect the appearance of neighbouring properties; and there is nothing to demonstrate how all development might *“protect”* all aspects of residential amenity, or why it must do so.

106 Part of Section B does not make grammatical sense and in the absence of any justification, it is not clear how and why every development proposal must demonstrate a positive contribution to its character area, whether this would be deliverable and viable in all instances, and why a development proposal would necessarily fail to be sustainable if it failed to achieve this. This part of the Policy does not have regard to Paragraphs 173 and 193 of the Framework, in respect of deliverability, viability, necessity, materiality and relevance.

107 Section C of the Policy sets out a long list of requirements which appear subjective and ambiguous, and which are not supported by any evidence to demonstrate that they have regard to Paragraph 193 of the Framework in respect of being necessary, relevant or material in all circumstances. For example, without definition and detail, the following words and phrases “*harm, insufficient, amenity, form, adversely, seriously, appropriately, any, high quality materials, unacceptably, adequate, appropriate, affected, prevailing, where possible, effective*” result in a vague Policy that is open to wide interpretation and subjectivity and which does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

108 Part of the supporting text reads as though it is a Policy requirement, which it is not.

109 I recommend:

- **Policy FRANP6, add to end of part A “...urban design. *Development should respect the residential amenity of neighbouring occupiers and have regard to the Fradley Character Area Assessment.*”**
- **Policy FRANP6, delete parts B and C**
- **Para 6.5 change to “The Parish Council would like to see the following things taken into account by new development:**  
  

*“...plots should be...new dwellings should have similar...can cause overshadowing. Bin storage...Parking and access arrangements – generally parking should not be to the front of the property using the front garden unless this is the prevailing...frontage for parking may not be appropriate in areas where enclosed...”*
- **Delete Para 6.6**
- **Para 6.7, change to “The character areas in the Fradley Character Areas Assessment cover Fradley Village and Fradley South. The extent of...**
- **Para 6.9, delete last sentence**
- **Para 6.10, change to “Development should respect the rich...Section 2.” Delete rest of Para, which incorrectly interprets national policy**

**Policy FRANP7: Local Green Spaces**

110 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 76 of the Framework states that:

*“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”*

111 Consequently, Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. A Local Green Space designation provides protection that is comparable to that for Green Belt land.

112 National policy establishes that:

*“The Local Green Space designation will not be appropriate for most green areas or open space.”* (Paragraph 77)

113 Thus, when identifying Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land.

114 Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

115 Policy FRANP7 seeks to designate seven areas of Local Green Space. Evidence is provided to demonstrate that each of these spaces are demonstrably special to the local community and hold particular local significance. The first six listed Local Green Spaces are also in close proximity to the communities they serve, local in character and do not form extensive tracts of land

116 However, the proposed Local Green Space at Fradley Wood appears as an extensive tract of land relative to the size of the Neighbourhood Area and its settlements. The proposed space is many times the size of other areas of Local Green Space. Further, this space is some considerable distance from the settlements and as such, it is not clear to me that it is located in reasonably close proximity to the community it serves.

117 National policy is explicit in its requirement that policy for managing development within a Local Green Space be consistent with policy for Green Belts. The wording of Policy FRANP7 does not have regard to this, but seeks to impose its own policy for managing development and this is a matter addressed in the recommendations below.

118 The Policies Map show the areas of Local Green Space at a very small scale, such that it is difficult to clearly identify their precise boundaries. This is inappropriate for such an important designation.

119 I recommend:

- **Policy FRANP7, delete “7. Fradley Wood”**
- **Policy FRANP7, delete part B and replace with “*Areas of Local Green Space will be protected in a manner consistent with the protection of land within Green Belts.*”**
- **Provide a new Figure, or Figures in the Proposals Maps section. These should be at a scale such that the precise boundaries of each Local Green Space are clearly identifiable. Boundaries must not be obscured by any text.**
- **Delete Paras 6.21, 6.22 and 6.23, together with the two photos above**

**Policy FRANP8: Minimising the Landscape Impact of Development**

120 Paragraph 58 of the Framework requires development to respond to local character and history; and Paragraph 109 states that:

*“The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity...”*

121 Policy FRANP8 seeks to ensure that development respects local character and contributes to biodiversity and it has regard to national policy in these respects.

122 As worded, the Policy does not distinguish between “*natural features*,” which could thus apply to any number of things. Further, it is not clear, in the absence of any information, when it would and would not be “relevant” to retain and enhance river habitats.

123 Taking the above into account, I recommend:

- **Policy FRANP8, change part A to “*Development must respect important natural and heritage features and provide net gains in biodiversity where possible. The retention and enhancement of river banks will be supported.*”**
- **Policy FRANP8, change part B to “*Development should not result in the net loss of biodiversity or green infrastructure, including hedgerows.*”**

Economy

**Policy FRANP9: Small-scale Commercial Development**

124 In seeking to build a strong, competitive economy, national policy states that:

*"...significant weight should be placed on the need to support economic growth through the planning system."*

(Paragraph 18, the Framework)

125 Further to the above, Local Plan Core Policy 7, *"Employment and Economic Development*, supports the creation of new businesses.

126 Policy FRANP9 sets out support for new business development. It has regard to national policy and is in general conformity with the Local Plan.

127 In the absence of any detail, it is not clear why *"In particular...particularly strongly supported"* is any different to *"supported."* This part of the Policy, along with that part which refers to the Local Plan, is not concise.

128 I recommend:

- **Policy FRANP9, change to *"Within the settlement boundaries and the Fradley Park employment area, the development of small-scale office and/or light industrial (B1 class) employment opportunities, including a new facility as part of a multi-functional community facility will be supported."* Delete rest of Policy**
- **Para 7.1, delete last sentence, which has been overtaken by events**

**Policy FRANP10: Provision for Distribution Vehicles**

129 Paragraph 35 of the Framework requires developments to be located and designed to:

*“...accommodate the efficient delivery of goods and supplies.”*

130 The Neighbourhood Plan is supported by evidence to demonstrate that such efficiency is at significant risk and Policy FRANP10 seeks to address this, having regard to national policy.

131 No changes are recommended.

## Movement

### **Policy FRANP11: Cycling, Walking and Disability Access Routes**

132 Chapter 4 of the Framework, "Promoting sustainable transport," supports sustainable patterns of movement and Paragraph 75 of the Framework states that:

*"Planning policies should protect and enhance public rights of way and access."*

133 Policy FRANP11 seeks to encourage the provision and enhancement of cycling, walking and disability access routes and has regard to national policy.

134 As set out, the Policy is not concise and this is a matter addressed in the recommendations below. Further, there is no evidence to demonstrate that it would be viable or deliverable for all development to ensure safe pedestrian access to link up with existing footways that directly serve Movement Routes and this part of the Policy does not have regard to Paragraph 173 of the Framework, in respect of viability and deliverability.

135 Paragraph 32 of the Framework is explicit in establishing that development should only be prevented on transport grounds where the residual cumulative impacts of development are severe and part D of Policy FRANP11 does not have regard to this.

136 Part E of the Policy is unclear. There is no evidence to demonstrate that access provision might only be provided through the provision of crossings or dropped kerbs and access might not be addressed by dedicated provision of crossings in all manner of circumstances where dropped kerbs might be irrelevant, unnecessary or inappropriate.

137 I recommend:

- **Policy FRANP11, change part A to "Development proposals to improve cycling, walking and disability access, including those that separate cycle and pedestrian routes from vehicular traffic, will be supported."**

- Policy FRANP11, delete parts B, D and E
- Policy FRANP11, change part C to "*B. Proposals to enhance the identified Movement Routes will be supported.*"
- Para 8.4, change to "*Where improvements are needed, the Parish Council will seek to encourage contributions through Section...*"

**FRANP12: Highway Capacity at Key Road Junctions**

138 Policy 12 is predicated upon the provision of information to satisfy the Highway Authority. This is not something that the Neighbourhood Plan can control.

139 I recommend:

- **Delete Policy FRANP12**
- **Delete Para 8.10 and replace with “The Parish Council will seek to work with applicants, the highway authority and other parties to encourage the provision of Transport Assessments or Statements that address the cumulative transport impact on road junctions, particularly Hilliard’s Cross and Fradley Village on the A38 and The Gorse Lane Bridge**
- **Delete “Highway capacity at key road junctions” (text and plan notation) from Policies Maps**

**Policy FRANP13: Residential Parking**

140 Local Plan Policy ST2, "*Parking Provision*," requires car parking provision to be made in accordance with parking standards set out in Lichfield District Council's Sustainable Design Supplementary Planning Document. This provides a clear approach to parking provision.

141 The first part of Policy FRANP13 requires car parking to meet the requirements of Local Plan Policy ST2. It is not the role of neighbourhood planning policies to repeat existing policies, but in a less detailed manner.

142 The second part of Policy FRANP13 states that garaging/car port facilities must be permanently available for car parking use. No information is provided to demonstrate how such an onerous requirement might be monitored and/or controlled. In the absence of such information, this part of the Policy is unjustified as it is not apparently deliverable, having regard to Paragraph 173 of the Framework.

143 I recommend:

- **Delete Policy FRANP13**
- **Delete Paras 8.11 to 8.15, inclusive and the photo on page 49**

Housing and care needs

**Policy FRANP14: Meeting the Housing and Care Needs of Older People**

144 National policy states that, in order to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

*...plan for a mix of housing...and the needs of different groups in the community (such as, but not limited to...older people..."*

(Paragraph 50, the Framework)

145 Generally, the first part of Policy FRANP14 supports the provision of housing to meet the needs of older people and as such, it has regard to national policy. It is not clear how this part of the Policy might be encouraged, but this is a matter addressed in the recommendations below.

146 Part B of Policy FRANP14 is ambiguous as no indication is provided in respect of what would comprise "*reasonable provision.*" This part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

147 The final part of Policy FRANP14 supports the delivery of facilities to support the care needs of elderly people and has regard to Paragraph 70 of the Framework which requires positive planning for community services and facilities.

148 I recommend:

- **Policy FRANP14, fourth line, change to "such needs will be supported. This is..."**
- **Policy FRANP14, delete part B**
- **Para 9.3, fifth line, change to "...Plan. The Parish Council will seek to ensure that such provision is well integrated..."**

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

149 The Neighbourhood Plan cannot impose requirements upon other bodies or organisations. Whilst the Non-Policy Actions section sets out important issues raised during the plan-making process, it is inappropriate to identify bodies other than the Parish Council as "*Lead Agencies*" in respect of addressing issues.

150 I recommend

- **Page 51, delete "Lead agencies and partner" column from Table**
- **Para 10.2, delete second sentence**

151 The recommendations made in this Report will have a subsequent impact on Contents, Policy numbering, Paragraph, Policies Maps, Figures and page numbering.

152 I recommend:

- **Update Contents, Policy numbering, Paragraph, Policies Maps, Figures and page numbering to take into account the recommendations contained in this Report.**

## 9. Referendum

153 I recommend to Lichfield District Council that, subject to the modifications proposed, **the Fradley Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

154 I am required to consider whether the Referendum Area should be extended beyond the Fradley Neighbourhood Area.

155 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

156 Consequently, I recommend that the Plan should proceed to a Referendum based on the Fradley Neighbourhood Area approved by Lichfield District Council and confirmed by public notice on the 9<sup>th</sup> December 2014.

**Nigel McGurk**  
**October 2018**  
**Erimax – Land, Planning and Communities**



EST. 2011