

LEIRE NEIGHBOURHOOD PLAN 2020 - 2031

(Submission Version October 2020)

**Report of the Examination into the**  
**Leire Neighbourhood Plan 2020 - 2031**

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To Harborough District Council  
And to Leire Parish Council

26<sup>th</sup> January 2022.

<b><u>Contents</u></b>	<b>Page(s)</b>
<b>1. Introduction</b>	<b>1</b>
- Neighbourhood planning	1
- Appointment and role	1
<b>2. Preliminary Matters</b>	<b>2</b>
- Public consultation	2
- Other statutory requirements	2
<b>3. The Extent and Limits of an Examiner’s Role</b>	<b>2 - 4</b>
<b>4. Consideration of Representations</b>	<b>4</b>
<b>5. Public Hearing and Site Visit</b>	<b>5</b>
<b>6. Basic Conditions and Human Rights</b>	<b>5 - 8</b>
- Regard to national policies and advice	5 - 6
- Contributing to the achievement of sustainable development	6
- General conformity with the development plan	6 - 7
- EU obligations	7 - 8
- Conservation of Habitats and Species Regulations	8
- Human rights	8
<b>7. The nature of the area</b>	<b>8 - 9</b>
<b>8. Contents of the Draft NDP</b>	<b>9 - 13</b>
<b>9. Updating</b>	<b>13</b>
<b>10. Referendum Area</b>	<b>14</b>
<b>16. Summary of Main Findings</b>	<b>14</b>
<b>Appendix A: Recommended Modifications</b>	<b>15</b>
<b>Appendix B: Abbreviations</b>	<b>16</b>

# **Report of the Examination into the Leire Neighbourhood Plan 2020 - 2031**

## **1. Introduction**

### *Neighbourhood planning*

1. The Localism Act 2011 Part 6 Chapter 3 introduced neighbourhood planning, including provision for neighbourhood development plans. A neighbourhood development plan should reflect the needs and priorities of the community concerned and should set out a positive vision for the future, setting planning policies to determine decisions on planning applications. If approved by a referendum and made by the local planning authority, such plans form part of the Development Plan for the neighbourhood concerned. Applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

2. This report concerns the Submission (Regulation 16) Version of the Leire Neighbourhood Plan 2020 – 2031 October 2020 (“the Draft NDP”).

### *Appointment and role*

3. Harborough District Council (“HDC”), with the agreement of Leire Parish Council (“LPC”), has appointed me to examine the Draft NDP. I am a member of the planning bar and am independent of HDC, LPC, and of those who have made representations in respect of the Draft NDP. I have been trained and approved by the Neighbourhood Planning Independent Examiner Referral Service and have extensive experience both as a planning barrister and as a neighbourhood plan examiner. I do not have an interest in any land that is, or may be, affected by the Draft NDP.

4. My examination has involved considering written submissions and an unaccompanied detailed site visit on Monday 18<sup>th</sup> October 2021. I have considered all the documents with which I have been provided.

5. My role may be summarised briefly as to consider whether certain statutory requirements have been met, to consider whether the Draft NDP meets the basic conditions, to consider human rights issues, to recommend which of the three options specified in paragraph 12 below applies and, if appropriate, to consider the referendum area. I must act proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive with costs being proportionate.

## **2. Preliminary Matters**

### *Public consultation*

6. Consultation and community involvement are important parts of the process of producing a neighbourhood plan. I am satisfied that LPC took public consultation seriously. I do not consider there has been a failure in consultation, let alone one that would have caused substantial prejudice. The consultation was sufficient and met the requirements of the Neighbourhood Planning (General) Regulations 2012 (“the General Regulations”).

### *Other statutory requirements*

7. I am also satisfied of the following matters:

- (1) The Draft NDP area is the parish of Leire. On 4<sup>th</sup> December 2017 this was designated as a neighbourhood area for the purposes of neighbourhood planning. LPC is authorised to act in respect of this area (Town and Country Planning Act 1990 (“TCPA”) s61F (1) as read with the Planning and Compulsory Purchase Act 2004 (“PCPA”) s38C (2)(a));
- (2) The Draft NDP does not include provision about development that is excluded development (as defined in TCPA s61K), and does not relate to more than one neighbourhood area (PCPA s38B (1));
- (3) No other neighbourhood development plan has been made for the neighbourhood area (PCPA s38B (2));
- (4) There is no conflict with PCPA s38A and s38B (TCPA Sch 4B para 8(1)(b) and PCPA s38C (5)(b)); and
- (5) The Draft NDP specifies the period for which it is to have effect, as required by PCPA s38B(1)(a). Sensibly, this deliberately mirrors the end date for the Harborough Local Plan (“HLP”).<sup>1</sup>

## **3. The Extent and Limits of an Examiner’s Role**

8. I am required to consider whether the Draft NDP meets the basic conditions specified in TCPA Sch 4B para 8(2) as varied for neighbourhood development plans, namely:

- (a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;
- (d)<sup>2</sup> The making of the Plan contributes to the achievement of sustainable development;
- (e) The making of the 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);

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<sup>1</sup> Draft NDP p. 7.

<sup>2</sup> The omission of (b) and (c) results from these clauses of para 8(2) not applying to neighbourhood development plans (PCPA s38C (5)(d)).

(f) The making of the Plan does not breach, and is otherwise compatible with, EU obligations; and

(g) Prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the Plan.

9. There is one prescribed basic condition:<sup>3</sup> *“The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.”* Chapter 8 comprises regulations 105 to 111.

10. The combined effect of TCPA Sch 4B para 8(6) and para 10(3)(b) and of the Human Rights Act 1998 means that I must consider whether the Draft NDP is compatible with Convention rights. ‘*Convention rights*’ are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights (“the Convention”), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention’s Article 6(1), 8 and 14 and under its First Protocol Article 1.

11. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified in the last three paragraphs. In particular I may not consider whether any other test, such as the soundness test provided for in respect of examinations under PCPA s20, is met.<sup>4</sup> Rather, it is clear that Parliament has decided not to use the soundness test, but to use the, to some extent, less demanding tests in the basic conditions. It is important to avoid unduly onerous demands on qualifying bodies. It is not my role to rewrite a neighbourhood development plan to create the plan that I would have written for the area. It is not my role to impose a different vision on the community.

12. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. These are: (1) that the Draft NDP proceeds to a referendum as submitted; (2) that the Draft NDP is modified to meet basic conditions and then the modified version proceeds to a referendum; or (3) that the Draft NDP does not proceed to referendum. If I determine that either of the first two options is appropriate, I must also consider whether the referendum area should be extended. My power to recommend modifications is limited by statute in the following terms:

*The only modifications that may be recommended are—*

*(a) modifications that the examiner considers need to be made to secure that the draft [NDP] meets the basic conditions mentioned in paragraph 8(2),*

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<sup>3</sup> Sch 2 of the General Regulations prescribes this.

<sup>4</sup> Woodcock Holdings Ltd v Secretary of State for Communities and Local Government [2015] EWHC 1173 (Admin), Holgate J, para 57; PPG Reference ID: 41-055-2018022.

*(b) modifications that the examiner considers need to be made to secure that the draft [NDP] is compatible with the Convention rights,*

*(c) modifications that the examiner considers need to be made to secure that the draft [NDP] complies with the provision made by or under sections 61E(2), 61J and 61L,*

*(d) modifications specifying a period under section 61L(2)(b) or (5), and*

*(e) modifications for the purpose of correcting errors.<sup>5</sup>*

13. The word “only” prevents me recommending any other modifications. The fact that a modification would be of benefit is not a sufficient ground in itself to recommend it. It would be helpful if those wishing to obtain what they consider to be improvements to neighbourhood plans (especially major public and private bodies) either do so at an early stage of the process or, if they leave the matter until the examination clearly explain how their proposal is within the limited powers of an examiner. So, for example, the fact that a policy could be strengthened or added to does not justify a modification unless this is necessary for the reasons given above. I must not take an excessively restrictive view of the power to recommend modifications, but must bear in mind Lindblom LJ’s explanation of its extent in his judgment in Kebbell Developments Ltd v. Leeds City Council.<sup>6</sup> I may not recommend a modification that would put the draft NDP in breach of a basic condition or of human rights. When I conclude that a modification is necessary, I must, in deciding its wording, bear in mind material considerations including government advice. This includes the importance of localism. Where I properly can, my suggested modifications seek to limit the extent to which the substance of the draft NDP is changed.

14. It is not my role to consider matters that are solely for the determination of other bodies such as Harborough District Council or Leicestershire County Council. Nor is it my role to consider matters that an NDP could consider, but which are not considered in the Draft NDP, unless this is necessary for my role as explained above. It is not my role to consider aspirations that do not purport to be policies.

#### **4. Consideration of Representations**

15. I have given the representations careful consideration, but have not felt it necessary to comment on most of them. Rather in accordance with the statutory requirement and bearing in mind the judgment of Lang J in R (Bewley Homes Plc) v. Waverley District Council,<sup>7</sup> I have mainly concentrated on giving reasons for my recommendations.<sup>8</sup> Where I am required to consider the effect of the whole Draft NDP, I have borne it all in mind.

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<sup>5</sup> TCPA Sch 4B, para 10(3). The provisions in (a), (c) and (d) are in the TCPA.

<sup>6</sup> [2018] EWCA Civ 450, 14<sup>th</sup> March 2018, paras 34 and 35.

<sup>7</sup> [2017] EWHC 1776 (Admin), Lang J, 18<sup>th</sup> July 2017.

<sup>8</sup> TCPA Sch 4B, para 10(6).

## **5. Public Hearing and Site Visit**

16. The general rule is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, an examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure (1) adequate examination of the issue or (2) a person has a fair chance to put a case. Since neither applied in this case, I did not hold a public hearing.

17. After particularly careful consideration in the light of current circumstances, I concluded that an unaccompanied site visit was necessary and held an extensive one on Monday 18<sup>th</sup> October 2021. The site visit helped me to gain a sufficient impression of the nature of the area for the purpose of my role.

## **6. Basic conditions and human rights**

*Regard to national policies and advice*

18. The first basic condition requires that I consider whether it is appropriate that the NDP should be made “*having regard to national policies and advice contained in guidance issued by the Secretary of State*”. A requirement to have regard to policies and advice does not require that such policy and advice must necessarily be followed, but they should only be departed from them only if there are clear reasons, which should be explained, for doing so.<sup>9</sup>

19. The principal document in which national planning policy is contained is the National Planning Policy Framework 20<sup>th</sup> July 2021 (“the NPPF”) and I have borne that in mind. Other policy and advice that I have borne in mind includes national Planning Practice Guidance (“PPG”).

20. The NPPF provides that neighbourhood plans should support the delivery of strategic policies contained in local plans and should shape and direct development that is outside of these strategic policies.<sup>10</sup> Its paragraphs 28 and 29 state:

*28. non-strategic policies should be used by... communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.*

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<sup>9</sup> *R. (Lochailort Investments Limited) v. Mendip District Council* [2020] EWCA Civ 1259, Lewison LJ, paras 6, 31 and 33, 2<sup>nd</sup> October 2020.

<sup>10</sup> NPPF para 13.

*29. 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, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.*

#### *Contributing to the achievement of sustainable development*

21. The second basic condition means that I must consider whether the making of the Plan contributes to the achievement of sustainable development. Unless the Draft NDP, or the Draft NDP as modified, contributes to sustainable development, it cannot proceed to a referendum. This condition relates to the making of the Plan as a whole. It does not require that each policy in it must contribute to sustainable development. It does require me to consider whether constraints might prevent sustainable development and, if they might, whether the evidence justifies them. That involves consideration of site-specific constraints, both existing and those proposed in the Draft NDP. The total effect of the constraints introduced by the Draft NDP when read with existing constraints should not prevent the achievement of sustainable development.

#### *General conformity with the development plan's strategic policies*

22. The third basic condition means that I must consider whether the Draft NDP is in general conformity with the strategic policies contained in the development plan for the area of the authority. The relevant part of the development plan is the Harborough Local Plan (April 2019) (“HLP”)

23. The adjective ‘*general*’ allows a degree of (but by no means unlimited) flexibility and requires the exercise of planning judgement. The draft NDP “*need not slavishly adopt every detail*”.<sup>11</sup> This condition only applies to strategic policies - there is no conformity requirement in respect of non-strategic policies in the development plan or in respect of other local authority documents that do not form part of the development plan, although such documents may be relevant to other matters. In assessing general conformity and whether a policy is strategic, I have borne in mind helpful PPG advice.<sup>12</sup> I have also borne in mind the relevant part of the judgment in R (Swan Quay LLP) v Swale District Council.<sup>13</sup>

24. Relevant policies in HLP include SS1 The spatial strategy. This begins by setting out a settlement hierarchy, the sixth and least sustainable element of which is “(f) *Other villages*,

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<sup>11</sup> Wiltshire Council v Cooper Estates Strategic Land Ltd [2019] EWCA Civ 840, para 3.

<sup>12</sup> Paras 074 to 077 of the section on neighbourhood planning.

<sup>13</sup> [2017] EWHC 420 (Admin), para 29, Dove J, 27<sup>th</sup> January 2017.



rural settlements and the countryside where development will be strictly controlled”. Leire is in this category.<sup>14</sup>

25. HLP’s paragraph states:

*3.1.14 Rural villages and other settlements which do not meet the criteria for identification as Selected Rural Villages are not considered sustainable locations for development and are at the bottom of the settlement hierarchy. They are considered countryside and proposals and will be assessed against policies GD3 Development in the Countryside and GD4 New Housing in the Countryside.”*

26. HLP’s Table D23 includes the following:

*Other villages and rural settlements are considered the least sustainable locations for growth and are covered by housing in the countryside policy. New housing will be limited to housing to meet an identified need (either through a housing needs survey or neighbourhood plan), housing to meet the needs of a rural worker, rural exception sites, isolated homes in the countryside in accordance with NPPF paragraph 79, and replacement dwellings.*

27. HLP’s policy H2 includes the following:

*40% affordable housing will be required on housing sites:*

*a. of more than 10 dwellings; or*

*b. with a combined gross floorspace of more than 1,000 square metres.*

28. HLP’s paragraph 5.3.4 explains “The threshold site size of more than 10 dwellings to provide affordable housing specified in Policy H2 is set by national policy and guidance.” This is now NPPF paragraph 64, “Provision of affordable housing should not be sought for residential developments that are not major developments,<sup>15</sup> other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”

#### *EU obligations*

29. The fourth basic condition requires me to consider whether the Draft NDP breaches, or is otherwise incompatible with, EU obligations. I have in particular considered the following, together with the UK statutory instruments implementing them: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); the Water Framework Directive (2000/60/EC); and the General Data Protection Regulation

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<sup>14</sup> HLP page 250, Table D.23.

<sup>15</sup> For housing, a major development is “development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”

(2016/679/EU). I have also considered the judgment of the European Court of Justice in People Over Wind v Coillte Teoranta.<sup>16</sup> I have born in mind that proportionality is a concept of and underlies EU law and must avoid requirements that are disproportionate for a plan as relatively small as the Draft NDP.

30. I am satisfied that no issue arises in respect of equality under general principles of EU law or any EU equality directive.

#### *Conservation of Habitats and Species Regulations*

31. I am satisfied that the making of the NDP would not be incompatible with the prescribed basic condition and that it is not necessary to consider the matter further in this report.

#### *Human Rights*

32. English planning law in general complies with the Convention. This matter can be dealt with briefly in advance of further consideration of the contents of the Draft NDP. I have considered whether anything in the Draft NDP would cause a breach of any Convention right. In particular I have considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. This last-mentioned article reinforces the common-law principle that private property rights should not be removed without proper justification and I bear that in mind. Subject to that, nothing in my examination of the Draft NDP indicates any breach of a Convention right, so that no modifications need to be made to secure that the Draft NDP is compatible with these rights. It is therefore not necessary to consider human rights in the parts of this report that deal with specific parts of the Draft NDP.

### **7. The nature of the area**

33. In considering the contents of the Draft NDP I must consider the nature of Leire. It is accurately described in the Draft NDP. It has a small population (587 in the 2011 census) and limited facilities (a church with services once or twice a month, a village hall, two pubs and a playing field and children's play area). It does not have any convenience stores or other shops and does not have a school. It does have a much better bus service than many villages of its size. Not surprisingly, it is in least sustainable category in HLP's hierarchy of settlements, 'Other villages, rural settlements and the countryside where development will be strictly controlled'.<sup>17</sup>

34. Most of the parish is Midland countryside that is attractive, but not designated.

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<sup>16</sup> Case C-323/17, 12<sup>th</sup> April 2018.

<sup>17</sup> HLP policy SS1(1)(f).

35. Consultation showed a desire for smaller affordable homes.<sup>18</sup> This is not surprising, given the parish's significantly higher than average house prices.<sup>19</sup>

## **8. The contents of the Draft NDP**

*Pages 18 and 19*

36. The most controversial part of the Draft NDP is the decision to future-proof the plan by a residential allocation accessed from St Peters Close and the policy that provides for this, policy H1.<sup>20</sup>

37. I have read and given weight to the site sustainability assessment. This rightly points out that *“The objectively assessed need between 2016 and 2036 is therefore for 0 additional dwellings, based upon the settlement hierarchy agreed for the parish and the small proportion of the population of Leire as a proportion of the district as a whole.”* It explains why the NDP nonetheless makes some provision for housing: *“The NDP supports the provision of sustainable housing in the Parish to meet local need and has embraced the desire to exceed the District-wide housing provision target by identifying potential housing sites within the Parish to meet these requirements...”*. It also points out that the initial site assessments were undertaken by an independent professional.

38. Government policy in NPPF paragraph 70 provides. *“Neighbourhood planning groups should also give particular consideration to the opportunities for allocating small and medium-sized sites (of a size consistent with paragraph 68 69a) suitable for housing in their area.”* This is a strengthening of its predecessor, with *“give particular consideration to”* replacing *“consider”*.

39. Clause (b) of policy H1 states *“a minimum of two of the dwellings will be affordable”*. This reflects the response to community questionnaire that affordable homes are needed.<sup>21</sup> While affordable housing is encouraged by policy H3, there is no basis for confidence that it would achieve this. Windfall development supported by policy H2 seldom achieves affordable housing. It is therefore clear that clause (b) is of considerable importance, and I give great weight to the benefit of the proposed affordable housing. Without it the case for allocating the H1 site would be considerably weaker.

40. In the context of the village, the site is relatively sustainable being sufficiently close to the pubs, village hall and church to make motor vehicle journeys between it and these facilities likely to be rare.

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<sup>18</sup> Draft NDP pages 16-17.

<sup>19</sup> Draft NDP page 11.

<sup>20</sup> There are further mentions of the residential allocation on pages 20, 21, 22

<sup>21</sup> Draft NDP, bottom of page 16.

41. I have given the representations in respect of this site careful and lengthy consideration and concluded that it should remain in the draft NDP. Its allocation complies with the NPPF paragraph 70. It would provide clearly needed affordable housing, while other routes to the provision of such housing are based on hope rather an assessment of likelihood. With respect to the argument that greenfield land should not be allocated, I see no basis for considering that needed affordable housing is likely to be provided on anything but a greenfield site sufficient for 5 or more dwellings. I accept the evidence of Andrew Grainger in response to my guidance and directions. A satisfactory access can be provided that does not pose a risk to safety and that allows emergency vehicles and waste-collection vehicles to enter and leave the site. My conclusion was reinforced by site visit which showed a by no means exceptional access. I am satisfied that the site is capable of development without harm to heritage assets. I accept the evidence of LPC that the allocation was not an error.

*Pages 20-22*

42. There is no conflict with the basic conditions in the limits to development. In particular they do not constitute a lack of general conformity with the development plan's strategic policies and in the context of such a small village in the least sustainable category in the hierarchy, NPPF's paragraph 70 is met by the residential allocation accessed from St Peters Close.

43. I deal with the inclusion of sites 001 and 327 in figure 7 below. My conclusion that their identification as sites of environmental significance should be removed does not alter my view in respect of the limits to development.<sup>22</sup> Sufficient allocation of housing land is achieved by policy H1's more central allocation. Altering the limits of development to include these sites would be likely to lead to more development than is appropriate in this small village in the lowest category in the sustainability hierarchy.

*Page 23*

44. The current edition of the NPPF is the NPPF (2021). This minor error should be corrected.

Recommended modification 1

*Page 23, 1<sup>st</sup> complete paragraph*

Replace "(2019)" with "(2021)"

*Page 28*

45. Page 28 deals with proposed local green spaces and includes a policy to protect them. The NPPF provides for Local Green Spaces (LGSs) in its chapter 8, which is headed

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<sup>22</sup> Paragraph 58 below.

“Promoting healthy and safe communities”. Under the sub-heading “Open Spaces and Recreation”, paragraphs 99, 100 and 101 state:

*101. The designation of land as Local Green Space through ... neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period..*

*102. The Local Green Space designation should only be used where the green space is:*

- a) in reasonably close proximity to the community it serves;*
- b) 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*
- c) local in character and is not an extensive tract of land.*

*102. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.*

46. These paragraphs are central to any consideration of whether land should be designated as an LGS. They should be followed unless there is a good reason not to do so and none has been given or is otherwise apparent to me. In considering the proposed LGS designations, I have born in mind and found helpful the judgment Court of Appeal in R. (Lochailort Investments Ltd) v Mendip District Council.<sup>23</sup> The phrase in para 99 “*capable of enduring beyond the end of the plan period*” was given specific consideration. It is less demanding policy than applies to Green Belt designation where the stronger word “*permanently*” is used.

47. Policy on LGSs is also contained in HLP policy G14 and I have borne that and its explanation in mind.

48. I have considered each proposed LGS and the reason for their designation in the papers that I have seen, and I viewed them on my site visit. I am satisfied that each satisfies the requirements for inclusion in an NDP and involves no conflict with either the NPPF or HLP. I have also considered the totality of LGS designations and found no breach of basic conditions in that.

*Pages 29-30*

49. These pages consider Important Open Spaces. Among other things the NPPF states:

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<sup>23</sup> [2020] EWCA Civ 1259, 2<sup>nd</sup> October 2020.

*“Planning policies... should enable... the retention and development of accessible local services and community facilities, such as ... sports venues, open space... public houses and places of worship.” [para 84]*

*“To provide 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 spaces, community facilities (such as ... sports venues, open space, ... public houses and places of worship) ... to enhance the sustainability of communities and residential environments.” [para 93]*

*“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.” [para 99]*

50. HLP has policy on open space in its policy SS1(9) and G12.

51. I am satisfied that policy ENV2 and its supporting text broadly reflects NPPF and HLP and involves no breach of a basic condition. I have also considered the specific sites designated as important green spaces and am satisfied that each is justified.

*Page 31*

52. I have considered the proposed sites of environmental significances and subject to the following am satisfied with their allocation.

53. I looked at sites 001 and 327. Site 001<sup>24</sup> has been identified partly based on a species-rich hedge under different ownership. The remaining reasons for its allocation are not sufficient to justify it. The description of site 327 refers to Homeleigh, an adjoining property. Once this is recognised there is insufficient justification for its allocation. I therefore recommend that the draft NDP is modified to remove these sites from Figure 7.

Recommended modification 2

*Page 31, Figure 7*

Remove sites 001 and 327 from the figure

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<sup>24</sup> Appendix 9, page 4.

Page 37

54. There is an error in the second line of policy ENV 7 and in its supporting text. The figure to which the policy refers should be figure 12.

Recommended modification 3

*Page 37, policy ENV 7 and following paragraph*

Replace “figure 10’ with “figure 12” and “Figure 10’ with “figure 12”.

Page 46

55. There is an error in policy ENV12. 10.3 is on pages HLP pages 132 and 133.

Recommended modification 4

*Page 46*

Replace “, and is supported by National Planning Policy Framework 2019” with “and”.

Page 53

56. The first sentence on this page needs to be updated.

Recommended modification 5

*Page 53*

Replace the first sentence with: *“In 2020 the UK government announced its intention to ban sales of new petrol and diesel cars from 2030 to combat rising levels of air pollution (in particular NOx) and address climate change concerns.”*

57. The second paragraph of this page also needs to be updated.

Recommended modification 6

*Page 53, 2<sup>nd</sup> paragraph*

Replace the third sentence with: *“Larger capacity on-board generators (7kW) are now available, halving these times, but this is the maximum currently possible using current the standard domestic electricity supply (single phase 240volt).”*

**9. Updating**

58. It may be that certain passages need updating. Nothing in this report should deter appropriate updating prior to the referendum in respect of incontrovertible issues of primary fact.

## **10. The Referendum Area**

59. I have considered whether the referendum area should be extended beyond the designated plan area. However, I can see no sufficient reason to extend the area and therefore recommend that the referendum area be limited to the parish.

## **11. Summary of Main Findings**

60. I commend the Draft NDP for being clear, intelligible and well written and for the considerable effort that has gone into its creation.

61. I recommend that the Draft NDP be modified in the terms specified in Appendix A to this report in order to meet basic conditions and to correct errors. I am satisfied with all parts of the Draft NDP to which I am not recommending modifications.

62. With those modifications the Draft NDP will meet all the basic conditions and human rights obligations. Specifically:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the NDP;
- The making of the NDP contributes to the achievement of sustainable development;
- The making of the NDP is in general conformity with the strategic policies contained in the development plan for the parish of Leire (or any part of that area);
- The making of the NDP does not breach, and is not otherwise incompatible with, EU obligations;
- The making of the NDP does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- The modified Draft NDP is in all respects fully compatible with Convention rights contained in the Human Rights Act 1998.

63. I recommend that the modified NDP proceed to a referendum, the referendum area being the area of the Draft NDP, namely the parish of Leire.

*Timothy Jones*

Timothy Jones, Barrister, FCI Arb,

Independent Examiner,

No 5 Chambers

26<sup>th</sup> January 2022.



## **Appendix A: Recommended Modifications**

### Recommended modification 1

Page 23, 1st complete paragraph

Replace “(2019)” with “(2021)”.

### Recommended modification 2

Page 31, Figure 7

Remove sites 001 and 327 from the figure.

### Recommended modification 3

Page 37, policy ENV 7 and following paragraph

Replace “figure 10’ with “figure 12” and “Figure 10’ with “figure 12”.

### Recommended modification 4

Page 2

Replace “, and is supported by National Planning Policy Framework 2019” with “and”.

### Recommended modification 5

Page 53

Replace the first sentence with: “In 2020 the UK government announced its intention to ban sales of new petrol and diesel cars from 2030 to combat rising levels of air pollution (in particular NOx) and address climate change concerns.”

### Recommended modification 6

Page 53, 2nd paragraph

Replace the third sentence with: “Larger capacity on-board generators (7kW) are now available, halving these times, but this is the maximum currently possible using current the standard domestic electricity supply (single phase 240volt).”

## Appendix B: Abbreviations

The following abbreviations are used in this report:

Convention	European Convention on Human Rights
Draft NDP	Submission (Regulation 16) Version of the Leire Neighbourhood Plan 2020 - 2031
EU	European Union
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
HDC	Harborough District Council
HLP	Harborough Local Plan
LGS	Local Green Space
LPC	Leire Parish Council
NDP	Neighbourhood Development Plan
NPPF	National Planning Policy Framework (2021)
para	paragraph
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PPG	national Planning Practice Guidance
s	section
Sch	Schedule
TCPA	Town and Country Planning Act 1990 (as amended)

Where I use the verb '*include*', I am not using it to mean '*comprise*'. The words that follow are not necessarily exclusive.