

THE BURTON OVERY NEIGHBOURHOOD PLAN REVIEW 2025 - 2041

Report of the Examination into the
Burton Overy Neighbourhood Plan Review 2025 – 2041

Timothy Jones, Barrister, FCI Arb,
Independent Examiner



No 5 Chambers,
Birmingham - London - Bristol

To Harborough District Council
And to Burton Overy Parish Council

3rd September 2025.

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Report of the Examination into the
Burton Overy Neighbourhood Plan 2011 – 2035

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 (as has happened here) 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 a proposed modification (“the Draft Plan”) to the Burton Overy Neighbourhood Plan 2011-2035 which Harborough District Council (“HDC”) approved on 15th January 2019 following a referendum 5 days earlier (“the Made NDP”). The neighbourhood area was designated on 31st July 2015 and is the parish of Burton Overy. The Planning and Compulsory Purchase Act 2004 (“PCPA”) Schedule A2 provides the statutory framework for modifications of neighbourhood plans.

Appointment and role

3. HDC with the consent of qualifying body, Burton Overy Parish Council (“BOPC”), has appointed me to undertake the independent examination of the Draft Plan in accordance with PCPA Sch A2 para 9(4). I am a planning barrister and am independent of HDC, BOPC, 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 trained others who wish to be examiners. I have extensive experience both as a planning barrister and as a neighbourhood planning examiner. I do not have an interest in any land that is, or may be, affected by the Draft Plan.

4. My examination has involved considering written submissions and a detailed site visit on Tuesday 2nd September 2025. I have read and considered all the documents with which I have been provided.

HDC’s determinations

5. The proposal is a modification proposal as defined in the PCPA Sch A2, paragraph 1. Before referring the matter to me, PCPA 2004 Sch A2 paragraph 8 required HDC to consider

whether the draft plan complies with the provision made by or under PCPA sections 38A and 38B and to be satisfied:

- (a) that BOPC is authorised for the purposes of a neighbourhood development plan to act in relation to the neighbourhood area concerned as a result of the Town and Country Planning Act 1990 “TCPA” s 61F (as applied by PCPA s 38C(2)(a));
- (b) that the proposal complies with provision made by or under s61F;
- (c) that the proposal and the documents and information accompanying it (including the Draft Plan) comply with provision made by or under Schedule A2 paragraph 1; and
- (d) that BOPC has complied with the requirements of regulations made under Sch A2 paragraph 4 of the Schedule imposed on it in relation to the proposal.

6. HDC was satisfied with these. It was right to be so satisfied. These requirements in respect of modification proposals have been met.

2. My preliminary determination

7. I must first determine whether the modifications contained in the Draft Plan are so significant or substantial as to change the nature of the neighbourhood development plan which the Draft Plan would replace.¹ I have considered the nature of the existing plan and I am satisfied that the proposed modification is neither so significant nor so substantial as to change the nature of the made NDP which the draft plan would replace.

3. My role

8. Having reached that determination, I must consider:

- (a) whether the draft plan meets the basic conditions;
- (b) whether the draft plan complies with the provision made by or under sections 38A and 38B;
- (c) such other matters as may be prescribed.

9. I am satisfied with (b) and (c) and consider (a) below.

10. I must act proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive with costs being proportionate.

4. Other Preliminary Matters

Public consultation

11. Consultation and community involvement are important parts of neighbourhood planning. I am satisfied from the documents that I have read that BOPC took public

¹ PCPA Sch A2 para 10(1).

consultation seriously. During my site visit, I was pleased to note posters in respect of the submission version consultation on the two notice boards in Main Street and in the church. Consultation has been sufficient and meets the requirements of the Neighbourhood Planning (General) Regulations 2012 (“the General Regulations”) and the human rights of occupiers of homes and of property owners.

Other statutory requirements

12. I am satisfied of the following matters:

- (1) The Draft NDP does not include provision about development that is excluded development as defined in TCPA s61K (PCPA s38B (6)), and does not relate to more than one neighbourhood area (PCPA s38B (1)(c));
- (2) No neighbourhood development plan other than the other proposed to be modified has been made for the neighbourhood area (PCPA s38B (2));
- (3) There is no conflict with PCPA s38A and s38B; and
- (4) The Draft NDP specifies the period for which it is to have effect, namely to 2041, as required by PCPA s38B(1) – this sensibly mirrors that for the review of the Harborough Local Plan.

5. The Extent and Limits of an Examiner’s Role

13. I am required to consider whether the Draft NDP meets the basic conditions specified in PCPA Sch A2 para 11(2), 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;*
- (b) the making of the Plan contributes to the achievement of sustainable development;*
- (c) 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);*
- (d) the making of the Plan does not breach, and is otherwise compatible with, assimilated obligations; and*
- (e) prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the Plan.*

14. There is one relevant prescribed basic condition:² *“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.

15. TCPA Sch 4B para 8(6) and para 10(3)(b) and the Human Rights Act 1998 mean that I must consider whether the Draft NDP is compatible with Convention rights. ‘Convention

² Sch 2 para 1 of the General Regulations prescribes this. PPG Reference ID: 41-079-20190509.

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.

16. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified above.³ In particular, I may not consider whether any other test, such as the soundness test provided for in respect of independent examinations under PCPA s20, is met.⁴ Rather, 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.

17. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. I must recommend:

- (a) that the local planning authority should make the draft plan,*
- (b) that the local planning authority should make the draft plan with the modifications specified in the report, or*
- (c) that the local planning authority should not make the draft plan.⁵*

18. 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 plan meets the basic conditions ...*
- (b) modifications that the examiner considers need to be made to secure that the draft plan is compatible with the Convention rights,*
- (c) modifications that the examiner considers need to be made to secure that the draft plan complies with the provision made by or under sections 38A and 38B, and*
- (d) modifications for the purpose of correcting errors.⁶*

19. 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. So, for example, the fact that a policy could be strengthened or added to does not justify a modification

³ PCPA Sch A2 para 11(3).

⁴ Woodcock Holdings Ltd v. Secretary of State for Communities and Local Government [2015] EWHC 1173 (Admin), 1st May 2015, Holgate J., para 57; R. (Crownhall Estates Limited) v. Chichester District Council [2016] EWHC 73 (Admin) 21st January 2016, Holgate J., para 29; PPG Reference ID: 41-055-2018022.

⁵ PCPA Sch A2 para 13(2).

⁶ PCPA Sch A2 para 13(3).

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.⁷ Errors include statements that were correct when written, but have become out of date. 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 recommended modifications seek to limit the extent to which the substance of the Draft NDP is changed.

20. It is not my role to consider matters that are solely for the determination of other bodies such as Leicestershire County Council, HDC in a non-planning capacity, or the Environment Agency. 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 are not policies.

6. Consideration of Representations

21. Eight public bodies and one utility company responded pursuant to the General Regulations regulation 17. There was no response from any individual, or from anybody advancing development. Substantial parts of the responses suggest additions to draft NDP. However, I can only recommend modifications for the reasons given in paragraph 18 above. Those whose suggested additions have not been accepted may in the future wish to consider making representations seeking additions at an earlier stage of the neighbourhood planning process. I have read each representation and given it careful consideration, but have not felt it necessary to respond to all of them. Rather in accordance with the statutory requirement⁸ and bearing in mind the judgment of Lang J in R. (Bewley Homes Plc) v. Waverley Borough Council,⁹ I have mainly concentrated on giving reasons for each of my recommendations.¹⁰ Where I am required to consider the effect of the whole Draft NDP, I have borne it all in mind.

7. Public Hearing and Site Visit

22. 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.¹¹ However, an examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue in

⁷ [2018] EWCA Civ 450, 14th March 2018, paras 34 and 35.

⁸ PCPA Sch A2 para 13(5)(a).

⁹ [2017] EWHC 1776 (Admin), Lang J, 18th July 2017.

¹⁰ TCPA Sch 4B, para 10(6).

¹¹ PCPA Sch A2 para 12(1); PPG Reference ID: 41-056-20180222.

any case where the examiner considers that there are exceptional reasons for doing so, or in such other cases as may be prescribed.¹² Neither applies. I therefore did not hold a public hearing.

23. I decided that an unaccompanied site visit was necessary and held one on Tuesday 2nd September 2023. The weather was mixed, but there were no impediments to the visit and I was able to see all that I wished to see. The site visit helped me to gain a sufficient impression of the nature of the area for the purpose of my role.

8. Basic Conditions and Human Rights

Regard to national policies and advice

24. 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 if there are clear reasons, which should be explained, for doing so.¹³

25. The main document in which national planning policy is contained is the National Planning Policy Framework (December 2024) as amended slightly¹⁴ on 7th February 2025 (“NPPF”) and I have borne that in mind. Other policy and advice that I have borne in mind includes national Planning Practice Guidance (“PPG”).

Contributing to the achievement of sustainable development

26. 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 be made. 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 in the Draft NDP when read with existing constraints must not prevent the achievement of sustainable development.

¹² PCPA Sch A2 para 12 (2).

¹³ R. (Lochailort Investments Limited) v. Mendip District Council [2020] EWCA Civ 1259, Lewison LJ, 2nd October 2020, paras 6, 31 and 33.

¹⁴ The amendments were to correct cross-references from footnotes 7 and 8 and to amend the paragraph 155’s first sentence and were not intended to change policy.

General conformity with the development plan's strategic policies

27. The third basic condition means that I must consider whether the Draft NDP as a whole is in general conformity with the strategic policies contained in the development plan for the area of the authority. The development plan for the purpose of my examination does not include the made NDP.¹⁵ It includes the Harborough Local Plan (“HLP”), which was adopted in April 2019, and which is under review. Burton Overy is one of the ‘Other Villages and Rural Settlements’ listed in Table D.23. The Table gives the following approach to development:

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.

28. The development plan also includes the Leicestershire Minerals and Waste Local Plan (adopted 2019). This does not make any express mention of Burton Overy and does not include any allocated site in or adjoining the parish.

29. 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*”.¹⁶ This condition only applies to strategic policies - there is no conformity requirement under this basic condition 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 adopted 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.¹⁷ I have also borne in mind the relevant part of the judgment in R. (Swan Quay LLP) v. Swale District Council.¹⁸

Assimilated obligations

30. The fourth basic condition requires me to consider whether the Draft NDP breaches, or is otherwise incompatible with, assimilated obligations (formerly retained EU obligations). I have in particular considered the following, together with the UK statutory instruments implementing them in England: 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

¹⁵ PCPA Sch A2 para 16.

¹⁶ Wiltshire Council v. Cooper Estates Strategic Land Ltd [2019] EWCA Civ 840, para 3, 16th May 2019.

¹⁷ PPG Reference IDs: 41-074-20140306; 41-075-20190509; 41-076-20190509; and 41-077-20190509.

¹⁸ [2017] EWHC 420 (Admin), para 29, Dove J, 27th January 2017.

Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); the Water Framework Directive (2000/60/EC); and the General Data Protection Regulation (2016/679/EU). I have also considered the judgment of the European Court of Justice in People Over Wind v. Coillte Teoranta.¹⁹ I have borne in mind that proportionality is a concept of and underlies EU law and must be wary of requirements that would be disproportionate to the Draft NDP.

31. 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 2017

32. 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

33. The planning law of England and Wales 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. The Convention rights that have been most 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 and I have considered these. I have also considered last year's landmark judgment of the European Court of Human Rights' Grand Chamber in Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,²⁰ which held that under article 8 a State has a positive obligation to implement sufficient measures to combat climate change. In Convention jurisprudence a State includes its emanations such as local government. First Protocol Article 1 reinforces the common-law principle that private property rights should not be removed without proper justification, and I have borne that in mind. Apart from those, nothing in my examination of the Draft NDP has required further consideration of human rights.

9. The Nature of the Neighbourhood Area

34. In considering the contents of the Draft NDP I must consider the nature of the neighbourhood area. Its gist is well described in the Draft NDP. Burton Overy Parish is in Harborough district and includes the village of Burton Overy. There are no other settlements in the parish, which apart from the village is open countryside. In 2021 there were 295 people living in the parish.

¹⁹ Case C-323/17, 12th April 2018.

²⁰ Application no. 53600/20, (2024) 79 EHRR 1, 9th April 2024.

35. The buildings in Burton Overy village display considerable variety with three areas having distinctive characters as detailed on pages 9 and 23 of the draft NDP. The village together with some adjoining fields is a Conservation Area (“CA”).²¹ There are 21 Listed Buildings (“LBs”) in the village,²² and one Scheduled Monument (Medieval manorial fishponds at The Banks) .

36. A small part of the Kilby-Foxton Canal Site of Special Scientific Interest (“SSSI”) lies in the parish.

37. There is no school in the parish and no convenience store (although a limited amount of convenience goods is available from Kingarth Farm Dairy and Manor Farm Egg Shop). The village is not served by public transport and there are no bus stops in the parish).

10. The contents of the Draft NDP

NPPF paragraph numbers

38. Some of the paragraph numbers do not correspond with appropriate paragraphs in NPPF (December 2024). These should be corrected.

Recommended modification 1

Page 6

Replace “paragraph 105” with “paragraph 106”.

Page 7

Replace “paras 207, 212” with “paragraphs 207 and 208”.

Page 23

Replace “paragraph 59” with “paragraph 139”.

Page 39

Replace “199, 210 and 212” with “206, 217 and 219”.

Housing and Design

Page 20, 2nd paragraph

39. The quotation from the Local Plan is partly inaccurate and should be corrected.

²¹ Draft NDP Figure 2

²² There is also the mid-19th-century Parish Boundary Post about 30 metres south of The Boundary House, which is grade II (List entry 1180202).

Recommended modification 2

Page 20, 2nd paragraph

Replace “New housing will be limited to small sites to meet a locally identified need (either through a housing needs survey or NP), housing to meet the needs of a rural worker, isolated homes in the countryside in accordance with NPPF (2024) paragraph 56, and replacement dwellings.” with “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’ [now 84] ‘, and replacement dwellings.’ ”

Page 20, 4th paragraph

40. Page 20 includes “*Therefore, the housing density in any new developments will be kept in proportion appropriate to the size and character of the main settlement in the parish.*” This is not reflected in the policy and could be read as contrary to NPPF paragraphs 124 and 125’s discouragement of inefficient use of land and low-density development and to the draft Plan’s clear preference for 2-3 bedroom properties over 4 or more bedroom property. Encouragement of low-density development can increase the cost of open-market and affordable housing and increase pressure for development of greenfield land and therefore needs robust justification. Also, the specifying the character of the main settlement as a whole is inconsistent with the settlement having three distinct characters. Removing the sentence would not permit excessively dense development. In particular, decisions on development within the CA and in the settings of LBs will have to consider character in the vicinity. The sentence should be deleted.

Recommended modification 3

Page 20

Delete “Therefore, the housing density in any new developments will be kept in proportion appropriate to the size and character of the main settlement in the parish.”

Natural, Historic and Social Environment

Page 24, 3rd paragraph

41. The summary of existing environmental designations should include all national designations. The phrase “and other structures” serves no purpose and might confuse.

Recommended modification 4

Page 24, 3rd paragraph

Replace “21 Listed Buildings and other structures” with “21 Listed Buildings in the village and a listed parish boundary stone”.

Insert a new sentence before “Natural England”, “The Canal within the parish is part of Kilby-Foxton Canal Site of Special Scientific Interest (SSSI).”

Pages 27 - 29

42. Pages 27 and 28 and Appendix 4 consider local green spaces (“LGSs”). Six sites, shown on Figure 4 are designated as LGSs:

- 1) ‘Fish ponds field’;
- 2) Spring Field (pastureland east of Scotland Lane);
- 3) Banks Field (‘Main Street Pasture’) and verges;
- 4) Main Street Spinney;
- 5) Strip of Land along the front of the Old Heather Garden; and
- 6) Traffic Island bearing the village sign.

43. The NPPF provides for LGSs in its chapter 8, which is headed “Promoting healthy and safe communities”. Under the sub-heading “Open Spaces and Recreation”, its paragraphs 106 and 107 state:

106. 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.

107. 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.”*

44. These paragraphs are central to any consideration of whether land should be designated as an LGS. They should be followed unless there is a sufficiently good reason not to do so and

none is apparent to me. In considering the proposed LGS designations, I have borne in mind the judgment of the Court of Appeal in *R. (Lochailort Investments Ltd) v Mendip District Council*.²³ The phrase in paragraph 101 “*capable of enduring beyond the end of the plan period*” was given specific consideration. While this is a less demanding policy than applies to Green Belt designation where the stronger “*permanently*” is used, it is still important. With a 10-year extension of the plan period (2041 in place of 2031), it is particularly important to reconsider whether each LGS designation is “*capable of enduring beyond the end of the plan period*”.

45. I viewed each LGS shown on Figure 4 on my site visit. Bearing in mind the documents that I have read and what I saw on the site visit, I am satisfied each should be designated as an LGS.

46. I also viewed each of the ‘Important Open Spaces’ shown on Figure 4. Bearing in mind the documents that I have read and what I saw on the site visit, I am satisfied each should be designated as an Important Open Space.

Page 30, Figure 6

47. The SSSI is a Natural England designation. This should be shown on Figure 6.

Recommended modification 5

Page 30, Figure 6

Give the section of the Kilby-Foxton Canal SSSI within the parish a distinct colour

Insert within the key immediately under Natural England designations a new item, showing this colour and stating “Site of Special Scientific Interest”.

Page 38, Figure 10

48. St Andrews Church is a Grade II* listed building as such is of great importance being in the highest 6 per cent of all listed buildings. Table 2 of the Consultation Analysis records that the qualifying body accepted a comment that it would be useful to show this grade II* asset in a different colour to ensure that different levels of significance are clearly identified. This was agreed, but has not occurred. This is an error that should be corrected. The reference to ‘and ‘structure’ in the key is incorrect in law, the correct terminology being listed building whether in everyday English it would or would not be called a building. The entry in respect of the Scheduled monument is incorrect in that it should not refer to boundary or the year 2024.

²³ [2020] EWCA Civ 1259, 2nd October 2020.

Recommended modification 6

Page 38, figure 10

Give St Andrew’s church a distinct colour.

Within the key:

Delete “boundary (2024)”;

Insert a new item showing the above colour and “Grade II* Listed building”; and

Delete “or structure”.

Pages 39 and 40

49. I viewed all of the non-designated heritage assets other than the Farm Bridge (which I note is in the Leicestershire and Rutland Historic Environment Record). Bearing in mind the documents that I have read and what I saw on the site visit, I am satisfied each should be identified as non-designated heritage asset.

Page 41, 3rd complete paragraph

50. The exclusion of sources of renewable energy over the substantial area covered by the views shown in Figure 12 has not been justified and as such would be contrary to NPPF paragraphs 161 and 168 and contrary to the second basic condition. The matter should be left to national and district policy.

Recommended modification 7

Page 38, 41, 3rd complete paragraph

Replace “a commercial development or a wind turbine/solar array” with “or a commercial development”.

Page 43, Figure 13

51. Figure 13 is titled “Footpaths, bridleways and other walking routes” but does not show other walking routes. The section of the Roman Road known as Gartree Road between the road from Great Glen to King’s Norton at its western end and Burton Overy Lane at its eastern end should be included. This is shown on Ordnance Survey maps as an “other route with public access”. It seems to be subject to an undetermined application²⁴ to Leicestershire County Council to add it to Definitive Map of Rights of Way for Leicestershire as a bridleway. On the assumption that the application hasn’t been determined, I recommend showing it a “other route with public access”. (If I had been aware of the application having been favourably determined, I would have recommended it being shown as a bridleway.)

²⁴ Application M1303.

52. The canal towpath is another walking route.

53. On 25th June 2025 footpath C7 was diverted by the Leicestershire County Council (Diversion of Footpath C7 (Part) at Chestnut Farm in the Parish of Burton Overy and District of Harborough) Public Path Diversion Order 2025.²⁵ Its current route should be shown on Figure 13.

Recommended modification 8

Page 43, figure 13

Colour the section of Gartree Road between the road from Great Glen to King's Norton at its western end and Burton Overy Lane at its eastern end with a distinct colour.

Add to the key this distinct colour and "Other route with public access".

Colour the canal towpath within the parish a distinct colour.

Add to the key this distinct colour and "canal towpath".

Remove the route of C7 shown and replace it with its current route.

Page 44, final paragraph

54. The reference to Kibworth does not relate to the policy and is potentially confusing. It should be deleted.

Recommended modification 9

Page 44, final paragraph

Replace "neighbours, Great Glen and Kibworth, are" with "neighbour Great Glen is".

Page 46, policy ENV 11

55. The final sentence of this policy applies to development proposals of one or more dwellings, for employment or agricultural development. This extends to modest developments. I share the view that requiring a plan for ongoing maintenance provision has the potential to be onerous and contrary to NPPF paragraph 182's requirement of proportionality. This is not dealt with adequately by "as appropriate".

Recommended modification 10

Page 46, policy ENV 11

Replace "as appropriate" with "where appropriate to the nature and scale of the proposal".

²⁵ <https://publicnoticeportal.uk/notice/traffic-and-roads/686fb0ea5cc3f61a6982d85d>

Community Facilities and Amenities

Page 49 Manor Farm Egg Shop

56. The reference to Harborough Core strategy is an error that should be corrected.

Recommended modification 11

Page 46, policy ENV 11

Replace “Core strategy” with “Local Plan”.

11. Summary of Main Findings

57. I commend the Draft Plan for being clear, intelligible and well written, and for the thought and effort that has gone into its creation. It has struck the right balance between intelligibility to a lay person and the use of technical words that ensure precision.

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

59. With those modifications, the Draft Plan 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 will be appropriate to make the Plan;
- The making of the Plan will contribute to the achievement of sustainable development;
- The making of the Plan will be in general conformity with the strategic policies contained in the development plan for the neighbourhood area;
- The making of the Plan will not breach, and will not otherwise be incompatible with, assimilated obligations;
- The making of the Plan will not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- The Plan will be compatible with Convention rights contained in the Human Rights Act 1998.

60. I recommend that HDC should make the Draft Plan with the modifications specified in Appendix A to this report.

Timothy Jones, Barrister, FCIArb,

Independent Examiner,

No 5 Chambers

3rd September 2025.

Appendix A: Recommended Modifications

Recommended modification 1

Page 6

Replace “paragraph 105” with “paragraph 106”.

Page 7

Replace “paras 207, 212” with “paragraphs 207 and 208”.

Page 23

Replace “paragraph 59” with “paragraph 139”.

Page 39

Replace “199, 210 and 212” with “206, 217 and 219”.

Recommended modification 2

Page 20, 2nd paragraph

Replace “New housing will be limited to small sites to meet a locally identified need (either through a housing needs survey or NP), housing to meet the needs of a rural worker, isolated homes in the countryside in accordance with NPPF (2024) paragraph 56, and replacement dwellings.” with “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’ [now 84] ‘, and replacement dwellings.’ ”

Recommended modification 3

Page 20

Delete “Therefore, the housing density in any new developments will be kept in proportion appropriate to the size and character of the main settlement in the parish.”

Recommended modification 4

Page 24, 3rd paragraph

Replace “21 Listed Buildings and other structures” with “21 Listed Buildings in the village and a listed parish boundary stone”.

Insert a new sentence before “Natural England”, “The Canal within the parish is part of Kilby-Foxton Canal Site of Special Scientific Interest (SSSI).”

Recommended modification 5

Page 30, Figure 6

Give the section of the Kilby-Foxton Canal SSSI within the parish a distinct colour

Insert within the key immediately under Natural England designations a new item, showing this colour and stating “Site of Special Scientific Interest”.

Recommended modification 6

Page 38, figure 10

Give St Andrew’s church a distinct colour.

Within the key:

Delete “boundary (2024)”;

Insert a new item showing the above colour and “Grade II* Listed building”; and

Delete “or structure”.

Recommended modification 7

Page 38, 41, 3rd complete paragraph

Replace “a commercial development or a wind turbine/solar array” with “or a commercial development”.

Recommended modification 8

Page 43, figure 13

Colour the section of Gartree Road between the road from Great Glen to King’s Norton at its western end and Burton Overy Lane at its eastern end with a distinct colour.

Add to the key this distinct colour and “Other route with public access”.

Colour the canal towpath within the parish a distinct colour.

Add to the key this distinct colour and “canal towpath”.

Remove the route of C7 shown and replace it with its current route.

Recommended modification 9

Page 44, final paragraph

Replace “neighbours, Great Glen and Kibworth, are” with “neighbour Great Glen is”.

Recommended modification 10

Page 46, policy ENV 11

Replace “as appropriate” with “where appropriate to the nature and scale of the proposal”.

Recommended modification 11

Page 46, policy ENV 11

Replace “Core strategy” with “Local Plan”.

Appendix B: Abbreviations

The following abbreviations are used in this report:

BOPC	Burton Overy Parish Council
CA	Conservation Area
Convention	European Convention on Human Rights
Draft NDP	Burton Overy Neighbourhood Plan 2025 – 2041
EU	European Union
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
HDC	Harborough District Council
HLP	Harborough Local Plan (April 2019)
LGS	local green space
Made NDP	Burton Overy Neighbourhood Plan (January 2019)
NDP	Neighbourhood Development Plan
NPPF	National Planning Policy Framework (December 2024)
para	paragraph
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PPG	national Planning Practice Guidance
s	section
Sch	Schedule
SSSI	Site of Special Scientific Interest
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.