

THE LEIGH PARISH NEIGHBOURHOOD PLAN 2020 - 2031

(Submission Version July 2021)

**Report of the Examination into The**  
**Leigh Neighbourhood Plan 2020 - 2031**

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To Tewkesbury Borough Council  
And to the Leigh Parish Council

25<sup>th</sup> April 2022.

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**Report of the Examination into the**  
**Leigh Parish 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 draft (July 2021) of the Leigh Parish Neighbourhood Plan 2020-2031 (“the Draft NDP”).

*Appointment and role*

3. Tewkesbury Borough Council (“TBC”), with the agreement of the Leigh Parish Council (“LPC”), has appointed me to examine the Draft NDP. I am a member of the planning bar and am independent of TBC, 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 a detailed site visit on Saturday 5<sup>th</sup> February 2022. 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. Except in respect of Caravan and Camping sites,<sup>1</sup> I do not consider there has been a failure in consultation. If modified in accordance with my recommended modification 14, the consultation will be sufficient and meet 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 the Leigh. On 31<sup>st</sup> August 2016 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, namely 2020-2031, as required by PCPA s38B(1)(a).

## **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> Paragraph 50 of this report.

<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, 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; R (Crownhall Estates Limited) v Chichester District Council [2016] EWHC 73 (Admin) , para 29 Holgate J. 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. 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 TBC, Gloucestershire County Council 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.

#### **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.

#### **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

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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).

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 Saturday 5<sup>th</sup> February 2022. This included Leigh End, Evington, Coombe Hill and the Knightsbridge Business Centre. There was substantial flooding in parts of the parish, but this did not affect locations that I needed to visit. 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.*

*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*

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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.

*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 as a whole 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 are the saved policies of the Tewkesbury Borough Local Plan to 2011 and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 ("the JCS"). The development plan that applies to the Leigh also includes the Minerals Local Plan for Gloucestershire, the Gloucestershire Waste Core Strategy, and the saved policies of the adopted Gloucestershire Waste Local Plan. These are mentioned in the draft NDP, but do not raise any issue that require comment by me.

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 (including the emerging Borough Plan and supplementary planning documents), 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>

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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.

### *EU obligations*

24. 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 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 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.<sup>14</sup> I have born in mind that proportionality is a concept of and underlies EU law and must be wary of requirements that are disproportionate for a plan as small as the Draft NDP.

25. 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*

26. 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*

27. 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. 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 have borne that in mind. 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**

28. In considering the contents of the Draft NDP I must consider the nature of the parish. It is accurately described in the Draft NDP. It has a small population (357 living in 144

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<sup>14</sup> Case C-323/17, 12<sup>th</sup> April 2018.

dwellings in the 2016). The housing under construction at residential allocation COO2 and with outline planning permission at residential allocation COO1 will increase that substantially, but still leave the parish with a small population.

29. Coombe Hill is the most sustainable of the settlements. It includes a small shop in a petrol station, a farm shop, and a public house and restaurant and, for a small community, has good bus services to Tewkesbury, Cheltenham and Gloucester. It is also within walking distance of a butchers in the Knightsbridge Business Centre. It is designated as a Service Village in the JCS.

30. The only facility in Leigh End, and the Leigh is St Catherine's church (the parish's only place of worship), which, in addition to services, hosts some social activities that might otherwise take place in a village hall. No bus serves Leigh End or the Leigh. The Tewkesbury to Gloucester has three stops in each direction on the A38 in the parish and south of Coombe Hill, which can be used by residents of Leigh End and the Leigh, but are not within easy walking distance.

31. The parish to the east of the A38 and south of the A4019 lies within the Green Belt west of Cheltenham. Coombe Hill Canal and Meadows is a Site of Special Scientific Interest. Much of the Parish is covered by flood zone 2 and 3.

32. The parish contains a number of listed buildings. I viewed the Church of St Catherine, which is Grade I listed and dates from the 13<sup>th</sup> century, and its five listed monuments (all Grade II). I also viewed the listed barn at Grange Farm, Coombe Hill, which is close to the residential allocations. I did not need to view the other listed buildings.

33. The parish does not contain a school, any medical facilities, a post office, playing fields, sporting facilities, a park, a library, or a village hall (or equivalent other than St Catherine's church).

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

### *Pages 2 and 7*

34. Since I am recommending deletion of the policy in respect of caravan and camping sites and its supporting text<sup>15</sup> and in the interests of a consistent approach to dwellings recording the number of dwellings, I recommend a modification to paragraph 14, together with a correction to give it its correct name.

35. The contents also require modification to reflect the recommended deletion of the policy in respect of caravan and camping sites and its supporting text.

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<sup>15</sup> Paragraph 50 below.

Recommended modification 1

*Pages 2 and 3*

Delete the row relating to Caravan and Camping Sites and make consequential amendments to page numbering.

*Page 7, paragraph 14*

Replace “traveller site (Field View” with ““Traveller site with 16 pitches (Fieldview”.

*Page 15*

36. There is an error in the second line on this page. Apperley and Norton are equidistant from the parish.

Recommended modification 2

*Page 15, line 2*

Replace “Apperley is equidistant from Norton” with “Apperley and Norton are equidistant from the parish” .

*Page 16*

37. Supplementary planning documents do not form part of development plans.

Recommended modification 3

*Page 16, paragraph 44*

Delete the second indent.

*Page 19*

38. TBC’s Main Modification 1 to Policy RES1 amends the indicative capacity of Allocation COO1 to up to 95, which corresponds with the outline permission for up to 95 dwellings. Paragraph 61 should be updated.

Recommended modification 4

*Page 19, paragraph 61*

Replace “50 dwellings” with “up to 95 dwellings”.

*Page 36*

39. Paragraph C of policy E1 requires development to protect, maintain and enhance all public rights of way. That is excessive in that it imposes on development obligations that do not relate to the development concerned.

40. Policy E1's paragraph F only relates to residential allocation COO2, where there is a planning permission and construction across the site is well underway. It is too late to impose policy requirements in respect of it.

Recommended modification 5

*Page 36, policy E1, paragraph C*

Replace "all current public rights of way in the parish" with "those public rights of way in the parish that are significantly affected by the development".

*Paragraph F*

Delete the whole of this.

*Page 37*

41. Coombe is misspelt.

Recommended modification 6

*Page 37, above paragraph 90*

Replace "Combe" with "Coombe".

*Page 39*

42. Policy E2's paragraph C is too demanding. Many developments will involve some non-protected-species habitat loss, some hedgerow loss or both. The requirement for like-for-like replacement in paragraph D is unduly onerous and may be impracticable or not the best approach.

Recommended modification 7

*Page 39, policy E2*

Replace "Loss" with "Significant loss".

Replace "like for like" with "appropriate compensatory".

*Page 40*

43. The first sentence does not make sense as it stands, although its intention is clear.

Recommended modification 8

*Page 40, paragraph 95*

Replace the first sentence with, "The parish, which has a long history, was originally divided between the hundreds of Deerhurst and Westminster".

44. Policy E3 is excessive in that it places obligations to development that do not relate to the development concerned. That does not mean that there can be no obligation in respect of the historic environment that does not relate to something within the bounds of the site concerned. For example, a site may relate to the Tewkesbury Turnpike if it is close to its route; but imposing an obligation on a site at Coombe Hill to make provision for interpretation of Leigh End's historic environment would be excessive.

Recommended modification 9

*Page 43, policy E3*

Replace the second sentence of A with “Development at local plan housing allocation sites should provide interpretation of any historic context.”

*Pages 45 and 47*

45. Policies preventing relatively high-density housing prevent or limit the availability of lower price open-market housing. This is particular concern in a parish where average house prices are much higher than those for England as a whole.<sup>16</sup> They also, by reducing the number of dwellings, on a site reduce affordable housing provision. Brief statements that could be made in respect of much of rural England are not sufficient to justify such policies.

46. A requirement that all development will meet lifetime homes standards must be justified by evidence. That does not exist here. Further, government advice states’ “Neighbourhood plans should not be used to apply the new national technical standards.”<sup>17</sup>

Recommended modification 10

*Page 44 paragraph 108*

Replace the second sentence with “It is important that developer estates contain a mixture of styles if we are to maintain the rural feel of the Parish”.

*Page 47, policy H1*

Delete the whole of D and re-letter appropriately.

Delete “and will meet lifetime homes standards”.

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<sup>16</sup> Draft NDP para 27.

<sup>17</sup> Written Ministerial Statement of Eric Pickles MP, Secretary of State for Communities and Local Government, 25<sup>th</sup> March 2015.

Page 47

47. Policy H2's criterion E is excessive and not justified by evidence.

Recommended modification 11

Page 47, policy H2

In criterion E, replace "reduction" with "harmful reduction".

Page 48

48. There is no objection in principle to an NDP providing the development contributions will be sought for certain projects, but allowance should be made for any community infrastructure levy and payments should be "*necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*".<sup>18</sup> The misspelling of Coombe should be corrected. There is an error in that C and E are identical

Recommended modification 12

Page 48, policy H3

Replace the opening sentence with:

"To the extent that the following is not covered by a community infrastructure levy, developer contributions that are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects will be sought from the local plan site allocations and any other major development for the following:"

In B, replace "Combe" with "Coombe".

Delete E.

Page 49

49. Policy H4 C and F set specific parking standards. Such standards can only be imposed where there is sufficient evidence. That is not the case here.

Recommended modification 13

Page 49

Delete C and F and re-letter accordingly.

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<sup>18</sup> NPPF para 56.

50. In planning ‘caravan’ and ‘caravan site’ have the wide definition contained in the Caravan Sites and Control of Development Act 1960 s29 as read with the Caravan Sites Act 1968 s13 (as amended). The NPPF requires local planning authorities to determine the minimum number of homes needed and this includes the assessment of housing (a word that includes caravans) needs, including the type of housing needed, for different groups in the community and then to ensure the supply and delivery of needed housing. Planning Policy for Traveller Sites imposes broadly similar requirements for those who fall within that guidance’s definitions of Travellers and Travelling Showpeople. TBC therefore must ensure that the accommodation needs of caravan dwellers are met and this involves seeking the most appropriate locations for deliverable caravan sites. Where a local planning authority does not do this, planning inspectors can, and often do, allow appeals seeking planning permission for a caravan site. A restrictive policy against caravan sites that goes beyond national and local policy can distort what would otherwise be a “level playing field” in the search for suitable sites and so must be justified by robust evidence. Policy H5 is not supported by national or local policy, nor is it supported by evidence. Further no caravan, camping, park-home, tourism or Gypsy or Traveller organisation appears to have been consulted – none is mentioned in the Consultation Statement.<sup>19</sup> The matter should be left to national and district policy.

Recommended modification 14

*Page 50*

Delete everything on this page.

*Subsequent pages*

Renumber pages and paragraphs accordingly.

**9. Updating and renumbering**

51. 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. This includes (but is not limited to) updating to reflect the progress of the emerging Borough Plan.

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<sup>19</sup> I note that the owner of Fieldview Caravan Park commented (Consultation. Statement page 23) and that residents of the site (like other residents of the parish) were consulted.

## **10. The Referendum Area**

52. 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**

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

54. I recommend that the Draft NDP 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 NDP to which I am not recommending modifications.

55. 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 the Leigh (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.

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

Timothy Jones, Barrister, FCI Arb,  
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25<sup>th</sup> April 2022.

## **Appendix A: Recommended Modifications**

### **Recommended modification 1**

Pages 2 and 3

Delete the row relating to Caravan and Camping Sites and make consequential amendments to page numbering.

Page 7, paragraph 14

Replace “traveller site (Field View” with ““Traveller site with 16 pitches (Fieldview”.

### **Recommended modification 2**

Page 15, line 2

Replace “Apperley is equidistant from Norton” with “Apperley and Norton are equidistant from the parish” .

### **Recommended modification 3**

Page 16, paragraph 44

Delete the second indent.

### **Recommended modification 4**

Page 19, paragraph 61

Replace “50 dwellings” with “up to 95 dwellings”.

### **Recommended modification 5**

Page 36, policy E1, paragraph C

Replace “all current public rights of way in the parish” with “those public rights of way in the parish that are significantly affected by the development”.

Paragraph F

Delete the whole of this.

Recommended modification 6

Page 37, above paragraph 90

Replace “Combe” with “Coombe”.

Recommended modification 7

Page 39, policy E2

Replace “Loss” with “Significant loss”.

Replace “like for like” with “appropriate compensatory”.

Recommended modification 8

Page 40, paragraph 95

Replace the first sentence with, “The parish, which has a long history, was originally divided between the hundreds of Deerhurst and Westminster”.

Recommended modification 9

Page 43, policy E3

Replace the second sentence of A with “Development at local plan housing allocation sites should provide interpretation of any historic context.”

Recommended modification 10

Page 44 paragraph 108

Replace the second sentence with “It is important that developer estates contain a mixture of styles if we are to maintain the rural feel of the Parish”.

Page 47, policy H1

Delete the whole of D and re-letter appropriately.

Delete “and will meet lifetime homes standards”.

Recommended modification 11

Page 47, policy H2

In criterion E, replace “reduction” with “harmful reduction”.

Recommended modification 12

Page 48, policy H3

Replace the opening sentence with:

“To the extent that the following is not covered by a community infrastructure levy, developer contributions that are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects will be sought from the local plan site allocations and any other major development for the following:”

In B, replace “Combe” with “Coombe”.

Delete E.

Recommended modification 13

Page 49

Delete C and F and re-letter accordingly.

Recommended modification 14

Page 50

Delete everything on this page.

Subsequent pages

Renumber pages and paragraphs accordingly.

## Appendix B: Abbreviations

The following abbreviations are used in this report:

Convention	European Convention on Human Rights
Draft NDP	Submission draft of the Leigh Parish Neighbourhood Plan 2020-2031
EU	European Union
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
LPC	The Leigh 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
TBC	Tewkesbury Borough Council
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.