

**Wickersley Parish Council**

# **Wickersley Neighbourhood Development Plan**

A report to Rotherham Metropolitan Borough Council of the  
Independent Examination of the Wickersley Neighbourhood  
Development Plan

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## Summary of Main Findings

This is the report of the Independent Examination of the Wickersley Neighbourhood Development Plan. The plan area comprises the administrative area of Wickersley Parish Council. The plan area lies within the Rotherham Metropolitan Borough Council area. The plan period is 2021-2028. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Neighbourhood Plan should proceed to a local referendum based on the plan area.

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities the power to develop a shared vision for their area*”.<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Wickersley Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Wickersley Parish Council (the Parish Council). The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Wickersley Parish Neighbourhood Area (the Neighbourhood Area) which was formally designated by Rotherham Metropolitan Borough Council on 11 December 2017. The Neighbourhood Plan has been produced by the Parish Council with the plan preparation process being led by the Wickersley Neighbourhood Plan Steering Group (the Neighbourhood Plan Steering Group) made up of Parish Councillors, and other volunteers from the local community.

## Independent Examination

4. This report sets out the findings of the independent examination of the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to Rotherham Metropolitan Borough Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. Rotherham Metropolitan Borough Council will decide what action to take in response to the recommendations in this report.

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<sup>1</sup> Paragraph 29 National Planning Policy Framework 2021

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

5. Rotherham Metropolitan Borough Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the application.<sup>3</sup>
6. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area<sup>4</sup> unless Rotherham Metropolitan Borough Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan.<sup>5</sup> The Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.<sup>6</sup>
7. I have been appointed by Rotherham Metropolitan Borough Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and Rotherham Metropolitan Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of neighbourhood plans. I am a Member of the Royal Town Planning Institute; a Member of the

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<sup>3</sup> Paragraph 48 of the National Planning Policy Framework 2021 explains full weight is not given at this stage. Also see Planning Practice Guidance paragraph: 107 Reference ID: 41-107-20200407 Revision date: 07 04 2020 for changes in response to the coronavirus (COVID-19) pandemic

<sup>4</sup> Section 3 Neighbourhood Planning Act 2017

<sup>5</sup> Section 156 Housing and Planning Act 2016

<sup>6</sup> Paragraph 12 National Planning Policy Framework 2021

Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.

8. As independent examiner, I am required to produce this report and must recommend either:
  - that the Neighbourhood Plan is submitted to a referendum, or
  - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
  - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.
9. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>7</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>8</sup>
10. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>9</sup> The Planning Practice Guidance (the Guidance) states “*it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.*”
11. The examiner has the ability to call a hearing 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 adequate examination of the issue, or a person has a fair chance to put a case. All parties have had the opportunity to state their case. The Regulation 16 responses clearly set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. As I did not consider a hearing necessary, I proceeded on the basis of examination of the written representations and an unaccompanied visit to the Neighbourhood Plan area.

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<sup>7</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

## Basic Conditions and other Statutory Requirements

12. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>10</sup> A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- 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.<sup>11</sup>

13. With respect to the penultimate basic condition the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for a continuation of primary and subordinate legislation, and other enactments in domestic law. As the final basic condition, on 28 December 2018, replaced a different basic condition that had previously been in place throughout part of the period of preparation of the Neighbourhood Plan there is a need to confirm the Neighbourhood Plan meets the revised basic condition.

14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights.<sup>12</sup> All of these matters are considered in the later sections of this report titled

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<sup>10</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>11</sup> This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition “the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects”.

<sup>12</sup> The Convention Rights has the same meaning as in the Human Rights Act 1998

‘The Neighbourhood Plan taken as a whole’<sup>13</sup> and ‘The Neighbourhood Plan Policies’.

15. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>14</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 as amended (the Regulations) which are made pursuant to the powers given in those sections.
16. The Neighbourhood Plan relates to the area that was designated by Rotherham Metropolitan Borough Council as a neighbourhood area on 11 December 2017. A map of the Neighbourhood Area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan designated area is coterminous with the Wickersley Parish Council boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>15</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>16</sup> All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>17</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>18</sup> I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>19</sup> The front cover of the Submission

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<sup>13</sup> Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind

<sup>14</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

<sup>15</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>16</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>17</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>18</sup> Principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>19</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004



Version Plan clearly states the Plan period is 2021–2028. Paragraph 1.1.5 of the Neighbourhood Plan confirms the plan period runs to 2028 and explains this is the same period as the Rotherham Metropolitan Borough Council Core Strategy which I refer to later in my report.

19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans.<sup>20</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.<sup>21</sup> I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

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<sup>20</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2021

<sup>21</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

## Documents

23. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Wickersley Neighbourhood Plan Submission Version 2021-2028 including Appendices A to H
- Wickersley Neighbourhood Plan Basic Conditions Statement April 2021 [*In this report referred to as the Basic Conditions Statement*]
- Wickersley Neighbourhood Plan Statement of Consultation [*In this report referred to as the Consultation Statement*]
- Wickersley Neighbourhood Plan - Wickersley Design Code Submission Version
- Wickersley Neighbourhood Plan Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) Determination Statement April 2021
- Statement of amendment of Policy GS2 in respect of the boundary of Wickersley Park Local Green Space, and supporting map, prepared by Wickersley Parish Council. Representations of parties relating to this matter, and the comments of the Parish Council regarding one of those representations
- Information available on the Wickersley Parish Council website
- Information available on the Rotherham Metropolitan Borough Council website
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and Rotherham Metropolitan Borough Council and the Parish Council including: the initial letter of the Independent Examiner dated 30 November 2021; the email of the Parish Council dated 6 December 2021 commenting on the Regulation 16 representations of other parties; the letter of the Independent Examiner seeking clarification of various matters dated 14 December 2021; and the response of the Parish Council agreed by Rotherham Metropolitan Borough Council with additional comments which I received on 11 January 2022
- Rotherham Local Plan: Core Strategy 2013-2028 adopted September 2014 [*In this report referred to as the Core Strategy*]
- Rotherham Local Plan: Sites and Policies adopted June 2018 [*In this report referred to as the Sites and Policies Document*]
- Rotherham Local Plan: Barnsley, Doncaster and Rotherham Joint Waste Plan adopted March 2012.
- Rotherham Metropolitan Borough Council Supplementary Planning Document No. 6 Shop Front Design Guide

- Rotherham Metropolitan Borough Council Supplementary Planning Document No.12 Transport Assessments, Travel Plans and Parking Standards
- National Planning Policy Framework (2021) [*In this report referred to as the Framework*]
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011
- Housing and Planning Act 2016
- European Union (Withdrawal) Act 2018
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

## Consultation

24. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach

adopted.

25. Initial engagement in Spring and Summer 2018 included promotion and awareness raising; online and physical public surveys and a local business survey; and two community drop-in sessions. In the Autumn of 2018 feedback reports were presented to the Neighbourhood Plan Steering Group and community, and a meeting was held with Rotherham Metropolitan Borough Council. A design code workshop was also held in that period. A draft Neighbourhood Plan was refined following input of comments from Rotherham Metropolitan Borough Council. Section 1.6 of the Consultation Statement explains how consultation informed the development of the Neighbourhood Plan policies. In addition, a range of methods have been used to inform, engage and consult with stakeholders including newsletters delivered to all households; use of the Parish Council website and social media channels; posters and flyers; and feedback reports and meetings.
26. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan over an eight-week period commencing on 7 December 2020 and closing on 29 January 2021. The consultation on the pre-submission draft Plan and supporting documents included direct contact with: statutory consultees; local residents and businesses; local landowners; Rotherham Metropolitan Borough Council; and other stakeholders. Hard copies of the plan documents were available on request. Section 1.7 of the Consultation Statement presents details of the 26 representations received and sets out a response and any action taken, including modification and correction of the emerging Neighbourhood Plan. Suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was submitted by the Parish Council to Rotherham Metropolitan Borough Council.
27. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 10 September 2021 and 25 October 2021. Seventeen representations were submitted in total. The representations of Historic England; Sport England; Highways England; The Health and Safety Executive; The Coal Authority; and on behalf of National Grid do not necessitate any modification of the Neighbourhood Plan to meet the Basic Conditions.

28. Rotherham Metropolitan Borough Council has made representations in respect of the main Neighbourhood Plan document; the Appendices; and the Design Code.
29. The representation of an individual stresses five factors considered to be of significance in preventing the disappearance of Wickersley 'the village' and to create a good place to live for its residents and a great place to work. Another individual refers to the absence of reference to specific traffic related issues. A further individual states car parking issues should be addressed.
30. An individual comments on specific aspects of the Consultation Statement including reference to a Councillor position he no longer holds which he considers was not relevant to the points he had previously submitted. The representation alleges mischaracterisation. The Parish Council has stated it is happy to amend the consultation statement to reflect the respondent's status as a resident rather than a Councillor. I have referred to this correction in the Annex to my report. The representation refers to sample bias in the public opinion survey. In this respect I am satisfied consultation has been appropriate to neighbourhood plan preparation. The representation refers to responses to Regulation 14 submissions, and refers to Policies GP1; GP5; H3; and VC1. Another individual does not agree with the housing mix requirements of Policy H1 and considers these are not sufficiently evidenced.
31. The Sheffield Area Geology Trust notes that, although the Plan gives respect for biodiversity, there is no mention of geodiversity. The representation of Severn Trent includes general advice that does not necessitate modification of the Neighbourhood Plan and also refers to Policies GP1; H3; and GS2.
32. The Environment Agency confirms with respect to Strategic Environmental Assessment that it is unlikely that significant negative impacts on environmental characteristics, that fall within its remit and interest, will result through the implementation of the plan. The Environment Agency also states, with respect to drainage, it is unlikely that any new developments will be able to connect to Yorkshire Water's sewer system as this area is at full capacity. The Environment Agency also offer general advice relating to non-mains drainage and water quality. I have noted the Environment Agency, in addition to

offering advice regarding water quality, has stated with respect to non mains drainage *“The National Planning Practice Guidance and the Environment Agency’s Pollution Prevention Guidance Note 4 clearly set out a foul drainage hierarchy which aims to encourage foul drainage disposal to a mains sewer system whenever one is available. Where a mains sewer connection cannot be achieved, applicants must first consider the use of a package treatment plant discharging to a soakaway. Provided there is sufficient land available and the ground conditions are such that a soakaway will be effective, the ground will provide additional attenuation to the quality of the water discharged. A septic tank discharged to soakaway may also be acceptable in some circumstances. If there is insufficient land available for a soakaway, or ground conditions mean one would not operate effectively, applicants must consider whether a discharge direct to a watercourse, drain or surface water sewer may be available. A receiving watercourse must be capable of accepting both the proposed quantity and quality of discharge. If a direct discharge is possible, a package treatment plant must be used. If neither the use of a soakaway or a direct discharge is possible, consideration may then be given to the use of a system without any discharge such as a sealed cess pool or chemical toilet. Such sealed systems are a last resort given their need to be regularly emptied and their capacity to overflow or be breached. The traffic impacts and carbon emissions associated with regular emptying, and the risk that they may discharge raw sewage direct to the water environment means these solutions have the potential to render such a development unsustainable. In addition, the applicant may also require an Environmental Permit from the Environment Agency for water discharge activity. They would be advised to contact our National Permitting Service (Tel. 08708 506 506) at the earliest opportunity. For more general advice, applicants are advised to refer to our Pollution Prevention Guidance Note number 4 via our website.”* I draw attention to this advice but consider it does not prevent the Neighbourhood Plan meeting the Basic Conditions and other requirements that I have identified. Whilst the issues raised by the Environment Agency regarding lack of capacity within the sewer system are of considerable importance there is no requirement for the Neighbourhood Plan to address those issues.

33.A representation on behalf of the Warde-Aldam Estate includes general comment relating to the plan period; the vision and aims and

objectives of the Neighbourhood Plan; and specific comment relating to Policies GP1; GP2; GP4; GP5; H1; H2; GS1; VC1; and VC2, as well as comment on the Wickersley Design Code.

34. The Sheffield and Rotherham Wildlife Trust includes points of agreement and general advice; suggests an additional reference in the key objectives; and alternative wording in a reference to green space. This representation also includes specific reference to Policies H3; GS1; and GS2.

35. I have been provided with copies of each of the Regulation 16 representations. In preparing this report I have taken into consideration all of the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole, or in part in my report. Some representations, or parts of representations, are not relevant to my role which is to decide whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. Where the representations suggest additional policy matters, or general text, that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified. Where representations raise concerns or state comments or objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations.<sup>22</sup>

36. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. On 6 December 2021 I received a letter of the Parish Council commenting on the Regulation 16 representations. I have taken the Parish Council comments into consideration.

37. Wickersley Parish Council has prepared a statement proposing amendment of Policy GS2 Local Green Space with regard to the

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<sup>22</sup> *Bewley Homes Plc v Waverley District Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6)

boundary of Wickersley Park. The Parish Council realised that there had been an oversight in that the proposed designation in the submission Neighbourhood Plan erroneously includes a parcel of land which should not have been included within the boundary of the proposed designation, this being the site of the former village hall. The Parish Council therefore proposed that the land in question should be excluded from the proposed Local Green Space designation. I provided any interested party with an opportunity to comment on this proposed amendment of Policy GS2 Local Green Space. This opportunity to comment resulted in three submissions and a response to one of those submissions by the Parish Council. I refer to this matter later in my report when considering Policy GS2.

38. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
  - b) explains how they were consulted;
  - c) summarises the main issues and concerns raised by the persons consulted; and
  - d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>23</sup>
39. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

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<sup>23</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637



## The Neighbourhood Plan taken as a whole

40. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and 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

41. The Basic Conditions Statement states “*The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act*”. I have considered the European Convention on Human Rights and in particular Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>24</sup> Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst no Equality Screening Assessment has been undertaken, from my own examination the Neighbourhood Plan would appear to have neutral or

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<sup>24</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

42. The objective of EU Directive 2001/42<sup>25</sup> is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>26</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>27</sup>
43. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to Rotherham Metropolitan Borough Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
44. A Strategic Environmental Assessment and Habitats Regulations Assessment of the Wickersley Neighbourhood Plan – SEA and HRA Screening Document prepared in October 2019 states (as quoted in Section 5.2 within Appendix 1 of the SEA and HRA Determination Statement April 2021) *“the draft neighbourhood plan does not propose any allocations. No sensitive natural or heritage assets will be significantly affected by proposals within the plan as they seek to protect and, where possible, enhance them. The plan contains several policies which seek to protect and in places enhance the natural environment. The neighbourhood plan’s policies seek to guide development within the Neighbourhood Area and are required to be in general conformity with those within the Local Plan. It is unlikely that there will be any significant additional environmental effects that have not already been considered and dealt with through a SEA/SA of the Local Plan”* and concludes (as quoted in Section 5.2 within Appendix 1 of the SEA and HRA Determination Statement April 2021) *“as a result*

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<sup>25</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>26</sup> Defined in Article 2(a) of Directive 2001/42

<sup>27</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

*of the assessment carried out in Table 2 above and the more detailed consideration of the draft policies, it is considered that it is unlikely that any significant environmental effects will arise as a result of the Wickersley Neighbourhood Plan. Consequently, the assessment within Table 1 concludes (subject to HRA screening outcome), that an SEA is not required when judged against the application of the SEA Directive criteria. This section will be updated once the screening opinions from statutory consultees has been received.”* Natural England, the Environment Agency, and Historic England agreed with the findings. The Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) Determination Statement published in April 2021 states, in Section 1.2, *“In summary, it is determined that the Wickersley Neighbourhood Plan would not have a significant effect on the environment because:*

- It does not allocate land for development*

*• As detailed in the SEA screening report, the policies were found to have no impacts on the environmental criteria set out in Schedule 1 of the Environmental Assessment Regulations. The HRA screening concludes that the Neighbourhood Plan is not predicted to have any likely significant effects on any European site, either alone or in combination with other plans and projects. Based on the screening opinion prepared by Wickersley Parish Council in October 2019 and having considered the consultation responses from the statutory environmental bodies, Wickersley Parish Council determines that the Wickersley Neighbourhood Plan is unlikely to result in significant environmental effects and therefore does not require a strategic environmental assessment. This screening determination is applicable to the pre-submission version of the Wickersley Neighbourhood Plan.”* The Environment Agency has at the Regulation 16 stage of plan preparation confirmed it is unlikely that significant negative impacts on environmental characteristics that fall within the remit of the Agency will result through the implementation of the plan. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.

45. The Strategic Environmental Assessment and Habitats Regulations Assessment of the Wickersley Neighbourhood Plan – SEA and HRA Screening Opinion prepared in October 2019 concluded (as quoted within Section 7.1 of the SEA and HRA Determination Statement April 2021) *“There are no European sites within 15km buffer from the WNP boundary. The closest SPA/SAC is 22.5 km away. After considering*

*the draft policies in the WNP it is therefore unlikely that the content of the Plan will lead to likely significant environmental effects and that an appropriate assessment is not required.*” Having been consulted on 8 October 2019 Natural England did not disagree with this conclusion. In Footnote 12 of my report, I referred to the replacement on 28 December 2018 of the Basic Condition relating to Habitats that had previously been in place throughout the early period of preparation of the Neighbourhood Plan. The Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) Determination Statement published in April 2021 restates the conclusion that the Neighbourhood Plan is not predicted to have any likely significant effects on a European site, either alone or in combination with other plans and projects. I am satisfied that the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.

46. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
47. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
48. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. Rotherham Metropolitan Borough Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU obligations:
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
  - when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).<sup>28</sup>

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<sup>28</sup> Planning Practice Guidance paragraph 031 Reference ID: 11-031-20150209 revision 09 02 2015

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

49. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the tests of soundness provided for in respect of examinations of Local Plans<sup>29</sup> which requires plans to be “*consistent with national policy*”.

50. Lord Goldsmith has provided guidance<sup>30</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

51. The most recent National Planning Policy Framework published on 21 July 2021 sets out the Government’s planning policies for England and how these are expected to be applied. Paragraph 3 of the Framework states “*the Framework should be read as a whole (including its footnotes and annexes)*”. The Planning Practice Guidance was most recently updated on 24 June 2021. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance. The Guidance was updated on 24 May 2021 with respect to First Homes. Transitional arrangements in this respect apply in the case of the Neighbourhood Plan which was submitted for

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<sup>29</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 35 of the National Planning Policy Framework 2019

<sup>30</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the House of Lords Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

independent examination on 28 May 2021 before the relevant date of 28 June 2021.

52. Table 1 presented on pages 5 -10 of Section 3 of the Basic Conditions Statement sets out a comment how each policy of the Neighbourhood Plan has regard to the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of national planning policy.
53. The Neighbourhood Plan includes, in Section 1.7, a positive vision statement for Wickersley. The vision includes economic dimensions (*“new, high-quality housing”, “the village centre will be vibrant...boasting a range of shopping...services”*); and social components (*“a thriving community”, “a diverse local population”, “new recreational facilities for young people”, “accessible and safe”*); whilst also referring to environmental considerations (*“responding to the character of its area”, “green and open spaces will be protected”, “high quality public realm”, “historic and heritage assets will continue to be protected”*). The vision statement and the identification of seven aims and objectives, that support the vision, provide a framework for the policies that have been developed.
54. The Neighbourhood Plan includes in Section 7 three *“Community Aspirations”* relating to *“Specialist Housing”*; *“Tanyard Improvements”*; and *“Public Transport”*. The plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, *“Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan”*.<sup>31</sup> The titles of the Community Aspirations are presented in the list of *“policies by*

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<sup>31</sup> Planning Practice Guidance *Paragraph: 004 Reference ID: 41-004-20190509 Revision 09 05 2019*

*theme*” in the introduction of the Neighbourhood Plan and are presented in detail in Section 7 of the Neighbourhood Plan. The community aspirations are not sufficiently clearly distinguishable from the Policies of the Neighbourhood Plan. Rotherham Metropolitan Borough Council has proposed the community aspirations should be removed or reworded and included as an appendix to the Neighbourhood Plan. I have recommended a modification in this respect so that the Neighbourhood Plan has sufficient regard for the Guidance. The Community Actions have not been subject to Independent Examination.

**Recommended modification 1:**

**Delete Section 7 of the Neighbourhood Plan and present the contents of Section 7 as an Appendix to the Neighbourhood Plan. Adjust the list of “Policies by theme” on page 5 accordingly.**

55. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to *‘have regard to’* national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition *“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”*

56. At the heart of the Framework is a presumption in favour of sustainable development<sup>32</sup> which should be applied in both plan-making and decision-taking.<sup>33</sup> The Guidance states, *“This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate*

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<sup>32</sup> Paragraph 10 National Planning Policy Framework 2021

<sup>33</sup> Paragraph 11 National Planning Policy Framework 2021

*that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”<sup>34</sup>.*

57. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

58. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Section 5 of the Basic Conditions Statement includes Table 3 which demonstrates ways in which the Neighbourhood Plan policies support benchmark criteria relevant to the economic, social and environmental aspects of sustainable development. Table 3 seeks to demonstrate that every policy has at least some positive impact and that, with one exception, all policies have a significant positive impact in at least one benchmark criterion. Table 3 only identifies one policy as having a negative impact and that is only in respect of one benchmark criterion. The summary impact of policies shows 1 policy has significant positive impact, 11 policies have some positive impact, and 2 policies have no overall impact.

59. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality to contribute to economic and social well-being; whilst also protecting important environmental features of the Neighbourhood Area. In particular, I consider the Neighbourhood Plan as recommended to be modified seeks to:

- Ensure high quality design of developments;

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<sup>34</sup> Planning Practice Guidance Paragraph 072 Ref ID:41-072-20190509 Revision 09 05 2019



- Retain, repair or reconstruct traditional stone walls;
- Guard against loss of community services and facilities, and support new or improved facilities;
- Identify and protect valued local heritage assets;
- Establish criteria for development in the Conservation Area;
- Ensure major housing schemes meet local needs;
- Establish support for major housing schemes meeting Healthy Life and Lifetime Homes standards;
- Establish support for Sustainable Homes and Renewable Energy principles;
- Establish biodiversity and green infrastructure requirements for new developments;
- Designate Local Green Spaces;
- Ensure new developments support active travel;
- Establish expected parking solutions for developments;
- Establish a criterion for support of drinking establishment proposals; and
- Establish design criteria for shop frontage development.

60. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

61. The Framework states neighbourhood plans should “*support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*”.<sup>35</sup> Plans should make explicit which policies are strategic policies.<sup>36</sup> “*Neighbourhood plans must be in general conformity with the strategic policies contained in any*

<sup>35</sup> Paragraph 13 National Planning Policy Framework 2021

<sup>36</sup> Paragraph 21 National Planning Policy Framework 2021

*development plan that covers their area*<sup>37</sup>. *Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies*".<sup>38</sup>

62. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The Guidance states, "A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner."<sup>39</sup> Rotherham Metropolitan Borough Council has informed me that the Development Plan applying in the Wickersley Parish Neighbourhood Area and relevant to the Neighbourhood Plan is the Rotherham Local Plan: Core Strategy 2013-2028 adopted September 2014; the Rotherham Local Plan: Sites and Policies Document Adopted June 2018; and the Rotherham Local Plan: Barnsley, Doncaster and Rotherham Joint Waste Plan adopted March 2012.
63. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. Rotherham Metropolitan Borough Council has advised me which of the policies of the Development Plan are regarded by the Local Planning Authority as strategic policies applying in the Neighbourhood Area. A document is available for inspection in this respect on the Rotherham Metropolitan Borough Council website.
64. In considering a now-repealed provision that "a local plan shall be in general conformity with the structure plan" the Court of Appeal stated "the adjective 'general' is there to introduce a degree of flexibility."<sup>40</sup> The use of 'general' allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

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<sup>37</sup> Footnote 18 National Planning Policy Framework 2021

<sup>38</sup> Paragraph 29 National Planning Policy Framework 2021

<sup>39</sup> Planning Practice Guidance Paragraph 077 Reference ID: 41-077-20190509 Revision 09 05 2019

<sup>40</sup> Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31

65. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”<sup>41</sup>*

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

66. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. I have taken into consideration the “*comments on conformity*” in Table 2 presented on pages 11 to 13 in Section 4 of the Basic Conditions Statement that seek to demonstrate how each of the policies of the Neighbourhood Plan relates to relevant strategic policies. Subject to the modifications I have recommended, I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## The Neighbourhood Plan Policies

67. The Neighbourhood Plan includes 14 policies as follows:

- Policy GP1 – High Quality Design
- Policy GP2 – Stone Walls

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<sup>41</sup> Planning Practice Guidance Paragraph 074 ID ref: 41-074 20140306 Revision 06 03 2014

Policy GP3 – Community Facilities and Services  
Policy GP4 – Locally Listed Buildings  
Policy GP5 – Design in the Conservation Area  
Policy H1 – House Type and Mix  
Policy H2 – Building for Life and Lifetime Homes  
Policy H3 – Sustainable Homes and Renewable Energy  
Policy GS1 – Biodiversity and Green Infrastructure  
Policy GS2 – Local Green Spaces  
Policy M1 – Pedestrian and Cycle Connections  
Policy M2 – Parking Solutions  
Policy VC1 – Licenced Premises  
Policy VC2 – Shop Frontages

68. Paragraph 29 of the Framework states *“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”*. Footnote 16 of the Framework states *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”*
69. Paragraph 15 of the Framework states *“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*
70. Paragraph 16 of the Framework states *“Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve*

*a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)."*

71. The Guidance states *"A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared."*<sup>42</sup>
72. *"While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no 'tick box' list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan"*.<sup>43</sup>
73. A neighbourhood plan should contain policies for the development and use of land. *"This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004)."*<sup>44</sup>
74. *"Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need."*<sup>45</sup> *"A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of*

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<sup>42</sup> Planning Practice Guidance Paragraph 041 Reference ID: 41-041-20140306 Revision 06 03 2014

<sup>43</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

<sup>44</sup> Planning Practice Guidance Paragraph 004 Reference ID: 41-004-20190509 Revision 09 05 2019

<sup>45</sup> Planning Practice Guidance Paragraph 040 Reference ID 41-040-20160211 Revision 11 02 2016

*individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”<sup>46</sup>*

75. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is ‘made’ they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

### **Policy GP1 – High Quality Design**

76. This policy seeks to establish that all new dwellings and commercial development should take account of, and comply with the guidance set out in the Wickersley Design Code. The policy also states applicants will be expected to demonstrate how the proposal responds to local character through the inclusion of a local character appraisal.

77. Rotherham Metropolitan Borough Council has expressed support for the policy subject to comments on the Wickersley Design Code. I refer to those comments in the Annex to my report.

78. A representation of Severn Trent states greater reference should be made to Sustainable Drainage Systems in Policy GP1 or in the Wickersley Design Code which is referred to in the policy. The representation also suggests additional policy content relating to the drainage hierarchy and water efficiency. Modification of the policy is not necessary in these respects to meet the Basic Conditions.

79. A representation on behalf of the Warde-Aldam Estate states “*Whilst we note that the amendments made to the Plan via previous consultation events has led to a note being included within the supporting text to explain that character appraisals should be commensurate in detail and size of the proposal and only required for new dwellings or commercial development, it is considered that such text should be carried over to the policy text direct for clarity.*” The Parish Council has stated support for this suggestion. Supporting text should not seek to introduce elements of policy. I have recommended

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<sup>46</sup> Planning Practice Guidance Paragraph 042 Reference ID 41-042-20170728 Revision 28 07 2017

a modification of Policy GP1 so that that the requirements relating to local character appraisal are proportionate and do not represent an overly burdensome scale of obligation. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

80. The representation on behalf of the Warde-Aldam Estate also includes comment in relation to the Wickersley Design Code, which is referred to in the policy, stating there should not be a focus on pastiche development. The Parish Council has stated the Design Code does not promote pastiche development and that contemporary design is possible even with the use of local stone. A representation of an individual states the Neighbourhood Plan could be easier to understand and to implement by deleting the Design Guide which is implied to represent over-regulation.
81. Paragraph 127 of the Framework states design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area’s defining characteristics. Paragraph 127 also states “*neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.*” I am satisfied the Wickersley Design Code meets these requirements and has sufficient regard for the National Design Guide and the National Model Design Code. Paragraph 129 of the Framework states design guides and codes can be prepared at a neighbourhood scale and when produced as part of a plan can carry weight in decision taking. I am satisfied the Wickersley Design Code is not overly prescriptive and will allow flexibility in design that is sympathetic to the character of the area.
82. Strategic Policy CS28 states development proposals should be responsive to their context and that “*design should take all opportunities to improve the character and quality of an area and the way it functions*”. Strategic Policy SP55 requires all development to positively contribute to the local character and distinctiveness of an area and the way it functions.

83. The term “*will be expected to*” does not provide a basis for the determination of development proposals. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
84. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) sets out what is required from applicants when submitting planning applications. The ‘Guidance on Information Requirements and Validation’ document published by the Department for Communities and Local Government Department (DCLG) in 2010 provides more information on the mandatory national information requirements and states that a valid planning application should include ‘*information to accompany the application as specified by the local planning authority on their local list of information requirements*’. The use of local lists of information was again promoted in the Framework requiring that local lists be reviewed on a frequent basis to ensure that they remain ‘*relevant, necessary and material*’. The DMPO states that validation requirements imposed by local planning authorities should only be those set out on a local list which has been published within 2 years before the planning application is made to ensure information requirements are robust and justified on recent research. The Growth and Infrastructure Act 2013 makes clear that local planning authority information requirements must be reasonable having regard to the nature and scale of the proposed development and the information required must be a material consideration in the determination of the application. So that the policy is not seeking to establish information requirements that are outside the statutory framework relating to local lists of information to be submitted in support of planning applications it would be appropriate for Rotherham Metropolitan Borough Council to review its planning application validation requirements should the Neighbourhood Plan be ‘made’.
85. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular Strategic Policies CS28 and SP55. The policy serves a clear



purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

86. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 2:**

**In Policy GP1 replace the second sentence with “Development proposals must demonstrate how they respond to local character through submission of a local character appraisal that is commensurate to the size and detail of the proposal.”**

**Policy GP2 – Stone Walls**

87. This policy seeks to establish that development proposals should, wherever possible, retain existing stone walls. Where changes to walls are proposed this must be justified in a statement. The policy also supports salvage of old stone for future use.
88. Rotherham Metropolitan Borough Council has expressed support for the policy.
89. A representation on behalf of the Warde-Aldam Estate states some of the supporting text should be included in the policy so that it is explicitly clear the policy should not be used to prevent development taking place. It is not necessary for the policy to include such a statement in order to meet the Basic Conditions. I am satisfied it is appropriate for the policy to identify traditional stone walls as a local environmental feature to be retained, repaired or improved. I am also satisfied the policy includes sufficient flexibility to accommodate essential removal, for example, to achieve a safe site access.

90. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular Strategic Policies CS23 and SP55. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
91. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

### **Policy GP3 – Community Facilities and Services**

92. This policy seeks to identify seven specified community facilities and services to be protected under RMBC policy CS29 Community and Social Facilities, and policy SP62 Safeguarding Community Facilities. The policy also supports new or expanded community facilities which should be located within reasonable walking distance to the community.
93. Rotherham Metropolitan Borough Council state the policy includes an element of duplication of Core Strategy Policy CS29 which protects a range of community facilities, however it is recognised Policy GP3 does identify locally valued facilities.
94. Paragraph 93 of the Framework states planning policies should plan positively for the provision of community facilities and should guard against the unnecessary loss of valued facilities and services. Strategic Policy CS29 supports the retention, provision and enhancement of a range of community and social facilities in accessible locations. Strategic Policy SP62 seeks to safeguard community facilities unless specified circumstances are demonstrated. I am satisfied the approach adopted in Policy GP3 has sufficient

regard for national policy and is in general conformity with strategic policy.

95. I have noted Appendix C of the Neighbourhood Plan helpfully sets out a basis for the assessment of “*reasonable walking distance*” however the term “*to the community*” used in Policy GP3 is imprecise. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
96. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular Policies CS29 and SP62. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
97. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 3:  
In Policy GP3 after the final word add “served”**

**Policy GP4 – Locally Listed Buildings**

98. This policy seeks to identify buildings and structures that are proposed to be included as Locally Listed Buildings and be subject to Policy SP45 of the Rotherham Local Plan.
99. Rotherham Metropolitan Borough Council has expressed support for the policy.

100. A representation on behalf of the Warde-Aldam Estate states *“If our client’s buildings are included within the Policy that it is vital that the policy takes a practical approach to any future alteration of locally listed buildings to comply with the disability discrimination act 2005 and subsequent amendments. We therefore welcome the ‘action’ noted on page 19 of the Statement of Consultation that Policy GP4 does now include a statement recognising disability discrimination act 2005 and subsequent amendments and that it supports a practical approach to future alterations.”*
101. Paragraph 203 of the Framework states the effect of an application on the significance of non-designated heritage assets should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset. The Guidance refers to advice on local lists published on Historic England’s website.<sup>47</sup> *Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018) states “Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their suitability for addition to the local planning authority’s heritage list assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them.”*
102. Appendix B Non-Designated Heritage Assets Assessment, of the Neighbourhood Plan, includes for each identified building or structure an explanation why the feature is of interest and significance and evidence to support the proposed selection. It is appropriate for a local community to use the Neighbourhood Plan preparation process to identify heritage assets that are locally valued. The choices made have been adequately justified by relevant and up-to-date evidence as required by Paragraph 31 of the Framework. I consider it is

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<sup>47</sup> Planning Practice Guidance Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019

appropriate to include within Policy GP4 the text of Strategic Policy SP45 as this serves a clear purpose of assisting parties formulating proposals that affect the significance of the identified buildings and structures or their setting. I refer to a necessary minor correction is in this respect in my recommended modification.

103. As a matter for clarification, I asked Rotherham Metropolitan Borough Council and the Parish Council to review the descriptions of assets numbered 5 and 36 in the policy as these varied from the descriptions in Appendix B. The Parish Council advised me the correct descriptions are those in Appendix B and advised me of other errors on Map 2 and on a Map in Appendix B. I have recommended a modification in these respects to correct errors and so that the policy is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

104. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular Strategic Policies CS23 and SP45. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

105. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the historic environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 4:**

##### **In Policy GP4**

- **replace “respective” with “respect”**
- **amend asset 5 to “1 Lilac Farm Close, Wickersley”**
- **amend asset 36 to “Wickersley Grange, 38 Morthen Road”**

### On Figure 5 Map 2

- amend the label for Manor Farm, Church Lane from “13” to “12”
- delete the shading of the original outbuildings to asset 36 (Wickersley Grange) and make this same change on the map in Appendix B

### Policy GP5 – Design in the Conservation Area

106. This policy seeks to establish that development within, or affecting the setting of, the Conservation Area should reflect its distinctive local characteristics and achieve seven stated objectives.
107. Rotherham Metropolitan Borough Council has expressed support for the policy.
108. A representation states conservation area rules are adequate and the Conservation Area has no need of a specific design guide as this could result in a tendency to homogenise an area that is defined by diversity.
109. A representation on behalf of the Warde-Aldam Estate states modern design can actually enhance Conservation Areas and proposes deletion of part B) of the policy. The Parish Council disagrees with the suggested deletion stating *“Policy was amended previously in line with comments provided. Suggested deletion uses the phrase ‘encourage’ which is not as strong as other terms and it is considered appropriate to encourage development to take account of existing architectural detailing in a conservation area. This does not simply mean copy or repeat them but to use the and a cue to inform a design response.”*
110. Paragraph 199 of the Framework states, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. Paragraph 207 of the Framework states not all elements of a Conservation Area will necessarily contribute to its significance and sets out the basis for assessment of proposals resulting in the loss of a building or other element which makes a positive contribution to the significance of a Conservation Area. Housing Character Area 5 identified in the Wickersley Design Code includes the Conservation

Area. The Design Code sets out principles for the development of new dwellings within this area referred to as the “*Old Village*”. The principles include a statement that new dwellings should “*be designed in accordance with the principles set out in the Wickersley Conservation Area Assessment.*”

111. I am satisfied the Wickersley Design Code reflects local aspirations for the development of the area and sufficiently takes into account guidance in the National Design Guide and National Model Design Code as required by Paragraph 129 of the framework. The opening text before the bullet points and part B of Policy GP5 do, however, not show sufficient regard for Paragraph 130 of the Framework which states planning policies should ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, “*while not preventing or discouraging appropriate innovation or change (such as increased densities).*” The term “*encouraged to take account of*” in part B of the policy is imprecise and does not provide a basis for the determination of development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
112. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular Strategic Policy CS23 and Strategic Policy SP41. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
113. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places and conserving and enhancing the historic environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject

to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 5:**

**In Policy GP5**

- **replace “reflect” with “be sympathetic to”**
- **after “objectives” insert “whilst not preventing or discouraging appropriate innovation or change”**
- **in part B replace “encouraged to take account of” with “should be sympathetic to”**

**Policy H1 – House Type and Mix**

114. This policy seeks to establish that new housing developments of 10 or more dwellings will be required to provide a mix of house types and sizes to meet the needs of the local community. An alternative mix to the specified requirements must be supported by up-to-date housing market evidence and a viability assessment.

115. Rotherham Metropolitan Borough Council has expressed support for the policy subject to a minor typographical correction that I refer to in the Annex to my report.

116. A representation on behalf of the Warde-Aldam Estate states the policy is overly onerous and may not be viable or suitable throughout the plan period. The representation proposes that the stated minimum requirements that 30% of dwellings should be no more than 2 bedrooms and 30% of dwellings are to be 3 bedrooms should be deleted and replaced with a requirement for proposals to comply with up-to-date housing needs surveys at the time of submitting a proposal.

117. Another representation states the requirements are not adequately justified and unreasonable as properties with more bedrooms are in high demand.

118. The Parish Council has stated *“An NDP is able to set requirements for the size and type of housing providing it is supported by –up-to-date evidence, is reasonable and proportionate, whilst also taking account of viability. A housing needs assessment (HNA) was undertaken by AECOM to support this policy which looks at Wickersley*



*as a housing market area (not just Rotherham as a whole). The results of the HNA suggested that the NDP could go further than the policy is requiring (i.e., require a greater proportion of smaller properties than H1 proposes) but the NDP group felt a compromise should be sought that balances the evidence from the HNA and what may be viable for developers. The current wording of the policy provides scope for developers to provide larger properties within the remaining 40% of the housing mix. Should a developer provide up-to-date housing market evidence to suggest an alternative mix is more appropriate, then that will be considered. As shown in the supporting text to H1 Wickersley in recent years has received a high percentage of larger properties with very few smaller properties. The aim of the H1 is to address this undersupply to provide house types that meet local needs, which the market has not provided.”*

119. Paragraph 62 of the Framework (which should be read in the context of paragraph 61) states the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. I am satisfied the approach adopted in Policy H1 has sufficient regard for national policy in this respect. The policy includes appropriate flexibility in the final paragraph which will enable it to remain relevant throughout the plan period, should local housing needs change. I have recommended a modification that clarifies the same flexibility applies to the minimum requirements set out in the second sentence of the policy. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is *“clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.

120. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular Strategic Policy CS7. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

121. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the

Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 6:**

**In Policy H1 commence the second sentence with “Unless the latest assessment of local housing needs indicates otherwise”**

**Policy H2 – Building for Life and Lifetime Homes**

122. This policy seeks to establish that new housing developments of 10 or more dwellings should be built to specified Building for a Healthy Life standards, and a portion of the dwellings in the scheme are strongly encouraged to be built to Lifetime Homes standards.
123. Rotherham Metropolitan Borough Council has expressed support for the policy.
124. A representation on behalf of the Warde-Aldam Estate states *“it is not appropriate for plan-making bodies to set minimum requirements for accessible housing. As such we strongly object to this policy.”* The representation welcomes the approach adopted in pages 45 to 47 of the Wickersley Design Code. The Parish Council state *“We agree with the comments relating to Lifetime Homes which is out of date, and instead should encourage the creation of accessible dwellings in line with M4(2), whilst noting this is not mandatory. Wickersley has a high proportion of older people and it was identified in consultation that new homes should be suitable for people challenged by mobility issues.”*
125. The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. Paragraph 130 of the Framework states planning policies should ensure that developments create

places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Footnote 49 includes “*planning policies should make use of the Government’s optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties*”. Paragraph 133 of the Framework recognises Building for a Healthy Life as an appropriate assessment framework for improving the design of development. Policy H2 is seeking to establish requirements of development proposals that do not have sufficient regard for national policy. The term “*strongly encouraged*” does not provide a basis for the determination of development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

126. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular Strategic Policies CS28 and SP55. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

127. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

#### **Recommended modification 7:**

##### **In Policy H2**

- **in the first paragraph after “should be” replace the text with “accompanied by a Building for a Healthy Life assessment that demonstrates the proposals will result in high quality sustainable development.”**

- **replace the second paragraph with “Development schemes that include homes that meet the enhanced accessibility and adaptability standards in the Building Regulations will be supported.”**

### **Update the supporting text accordingly**

### **Policy H3 – Sustainable Homes and Renewable Energy**

128. This policy seeks to establish that new developments should aim to meet a high level of sustainable design and construction and be optimised for energy efficiency, targeting zero carbon emissions including provision of specified features. The policy also requires, where appropriate, inclusion in schemes of sustainable drainage systems and other flood mitigating and grey water solutions. The policy also requires schemes to reference specified aspects of the Wickersley Design Code.
129. Rotherham Metropolitan Borough Council support the policy with modifications and state *“It is considered Policy H3 replicates Local Plan policy to some extent but does provide some extra local detail. For further details on charging requirements reference should be made to Rotherham Local Plan Supplementary Planning Document No.12 Transport Assessments, Travel Plans and Parking Standards.”*
130. A representation of Severn Trent states the implementation of water efficient technology can deliver energy efficiency through the reduced need to heat water. The representation supports implementation of energy efficiency and grey water systems and supports the references to SuDS and flood mitigation.
131. A representation of the Sheffield and Rotherham Wildlife Trust recommends reference to a BREEAM rating in parts A) and B) and suggest parts C) and D) should include the term *“for all new development”*.
132. The representation of an individual supports the use of modern materials and methods rather than a reversion to the materials and methods of the past.

133. In response to my request for clarification the Parish Council has confirmed it is intended the policy should refer to new housing development only. The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. The first two paragraphs of the policy are seeking to establish requirements. The term *“where appropriate”* introduces uncertainty. The reference to the Wickersley Design Guidance requires correction. It is confusing and unnecessary for this policy to refer to electric vehicle charging points in respect of housing development when Policy M2 refers to this matter in respect of all new development. I have recommended a modification in these respects to correct errors, and so that the policy has sufficient regard for national policy and is *“clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”* as required by paragraph 16d) of the Framework.
134. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular strategic Policies SP57; CS24; CS25; CS28; and CS30. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
135. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with delivering a sufficient supply of homes, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

## **Recommended modification 8:**

### **In Policy H3**

- **replace the first sentence with “New housing developments that meet a high level of sustainable design and construction and are optimised for energy efficiency, targeting zero carbon emissions will be supported.”**
- **delete point D**
- **replace the second paragraph with “Housing developments that include sustainable drainage systems (SuDS) and other flood mitigating and grey water solutions will be supported (see the Water Movement Diagram, Wickersley Design Code p.35.)”**
- **in the final paragraph replace “Guidance” with “Code” and replace “p.30 & p.31” with “p.32 & p.33”**

### **Policy GS1 – Biodiversity and Green Infrastructure**

136. This policy seeks to establish that new development will be expected to conform to specified biodiversity and green infrastructure principles.
137. Rotherham Metropolitan Borough Council support the policy subject to various modifications and map corrections which I refer to in the Annex to my report. The representation suggests consideration should be given to expanding the content of Figure 9 to include more green infrastructure assets (such as Regionally Important Geological Sites, allotments, sports pitches etc). The representation also suggests consideration could be given to showing ‘locally important Green Infrastructure Assets, Linkages and Networks’ on a map, supported in the policy. Modification of Figure 9 in these respects is not necessary to meet the Basic Conditions.
138. Rotherham Metropolitan Borough Council also suggest consideration could be given to ensuring that pitches/allotment opportunities are available to meet demand. Modification of the policy in this respect is not necessary to meet the Basic Conditions. The representation also states *“Regarding Criterion D, what is the justification / evidence for replacing trees at the ratio suggested? In the absence of any justification then the requirement should be deleted.”* The Guidance states *“Proportionate, robust evidence should support*

*the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*".<sup>48</sup> Whilst a general reference is made in supporting text to the Woodland Trust Local Authority Tree Planting Strategy (2016) the application of the stated tree replacement ratio has not been adequately justified. I have recommended a modification in this respect. Rotherham Metropolitan Borough Council has referred to an emerging Rotherham Local Plan Supplementary Planning Document on replacement trees but alignment in this respect is not necessary to meet the Basic Conditions.

139. A representation states "*The Sheffield Area Geology Trust notes that, although the Plan gives respect for biodiversity, there is no mention of geodiversity.*" A representation of the Sheffield and Rotherham Wildlife Trust expresses a desire that Figure 9 should show opportunities for ecological connections. The Sheffield and Rotherham Wildlife Trust also recommend reference to part c) of the policy should refer to "*at least 10%*" or a greater level of gain. I am unable to recommend modifications in these respects as there is no requirement for the Neighbourhood Plan to include references to geodiversity; or identify potential ecological connections; or to specify a level of biodiversity net gain to meet the Basic Conditions.
140. A representation on behalf of the Warde-Aldam Estate raises concerns relating to trespass and welcomes supporting text that clarifies designated sites are not necessarily accessible to the public.
141. Paragraph 99 of the Framework states existing open space, sports and recreation buildings and land, including playing fields should not be built on unless specified circumstances exist. Paragraph 174 of the Framework states planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland. Paragraph 131 of the Framework states existing trees should be retained wherever possible. Paragraph 180 of the Framework states development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or

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<sup>48</sup> Planning Practice Guidance Paragraph 040 Reference ID: 41-040-20160211 Revision 11 02 2016

veteran trees) should be refused, unless there are wholly exceptional reasons (for example infrastructure projects including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills, where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists. Paragraph 180 of the Framework also states that if significant harm cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Paragraph 179 of the Framework states plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. I am satisfied the approach of Policy GS1 is appropriate in this national policy context.

142. The policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan and in particular Strategic Policies CS19; CS20; CS21; CS22; CS28, SP32; SP33; and SP34. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

143. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 9:**

**In Policy GS1 delete "at a ratio of at least 2:1"**

**Policy GS2 – Local Green Spaces**

144. This policy seeks to designate three sites as Local Green Space and establish a basis for determination of development proposals affecting them.



145. Rotherham Metropolitan Borough Council does not support the proposed Local Green Space designations and state *“The proposed Local Green Space designations are not supported. These sites proposed already receive policy protection as either as Green Belt or Urban Green Space and in the absence of robust justification that: they are demonstrably special to a local community, hold a particular local significance and the designation would offer additional local benefit then it is recommended the policy and supporting text is deleted.”* The Parish Council has stated it does not agree with the Borough Council representation in this respect and does not propose any amendment.
146. Severn Trent recommend the Policy should state support for flood resilience schemes within local green spaces provided the schemes do not adversely impact the primary function of the green space. A representation of the Sheffield and Rotherham Wildlife Trust recommends reference to the natural environment. Modification of the policy in these respects is not necessary to meet the Basic Conditions.
147. Wickersley Parish Council has prepared a statement proposing amendment of Policy GS2 Local Green Space with regard to the boundary of Wickersley Park. The Parish Council has realised that there has been an oversight in that the proposed designation in the Submission Neighbourhood Plan erroneously includes a parcel of land which should not have been included within the boundary of the designation, this being the site of the former village hall. The Parish Council therefore now propose that the land in question should be excluded from the proposed Local Green Space designation. The amended boundary was available to be viewed on a plan published on the Rotherham Metropolitan Borough Council website or a copy could be requested from the Planning Policy service of that Council. The Parish Council state *“the basis for proposing this amendment to the Neighbourhood Plan is as follows:*
- *The land comprises the site of the former village hall which was demolished in 2008 and replaced by an improved community facility elsewhere within Wickersley (the current library and community centre on Bawtry Road). It has not had a community function since that time.*
  - *The land is hard surfaced and includes the concrete base of the village hall. It is a brownfield site and has never formed part of Wickersley Park.*

- *There has been a longstanding acknowledgement by the Parish Council and Rotherham MBC that the land is surplus to requirements and suitable for development with residential consent being granted on a number of occasions from 1998 through to 2011.*
- *The boundary of the proposed Local Green Space designation was erroneously drawn to include the former village hall site because it followed the green space designation in the Rotherham Local Plan. It is only recently that the Parish Council has realised that it is not appropriate to provide the additional protection proposed by policy GS2 to that area of land given its history and the fact that it does not form, nor ever has been, part of Wickersley Park and does not have a green space function.”*

148. I provided any interested party with an opportunity to comment on this proposed amendment of Policy GS2 Local Green Space. This resulted in three responses. An individual objects to the exclusion of the former village hall site and being sold for residential development. The representation states *“The unique position of this brown belt site, adjacent to Wickersley Park, which was hailed by local councillors as the “new” centre of Wickersley when first developed, and in the centre of triangle of local schools, Flanderwell, Northfield Lane, St. Alban’s J & Infants and Wickersley Comprehensive, lends itself to be of importance to the local community. The basic foundations of this site could be developed for use in the enhancement of the centre of Wickersley and its residents by becoming: 1. a park related coffee shop/cafe (Clifton Park in Rotherham had one when I was a lad); 2. a village heritage centre/museum (as Wickersley once had in the Institute on Morthen Road before it was sold off for residential development); 3, an elderly day care centre during the day and a youth centre/club during the evenings; 4. or even as a last pinch some much needed village parking. Why does every bit of non-local green space in Wickersley have to become residential or nightlife entertainment development?”* Wickersley Parish Council commented on this representation stating *“We do not understand the statement by Mr. Pickering that the site in question was hailed by local Councillors as the ‘new’ centre of Wickersley when first developed. Indeed, the location of the main community building serving Wickersley was moved to its current location on Bawtry Road over 10 years ago. It’s location adjacent to the district centre consolidated the ‘centre’ of Wickersley so that most services required by the local community can*

*be found in one place. In contrast, the former village hall site subject to the proposed amendment, is not well related to the centre of Wickersley and less well suited to community-based development of the type proposed by the respondent. Mr. Pickering suggests that the site could be used for a number of purposes, all of which involve development and would not therefore merit the land being included as part of a Green Space designation. It is also relevant that this site is not designated for community uses in the Rotherham Local Plan. Furthermore, there is no funding available for any of the uses suggested by the objector. It would therefore be more appropriate for the site to potentially be developed for housing to enable the Parish Council to fund other identified much needed improvements within the parish.”* Severn Trent Water has confirmed that the proposed amendment would not alter the previous response submitted. The Health and Safety Executive offered general advice only. I am satisfied the proposed amendment to exclude the site of the former village hall has been sufficiently justified. I find the land in question does not form part of Wickersley Park and is not suitable for designation as Local Green Space. I recommend the land in question should be excluded from the proposed Local Green Space. I have also recommended Figure 10 should be amended in this respect.

149. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on Figure 10 of the Neighbourhood Plan. When viewed electronically the map can be expanded to better reveal the line of boundaries of the green spaces in question but this is not possible when a hard copy plan is examined. Whilst the scale and discrete nature of the areas of land in question assist in understanding the alignment of boundaries, I consider it is necessary to present the proposed Local Green Spaces on a larger scale map, or on insets to Figure 10, so that the boundaries of the areas of land proposed for designation as Local Green Spaces can be adequately identified. The Policy refers to the “*proposals map*” but the Neighbourhood Plan does not contain such a map. I have recommended a modification in these respects the policy is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

150. Policy GS2 seeks to establish a policy approach to managing development within the proposed Local Green Spaces but this does not have sufficient regard for national policy. Decision makers must rely on paragraph 103 of the Framework that states “*Policies for managing development within a Local Green Space should be consistent with those for Green Belts*” and the part of the Framework that relates to ‘*Protecting Green Belt land*’, in particular paragraphs 147 to 151. That part of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. The policy seeks to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not.<sup>49</sup> I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
151. Paragraph 101 of the Framework states “*The designation of land as Local Green Space through local and 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.*”
152. In respect of each of the areas proposed for designation as Local Green Space I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The intended Local Green Space designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.
153. Paragraph 102 of the Framework states “*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)*

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<sup>49</sup> *R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number: C1/2020/0812*

*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.”* In a representation Gladman state *“It does not appear that the evidence relating to the proposed LGS has been undertaken with consideration of the site of each LGS and whether or not they are considered to be extensive tracts of land.”* I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.

154. The submission Neighbourhood Plan includes in Appendix A, information which seeks to justify the proposed designations as Local Green Space. Relevant reasons for designation are indicated as applying in respect of each of the sites including matters referred to in the Framework. I have visited each of the areas of land concerned and as a matter of planning judgement consider the attributes identified to be relevant and reasonable. Appendix A of the Neighbourhood Plan provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance.

155. The Rotherham Metropolitan Borough Council representation includes *“Practice Guidance states that consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space. (Paragraph: 010 Reference ID: 37-010-20140306). It is not considered that there is any evidence of any demonstrable additional benefit or additional protection in policy terms stemming from designation as Local Green Space. The proposed Local Green Space designations are not supported. These sites proposed already receive policy protection in the Local Plan as either as Green Belt or Green Space and in the absence of robust justification that: they are demonstrably special to a local community, hold a particular local significance and the designation would offer additional local benefit then it is recommended the policy and supporting text is deleted. Should the examiner however decide that the policy and the proposed Local Green Space allocations are to remain in the Neighbourhood Plan then Figure 9 and 10 may be considered together in terms of green infrastructure.”*

156. The supporting text to Policy GS2 confirms awareness of the need to question the additional local benefit when proposing Local Green Space where existing designations are in place. Wickersley Park (Site C) is designated Green Space within the Rotherham Local Plan: Sites and Policies Document Adopted June 2018. Policy SP38 seeks to ensure that existing Green Space is not built on unless stated circumstances apply relating to land that is surplus to requirements; land that will be replaced; or where alternative provision is made. This is a different policy approach to Green Belt policy that applies in respect of designated Local Green Space where inappropriate development should not be approved except in very special circumstances. I am satisfied designation of Wickersley Park (Site C) (as modified) as Local Green Space will result in additional benefit or additional protection to that afforded by existing strategic Policy SP38.

157. The Bob Mason Recreation Ground (Site A) and Lings Common (Site B) lie within designated Green Belt. Paragraph 137 of the Framework states *“the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”*. The Guidance states *“If land is already protected by Green Belt policy, or in London, policy on Metropolitan Open Land, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space. One potential benefit in areas where protection from development is the norm (eg villages included in the green belt) but where there could be exceptions is that the Local Green Space designation could help to identify areas that are of particular importance to the local community.”*<sup>50</sup> The consultation responses highlighted on page 36 of the Neighbourhood Plan confirm the local desire to identify areas that are of particular importance to the local community. The Local Green Space Assessments in Appendix A of the Neighbourhood Plan relating to Sites A and B include *“The site is currently designated Green Belt which offers protection to the site from development although this designation does not recognise the important role the site plays in supporting the needs of the community”*. I am satisfied designation of the Bob Mason Recreation Ground (Site A), and Lings Common (Site B) as Local Green Space will result in additional benefit or additional

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<sup>50</sup> Planning Practice Guidance Paragraph: 010 Reference ID:37-010-20140306

protection to that afforded by existing strategic Policy SP38. I am satisfied Figures 9 and 10 each serve a separate purpose and there is no requirement for them to be considered together in order to meet the Basic Conditions.

158. I find that the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 101 to 103 of the Framework concerned with the identification and designation of Local Green Space.

159. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular Strategic Policies CS22; SP37; and SP38. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

160. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting healthy and safe communities, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 10:**

**Replace Policy GS2 with "The following listed areas of land, identified on Figure 10, are each designated as Local Green Space:**

- A) Bob Mason Recreation Ground;**
- B) Lings Common;**
- C) Wickersley Park."**

**Present the proposed Local Green Spaces on a larger scale map, or insets to Figure 10, so that the boundaries of the areas of land proposed for designation as Local Green Spaces can be adequately identified.**

**Amend the Wickersley Park Local Green Space boundary on Figure 10, and in Appendix A, to that proposed by Wickersley Parish Council in its statement of amendment of Policy GS2 in respect of the boundary of Wickersley Park Local Green Space.**

### **Policy M1 – Pedestrian and Cycle Connections**

161. This policy seeks to establish an expectation that all new developments will connect with existing footpaths and cycle paths where available and where required improve the network. The policy also seeks to establish detailed active travel requirements.
162. Rotherham Metropolitan Borough Council state the aims of the plan with respect to pedestrian and cycle links to new developments are supported.
163. Paragraph 106 of the Framework states planning policies should provide for attractive and well-designed walking and cycling networks.
164. The term “*will be expected to*” does not provide a basis for the determination of development proposals. I have recommended a modification in this respect so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
165. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular strategic Policies CS14 and SP26. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
166. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the



Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 11:**

**In Policy M1 replace “will be expected to” with “should”**

**Policy M2 – Parking Solutions**

167. This policy seeks to establish parking expectations of new developments.
168. Rotherham Metropolitan Borough Council draw attention to guidance in Supplementary Planning Document No.12 Transport Assessments, Travel Plans and Parking Standards and state *“the policy M2 mainly duplicates existing local plan policy/guidance is also contrary to usual planning practice in terms of garage size and driveway width dimensions proposed and should be deleted.”* The Parish Council has expressed disagreement with this representation stating *“We felt that it was important that garages and driveways are designed to be functional and can be used safely by all users, some of which may have mobility issues. There are many examples of properties in Wickersley where garages and driveways are not large enough to store vehicles, which then protrude into the pavement causing further difficulties.”* The representation of Rotherham Metropolitan Borough Council suggests alternative policy wording should the policy remain in the Neighbourhood Plan.
169. Public engagement throughout the plan preparation period has demonstrated a strong local desire for the Neighbourhood Plan to address parking related issues. Whilst the Rotherham Local Plan Supplementary Planning Document No.12 Transport Assessments, Travel Plans and Parking Standards offers much helpful guidance, that document does not have Development Plan status. Policy M2 is not seeking to newly establish numerical car parking requirements which would require consideration of matters specified in Paragraph 107 of the Framework. Under these circumstances I consider it is appropriate for Policy M2 to seek to develop a shared community vision for the area by shaping, directing and helping to deliver sustainable development by influencing local planning decisions as part of the

statutory development plan in accordance with paragraph 29 of the Framework. The term “*appropriate visitor parking bays, where necessary*” is imprecise and does not provide a basis for the determination of development proposals. The part of the policy that seeks to establish minimum dimensions of garages and driveways has not sufficiently been justified. I have adopted the alternative wording of the policy suggested by Rotherham Metropolitan Borough Council which resolves these deficiencies with the exception that I have proposed use of the term “should” rather than “*are expected to*” which does not provide a basis for the determination of development proposals. The Parish Council has confirmed reference should be to guidance in the Design Code not in the Plan, and that architectural style should refer to garages and not driveways. Reference to the positioning of driveways has not been sufficiently justified. I have recommended a modification in these respects to correct errors, and so that the policy has sufficient regard for national policy and is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

170. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular strategic Policies CS14 and SP56. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

171. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with promoting sustainable transport, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 12:**

**Replace Policy M2 with “New developments should comply with design guidance contained in the Wickersley Design Code to**

**produce design-led street layouts and parking solutions that provide in line with existing standards:**

- **A) high quality and secure on-site cycle storage;**
- **B) EV charging points;**
- **C) the expected amount of parking spaces, sizes of garages and driveways; and**
- **D) where garages are provided, they should be to the rear or side of properties in the same architectural style as the house they serve.**

**Parking provision is to conform to Rotherham Local Plan Supplementary Planning Document No. 12 Transport Assessments, Travel Plans and Parking Standards, or future updated guidance.”**

### **Policy VC1 – Licenced Premises**

172. This policy seeks to establish drinking establishments or mixed uses including drinking establishments will only be permitted within the defined District centre boundaries where they would not result in more than 5% of the total number of units being used for that purpose.

173. Rotherham Metropolitan Borough Council state support for the policy. The representation of an individual refers to the prominence of restaurants and bars in the recent economic and social development of the village centre and suggests constraint of these uses may result in void premises as alternative uses are not growing.

174. A representation on behalf of the Warde-Aldam Estate questions the need for this policy due to the economic difficulties highstreets and the hospitality sectors have faced as a result of the pandemic particularly as other controls such as licencing are available. The Parish Council disagree with this representation and state *“This was an important issue locally with many respondents raising this as a key concern, so it is suitable to be included in the NDP. This policy will be reviewed regularly and if required, amended. To weaken this policy would undermine the Cumulative Impact Zone implemented under licencing legislation which is proving to be a valuable tool to ensure the balance between supporting the night time economy and protecting residential amenity.”*

175. Paragraph 130 of the Framework states *“planning policies should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”* I am satisfied Policy VC1 is supported by evidence, in supporting text relating to existing circumstances and consultation responses, and in Appendix G relating to cumulative impact. The Policy includes the term *“permitted”*. This term does not have sufficient regard for Paragraph 2 of the Framework which states *“planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.”* I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

176. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.

177. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with ensuring the vitality of town centres, the policy is appropriate to be included in a ‘made’ neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 13:  
In Policy VC1 replace “permitted” with “supported”**

## Policy VC2 – Shop Frontages

178. This policy seeks to establish applications for new or altered commercial premises should be in accordance with principles for shop frontages set out in the Wickersley Design Code.
179. Rotherham Metropolitan Borough Council state support for the policy subject to reference to Supplementary Planning Document number 6 Shop Front Design Guide. The Parish Council state reference to the Borough Council shop front design guide is included in the supporting text. I refer to this reference in the Annex to my report.
180. A representation on behalf of the Warde-Aldam Estate agrees that the Wickersley Design Code is a good mechanism to control shop front design.
181. Paragraph 128 of the Framework establishes support for design guides and codes. Paragraph 130 of the Framework states planning policies should ensure that developments add to the overall quality of an area and be visually attractive as a result of good architecture. Whilst there is no requirement for a Neighbourhood Plan policy to be in general conformity with Supplementary Planning Documents, I consider reference to the Supplementary Planning Document number 6 Shop Front Design Guide will assist parties preparing development schemes in understanding the compatibility between the SPD and the Wickersley Design Code with respect to shop front design. Both the SPD and the Wickersley Design Code are consistent with the National Design Guide. I have recommended a modification in this respect so that the policy is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.
182. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan applying in the Neighbourhood Area and relevant to the Neighbourhood Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
183. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with achieving well-designed places, the policy is appropriate to be included in a 'made' neighbourhood plan. Having regard to the Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

**Recommended modification 14:  
Continue Policy VC2 with “and in the Supplementary Planning Document number 6 Shop Front Design Guide”**

## Conclusion and Referendum

184. I have recommended 14 modifications to the Submission Version Plan.

185. I am satisfied that the Neighbourhood Plan<sup>51</sup>:

- is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the Basic Conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the

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<sup>51</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

development plan for the area of the authority (or any part of that area);

- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
- 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.<sup>52</sup>

**I recommend to Rotherham Metropolitan Borough Council that the Wickersley Parish Neighbourhood Development Plan for the plan period up to 2028 should, subject to the modifications I have put forward, be submitted to referendum.**

186. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>53</sup> I have seen nothing to suggest that the policies of the Plan will have “*a substantial, direct and demonstrable impact beyond the neighbourhood area*”<sup>54</sup>. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Rotherham Metropolitan Borough Council as a Neighbourhood Area on 11 December 2017.**

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<sup>52</sup> This basic condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 (5) are amended

<sup>53</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>54</sup> Planning Practice Guidance Paragraph 059 Reference ID: 41-059-20140306 Revision 06 03 2014

## **Annex: Minor Corrections to the Neighbourhood Plan**

187. I have only recommended modifications and corrections to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified.<sup>55</sup> If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. However, supporting text should be adjusted to achieve consistency with the modified policies.

188. In my report I have referred to a representation that requests an amendment to the description of the representor as a Councillor which is a position no longer held. The Parish Council has confirmed it is content to make the appropriate adjustment. I recommend this correction should be made.

189. Rotherham Metropolitan Borough Council has identified a number of necessary amendments to the Neighbourhood Plan. I have dealt with many of the issues raised in the main body of my report. There are however a number of issues where I agree a minor modification of the Neighbourhood Plan is necessary (in addition to the need to ensure the OS copyright information and the RMBC Licence Number is displayed on all extracts from ordnance survey base maps included in the plan) as follows:

<b>Policy / action</b>	<b>Concern</b>	<b>Proposed modification</b>
<b>Throughout the document</b>		
1.1.6 and after each Policy	Provide greater clarity on the way in which the Local Plan policies are referred to (i.e., 'Local Plan Policy' rather than 'RMBC Policy')	After each policy the plan highlights relevant local plan policies that they refer to as 'Relevant RMBC Policy' change to Relevant Rotherham Local Plan Policy'

<sup>55</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990



Throughout the document	The design code needs to accommodate high quality innovative design. It should not duplicate and it should refer to the Rotherham Local Plan Supplementary Planning Document Householder Design Guide, this is in order to avoid confusion and promote clarity.	Modification proposed as outlined
Throughout the document	Typographical errors and consistency in use and explanation of abbreviations	Check plan for typographical errors
<b>Contents List</b>		
Contents	Complete the contents list	In contents list for item 1 include text as follows: '1.0 Introduction'
Contents	The contents list references '1.1 Map of WNP Plan Area' but this heading refers to a figure not a subheading.	Check contents list with plan text
Contents 1.7 Vision	Contents to reflect headings in text (and vice versa)	Change '1.7 Vision' to 1.7 Vision Statement' or correct text title
Contents 1.8 Objectives	Contents to reflect headings in text (and vice versa)	The chapter title in the contents list should match that in the text change '1.8 Objectives' in contents list change to '1.8 Aims & Objectives' or change text title
Contents subheadings	Contents the contents list does not include all subheadings. Include all subheadings in the contents list, where given for consistency	Include all subheadings in the contents list, where given in the text
Contents List of figures	Provide a list of figures	Provide a list of figures on the contents list

Contents List of appendices	Provide the list of appendices in the contents list, stating it is a separate document and provide the name of each appendix.	Insert 'Wickersley Neighbourhood Plan Appendices (Separate Document)' on the contents page and name each appendix
Policies by theme		
Policies by theme (p5)	Typographical error 'GP4 - Locall Listed Buildings'	Change 'GP4 – Locall Listed Buildings' to 'GP4 - Locally Listed Buildings'
Policies by theme (p5)	Remove the list of appendices from the page entitled 'Policies by theme'	Remove the list of appendices
1.0 Introduction		
1.1.1	Refence Figure 1 in the text to add clarity	Change 'The Neighbourhood Plan covers the whole of the Civil Parish of Wickersley as indicated on the Boundary Map' to 'The Neighbourhood Plan Area includes the whole of the Civil Parish of Wickersley as indicated on the Boundary Map (Figure 1)'.
1.1.6 explanation text	To add clarity	Suggest Change 'Relevant RMBC Policy' to 'Relevant Rotherham Local

		Plan Policy'
2.1 General Policies		
GP3 Community Facilities and Services	It would be helpful if the boundary map for asset B could be magnified for improved clarity (e.g., as a new insert)	Support, with modifications
Figure 3	Typographical issue - Use of capitals in figure title	Change 'Figure 3 Community facilities and services' to 'Figure 3 Community Facilities and Services'
Explanation text (P23 para 8)	Typographical error - please check consistency throughout the plan when referring to policies normally there is no gap between the abbreviation SP and the policy number	Change 'This policy aligns with and builds on RMBC policy SP 45 by identifying buildings and structures to be included on a local list.' to 'This policy aligns with and builds on Rotherham Local Plan Policy SP45 by identifying buildings and structures to be included on a local list.'
Figure 4	Copyright disclaimer required on Figure 4	Figure 4 map 1 requires copyright disclaimer
3.0 Housing		

3.1 (p28)	Provide abbreviation in brackets after the term is given in full upon its first appearance in the document; for clarity and consistency	Modification proposed: Give the abbreviation in full as follows: 'The full report is included as an appendix to the NDP 'change to 'The full report is included as an appendix to the Neighbourhood Development Plan (NDP)'
H1 House Type and Mix (Explanation text (para 6 p29)).	Typographical error: space before comma '...Houses aimed at first time buyers (168 responses) , and Smaller family homes (167 responses)'	Support with modification as indicated; check plan for typographical errors.
4.0 Green Spaces		
Figure 9	<p>Wickersley Footpath number 5 on Sitwell Lane and Wickersley Footpath number 6 on Gill close are not connected when they are compared with the definitive statement; definitive details are available from RMBC Rights of Way (contact Planning Policy Team for an extract copy)</p> <p>On Figure 9 check the southern boundary of the Wickersley Gorse Local Wildlife Site (LWS) in relation to the track (see Appendix 1 Local Wildlife Site Boundaries)</p> <p>Typographical error 'Kings pond plantation' change to 'Kings Pond Plantation'</p>	Support, with modifications outlined

	'Urban green space' shown in relation to the figure; is considered to be a potentially confusing term; it in fact refers to a mixture of green belt and green space sites as shown on the Rotherham Sites and Policies Map.	Support, with modifications outlined
8.0 Monitoring and Delivery	Clarity is needed regarding plan monitoring in respect of the indicators to be utilised, the monitoring methodology, and any baseline data which will be available against which indicators will be considered. These should be identified in the Neighbourhood Plan.	Support with modifications (as outlined)

I recommend these changes are made in order to correct errors and so that the Neighbourhood Plan is "*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*" as required by paragraph 16d) of the Framework.

190. Rotherham Metropolitan Borough Council has identified a number of necessary amendments to the Neighbourhood Plan Appendices which have been agreed by the Parish Council as follows:

Page/paragraph	RMBC Comment
All document	Make documents accessible to partially sighted when published on the web in line with government guidance at <a href="https://www.gov.uk/guidance/publishing-accessible-documents">https://www.gov.uk/guidance/publishing-accessible-documents</a>
Appendix Contents (p51)	Change 'B Non-Designated Heritage Assets Assessment' to 'B Heritage Assessment'
Appendix Contents (p51)	Change 'D Wickersley District Centre uses' to 'D Wickersley District Centre Uses, Primary Shopping Frontage and Use Class Order Information'
Appendix Contents (p51)	Change 'E RMBC Policy SP 62' to 'E Rotherham Local Plan Policy SP62 Safeguarding Community Facilities'
Appendix Contents (p51)	Change 'Green infrastructure information' to 'Green Infrastructure Resources'
Footer on appendix pages	Change from 'Wickersley Neighbourhood Plan' to 'Wickersley

	Neighbourhood Plan Appendix'
Appendix B Heritage Assessment (commencing p58)	For the maps given in the Heritage Assessments. Consideration should be given to the scale of the heritage boundary to make the relevant asset boundaries clear (consider the clarity of Maps 6, 7, 22, 25, 32 and 33).
Appendix D Wickersley District Centre uses (p 134)	Insert heading for appendix: 'Wickersley District Centre Uses, Primary Shopping Frontage and Use Class Order Information' to reflect its content.
Appendix E RMBC Policy SP62 (p139)	E 'RMBC Policy SP62' please rename 'E Rotherham Local Plan Policy SP62 Safeguarding Community Facilities'  For the paragraph 'Development proposals which involve the loss of other community facilities shall only be permitted where the Local Planning Authority is satisfied that adequate alternative provision has been made or where some other overriding public benefit will result from the loss of the facility,...' Please start the text as a new paragraph; exactly as shown in the Rotherham Local Plan Policy SP62 Safeguarding Community Facilities
Appendix F Green Infrastructure Resources (p140)	Please insert: Rotherham Local Plan Supplementary Planning Document No. 11: Natural Environment <a href="https://www.rotherham.gov.uk/downloads/file/2425/spd11-natural-environment-june-2021">https://www.rotherham.gov.uk/downloads/file/2425/spd11-natural-environment-june-2021</a>  Please provide new link for Rotherham Playing Pitch Strategy <a href="https://www.rotherham.gov.uk/downloads/file/675/rotherham-playing-pitch-strategy-2009-">https://www.rotherham.gov.uk/downloads/file/675/rotherham-playing-pitch-strategy-2009-</a> Please note: the wildlife good practice guidance has been superseded by Rotherham Local Plan Supplementary Planning Document No. 11: Natural Environment And this reference should be deleted
G Cumulative Impact Policy (p141)	Typographical error Change 'Backgroun' to 'Background'

I recommend these changes are made in order to correct errors and so that the Neighbourhood Plan is “*clearly written and unambiguous, so it is evident how a decision maker should react to development proposals*” as required by paragraph 16d) of the Framework.

191. Rotherham Metropolitan Borough Council has identified a number of necessary amendments to the Wickersley Design Code as follows:

Page/paragraph	RMBC Comment
All document	
All document	Make documents accessible to partially sighted when published on the web in line with government guidance at <a href="https://www.gov.uk/guidance/publishing-accessible-documents">https://www.gov.uk/guidance/publishing-accessible-documents</a>
All document	Check reference to Rotherham Local Plan documents throughout the design code change from ‘RMBC’ to ‘Rotherham Local Plan’ policy or documents for clarity.
All document	Give full title of documents for clarity when specifically referenced in text
All document	Check abbreviations in text - give full name on first appearance in text with abbreviation in brackets after name, thereafter give abbreviation only. Check consistency of use throughout the document (particularly Road or Rd, also check Ct or Court).
All document	Include copyright disclaimer on maps were relevant
General Queries	It is queried if: 1) recent changes to Permitted Development and larger home extensions without Planning Permission been considered? 2) Consideration could be given to implications should the average plot size of houses be decreasing.

General Comments	<p>Support is given to permeable parking surfaces, SuDs, biodiversity enhancement (bat &amp; bird boxes), retention and enhancement of existing hedges.</p> <p>Support is given to the historic built environment being woven into the Design Guide and specifically: the reference to the Lister Estate as a separate character area and the section entitled "Meeting the Street". The advice and drawings given in Appendix B and Appendix E are considered very good. The drawing of the typical row of cottages in the Old Village is supported.</p> <p>In conclusion no major problems have been identified with the Design Code document to date and it is generally considered a good document.</p>
1 Introduction	
Other important resources (p3)	<p>List full titles of the SPD in the document e.g. as follows:</p> <p>Rotherham Local Plan Supplementary Planning Document No. 6 Shop Front Design Guide</p> <p>Rotherham Local Plan Supplementary Planning Document No. 4 Householder Design Guide</p> <p>South Yorkshire Residential Design Guide</p>
Other important resources (p3)	<p>Remove South Yorkshire Residential Design Guide from the bullet pointed list of documents and put it in its own paragraph as follows 'For further advice please refer to the South Yorkshire Residential Design Guide'. This change is proposed as the South Yorkshire Residential Design Guide is not an adopted Supplementary Planning Document.</p>
Contents	
Contents (p3)	<p>Please check page numbering provided in the contents list e.g. Extensions and alterations section is on p38 not 36 as given and so on.</p> <p>Also, 'Infill, Replacement dwellings &amp; Back-land development' does not appear as this single heading in the text.</p> <p>Finally, it is considered the heading 'Shop Fronts' should not be in bold text.</p>
Design Review	
Para 2 (P7)	<p>Abbreviations: give full name on first appearance in text with abbreviation in brackets after for Rotherham Metropolitan Borough</p>



	Council (RMBC).
Para 3 (P7)	Abbreviations give full name on first appearance in text with abbreviation in brackets for National Policy Planning Framework (NPPF)
Replacement Dwellings	
P26 second para	Delete para: 'Generally replacement dwellings up to 130% of the footprint of the original dwelling will be accepted providing the proposal complies with other relevant policies and design criteria'.  This text is considered unnecessary and too constraining for the assessment of proposals in their local context.
Extensions and Alterations	
2 <sup>nd</sup> para p38	Change 'RMBC householder Design Guide' to 'Rotherham Local Plan Supplementary Planning Document No. 4 Householder Design Guide'
Last para p39	Change 'RMBC householder Design Guide' to 'Rotherham Local Plan Supplementary Planning Document No. 4 Householder Design Guide'
Throughout this section	Consistency with national guidance on Permitted Development Rights is required for householder extensions.
Lifetime Homes	
Para 3 P44	The reference to 'RMBC's 2015 SHMA' is old please check and update evidence accordingly as there is a 2019 SHMA. Please give its full title. See online at: <a href="https://www.rotherham.gov.uk/downloads/file/825/strategic-housing-market-assessment">https://www.rotherham.gov.uk/downloads/file/825/strategic-housing-market-assessment</a>
Shop Fronts	
P48 -51	Retain Key Principles (P48) but delete any content in this section that duplicates the Rotherham Local Plan Supplementary Planning Document No. 6 Shop Front Design Guide for clarity.  Refer to Rotherham Local Plan Supplementary Planning Document No. 6 Shop Front Design Guide
References and Links	

	<p>Update links and relevant documents in 'References and Links' section as appropriate. Note the following:</p> <p>Rotherham Local Plan Supplementary Planning Document No 4. Householder Design Guide available at:  <a href="https://www.rotherham.gov.uk/downloads/file/1785/spd4-householder-design-guide-june-2020-">https://www.rotherham.gov.uk/downloads/file/1785/spd4-householder-design-guide-june-2020-</a></p> <p>South Yorkshire Residential Design Guide available at:  <a href="https://www.rotherham.gov.uk/downloads/file/541/south-yorkshire-residential-design-guide">https://www.rotherham.gov.uk/downloads/file/541/south-yorkshire-residential-design-guide</a></p> <p>Rotherham Local Plan Supplementary Planning Document No. 12 Transport Assessments, Travel Plans and Parking Standards available at:  <a href="https://www.rotherham.gov.uk/downloads/file/2427/spd12-transport-assessments-travel-plans-and-park">https://www.rotherham.gov.uk/downloads/file/2427/spd12-transport-assessments-travel-plans-and-park</a></p> <p>Rotherham Green Space Strategy (2010) available at:  <a href="https://www.rotherham.gov.uk/downloads/download/79/evidence-base-downloads">https://www.rotherham.gov.uk/downloads/download/79/evidence-base-downloads</a></p> <p>Rotherham Local Plan Supplementary Planning Document No. 6 Shop Front Design Guide  <a href="https://www.rotherham.gov.uk/downloads/file/1787/spd6-shop-front-design-guide-june-2020-">https://www.rotherham.gov.uk/downloads/file/1787/spd6-shop-front-design-guide-june-2020-</a></p>
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The Wickersley Design Code is referred to in the Neighbourhood Plan and in particular within policies of the Neighbourhood Plan. With the exception of changes to plot sizes in respect of which further discussion between Rotherham Metropolitan Borough Council and the Parish Council is required I recommend these changes are made in order to correct errors and so that the Neighbourhood Plan is “*clearly written and unambiguous, so it is evident how a decision maker should react to*

*development proposals*” as required by paragraph 16d) of the Framework.

**Recommended modification 15:**

**Modify policy explanation sections, general text, figures and images to achieve consistency with the modified policies, and to correct identified errors.**

**Modify the Neighbourhood Plan Appendices in accordance with the schedule of changes recommended by Rotherham Metropolitan Borough Council.**

**Modify the Wickersley Design Code in accordance with the schedule of changes recommended by Rotherham Metropolitan Borough Council.**

The Sheffield and Rotherham Wildlife Trust recommend the reference in Chapter 8.0 Data and Methodology to 'amount of green space' should be modified to refer to 'area and quality of green space'. Whilst I agree this would be a more appropriate approach, I am unable to recommend a modification in this respect as it is not necessary to meet the Basic Conditions or other requirements of a neighbourhood plan that I have identified.

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19 January 2022  
REPORT END