

# **Maltby Neighbourhood Development Plan**

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

Copy to Maltby Town Council

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## **Summary of Main Findings**

This is the report of the Independent Examination of the Maltby Neighbourhood Development Plan. The plan has been prepared by Maltby Town Council. The plan relates to the whole parish of Maltby which was designated as a Neighbourhood Area on 10 April 2017. The plan area lies within the Rotherham Metropolitan Borough Council area. The plan period runs until 2028. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for 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. Paragraph 29 of the National Planning Policy Framework (the Framework) states that “neighbourhood planning gives communities the power to develop a shared vision for their area”.
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 Maltby Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared on behalf of Maltby Town Council (the Town Council). The whole parish of Maltby was designated as a Neighbourhood Area on 10 April 2017 by Rotherham Metropolitan Borough Council. The draft plan has been submitted by the Town Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Maltby Neighbourhood Area (the Neighbourhood Area). The Neighbourhood Plan preparation process was led by a Steering Group comprised of Town Councillors and other local community volunteers including residents and business representatives. The Steering Group has been supported by Andrew Towler Associates.
4. The submission draft of the Neighbourhood Plan and accompanying documents were approved by the Town Council and subsequently submitted to Rotherham Metropolitan Borough Council (the Borough Council) on 30 March 2023. The Borough Council arranged a period of publicity between 30 June 2023 and 21 August 2023 and subsequently submitted the Neighbourhood Plan to me for independent examination which commenced on 18 October 2023.

## **Independent Examination**

5. This report sets out the findings of the independent examination of the Neighbourhood Plan. The report makes recommendations to the Borough Council including a recommendation as to whether the Neighbourhood Plan

should proceed to a local referendum. The Borough Council will decide what action to take in response to the recommendations in this report.

6. The 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 considered and can be given significant weight when determining a planning application, in so far as the plan is material to the application.
7. 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 unless the 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. Paragraph 12 of 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.
8. I have been appointed by the Borough Council with the consent of the Town Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Town Council and the Borough Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan.
9. I am a Member of the Royal Parish Planning Institute; a Member of the Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. As a Chartered Town Planner, I have held national positions and have 35 years' experience at Director or Head of Service level in several local planning authorities. I have been a panel member of the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) since its inception, and have undertaken the independent examination of neighbourhood plans in every region of England, and in the full range of types of urban and rural areas.
10. 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.

11. I make my recommendation in this respect and in respect to any extension to the referendum area, 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.

12. The Planning Practice Guidance (the Guidance) states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.” The examiner can 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. This requires an exercise of judgement on my part. All parties have had the opportunity to state their case and no party has indicated that they have been disadvantaged by a written procedure. Regulation 16 responses clearly set out any representations relevant to my consideration whether the Neighbourhood Plan meets the Basic Conditions and other requirements. Those representations and the level of detail contained within the submitted Neighbourhood Plan and supporting documents have provided me with the necessary information required for me to conclude the Independent Examination. As I did not consider a hearing necessary, I proceeded based on examination of the submission and supporting documents, and consideration of the written representations.

13. This report should be read as a whole, and has been produced in an accessible format.

## **Basic Conditions and other Statutory Requirements**

14. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions.” 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.

15. 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. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights, which has the same meaning as in the Human Rights Act 1998. All these matters are considered in the later sections of this report titled 'The Neighbourhood Plan taken as a whole' and 'The Neighbourhood Plan Policies.' Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind.

16. 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 (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)). I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, including in respect to the Neighbourhood Planning (General) Regulations 2012 as amended (the Regulations) which are made pursuant to the powers given in those sections.

17. The Neighbourhood Plan relates to the area that was designated by the Borough Council on 10 April 2017. A map of the Neighbourhood Area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan does not relate to more than one neighbourhood area, and no other neighbourhood development plan has been made for the neighbourhood area. All requirements relating to the plan area have been met.

18. 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; and the Neighbourhood Plan does not include provision about excluded development (principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment, and nationally

significant infrastructure projects). I can confirm that I am satisfied that each of these requirements has been met.

19. A neighbourhood plan must also meet the requirement to specify the period to which it has effect. The front cover of the Neighbourhood Plan states the plan period runs from 2017 until 2028. Paragraph 2.4 of the Basic Conditions Statement confirms this period has been chosen to align with that of the Rotherham Local Plan.
20. 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. It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises because 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.
21. 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.
22. 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 meaning and significance to people living and working in the area.
23. 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. I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

## Documents

24. 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:

- Maltby Neighbourhood Plan 2017-2028 Regulation 15 Submission Plan December 2022 [In this report referred to as the Neighbourhood Plan]
- Maltby Neighbourhood Plan 2017-2028 Basic Condition Statement December 2022 [In this report referred to as the Basic Conditions Statement]
- Maltby Neighbourhood Plan 2017-2028 Consultation Statement December 2022 [In this report referred to as the Consultation Statement]
- Maltby Neighbourhood Plan 2017 -2028 Strategic Environmental Assessment Screening and Habitats Regulations Assessment Screening Report September 2022
- Information available on the Borough Council website including the: MNP Design Code; MNP Masterplan Report; Maltby Ward Profile; Maltby Parish Census 2011 Profile; and listed supporting evidence documents relating to: Housing Need and Characteristics Study, Hot Food Takeaways, and Maltby Character Buildings of Local Heritage Interest
- Information available on the Town Council website
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and the Borough Council and the Town Council including the initial letter of the Independent Examiner dated 18 October 2023
- National Planning Policy Framework (2023) [In this report referred to as the Framework]
- 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)
- 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 Regulations 2017
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

## Consultation

25. 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 several key stages of consultation undertaken to illustrate the approach adopted.

26. A Neighbourhood Plan Steering Group made up of Town Councillors and other resident and business community volunteers was established in May 2017. A community consultation drop-in event was held on 25 November 2017 at Maltby Town Hall to raise awareness of the Plan and help identify key concerns as well as potential opportunities and priorities for inclusion in the Plan. The Steering Group engaged with interested bodies and stakeholders and have particularly noted the input of Maltby Local History Society in the development of the heritage sections of the Plan. A working draft Plan and final drafts of the Maltby Masterplan and Maltby Design Code were presented at a community consultation

drop-in event held at the Maltby Progressive Club premises in the town centre in November 2019. The event was widely advertised and attracted an attendance of over 100 people. Written and oral comments were received. The Borough Council was consulted on the latest draft Plan in March and April 2020.

Throughout the plan preparation process publicity was achieved through use of: the Town Council website; Town Council and other community notice boards; social media; and including regular items on Town Council meeting agendas. The Borough Council website also provided updates on the latest position regarding Plan preparation.

27. In accordance with Regulation 14 the Town Council consulted on the pre-submission version of the draft Neighbourhood Plan between November 2021 and January 2022. The draft plan was published on the Town Council website; interested parties were alerted by email; and paper copies were available on request to the Clerk of the Council. The consultation on the pre-submission draft Plan was publicised through a variety of means including: posters and flyers; the Town Council social media site; notification to all groups and individuals on the Neighbourhood Partnerships Team and on the Voluntary Action Rotherham database; word of mouth by Town Councillors and others; and direct mailing to other stakeholders including the Weslyn Centre and the local Member of Parliament. Owners/occupiers of the proposed Local Character Buildings of Heritage Value were sent letters, and statutory consultees and developers and landowners on the Borough Council Planning department database were emailed. The Consultation Statement includes in Appendix K details of the 124 comments received from a total of twenty-two different parties, and a response of the Neighbourhood Plan Steering Group. Suggestions have, where considered appropriate, been reflected in changes to the Plan agreed at the meeting of the Town Council on 16 June 2022. The Neighbourhood Plan was subsequently submitted by the Town Council to the Borough Council on 30 March 2023.

28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 publicity period between 30 June and 21 August 2023. Publicity was achieved through the Borough Council website. Representations were submitted during the Regulation 16 period of publication from a total of eight different parties.

29. The Borough Council has commented on Policies M1, M2, M3, M5, M6, M7, M8, and M9. The Borough Council has also helpfully suggested amendments to general text of the submitted Neighbourhood Plan, and text within some of the supporting documents to correct errors, update information and improve clarity. I refer to those suggested amendments to general text of the Neighbourhood Plan and supporting documents in the Annex to my report.

30. The representation of an individual objects to the inclusion of Bede House in the list of Maltby Character Buildings and Structures of Local Heritage Interest in Policy M2. The Trustees of the Sandbeck 1988 Settlement object to the inclusion of the Barn to the rear of Roche Abbey Mill Farm; No's 1 & 2 Stone Cottages; The Old School House; Stone Lodge; and Stone Cottage in the list of Maltby Character Buildings and Structures of Local Heritage Interest in Policy M2.
31. Severn Trent has encouraged use of additional text in section 6.1.1 of the Neighbourhood Plan to refer to drainage hierarchy policy, and water efficiency policy, and protection of water resource policy. This representation also encouraged use of additional text in section 9.1.2 of the Neighbourhood Plan in respect of green spaces policy. This representation also includes general advice. The representation of Severn Trent does not necessitate any modification of the Neighbourhood Plan to meet the Basic Conditions.
32. The City of Doncaster Council supports the policies of the Neighbourhood Plan and states that after comments on the pre-submission version it is recognised that the Plan now makes more reference to Maltby's functional relationship with Tickhill and Doncaster. Sport England has provided general advice. The Coal Authority has confirmed it has no specific comments to make. The representation of an individual lists reasons why he supports the Neighbourhood Plan and suggests the property at 67 Blyth Road, and his own property, and an adjoining property should be afforded heritage protection. These representations do not necessitate any modification of the Neighbourhood Plan to meet the Basic Conditions.
33. I have read each of the Regulation 16 representations. In preparing this report I have taken into consideration all the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole in my report. Having regard to *Bewley Homes Plc v Waverley Borough Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6) 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. Alternative policy approaches and additional policy content were relevant considerations in earlier stages of the Neighbourhood Plan preparation process. These are only relevant to my role if they are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified.
34. I provided the Town Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Town 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. The Town Council did not submit comments on the Regulation 16 representations.

35. 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.

36. The submitted 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 engagement in plan preparation contained within the Guidance. It is evident the Neighbourhood Plan Steering Group have ensured stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

## **The Neighbourhood Plan taken as a whole**

37. 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 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**

38. Page 15 of the Basic Conditions Statement states “The Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR)”. I have considered the European Convention on Human Rights and in particular Article 6 (fair hearing); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property). 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. 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 Town Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst an Equality Screening Assessment has not been prepared, from my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.
39. The objective of EU Directive 2001/42 (transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004) 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’ (Defined in Article 2(a) of Directive 2001/42) as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result (Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012).
40. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Town Council, as the Qualifying Body, to submit to the 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.

41. Section 4.4 of the Basic Conditions Statement confirms “The Town Council has screened the Plan to determine whether an SEA is required. They considered that one is not required. They have consulted with Historic England, Environment Agency, and Natural England on the draft Regulation 14 Plan on their opinion whether a SEA was not required, and they have each confirmed that they do not consider that a SEA is required. Rotherham MBC also agree that an SEA is not required.”
42. I have examined the Strategic Environmental Assessment Screening and Habitats Regulations Assessment Report dated September 2022 which finds with respect to SEA “Based on the SEA Screening Assessment set out in figure 3 above, it is concluded that there are unlikely to be significant environmental effects. The Plan is a lower tier plan in the hierarchy of planning documents for the area and therefore has limited influence on other plans or programmes. The Plan does not allocate any development sites; but instead provides criteria-based policies to help guide development that may come forward under the policies set out in the Borough Local Plan. The criteria set out for development in the Plan is likely to prove beneficial in terms of mitigating against possible adverse impacts of future development. The Parish does contain potentially sensitive areas and assets including 42 Listed Buildings, a Scheduled Monument, 1 Registered Parks and Gardens and 3 Sites of Special Scientific Interest and a Local Nature Reserve (numbers subsequently corrected). However, no development is proposed that is likely to have any significant effect on any special areas. The Plan is likely to guard against any possible significant adverse impacts on the built environment arising from future development that might come forward. Having taken all the policies in the Plan into account, in accordance with the topics cited in Annex 1(f) of the SEA directive, this screening opinion has concluded that a full SEA is not required.” I have no reason to disagree with this conclusion. The SEA screening determination includes consultation responses received from the statutory consultees Historic England, the Environment Agency, and Natural England. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
43. The Strategic Environmental Assessment Screening and Habitats Regulations Assessment Report dated September 2022 finds with respect to HRA “There are no European sites within Maltby. The nearest European site, Birklands and Bilaugh SAC, is located some 19kms to the south-east of the Parish. A Habitats Regulations Screening was undertaken as part of the Rotherham Local Plan Sites and Policies (2018). The outcome of this work was that there were no likely effects on European sites and therefore an Appropriate Assessment was not required. The Plan does not identify development beyond that outlined in the Rotherham Local Plan Sites and Policies document. The Plan provides criteria-based policies to help guide development that might come forward in accordance

with the borough plans. It is not considered that the implementation of the Plan, by virtue of its scope, the nature of its policies and proximity will result in any likely significant effects upon qualifying features of a European site.” I have no reason to disagree with this conclusion. The HRA screening determination includes a consultation response received from the statutory consultee Natural England. I am satisfied that the Neighbourhood Plan meets the requirements of the Basic Condition relating to Habitats Regulations Assessment.

44. There are several 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.
45. 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.
46. 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 for the draft neighbourhood plan to progress. The Borough Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU environmental law obligations (directives and regulations) incorporated into UK domestic law by the European Withdrawal Act 2018 (EUWA):
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
  - when it takes the decision on whether to make the neighbourhood plan (which brings it into legal force).

**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**

47. 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 which requires plans to be “consistent with national policy.”

48. Lord Goldsmith has provided guidance (Column GC272 of Lords Hansard, 6 February 2006) 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.”
49. The most recent National Planning Policy Framework published on 5 September 2023 sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance was most recently updated, in part, on 25 August 2022. 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 Government consultation on possible changes to the Framework published in December 2022 has not formed part of my consideration.
50. Table 1 presented in section 3.3 of the Basic Conditions Statement sets out an explanation how each of the policies of the Neighbourhood Plan has regard to the Framework and the Guidance.
51. Section 3.1 of the Neighbourhood Plan sets out a positive vision statement for Maltby. Nine objectives are stated addressing specific themes relating to: area identity and character; built heritage; safe pleasant and healthy environment; range and type of good quality housing for all; community and recreational facilities and services; town centre regeneration; protection and enhancement of the countryside and important green spaces; improvement of the transport network for all; and a greater say for residents regarding development. It is evident achievement of those objectives will support delivery of the vision and provide a framework for the policies of the Neighbourhood Plan which will guide development.
52. The Submission Version Neighbourhood Plan sets out two community actions relating to: 1 Maltby Historic Corer and Maltby Model Village Local Areas of Special Character and 2. Houses in Multiple Occupation. It is explained in paragraph 66 of the Neighbourhood Plan that the community actions relate to non-planning matters that address issues which the community would like to achieve that have been highlighted through the Plan’s preparation. 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.” The approach adopted to take the projects forward is entirely satisfactory. I am satisfied the nature of the text in the project statements makes the intention clear that they are intended actions of the Town Council and do not represent statements of planning policy. The inclusion of the community actions in a distinguishing mauve colour text, different to the blue text of the policies, sufficiently differentiates the community actions from the policies of the Neighbourhood Plan. I have not included the community actions in my Independent Examination as they will not form part of the statutory Development Plan.

53. 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, except for 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.”

54. At the heart of the Framework is a presumption in favour of sustainable development which should be applied in both plan-making and decision-taking. 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). To demonstrate 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.”

55. The Framework states there are three dimensions to sustainable development: economic, social, and environmental. The text of paragraph 3.7 of the Basic Conditions Statement sets out an overview of the combined impacts of the policies of the Neighbourhood Plan and leads to the conclusion the plan's policies should contribute to the achievement of sustainable development. The statement does not highlight any likely negative impacts of the Neighbourhood Plan policies.

56. 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 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.

57. 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 protect, and where possible enhance, important environmental features of the Neighbourhood Area. The Neighbourhood Plan also seeks to support social well-being with respect to supporting community facilities and local services. I consider the Neighbourhood Plan as recommended to be modified seeks to:

- Establish criteria to ensure development is good quality and distinctive;
- Identify Maltby character buildings and structures of local heritage interest;
- Ensure new housing development is of a mix to meet local needs;
- Ensure provision of affordable housing;
- Support appropriate provision of suitable shops outside Maltby Town Centre and guard against unnecessary loss of shops outside Maltby Town Centre;
- Establish criteria for support of hot food takeaway proposals;
- Establish conditional support for new and enhanced community facilities;
- Establish support for the enhancement of Assets of Community Value and establish criteria for loss of such facilities;
- Protect and enhance locally important local wildlife sites and ensure developments achieve nature and biodiversity gains; and
- Ensure developments improve highway safety.

58. 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)**

59. 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.” Plans should make explicit which policies are strategic policies. “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies.”
60. 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 Borough Council has confirmed the Development Plan applying in the Maltby Neighbourhood Area and relevant to the Neighbourhood Plan comprises 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.
61. 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.” The Borough Council has advised me what are regarded by the Local Planning Authority as Local Plan strategic policies applying in the Neighbourhood Area. A document is available for inspection in this respect on the Rotherham Metropolitan Borough Council website. The Policies regarded by the Borough Council as Strategic Policies include all the policies of the Core Strategy, and the following policies of the Sites and Policies Document: Policies SP1 - SP13; SP15 - SP23; SP26 - SP65; and SP69. Whilst some policies of the Joint Waste Plan are regarded as strategic policies, those policies are not relevant to the Neighbourhood Plan.
62. 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” (Persimmon Homes v.

Stevenage BC the Court of Appeal [2006] 1 P &CR 31). 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 entire development plan.

63. 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.”

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

64. 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 Table 5 of the Basic Conditions Statement that demonstrates how each of the policies of the Neighbourhood Plan is in general conformity with 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**

65. The Neighbourhood Plan includes ten policies as follows:
- Policy M1: Promoting Good Quality and Distinctive Design
  - Policy M2: Maltby Character Buildings of Local Heritage Interest
  - Policy M3: Housing Mix
  - Policy M4: Affordable Housing

Policy M5: Shops outside of Maltby Town Centre  
Policy M6: Hot Food Takeaways  
Policy M7: Supporting New and Enhanced Community Facilities  
Policy M8: Assets of Community Value  
Policy M9: Nature Conservation  
Policy M10: Traffic Management

66. 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.”
67. 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.”
68. 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).”
69. 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.”

70. “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.”
71. 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).”
72. “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.” “A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available.”
73. 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 in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

### **Policy M1: Promoting Good Quality and Distinctive Design**

74. This policy seeks to establish design principles for development proposals.
75. The Borough Council state “this Policy gives status to the Masterplan however the Council has raised comments on this document. In particular: the indicative layouts in the masterplan are likely to need amending where planning permissions have been granted on the sites and where areas are already under construction. The layouts will also need amending in order to reflect any new constraints which have been identified (eg for Site H68: Tarmac Site Off Blyth Road, rights of way from Blyth Road which were not previously known about). It

is considered 'a mix of employment uses' would be better suited on the Former Colliery Site (SPA2) than proposed retail uses, to be in line with the Local Plan (see Sites and Policies Document SP18 Former Maltby Colliery)." It is inappropriate for Policy M1 to require proposals to "respond positively" to the Maltby Masterplan given the long-term nature of that document and its intention to inform a spatial plan for Maltby including identification of options for design concepts. I have recommended proposals should demonstrate how they have been informed by the general principles and concepts of the Maltby Masterplan. Given there are unresolved issues relating to the Maltby Masterplan raised by the Borough Council I have also recommended the Maltby Masterplan should be updated and revised in accordance with the recommendations of the Borough Council.

76. Paragraph 127 of the Framework 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." That paragraph 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. Policies should be clear about design expectations and how these will be tested. 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. Paragraph 130 of the Framework states "Planning policies and decisions should ensure that 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)". I am satisfied the Maltby Design Code which is referred to in Policy M1 is not overly prescriptive and will allow flexibility in design that is sympathetic to the character of the area. I am satisfied Policy M1 has sufficient regard for national policy in these respects.

77. 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.

78. It is confusing and unnecessary for a policy to require development to have regard to unspecified national and local policies. Paragraph 16 states plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply in an area. The term "local policies, including" is imprecise and does not provide a basis for the determination of development proposals. 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.

79. 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.’

80. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan in particular Policies CS1, 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.

81. 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 Framework and 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 1:**

**In Policy M1 replace the second sentence with “Proposals should demonstrate regard to Local Plan Policy SP55, and respond positively to, the design principles of the Maltby Design Code. Proposals should also**

**demonstrate how they have been informed by the general principles and concepts of the Maltby Masterplan.”**

**Update and revise the Maltby Masterplan as recommended by the Borough Council.**

### **Policy M2: Maltby Character Buildings of Local Heritage Interest**

82. This policy seeks to establish principles for support of development proposals affecting identified Maltby character buildings and structures of local heritage interest.

83. The Borough Council states:

“The Council’s full response with regard to Character Buildings and Structures of Local Heritage Interest is given under Consultation Document 11 (Maltby Character Buildings of Local Heritage Interest). However, it is worth stressing that the Council are fully supportive on all initiatives relating to what is commonly referred to as a “Local List.” This Policy, M2, is considered to be well thought out with regard to protecting these buildings, particularly when applied in conjunction with National Planning Policy and also Policy SP45 (Locally Listed Buildings) in the Adopted Rotherham Local Plan Sites and Policies Document (Adopted June 2018). The requirement for a Heritage Statement with any proposal requiring planning permission on any of these Local List buildings will have to be confirmed through liaison with Rotherham Council. The 24 buildings and structures listed in the policy itself match exactly those analysed in more detail in the supplementary document “Supporting Evidence – Maltby Character Buildings of Local Heritage Interest Maltby Neighbourhood Plan 2017- 2028 December 2022.” After much collaborative work, the Council are satisfied with the accuracy of the mapping at Appendix 1. Around the country, Local List buildings are often poorly identified. Rotherham Council, therefore, gave assistance to Maltby Town Council in this respect to ensure all Local List buildings are accurately plotted on Ordnance Survey maps of a suitable scale. It, therefore goes without saying that the Council are now happy with the accuracy of Appendix 1. As is stated below in the Council response to Document 11 Maltby Character Buildings of Local Heritage Interest; Local Listing is a constantly evolving process. It is highly likely, if not certain, that additional buildings and structures will need to be added to this Maltby list in due course, particularly through the South Yorkshire Local Listing project which is again outlined in more detail below. This being the case, the individual building part of the policy may quickly become outdated? It may be that the individual buildings should, therefore, be excluded from the actual Policy and main

document and instead be kept in the ancillary document? This is a suggestion rather than a request.”

84. The representation of an individual suggests the property at 67 Blyth Road, and his own property, and an adjoining property should be afforded heritage protection. Whatever the merits of this suggestion I am unable to recommend additional properties are identified in Policy M2 as Maltby Character Buildings and Structures of Local Heritage Interest as such additions would not be necessary to meet the Basic Conditions. There are separate procedures available to the representor with respect to nominating buildings to be listed in the National Heritage List for England (NHLE) maintained by Historic England.
85. The representation of an individual objects to the inclusion of Bede House in the list of Maltby Character Buildings and Structures of Local Heritage Interest in Policy M2. The Trustees of the Sandbeck 1988 Settlement object to the inclusion of the Barn to the rear of Roche Abbey Mill Farm; No's 1 & 2 Stone Cottages; The Old School House; Stone Lodge; and Stone Cottage in the list of Maltby Character Buildings and Structures of Local Heritage Interest in Policy M2. I am satisfied the list of buildings and structures included in Policy M2 has been sufficiently justified and has included appropriate assessment. Whatever the merits of these representations I am unable to recommend buildings are deleted from the list of buildings and structures referred to in Policy M2 that have been locally identified as such deletion would not be necessary to meet the Basic Conditions.
86. Policy M2 has regard for paragraph 130 of the Framework which requires planning policies to ensure developments are sympathetic to local character and history, and that places are attractive and welcoming. The policy has regard for Paragraph 203 of the Framework which sets out the approach to considering potential impacts of development proposals affecting the significance of non-designated heritage assets. The Guidance refers to advice on local lists published on Historic England's website (Paragraph: 040 Reference ID: 18a-040-20190723 Revision date 23 07 2019). 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.” It is appropriate for a local community to use the Neighbourhood Plan preparation process to identify heritage assets that are locally valued. I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy.

87. 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. The final paragraph of the policy is 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. 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.’

88. The term “attached as Appendix 1” 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.

89. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular 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.

90. 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 Framework and 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 M2 replace the opening text with "The following buildings and structures (see maps in Appendix 1 of the Neighbourhood Plan) are identified as Maltby Character Buildings and Structures of Local Heritage Interest:"**

**Policy M3: Housing Mix**

91. This policy seeks to ensure new housing development meets local housing needs. The policy also seeks to establish support for housing for those with a disability and smaller homes.

92. The Borough Council states support of the Policies M3 and M4 and agree that there is a housing affordability issue in Maltby and especially agree with the statement that "Housing for those with a disability and smaller homes (3 bedrooms or less) for young people, young families and older people will be supported." The Borough Council state the data used in the creation of the Plan, predominantly Census 2011, is 'old' data and may not reflect current trends but appreciates that more recent or up to date data may not be readily available at a parish level.

93. 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 M3 has sufficient regard for national policy in this respect. The reference to the most up to date reports ensures the policy will remain relevant throughout the plan period if local housing needs change.

94. The policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular 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.

95. 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 Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

#### **Policy M4: Affordable Housing**

96. This policy seeks to establish local principles relating to the nature of affordable housing provision arising from housing developments responding to strategic planning policies. The policy includes guidance as to the quantity, type, and size of affordable housing to be provided.
97. I have referred to the Borough Council representation relevant to this policy when considering Policy M3.
98. 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.
99. The term "The needs of local people should be prioritised" is inappropriate as this is a housing management issue not a land use issue. 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.
100. The policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular 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.
101. 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 Framework and Guidance the policy, subject to the recommended modification, is appropriate to be included in a 'made' neighbourhood plan and will meet the Basic Conditions.

#### **Recommended modification 3: In Policy M4 delete the final sentence**

## **Policy M5: Shops outside of Maltby Town Centre**

102. This policy seeks to establish that development proposals that would result in the loss of, or have a significant adverse effect on, a shopping use outside the defined Maltby Town Centre will not be supported unless stated circumstances are satisfied. The policy also seeks to establish conditional support for the development of local shopping facilities serving day-to-day needs of their immediate community.

103. The Borough Council state “Please note there are permitted rights for the change of use from ‘shopping’ use which would not require planning permission. Shops that are not within the Maltby Town Centre may be within residential allocation such that the change of use into a residential property would be acceptable in principle. It is recommended permitted rights are recognised in the policy supporting text to provide clarity (NB the policy would only apply to proposals needing planning permission). The Local Plan includes reference to local shops being capable of being community facilities (see the supporting text to the Sites and Policies SP62 Community Facilities at para 4.371). In the policy, consideration could be given to providing the use class of neighbourhood shops for clarity. Please note a local community shop may fall under use class F2. It appears a change of use from neighbourhood shop to community facility would need to undergo a viability assessment with how the policy is currently written. If a shop is to be located outside the town centre, then it may not be in accordance with the Local Plan allocation. Please note government policy to locate retail in town centres. For information see Local Plan Sites and Policies section 4.101 - In line with national planning policy the Local Plan policies seek to direct main town centre uses to defined town district and local centres in the first instance”

104. Paragraph 93 of the Framework states planning policies should plan positively for the provision of community facilities such as local shops and should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs. It is specifically stated established shops should be retained for the benefit of the community. I am satisfied the approach adopted in Policy M5 relating to the loss of, or adverse effect on, neighbourhood shops have sufficient regard for national policy. The final paragraph of Policy M5 clearly states a need for proposals for new local shopping facilities to satisfy national and strategic planning policies whilst also introducing a distinct local approach.

105. To interpret the policy, there is a need to define Maltby Town Centre in the Neighbourhood Plan. It is unnecessary and confusing for the policy to refer to one element of consultation that may be undertaken by the Borough Council in

the determination of development proposals. In the recommended modification I have also avoided the policy being misinterpreted as being reliant on consultation actions of third parties which it may not be. It is not normally necessary to state the policy applies to proposals requiring planning permission. However, given the complexities of, and regular change to use classes and ability to transfer between uses without planning permission it is helpful to plan users to clarify the policy applies to development proposals requiring planning permission. Whilst the regular change of use classes suggests the stating of land uses in the policy is inadvisable, I have recommended that the nature of neighbourhood shops is more fully defined in the policy. The term “loss of use” is ambiguous. The requirement for viability and marketing evidence has not been sufficiently justified where a development proposal involving loss of a neighbourhood shop can be demonstrated to have benefits that outweigh the loss. 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. I am satisfied the term “other planning policy requirements” in the final paragraph of the policy will enable consideration of whether a proposal will be in accordance with a Local Plan allocation.

106. The policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policies CS29, SP23 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.

107. 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 Framework and 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 M5:**

- **replace the opening text with “Development proposals requiring planning permission that would result in the loss of, or significant adverse effect on, a neighbourhood shop located outside Maltby Town Centre (defined on the map on page X of the Neighbourhood Plan) that serves the day-to-day needs of a local community will not be supported unless it is demonstrated that:”**
- **in part a) delete “in the case of a significant adverse impact”**
- **in part b) delete “in the case of a loss of use”**

## **Insert in the Neighbourhood Plan a map defining Maltby Town Centre**

### **Policy M6: Hot Food Takeaways**

108. This policy seeks to establish that hot food takeaways will not be permitted within 800 metres walking distance from defined education premises unless they are within Maltby Town Centre or Muglet Lane Local Centre.
109. Paragraph 31 of the Framework states the preparation of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focussed tightly on supporting and justifying the policies concerned, and take into account relevant market signals. The approach adopted in Policy M6 with respect to hot food takeaways has been sufficiently justified in the reasoned justification presented between 160 and 171 of the Neighbourhood Plan.
110. It is inappropriate to use the term “will not be permitted” as this does not pay sufficient regard for the requirement of paragraph 2 of the Framework to consider material considerations in decision making. When considering Policy M5 of the Neighbourhood Plan I have recommended a map defining Maltby Town Centre is included in the Neighbourhood Plan. Such a map would also assist in the application of Policy M6. I have recommended a map defining Muglet Lane Local Centre is included in the Neighbourhood Plan as that centre is also referred to in Policy M6. 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. I am unable to recommend a modification in respect of cumulative impact of hot food takeaway proposals in the town centre referred to as an aspiration by the Borough Council as such a modification is not necessary to meet the Basic Conditions.
111. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policy SP22. 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.
112. 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 Framework and 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 M6 replace “permitted” with “supported”**

**Insert in the Neighbourhood Plan a map defining Muglet Lane Local Centre**

**Policy M7: Supporting New and Enhanced Community Facilities**

113. This policy seeks to establish conditional support for new or enhanced community facilities. The policy also includes criteria that new or enhanced community facilities should satisfy where possible.
114. The Borough Council has commented in respect of the part of the policy that refers to consultation stating “It is envisaged that the Town Council will need to consult the weekly planning application list and return comments as appropriate.”
115. Paragraph 93 of the Framework states planning policies should plan positively for the provision of community facilities such as local shops and should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs. It is specifically stated established shops should be retained for the benefit of the community. Paragraph 92 of the Framework refers to encouragement of walking and cycling in addressing local health and well-being needs. Paragraph 84 of the Framework states planning policies should enable the sustainable growth and expansion of all types of business in rural areas.
116. It is unnecessary and confusing for the policy to refer to one element of consultation that may be undertaken by the Borough Council in the determination of development proposals. In the recommended modification I have also avoided the policy being misinterpreted as being reliant on consultation actions of third parties which it may not be. In the context of paragraph 111 of the Framework I have recommended part d) of the policy should refer to highway safety. The requirement “to serve the parish” has not been sufficiently justified. The terms “encouraged” and “especially supported” do not provide a basis for the determination of development proposals. I have recommended a modification in these respects 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.
117. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policies CS29, SP62, SP63, and SP64. 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.

118. 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 Framework and 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 M7**

- **delete “to Rotherham MBC, in consultation with the Town Council,”**
- **in part d) after “capable of” insert “safely”**
- **in the final sentence delete “to serve the parish” and “especially” and “and encouraged”**

**Policy M8: Assets of Community Value**

119. This policy seeks to establish support for development proposals that support the longevity, appreciation, and community value of a registered Asset of Community Value. The policy also seeks to establish criteria for support of change of use proposals that would result in the loss of an Asset of Community Value.

120. The Borough Council state “Protection is given to community facilities in Sites and Policies Policy SP62 Safeguarding Community Facilities.” Paragraph 93 of the Framework states planning policies should guard against the unnecessary loss of valued facilities and services. I am satisfied Assets of Community Value could be identified within the Neighbourhood Area and registered by the Borough Council during the Plan period that may arguably fall outside the remit of Policy SP62.

121. The policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular Policies CS29, SP62, SP63, and SP64. 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.

122. 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 Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

## **Policy M9: Nature Conservation**

123. This policy seeks to protect natural environment assets and ensure development proposals achieve a net gain in biodiversity.
124. Paragraph 174 of the Framework states planning policies should contribute to and enhance the natural and local environment by protecting sites of biodiversity value in a manner commensurate with their statutory status or identified quality in the development plan. Paragraph 174 also refers to minimising impacts on and providing net gains for biodiversity.
125. The Borough Council state “This policy is considered weak. The policy provision for biodiversity is being strengthened through the implementation of the Environment Act 2021. • It is considered the policy requires further clarity as nature conservation is an action (ie restoring a pond) not something that in itself can be protected and enhanced. • Suggested policy rewording: 'The wildlife sites of Maltby, both locally and nationally important, should be protected and enhanced.' • Consideration could be given potentially to additional wording to this effect: 'Development which impacts on wildlife sites, ecological corridors or areas of importance for wildlife will need to demonstrate a net gain in biodiversity and reversal of habitat fragmentation that may be caused.' Also, 'Where appropriate development proposals should include biodiversity enhancements such as the installation of bat and bird boxes, swift boxes and hedgehog holes.’” I agree with this representation and 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 and relevant to the Neighbourhood Plan, in particular Policies CS19, CS20, CS21, CS22, SP32, SP33, SP34, SP35, SP36, 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.
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 Framework and 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:**

**Replace Policy M9 with “The wildlife sites of Maltby, both locally and nationally important, should be protected and enhanced. Development which impacts on wildlife sites, ecological corridors, or areas of importance for wildlife will need to demonstrate a net gain in biodiversity and reversal of habitat fragmentation that may be caused. Where appropriate, development proposals should include biodiversity enhancements such as the installation of bat and bird boxes, swift boxes, and hedgehog holes.”**

### **Policy M10: Traffic Management**

128. This policy seeks to establish that development proposals must respect highway safety, and conditionally supports design features to improve vehicular and pedestrian safety with a focus on locations identified as a priority.
129. I am satisfied the approach adopted in Policy M10 has sufficient regard for paragraph 111 which states development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The term “other identified traffic hot spots” is imprecise and does not provide a basis for the determination of development proposals. 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.
130. As recommended to be modified the policy is in general conformity with the strategic policies included in the Development Plan and relevant to the Neighbourhood Plan, in particular 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.
131. 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 Framework and 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 M10 delete “, and other identified ‘traffic hot spots’”**

## Conclusion and Referendum

I have recommended eight modifications to the Submission Version Plan. I recommend an additional modification in the Annex to my report. The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them. I am satisfied that the Neighbourhood Plan 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 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
- 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.

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

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. I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area.” 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 10 April 2017.**

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

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. 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. Supporting text must be adjusted to achieve consistency with the modified policies.

It will be necessary to modify policy explanation sections, general text, figures, and images, and supporting documents to achieve consistency with the modified policies, and to achieve updates and correct identified errors.

The Borough Council recommend the following modifications:

Paragraph 12 – replace “ten” with “five”

Paragraph 13 – continue the first sentence after “Maltby” with “provided those policies are in general conformity with the strategic policies for Rotherham Metropolitan Borough as a whole”, and in the final line delete “local plan/”

Paragraph 24 – state the source of the 8,350 homes and 30 hectares employment figures

Paragraph 25 – extend the list of topics to reflect additional SPDs approved in July 2023

Paragraph 40 – commence the paragraph with “The Maltby Neighbourhood Plan does not allocate sites; this has been done in the Sites and Policies document.”

Paragraph 40 – insert a new second sentence “Decision makers will have regard for the Neighbourhood Plan along with other planning material considerations to make a balanced judgement in determining planning applications. In the final sentence replace “control” with “influence”

Paragraph 44 – after Concealed Coalfield insert “(below younger rocks)”

Paragraph 56 - after “crime” replace “and” with a comma

Paragraph 57 – after “profile” insert “(Maltby Ward Profile 2019)”

Paragraph 89 – replace the second sentence with “The National Heritage List in England currently includes 42 Listed Buildings, an extremely significant Scheduled

Ancient Monument at Roche Abbey, and the Grade II\* Historic Park and Garden at Sandbeck Park and Roche Abbey.”

Paragraph 118 - continue with “(see Core Strategy, Map 5 Housing and Employment Land Distribution 2013-2028).”

Paragraph 119 – after “700 new homes” insert “(see Policy CS1 delivering Rotherham Spatial Strategy)”

Paragraph 120 – in the final bullet point replace “13.91” with “1.03”

Paragraph 123 – continue with “and Maltby Design Code in accordance with Policy M1 in the Plan and other Plan and Local Plan provisions.”

Paragraph 129 – state the source of data

Paragraph 130 – delete “, especially one and two bedroom homes”

Paragraph 134 – replace the second sentence with “This requires that sites of 10 dwellings or more, or developments with a gross site area of 0.5 hectares or more, should provide 25% affordable homes on site. If a commuted sum is taken in lieu of affordable housing delivery then the amount of this commuted sum is set as a percentage of the open market value of the required house type - and averages 40% of that open market value.”

Paragraph 140 – update the second sentence with “At the time of the 2021 Census 23% of properties were in the private rented sector. This is a rate that is above the national average (19%), and half as high again than the Rotherham average (15%).”

Paragraph 154 – insert a new third sentence “Rotherham MBC supports the Maltby Masterplan but with conditions and has provided comments on the Maltby Masterplan to improve its soundness.”

Paragraph 167 – update the PPG reference number

Paragraph 168 – update the final sentence to reflect adoption of the SPD

Paragraph 190 – replace “the whole of” with “most”

Paragraph 196 – delete Roche Abbey from the seventh bullet point

Paragraph 197 replace “nature conservation” with “ecological”

Paragraph 199 – replace “nature conservation” with “natural environment”

Check all electronic links work - in particular those in footnotes 3 and 4 and that in paragraph 179.

As the Maltby Masterplan is central to the construction of Policy M1 I have earlier in my report recommended that document is updated and revised in accordance with the recommendations of the Borough Council. Those recommendations include matters referred to in the Regulation 16 representation of the Borough Council and in respect of an application site (Site H70 Recreation Grounds/ Allotments. East of Highfield Park) shown in the Masterplan whose design is not considered in accordance with the Local Plan.

I recommend all these modifications referred to in this annex to my report are made to correct errors, and to achieve updates, and so that the Neighbourhood Plan has sufficient regard for national policy and guidance being “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 9:**

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

The Borough Council has also made other comments in respect of the documents supporting the Neighbourhood Plan. These include some suggestions for change. Whilst I would have no objection to the suggested adjustments, I am unable to recommend modifications in those respects as they are not necessary for the Neighbourhood Plan to meet the Basic Conditions.

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15 November 2023

REPORT END