



# **Colston Bassett Neighbourhood Plan 2018 to 2028**

**A report to Rushcliffe Borough Council**

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Independent Examiner**

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## **Executive Summary**

I was appointed by Rushcliffe Borough Council on 14 October 2019 with the agreement of Colston Bassett Parish Council, to carry out the independent examination of the Colston Bassett Neighbourhood Plan.

The examination was completed solely on the basis of the written representations received, no public hearing appearing to me to have been necessary. I made an unaccompanied visit to the area covered by the Plan on 5 November 2019.

Colston Bassett is a small rural parish within the Borough of Rushcliffe, Nottinghamshire. It has a population of around 220 and lies in attractive countryside on the western edge of the Vale of Belvoir. The Local Plan Core Strategy places it in the category of “other settlements”, where development will generally be restricted to meeting local needs only. The Neighbourhood Plan provides positively for limited growth to meet that objective, at the same time setting down policies designed to meet a number of social, economic and environmental objectives in a way which is compatible with the wider planning framework.

Subject to a number of recommendations (principally for changes to the detailed wording of some policies), I have concluded that the Colston Bassett Neighbourhood Plan meets all the necessary legal requirements at this stage of its preparation, and consequently am pleased to recommend that it should proceed to referendum.

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## Introduction

1. This report sets out the findings of my examination of the Colston Bassett Neighbourhood Plan (the CBNP), submitted to Rushcliffe Borough Council (RBC) by Colston Bassett Parish Council in July 2019. The Neighbourhood Area for these purposes is the same as the Parish boundary.
2. Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to help local communities shape the development and growth of their area, and the intention was given added weight in the National Planning Policy Framework (NPPF), first published in 2012 (the current edition being dated February 2019), which continues to be the principal element of national planning policy. Detailed advice is provided by national Planning Practice Guidance (PPG) on neighbourhood planning, first published in March 2014.
3. The main purpose of the independent examination is to assess whether or not the Plan satisfies certain “basic conditions” which must be met before it can proceed to a local referendum, and also whether it is generally legally compliant. In considering the content of the Plan, recommendations may be made concerning changes both to policies and any supporting text.
4. In the present case, my examination concludes with a recommendation that, subject to certain detailed recommendations, the Plan should proceed to referendum. If this results in a positive outcome, the CBNP would ultimately become a part of the statutory development plan, and thus a key consideration in the determination of planning applications relating to land lying within the CBNP area.
5. I am independent of the Parish Council and do not have any interest in any land that may be affected by the Plan. I have the necessary qualifications and experience to carry out the examination, having had 30 years’ experience as a local authority planner (including as Acting Director of Planning and Environmental Health for the City of Manchester), followed by over 20 years’ experience providing training in planning to both elected representatives and officers, for most of that time also working as a Planning Inspector. My appointment has been facilitated by the Independent Examination Service provided by Trevor Roberts Associates.

## Procedural matters

6. I am required to recommend that the Colton Bassett Neighbourhood Plan either
  - be submitted to a local referendum; or
  - that it should proceed to referendum, but as modified in the light of my recommendations; or
  - that it not be permitted to proceed to referendum, on the grounds that it does not meet the requirements referred to in paragraph 3 above.
7. In carrying out my assessment, I have had regard to the following principal documents:
  - the submitted CBNP
  - the pre-submission version of the Plan
  - the Consultation Statement and its eight annexes (undated, but accompanying the submitted Plan)
  - the Statement of Basic Conditions (undated, but accompanying the submitted Plan)
  - the housing needs report (dated April 2017)
  - a summary of the housing needs survey (undated)
  - the assessment of options for residential development (undated)

- the Strategic Environmental Assessment Screening Opinion (dated July 2019)
  - the representations made to the CBNP under Regulation 16 (and, where appropriate, under Regulation 14)
  - selected policies of the adopted Rushcliffe Local Plan
  - relevant paragraphs of the National Planning Policy Framework
  - relevant paragraphs of national Planning Practice Guidance.
8. I carried out an unaccompanied visit to the Plan area on 5 November 2019, when I looked at the overall character and appearance of the Parish, together with its setting in the wider landscape, those areas affected by specific policies in the Plan, and the locations referred to by objectors. I refer to my visit in more detail elsewhere in this report.
9. It is expected that the examination of a draft neighbourhood plan will not include a public hearing, and that the examiner should reach a view by considering written representations<sup>1</sup>. In the present case, I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against its suitability to proceed to a referendum. I should add that none of the representations received at the Regulation 16 stage included a request for a hearing.

### **A brief picture of the Neighbourhood Plan area**

10. The rural Parish of Colston Bassett sits in gently undulating agricultural land on the western edge of the Vale of Belvoir. Fine views of the Belvoir escarpment are afforded from a number of vantage points. The settlement has a long history of human occupation. It was declared a conservation area in 1973 (subsequently updated in March 2009) and contains seven listed buildings. A particular feature is the quality of the “green” environment, due largely to the number of open paddocks sitting within the various built elements, and the extent and quality of the tree cover.
11. The main part of the village is spread along a roughly north-south axis, with two small extensions to the south-east (one of which leads to the Colston Bassett Dairy, an important local employer and maker of traditional Stilton cheeses). At the centre of the village, Hall Lane leads westwards towards Colston Hall and a small enclave of housing built within its grounds. The majority of the housing is “cottage” style, no doubt reflecting the fact that much of the village has for long been within the ownership of a local estate company. There is a primary school, a village hall, a fine church (praised by Pevsner for its beauty), and a pub. There is also an attractively-sited cricket ground, but the village lacks a shop.
12. In common with many similar rural villages, there is an ongoing issue about the affordability (and suitability) of housing for particular demographics. The local bus service is poor, something which inevitably results in greater need of access to and use of the private car.

### **The basic conditions**

13. I am not required to come to a view about the ‘soundness’ of the plan (in the way which applies to the examination of local plans); instead I must principally address whether or not it is appropriate to make it, having regard to certain “basic conditions”, as listed at paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The requirements are

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<sup>1</sup> Paragraph 9(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

also set out in paragraph 065<sup>2</sup> of the Planning Practice Guidance. I deal with each of these conditions below in the context of the CBNP's policies but, in brief, all neighbourhood plans must:

- have regard to national policy and guidance (Condition a);
- contribute to the achievement of sustainable development (Condition d);
- be in general conformity with the strategic policies in the development plan for the local area (Condition e);
- not breach, and otherwise be compatible with, EU obligations, including human rights requirements (Condition f);
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- comply with any other prescribed matters.

14. The Statement of Basic Conditions begins by summarising the statutory requirements, before then taking each policy of the CBNP and assessing its relationship with the national and local planning context. This document is clearly laid out, using a tabular approach to the two assessments which aids understanding. I will refer to specific elements of this document as necessary when considering the detailed provisions of the Plan.

### **Other statutory requirements**

15. A number of other statutory requirements apply to the preparation of neighbourhood plans, all of which I consider have been met in this case. These are:

- that the Parish Council is the appropriate qualifying body (Localism Act 2011) able to lead preparation of a neighbourhood plan;
- that what has been prepared is a Neighbourhood Development Plan, as formally defined by the Localism Act; that the plan area does not relate to more than one Neighbourhood Area; and that there are no other neighbourhood plans in place within the area covered by the plan;
- that the plan period must be stated (which in the case of Colston Bassett is 2018 to 2028); and
- that no "excluded development" is involved (this primarily relates to development involving minerals and waste and nationally-significant infrastructure projects).

16. I have also borne in mind the particular duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of "preserving or enhancing the character or appearance" of any conservation area<sup>3</sup>.

17. A screening report is required in order to determine whether a neighbourhood plan needs to be accompanied by a Strategic Environmental Assessment (SEA), under the terms of the Environmental Assessment of Plans and Programmes Regulations 2004. It is the qualifying body's responsibility to undertake any necessary environmental assessments, but it is the Local Planning Authority's responsibility to engage with the statutory consultees.

18. A Strategic Environmental Assessment Screening Opinion Report was prepared by Rushcliffe Borough Council in July 2019. Paragraph 1.5 of this document notes that the Local Plan Core

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<sup>2</sup> Reference ID: 41-065-20140306

<sup>3</sup> While there are some passing references in the Plan to the Colston Bassett Conservation Area (and a web-search shows that this broadly covers the northern half of the parish), there are no specific policies relating to it.

Strategy (adopted in December 2014) was subject to a full SEA and Sustainability Appraisal, as well as an appropriate scoping report in relation to the Habitats Regulations.

19. RBC conclude (paragraph 1.7) that full environmental assessments of the Neighbourhood Plan are not needed. This view is shared by the Environment Agency and Natural England. However, Historic England consider that the proposal for 10 houses on land within the conservation area (Sites 1 and 2, north and south of Harby Lane) suggest the need for an SEA, despite the relatively small scale of the allocation. The screening report acknowledges that development in these locations has the potential to result in harm to the conservation area, since it would impact upon the setting of the village. However, the report considers that while both sites have value as open spaces, other undeveloped land closer to the village core is more significant in those terms. In addition, the report states that there are no key historic features in the vicinity; and that, in any event, broader policies would be able to ensure an appropriate approach to design that might even result in an improvement to the setting of the village from the east.
20. Having visited the land in question, as well as the wider area around it, I have no reason of my own to challenge RBC's conclusions. I comment further on the issue of the two land allocations later in this report.
21. It is a requirement under the Planning Acts that policies in neighbourhood plans must relate to "the development and use of land", whether within the Plan area as a whole or in some specified part(s) of it. I am satisfied that that requirement is met.

### **National policy**

22. National policy is set out primarily in the National Planning Policy Framework (NPPF), a key theme being the need to achieve sustainable development. The NPPF is supported by Planning Practice Guidance (PPG), an online resource which is continually updated by Government. I have borne particularly in mind the advice in the PPG that a policy in a neighbourhood plan should be clear and unambiguous, concise, precise and supported by appropriate evidence<sup>4</sup>.

### **The existing Development Plan for the area**

23. The current development plan for the area includes the Rushcliffe Local Plan Part 1 (the Core Strategy), adopted in December 2014, and Part 2, adopted in October 2019. The CBNP was therefore submitted some time before the adoption of Part 2 of the Local Plan, but I have been given no reason to believe that this has any implications for this examination – in particular in relation to Spatial Strategy 3, which establishes a settlement hierarchy for the District, and the overall housing target for the period 2011-2028. The first of these sets out three tiers in the hierarchy:
  - the main built-up area of Nottingham within Rushcliffe, to accommodate approximately 13,150 new homes;
  - six "key settlements" where approximately 5,500 are to be located between them; and
  - other settlements, not named, where development will (with two exceptions) be for local needs only.
24. Colston Bassett lies within this last category. Paragraph 3.3.17 of the Core Strategy adds further detail to the strategy by saying that the local needs will be delivered through small scale infill

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<sup>4</sup> Reference ID: 41-041-20140306

development or on exception sites, together with any allocations set out in Part 2 of the Local Plan or in neighbourhood plans. The Local Plan does not define boundaries for such settlements; however, the CBNP takes the opportunity to define one, primarily in order to differentiate between those areas within which development might be acceptable in principle and those defined as open countryside, where national and local planning policies dictate a more restricted approach.

25. Following a request for clarification on my part<sup>5</sup>, the Parish Council wish to delete the fifth paragraph of section 7.1.1 of the Plan, which sets out the strategic framework, and to replace it with the following:

Rushcliffe Local Plan Part 1 Core Strategy (December 2014) contains two statements of particular relevance to Colston Bassett: 22.2.11 (page 9) – *“The problem of affordability can be particularly significant in the rural parts of the Borough where house prices tend to be higher. Poor access to essential services in rural areas can lead to significant deprivation, with people without access to a car especially vulnerable”*; and Policy 3 - Spatial Strategy paragraph 1 (page 24): *“in ‘other settlements’, development will be for local needs only”*.

26. This minor alteration, which includes direct quotations from the Local Plan as opposed to a paraphrase of it, has no impact on any of the policies, and I see no reason for it not to be made. Similarly, I have received clarification of a reference in the sixth paragraph of section 7.1.1 to what I am told was a phrase in the pre-submission version of the CBNP (to the effect that Colston Bassett is amongst “the least sustainable locations for growth...”). This phrase figured in the draft Local Plan, but does not appear in the adopted version, as pointed out by the Colston Bassett Trust. The Parish Council have suggested a re-wording of the sixth paragraph to deal with this, and I am satisfied this can be made without any further comment from me:

Rushcliffe Local Plan Part 1 Policy 3 and its supporting justification identifies Colston Bassett as an 'other village' (paragraph 3.3.17), and Paragraph 3.10 (on page 21) and Policy 22 - Development within the Countryside (on page 96) within Local Plan Part 2 determine that in other villages development will be limited to small scale infill and exception site development, or on land allocated by a Neighbourhood Plan to meet identified local needs. In accordance with the Local Plan, this Neighbourhood Plan establishes a village boundary and allocates two housing sites.'

### **The consultation exercise (Regulation 14)**

27. This regulation requires the Parish Council to publicise details of their proposals “in a way that is likely to bring [them] to the attention of people who live, work or carry on business in the area”, and to provide details of how representations about them could be made. Regulation 15 requires the submission to the Local Planning Authority of a statement setting out the details of what was done in this respect, and how the qualifying body responded to any matters which arose as a result of the consultation process.
28. The Consultation Statement summarises the NP working group’s approach to this process from the date of the decision by the Parish Council in September 2016 to embark upon the preparation of a neighbourhood plan, the details being set out in a series of annexes. There is no need for me to comment in detail about any aspects of this exercise: suffice to say that I am

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<sup>5</sup> prompted by an observation by the Colston Bassett Trust



satisfied that the statutory requirements have been fully complied with. I have noted that a number of the representations made to the final submission version of the Plan express some dissatisfaction with the outcome – these are focused on the proposal to allocate the two sites at Harby Lane for housing, and I will come back to the point when dealing with Policy H1.

### General observations about the Plan

29. The following points may be helpful in understanding the way I have approached my report on the Plan and the observations and recommendations which I make upon it:

- the recommendations I make concentrate on the policies themselves, since that is what the basic conditions relate to;
- I have addressed the policies in the order that they appear in the submitted plan and have set out my views about each of them, irrespective of whether or not any modification is thought necessary;
- my recommendations for changes to the policies and any associated or free-standing changes to the text of the Plan are highlighted in ***bold italic print***.

30. The Plan document (which is presented in a straightforward manner, with generous use of plans, tables and photographs) begins with a summary of the background to its origins, set in the framework of the status and purpose of neighbourhood plans, together with how they should be prepared and what they may contain. The overall vision underpinning the CBNP is given as:

*.....to preserve and protect the distinct and attractive rural character and tranquility of the conservation village. Highly valued green spaces, paddocks, trees, and important views are key to ensuring that the village is maintained for future generations. The countryside landscape, wildlife habitats and biodiversity will be protected and enhanced, and the rural economy will be strongly supported.*

*The village will remain a good place to live with a high-quality mix of housing serving a diverse multi-generational population. Any new development will be sympathetic in design by acknowledging the existing historic vernacular and materials and will have a positive impact on both sustainability and the environment. Village assets, including listed buildings and heritage buildings, will be maintained.*

*Road safety is also of paramount importance and the vision is that roads will be safe for all users: traffic, pedestrians, wheelchair users, children and babies, horses.*

*The vision also strives to ensure that the strong sense of community will be maintained and strengthened. Community facilities will be improved where possible to meet the needs of a diverse population.*

31. This is followed by a more detailed set of 10 objectives dealing with housing, community facilities, the natural and physical environment, employment aspirations and related matters. There is a summary of how the Plan was prepared; a brief history of the Parish; a short explanation of how the Plan seeks to meet the objectives of sustainable development; and a summary of the wider planning context. There then follow 26 policies (grouped under six headings), each preceded by appropriate explanatory material. There is a commitment to review the Plan in 2023, or to tie in with any review of the Rushcliffe Local Plan if the timing requires it. A number of “Community Actions” are included after several of the policies: these

are appropriately separated out from the policies themselves, in line with best practice on this point.

32. While the Plan is broken into sections, effectively delineating the topics to be addressed, the individual paragraphs are not numbered. ***In order to make it easier for users of the Plan to refer to them, I recommend that all paragraphs are numbered.*** I note that this is also a suggestion of RBC.

### **Representations received (Regulation 16)**

33. 16 representations were made in response to the submitted Plan. Five bodies (the Coal Authority, Highways England, Historic England, the National Grid and Natural England) had no specific comments or objections. Nottinghamshire County Council made a number of detailed observations which do not, in my opinion, impinge on my role in examining the Plan (but which the Parish Council are free to take into account as they see fit). I will deal with the representations of the Colston Basset Trust, which have a substantial land-holding within the Parish, principally under Policies H1 and ENV1. Rushcliffe Borough Council propose a number of amendments to Policies H1, H4, ENV2, ENV3, BE4 and BE5 – I will respond to these points under each of the policy heads. Severn Trent plc recommend the use of the term “watercourses” as opposed to “streams” in a number of places in the Plan. I see no need to make this the subject of a formal recommendation, but invite the Parish Council to consider adopting the idea.
34. The remaining seven representations are from local residents: these focus on the housing issue, especially in relation to the specific allocations proposed and, in some cases, concern about the way in which the two sites were selected. Again, I will give my reaction to these observations when dealing with Policy H1.

### **The policies**

#### **Policy S1: Settlement boundary**

35. As noted earlier, the Plan seeks to define the areas within which development would normally be acceptable in principle. Figure 2 clearly indicates the proposed settlement boundaries, showing two distinct elements - one based on the main village centre and its linear extensions from north-east to south-west, the other being based on the (largely) newer housing enclave in the grounds of Colston Hall. The first of these takes into account the proposed development at sites 1 and 2 (see Policy H1). The introduction includes a helpful summary of the methodology used in the definition of the settlement boundary.
36. The policy itself supports the principle of development within the settlement boundary, where proposals would comply with other relevant policies in the Plan (the supporting notes point out that some sites within the village envelopes would be protected from development). Outside the boundaries, land is to be treated as open countryside, and thus subject to the constraints set out in relevant NPPF and Local Plan policies.
37. The Colston Bassett Trust (CBT) point out that the list of what might constitute acceptable exceptions to these constraints (“development essential to the operational requirements of agriculture and forestry or small-scale development for employment, recreation sport and tourism”) differs from the much more comprehensive list set out in Local Plan Part 2 Policy 22.

No justification for this difference is provided. Given the comment in the 11<sup>th</sup> paragraph of section 7.1.1 of the CBNP to the effect that “where suitable district-wide policies already exist in the Rushcliffe Core Strategy, emerging [*now adopted*] Local Plan [*ie Part 2*] or NPPF they are not duplicated in this Neighbourhood Plan”, ***I recommend that the last sentence of Policy S1 be deleted.*** This means that Local Plan Policy 22 would apply unmediated and secures clarity of the policy framework.

38. Subject to this modification, I am satisfied that Policy S1 meets the basic conditions.

### **Policy H1: Residential site allocations**

39. The introductory material to this policy sets the context by aiming “to retain this compact, characterful village”<sup>6</sup> and to respond to the significant socio-economic changes which have occurred over the last 50 years, especially relating to the shift from what was primarily a farming community to what is now a much more diverse one. A particular issue highlighted is that of affordability in the housing stock, the survey work on the Plan also having identified a need for smaller properties, especially to buy rather than rent.
40. An exercise was carried out to explore what the Plan describes as “the limited options” for new housing within the Parish, and the results of this are attached to the submitted Plan as Appendix 3<sup>7</sup>. The outcome of this work was that two sites facing each other on Harby Lane were selected, yielding 10 units between them. The settlement boundary has been adjusted to accommodate these allocations. Site 1 (to the north) is allocated for six dwellings, while site 2 is for four. With slight variations of detail between the two, housing for 2-3 bedroom houses would be supported on each of these sites, subject to the removal of permitted development rights and site investigations being carried out (because of possible contamination from their former agricultural use). In addition, support for the development of site 2 would be conditional on the submission of evidence of any archaeological value.
41. CBT, while supporting the policy in principle, consider that the requirements for site investigations are inappropriate at the plan-making (as opposed to the planning application stage), and might be unduly onerous. RBC broadly take the same view in relation to site 1, but support the approach to evaluating any archaeological remains in site 2. CBT also object to the inclusion of the last sentence of the third criterion under site 2, which speculates on the consequences of the discovery of any archaeological assets for the viability of the development.
42. All of the local residents objecting to the submitted Plan were concerned about the proposal for site 2 (and this was also the subject of a petition earlier in the process carrying 83 names). There was more limited objection to the development of site 1. The main points raised may be summarised as follows:
- if these sites were to be developed, the total of new housing (when infill is taken into account) would be more than the 10 units or so the village needs, which was the maximum figure upon which residents were consulted;
  - development here would damage the setting of the conservation area and remove two valued open spaces, both outcomes conflicting with the stated aims of the Plan;
  - the allocation at site 2 is larger than that upon which people were consulted and it would leave the remaining part of this paddock vulnerable to further development;

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<sup>6</sup> As a minor point, I suggest that there is an error on the fourth line of section 7.2.1, in that the centre of the village lies to the east of the River Smite, and not the west.

<sup>7</sup> not Appendix 4, as stated at the beginning of section 7.2.2

- in addition, this site was supposed to be for bungalows – the wording of the Policy as it stands is weaker in that respect;
- generally, there has been a lack of transparency since the public consultation, and this is a matter which should be investigated.

43. It is important for those reading this report to understand that my role as examiner is not the same as that of a planning Inspector appointed to determine an appeal against a refusal of planning permission. My brief does not extend beyond an assessment of the CBNP in terms of the basic conditions and related statutory provisions. What this means in practice is that, provided those matters have been satisfactorily dealt with, it is not for me to come to a view on the detailed planning judgements which have led the qualifying body to allocate certain areas of land for development in preference to others. In any event, were I to do so, it might be said that such an intervention would conflict with the underlying purpose of neighbourhood planning. It is also the case that any concerns about the *propriety* of the process by which the Parish Council made its final selections cannot be addressed by this examination: other mechanisms exist for looking into that aspect of the matter, should it be felt necessary.
44. All that having been said, it seems to me that there is no reason to doubt the key decision made by the working group – that the housing needs of the village to 2028 would be satisfactorily met by a combination of windfalls arising within the existing built-up area and a relatively small number of dwellings on land immediately adjacent to it. In addition, I consider that other policies in the Plan (such as H2 and D1), together with the various criteria set out in policy H1 itself, provide the opportunity to deliver the most appropriate housing mix, and also to protect the conservation area from visual harm.
45. While I have noted concerns about possible contamination at site 1 as a result of former agricultural activity (raised by RBC's environmental health officer), there is insufficient evidence here to justify a requirement "up-front" for site investigations to be carried out. This is a matter which would be routinely handled at the point where a planning application is made. While I see no reason to remove the reference to the possibility of contamination in the supporting text (suitably amended in the light of my recommendation), ***I recommend the deletion of criterion 4 from Site 1.***
46. A similar requirement for site investigations, but this time relating to archaeological interest, is found at criterion 3 of site 2. In this case, information gleaned as a result of a Heritage Assets Assessment carried out by RBC goes some way towards supporting the case for a precautionary approach. Nevertheless, I accept the point made by the Colston Bassett Trust on this issue: they refer to NPPF paragraph 189, which states "*Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation*". CBT refer to the potentially high cost of trial trenching (a specific requirement of the policy) and say that desktop research at the planning application stage is all that should be needed. I agree with them, and ***recommend that criterion 3 under site 2 be deleted.*** As with the contamination issue at site 1, I see no reason not to keep the reference to site 2's possible archaeological assets in the supporting text – again, suitably amended.
47. Similarly, the statement that planning permissions "will be subject to a condition that future permitted development rights are removed.....to protect the Conservation Area" is unnecessary and unreasonable: applications will need to be judged on their merits, including the need to consider what steps (if any) would be required in order to safeguard the character or

appearance of the Conservation Area<sup>8</sup>. ***I recommend that criterion 5 in relation to site 1 and criterion 4 in relation to site 2 are deleted from the policy.***

48. RBC draw attention, in relation to site 2, to the requirement that the design of the housing should comply with the standards set out in the Building Regulations 2015, part M4(2). They refer to Government guidance which states that neighborhood plans should not be used for this purpose. I accept that point, and would add that planning policies should generally not seek to duplicate requirements established under other legislation (which would need to be complied with anyway). ***I therefore recommend that criterion 1 in relation to site 2 be restricted to the words “it is for four dwellings which should be single or one and a half storey and constructed to meet the needs of older people”.***
49. CBT suggest that, as drafted, Policy H1 would permit exactly 6 dwellings (site 1) and 4 dwellings (site 2); I agree with the point they make and ***recommend that the references should be “up to” 6 and 4 dwellings respectively.*** They also say that there is a need for flexibility in the application of the requirement (on both sites) for “a mixture of two and three bedroom dwellings, including home ownership models”: they do not suggest any specific alteration to the wording of these parts of the policy, which I consider to be broadly suited to its purpose. CBT also point out that the first full paragraph on page 21 (supporting text), in referring to maximum ridge heights, is not consistent with the wording of the Policy (Site 1 criterion 2). ***I recommend that that this discrepancy be removed.***
50. As a minor point, ***I would suggest that in the bottom line of page 15, the word “avoiding” in the phrase “avoiding the uncertainty that comes with speculative development...”, be replaced with “reducing”.*** This would accord better with the reality of the situation.

**Policy H2: Housing mix**  
**Policy H3: Windfall sites**

51. Based on the findings of a Housing Needs Report (April 2017) , carried out by *YourLocale* on behalf of the working group, together with results of the consultation exercises, the Plan seeks to give priority to smaller, more affordable housing of two to three bedrooms for ownership, together with suitable accommodation for elderly residents. This is given effect by Policy H1 so far as the two new allocations are concerned. Policies H2 and H3 appear to be intended to apply to all other new housing within the village, but this is not as clear as it might be, with the requirements in relation to the preferred size of dwellings (essentially referenced by the number of bedrooms) being particularly difficult to understand.
52. As drafted, the three policies would support development being:
- “dwellings [of] no larger than 3 bedrooms” and “a mixture of 2 and 3 bedroom dwellings” (H1 - the specific requirements for site 1);
  - designed to “meet the needs of older people”, and “a mix of 2 and 3 bedroom dwellings” (H1 -the specific requirements for site 2);
  - “a mixture of housing types specifically to meet identified local needs....”, with “dwellings of 3 bedrooms or fewer.....” (H2, which I assume is intended to apply to the whole Parish);
  - of “less than three dwellings” (a specific requirement for windfall sites); and

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<sup>8</sup> S.72 Planning (Listed Buildings and Conservation Areas) Act 1990

- with “developments of two units [being required to] include at least one dwelling that is no more than three bedrooms in size” (the preamble to H3, but not actually part of it).

53. While the broad objective here is amply supported by policies at national and local level, this is a rather confusing set of preconditions. While not raising any issues for the basic conditions per se, it makes it difficult for users of the Plan to readily understand its expectations, especially in relation to precisely what requirement relates to where. ***I recommend that the simplest way of dealing with this is to start with an over-arching policy (based on H2) which sets out the approach to new housing to be taken throughout the Parish, followed by any additional requirements which relate only to site 1, site 2 and windfall sites. At the same time, it should be made clear what is intended to be a policy requirement as opposed to supporting text*** (see the last bullet-point above).

#### Policy H4: Tandem and backland development

54. This policy supports tandem and backland development in gardens of existing properties “unless it causes harm to residential amenity or harm to the local area”. I have noted that this is expressed in a positive way, as suggested by RBC, but further detail is needed if the policy is to have any practical value. In particular, ***I recommend that the key criteria to be used in any assessment of harm (both to residential amenity and more generally) should be set out in the policy.***

#### Policy D1: Design

55. Policy D1 requires new development to “enhance the local distinctiveness of the area in which it is situated, particularly within the Conservation Area”, and it sets out seven more detailed considerations which need to be taken into account, where relevant. There is no conflict here with either national or local policy; however, the requirement to “enhance” will not always be appropriate or practicable and may be unduly onerous in smaller schemes. I therefore recommend that the beginning of the Policy should read: ***“Development will be required to preserve or enhance the local distinctiveness...”***. This mirrors the wording of the statutory duty placed on local planning authorities in relation to conservation areas.

#### Policy ENV 1: Local green spaces

56. Policy ENV1 takes into account NPPF paragraph 76: *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space, local communities will be able to rule out new development other than in very special circumstances”*. Paragraph 77 of the NPPF goes on to say that the Local Green Space designation will not be appropriate for most green areas or open space, and should only be used where three criteria are met, namely:

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.*

57. I visited each of the three areas for which policy ENV1 would provide special protection and have no reason to question the appropriateness of their proposed designation. I note that certain other valued sites (see Policy ENV2) have not been included as formal local green spaces on the grounds that the NPPF criteria are not fully met: this is evidence that the Plan working group have been selective and imposed the necessary discipline on the exercise.
58. CBT point out that the continued use of the paddock to the right of the village hall (one of the sites in question) as a community facility remains at the Trust's discretion. I understand this, but it is not something which impacts on the interpretation of the criteria set out for designation of local green spaces.
59. The policy states that any development within the areas concerned will only be permitted in very special circumstances, and "will be expected to mitigate the loss of these valued spaces": ***this last phrase might appear to countenance the complete loss of one or more of the protected areas – something which I imagine was not the policy's intention. I recommend that that phrase be deleted and replaced with "and must not undermine their visual and social importance"***.
60. The three LGS sites are shown on Figure 4; however, they are numbered in accordance with the assessment exercise described in Appendix 6 to the Plan, rather than as locations (i), (ii) and (iii) in Policy ENV1. ***I recommend that figure 4 be amended appropriately.***

#### **Policy ENV2: Protection of other sites and features of environmental and historical significance**

61. Figure 5 of the Plan (supported by Appendix 6) identifies sites within the Parish which are recorded as Priority Habitats by Natural England; Local Wildlife Sites; land identified as being of high biodiversity significance; and parcels of known historical significance. Development within these areas will be permitted under Policy ENV2, so long as certain specified requirements are met. This approach is clearly supported by policies at local and national level; ***however, for the avoidance of any doubt, I recommend that the second sentence of the Policy be amended to read: "Where development is considered acceptable in principle, having regard to other relevant policies in this Plan, it will be supported subject to the following requirements: (a-c)"***. In addition, Figure 5 appears not to show the sites considered to have historical (as opposed to environmental) significance. ***I recommend that Figure 5 be amended appropriately.***

#### **Policy ENV3: Biodiversity and wildlife corridors**

62. Policy ENV3 aims to afford similar protection to "locally-significant and locally-important habitats and species.....especially those protected by relevant English and European legislation as shown in figure 6 below". However, figure 6 only shows "The River Smite Biodiversity Focus Area" (the definition of which is mentioned in the first paragraph of section 7.3.8 of the Plan). ***It is therefore difficult to understand whether the scope of the policy is entirely reflected in the map, and I recommend that this matter is clarified.***
63. The Policy goes on to state that "New development must seek to promote biodiversity and will be supported where.....", and this is followed by five specific requirements. ***It is not clear whether this part of the policy is intended to relate only to the land shown in figure 6, or to the whole of the Plan area. I recommend that this be clarified.*** In addition, some of the detailed requirements seem to me over-prescriptive, and may well be impracticable in relation

to small schemes, in particular:

- the design of [all?] new development must include new habitats for wildlife (criterion b)
- water-bodies must be incorporated into any development (criterion e).

***I recommend that the phrase “New development must seek to to promote biodiversity and will be supported where.....” be altered to read “New development must seek to promote biodiversity. Where appropriate and practicable, the following measures will be required.....[a-e]”.***

64. RBC question the requirement for an environmental/ecological impact assessment for any development of plots of more than one acre. In a formal sense these are not generally required unless the proposal might be expected to have “significant impacts”, and this is something that would need to be addressed at the time an application is made. ***I agree with RBC on this and recommend the adoption of their suggested re-wording of point d): “Development which is likely to significantly harm a local or nationally-important biodiversity asset will require an ecological assessment”.***
65. The Policy is appropriately supported by *Community Action Env 2*, which notes the Parish Council’s intention of carrying out a range of management actions “on the ground.” It provides a local application of strategic objectives set out in Section 16 of the NPPF and Local Plan Core Strategy policy 17.

#### **Policy ENV4: Important trees and woodland**

66. This policy is a straightforward requirement to ensure that any damage to, or loss of, Important trees, woodland and hedges is mitigated close to the relevant site. This directly reflects Local Plan Policy 37 and NPPF paragraphs 170 and 175.

#### **Policy ENV5: Important views**

67. The preface to this policy refers to the undulating form of the landscape within the parish, something which affords frequent long-distance views (particularly across the Vale of Belvoir to the escarpment). It is clear that these contribute greatly to the character of the village, and Policy ENV5 properly seeks to ensure that new development respects them. The locations of these vantage points are clearly shown in Figure 8, and the six sites are illustrated with photographs. ***I recommend that reference to Figure 8 be included within the wording of the policy.***

#### **Policy ENV6: Footpaths and bridleways**

68. Figure 9 illustrates the significant network of rights of way within the Parish, and Policy ENV6 requires new development to protect it. “Additional connectivity” should be provided where appropriate. In its own terms, this second requirement is supported by the Local Plan Core Strategy and NPPF paragraph 91. ***However, to aid clarity, I recommend that either the supporting text for the policy (section 7.3.11) or the policy itself give some indication as to where the priority lies for new or enhanced connections. This information could usefully be included in Figure 9 in diagrammatic form.***



### Policy ENV7: Managing flood risk

69. Figures 10 and 11 of the Plan are two maps provided by the Environment Agency showing which areas of the Parish are at risk of flooding from both surface-water and rivers, graded from high to very low. Policy ENV7 simply requires new development to demonstrate that the site in question is safe from flooding and that it would not increase the risk of flooding elsewhere. While it does not set out the steps that might be needed to satisfy this requirement, section 7.3.12 refers to the need for best practice to be adopted in this regard: this is something which I anticipate would be done during routine development management procedures. In addition, *Community Action Env 4* sets out the Parish Council's intention to work with the appropriate agencies to address the current flooding problems in the village. The policy reflects the approach set out in Section 14 of the NPPF and Core Strategy Policy 17.

### Policy ENV8: Light pollution

70. There was a great deal of local support for maintaining the current low level of night-time light penetration. Policy ENV8 reflects this, and recognises that there are design solutions in relation to new development which can help to deliver that objective. *Community Action Env 5* explains that the Parish Council will also encourage appropriate action in relation to existing development. The policy applies locally the objectives of NPPF paragraph 180 c).

### Policy ENV9: Renewable energy infrastructure

71. This policy is intended to ensure that any development associated with renewable energy projects takes into account the impact on the landscape and tranquility of the Parish. As worded, however, it implies that such projects would always necessarily cause harm, which should not be assumed. ***I recommend that the phrase "any adverse impact" be inserted, so that it reads: "Renewable energy developments will only be permitted where any adverse impact on the parish landscape and tranquility can be mitigated".***

### Policy CF1: Retention of community facilities, amenities and assets

#### Policy CF2: New or improved community facilities

72. Section 7.4 of the Plan lists and describes the most important social assets in the Parish. In common with many rural villages, these are seen as vital to the daily life of its residents, and Policy CF1 seeks to provide the planning framework for five assets in particular by stating that any development which might lead to their loss will only be supported if certain requirements are met. Support in principle for new facilities is given by Policy CF2, which sets out a range of relevant criteria to guide the development management process. *Community Actions CF1 – CF5* add further detail to the basic strategy. This overall approach towards maintaining a sustainable rural community is strongly encouraged in several places by the NPPF and Local Plan.
73. CBT consider that it is presumptuous to identify the paddock to the left of the village hall as a community asset, since its continued use for car-parking remains at their discretion. The Trust's position on this is therefore similar to their response to the designation of a local green space

on the opposite side of the hall. I do not, however, consider that land ownership should be a determining factor here, and have concluded that no change to the policy is necessary on those grounds.

### Policy TRS1: Traffic management with regard to new development

74. I was able to see for myself that there are certain “pinch-points” within the built-up areas of the Parish where care has to be taken by drivers, pedestrians and cyclists alike. This is due to the narrowness of the lanes (and especially two listed heritage bridges) and frequent absence of footpaths. The village sits astride a well-used route linking Cotgrave and Harby, which makes a double dog-leg at the heart of the settlement, and heavy goods vehicles in particular clearly make a significant impact on the daily life of the residents, as does the general speed of traffic and lack of safe off-street parking.
75. The Plan sensibly recognises that measures to address these concerns will rely heavily on traffic management techniques: *Community Actions TRS1 and TRS2* commit the Parish Council to developing a coherent action plan and working with the relevant agencies to bring about improvements. Policy TRS1 itself promotes the need to minimize any increase in vehicular traffic and sets out complementary land-use planning measures, such as the need to identify and deal with site access issues. These provisions are wholly in line with national and local planning policy and best practice.
76. I would, however, draw attention to criterion d), which says that all development “must consider, where appropriate, the improvement and, where possible the creation of footpaths to key village services.” Because of the absence of any geographical context here, it is not clear from this what action a prospective developer would actually be expected to take in order to satisfy the requirement of the policy. I also consider it advantageous to deal with this issue under Policy TRS3, which covers very similar ground. ***I recommend that more specific guidance be given about the need to improve pedestrian connectivity, including the geographical areas to which priority should be given, and that the issue be dealt with under Policy TRS3.***

### Public transport

77. This matter is addressed by *Community Action TRS3* which explains that the Parish Council will lobby the County Council to make improvements in the current levels of service.

### Parking

78. As with the previous issue, no land-use planning policies are being promoted in order to enhance the supply of safe off-road car-parking in the village centre, but *Community Action TRS4* sets out certain management measures designed to help. I have noted that one of the paddocks next to the village hall is informally available for this purposes as and when required, but the Plan stops short of seeking to allocate this land on a permanent basis.

### Policy TRS2: Electric vehicles

79. This policy would make it a requirement for all new residential development to provide a minimum of 7kW cabling on site, to facilitate the subsequent installation of an electric vehicle charging point. While there is no difficulty here in relation to the basic conditions, ***I recommend***

*that the policy clarify whether or not it is intended to apply both to new-build and changes of use.* The policy also encourages the provision in principle of communal charging points within the Parish.

### Policy TRS3: Pedestrian paths/pavements

80. Policy TRS3 is a very generally expressed series of objectives. One of these (“encouraging walking over car-use”) ***is not a land-use policy and I recommend that it either be deleted or re-phrased as a Community Action.*** Development is supported where it would “maintain, upgrade and, where appropriate, extend the pedestrian footpath network”: the requirement to “upgrade...the network” is too vague to have any practical value in development management terms, and is potentially a very onerous one where very small-scale projects are involved. ***I recommend that the preamble to the policy be re-worded: “Developments will be supported where they would maintain and, where appropriate, upgrade or extend the pedestrian footpath network”:***

### Policy BE1: Support for existing businesses and employment opportunities

81. Section 7.6 of the Plan records the high degree of public support for welcoming more business within the Parish, so long as it was compatible with its predominantly rural nature. Alongside this was a desire to encourage younger people to make their homes in the village. Policy BE1 seeks to prevent the loss of appropriate premises or land, unless certain criteria are satisfied. In principle, this approach is broadly in line with national and local policies on the rural economy.
82. However, the wording of the policy needs some modification. The first sentence presumes against not simply the loss of premises or land currently providing a source of employment, but also encompasses that which might result in “future potential” opportunities for job-creation. No mechanism for requiring an applicant for planning permission to satisfy this element of the policy is suggested. In some local and neighbourhood plans, specific sites are identified to meet this objective; but in the absence of such an approach, this part of the policy is unlikely to have any practical value. ***I therefore recommend that the reference to future potential employment opportunities be deleted.***
83. The second sentence of the policy states “Applications for a change of use to an activity that does not provide employment opportunities will only be supported where.....”. ***For greater clarity, I recommend that this be amended to read: “Applications for the change of use of land or buildings which would involve the loss of an existing employment opportunity will only be supported where.....”*** [followed by the two requirements].

### Policy BE2: Support for new businesses and employment

### Policy BE3: Home working

### Policy BE4: Farm diversification

### Policy BE5: Toursim

84. It is convenient to take these four policies together, since they have the similar broad objective of encouraging appropriate growth in the local economy. Between them, they contain appropriate environmental and amenity safeguards, and I see no difficulty in principle in terms of their compliance with the basic conditions. They find support in the NPPF at paragraph 83

and in Local Plan Policies 22 and 23.

85. However, in relation to Policy BE4, RBC point out that Local Plan Part 2 Policy 22's support for farm diversification includes not just the conversion of existing rural accommodation, but "the construction of new ancillary buildings". ***I recommend that Policy BE4 be brought into line with LP 22 in that respect, and that the phrase "conversion / adaptation work does not harm the local character..." at the start of criterion a) be replaced with "the development respects the local character..."***. As a minor comment, the wording at the end of the preamble to the policy would be improved if it said that changes would be supported "provided that etc".
86. I also agree with RBC that the first criterion of Policy BE5 is confusing in that it suggests there might be different policy responses to tourism proposals depending on whether they are located within or outside the settlement boundary, but does not really explain what these might be. ***I recommend that criterion a) in Policy BE5 be deleted.***

### **Policy BE6: Broadband and mobile infrastructure**

87. This policy offers direct support for facilities needed to improve access to broadband and mobile telecommunications for both residents and businesses. Mast-sharing is preferred, and visual impact needs to be carefully considered – all reflected in strategic policies at both national and local level.

### **Conclusions on the basic conditions**

88. I am satisfied that Colston Bassett Neighbourhood Plan makes appropriate provision for sustainable development. I conclude that in this and in all other material respects, subject to my recommended modifications, it has appropriate regard to national policy. Similarly, and again subject to my recommended modifications, I conclude that the Plan is in general conformity with the strategic policies in the development plan for the local area. There is no evidence before me to suggest that the Plan is not compatible with EU obligations, including human rights requirements.

### **Formal recommendation**

89. I have concluded that, provided that the recommendations set out above are followed, the Colston Bassett Neighbourhood Plan would meet the basic conditions, and I therefore recommend that, as modified, it should proceed to a referendum. Finally, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan Area, but I have been given no reason to think this is necessary.

David Kaiserman

David Kaiserman BA DipTP MRTPI  
Independent Examiner

3 January 2020

## APPENDIX 1 – SUMMARY TABLE OF RECOMMENDATIONS

Examiner's report paragraph	NP reference	Recommendation
32	Plan as a whole	<ul style="list-style-type: none"> <li>number all paragraphs</li> </ul>
37	Policy S1	<ul style="list-style-type: none"> <li>delete final sentence</li> </ul>
45	Policy H1	<ul style="list-style-type: none"> <li>delete criterion 4 in relation to site 1</li> </ul>
46	Policy H1	<ul style="list-style-type: none"> <li>delete criterion 3 in relation to site 2</li> </ul>
47	Policy H1	<ul style="list-style-type: none"> <li>delete criterion 5 in relation to site 1</li> <li>delete criterion 4 in relation to site 2</li> </ul>
48	Policy H1	<ul style="list-style-type: none"> <li>restrict the wording of criterion 1 in relation to site 2 as suggested</li> </ul>
49	Policy H1	<ul style="list-style-type: none"> <li>amend references to "up to" 6 and 4 dwellings respectively</li> <li>remove discrepancy between supporting text on page 21 and the policy itself in relation to maximum ridge heights</li> </ul>
50	Policy H1	<ul style="list-style-type: none"> <li>amend the word "avoiding" in the bottom line on page 15 to "reducing"</li> </ul>
53	Policies H2 & H3	<ul style="list-style-type: none"> <li>amend/combine the two policies as suggested to make it easier for readers to understand</li> </ul>
54	Policy H4	<ul style="list-style-type: none"> <li>set out the key criteria to be used in any assessment of harm</li> </ul>
55	Policy D1	<ul style="list-style-type: none"> <li>amend beginning of policy to read "Development will be required to preserve or enhance the local distinctiveness".</li> </ul>
59	Policy ENV1	<ul style="list-style-type: none"> <li>delete final phrase and replace with "and must not undermine their visual and social importance".</li> </ul>
60	Figure 4	<ul style="list-style-type: none"> <li>amend numbering of sites in figure 4 to accord with Appendix 6</li> </ul>
61	Policy ENV2	<ul style="list-style-type: none"> <li>amend second sentence as suggested</li> <li>amend Figure 5 to show sites of historical significance</li> </ul>
62 & 63	Policy ENV3 & Figure 6	<ul style="list-style-type: none"> <li>clarify the scope of the policy and amend Figure 6 if required</li> </ul>
63	Policy ENV3	<ul style="list-style-type: none"> <li>amend the phrase beginning "New development must seek" as suggested</li> </ul>

64	Policy ENV3	<ul style="list-style-type: none"> <li>• adopt the re-wording of point d) suggested by RBC</li> </ul>
67	Policy ENV5	<ul style="list-style-type: none"> <li>• include reference to Figure 8 within the policy itself</li> </ul>
68	Policy ENV6	<ul style="list-style-type: none"> <li>• provide an indication as to where the priority lies for new or enhanced connections</li> </ul>
71	Policy ENV9	<ul style="list-style-type: none"> <li>• amend to read “any adverse impact” as suggested</li> </ul>
76	Policy TRS1	<ul style="list-style-type: none"> <li>• provide more specific guidance on the need to improve pedestrian connectivity and deal with this issue under Policy TRS3</li> </ul>
79	Policy TRS2	<ul style="list-style-type: none"> <li>• clarify whether the policy applies to both new-build and changes of use</li> </ul>
80	Policy TRS3	<ul style="list-style-type: none"> <li>• either delete “encouraging walking over car use” or re-phrase it as a Community Action</li> <li>• re-word preamble to the policy as suggested</li> </ul>
82	Policy BE1	<ul style="list-style-type: none"> <li>• delete reference to future potential employment opportunities</li> </ul>
83	Policy BE1	<ul style="list-style-type: none"> <li>• amend second sentence as suggested</li> </ul>
85	Policy BE4	<ul style="list-style-type: none"> <li>• re-word as suggested to bring in line with LP22</li> </ul>
86	Policy BE5	<ul style="list-style-type: none"> <li>• delete criterion a)</li> </ul>